BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

TRADE SUBCOMMITTEE

MAY 17, 2012

TESTIMONY OF KARL G. GLASSMAN

CHIEF OPERATING OFFICER, LEGGETT & PLATT, INCORPORATED

Good afternoon, Chairman Brady, Ranking Member McDermott, and Members of this Committee. Thank you for holding this Hearing on a set of topics that are critical to our business and employees, to the U.S. economy, and to our trade laws.

I am the Chief Operating Officer of Leggett & Platt, a diversified global manufacturer headquartered in Carthage, Missouri. We have over 18,000 employee-partners in 18 countries across the world. Here in the United States, we have operations in 28 states, and manufacture a wide variety of engineered components and products.

Over the last three years, we, along with many members of Congress, have focused a great deal of energy on the growing and serious problem of evasion of our trade laws. While a solution has not yet been reached, the focus on the issue, and the many questions that have been asked, have only underscored its significance. It is clear that important work remains to be done to ensure that the actions of the government agencies charged with enforcing our trade laws reflect the importance of aggressive and timely enforcement and the significant consequences for American industries and their employees if enforcement efforts continue to fall short.

It might be helpful for me to describe how duty evasion has affected Leggett & Platt. Our company's original product was the mattress innerspring, which we patented in 1883 and have manufactured continuously since. While we now produce a wide range of products, innersprings are the heart of our business. We are the largest innerspring manufacturer in the world.

Chinese innersprings began coming into the United States in the early 2000s, at prices lower than our cost of production. We manufacture innersprings in China for the Asian market, and know first hand that it is not cost-effective to produce and ship innersprings from China to the United States. Nevertheless, more and more Chinese innersprings continued to enter the U.S., at very low prices.

By December 2007, our U.S. innerspring operations had deteriorated to the point that we filed antidumping cases against innersprings from China, South Africa, and Vietnam. As you know, deciding to bring a trade case requires a very significant commitment of a company's time, personnel, and money, at a time when the industry has been financially devastated by low-priced imports. Winning a trade case requires satisfying rigorous legal requirements through a transparent, contested quasi-judicial process. Commerce must find that goods are improperly subsidized and/or sold in the U.S. at less than fair value (dumped), and the ITC must establish that a domestic industry has suffered (or is threatened with) material injury. The standard for material injury is very high, but both agencies ultimately ruled in our favor. Our cases all resulted in antidumping duty orders. Since February 2009, innersprings from China have been subject to antidumping duties ranging from 164% to 234%.

Unfortunately, even before the final antidumping order was issued, we started seeing evidence that Chinese innersprings were being transshipped to the U.S. through third countries to evade duties.

For example, imports from Hong Kong, at the same low prices as the dumped Chinese innersprings, skyrocketed overnight. Prior to July 2008 there had been no innersprings shipped from Hong Kong, yet by September 2008 over 35 container loads per month – easily worth $1.5 million a month in commercial sales, and much more than that in duties – were being shipped here.

Hong Kong	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2005	-	-	-	-	-	-	-	-	-	-	-	-	-
2006	-	-	-	-	-	-	-	-	-	-	-	-	-
2007	-	-	-	-	-	-	-	2,071	-	-	-	-	**2,071**
2008	-	-	-	-	-	-	1,480	10,166	47,201	52,290	40,304	17,674	**169,115**
2009	58,250	16,128	36,152	23,892	10,886	3,743	1,845	8,682	9,231	21,483	8,735	11,377	**210,404**
2010	13,522	16,367	18,388	32,345	34,537	29,502	23,892	3,100	-	-	-	-	**171,653**
2011	-	-	-	-	-	-	-	-	-	-	-	-	-
2012	-	-											-

Given our knowledge of Hong Kong's market and the bedding industry, this made no sense to us. We hired a private investigator who was unable to find any evidence of legitimate innerspring production. We also traced 13 shipments of innersprings from China to Hong Kong and then from Hong Kong to the U.S., in December 2008 and January 2009 alone. Shipments from Hong Kong abruptly stopped in September 2010.

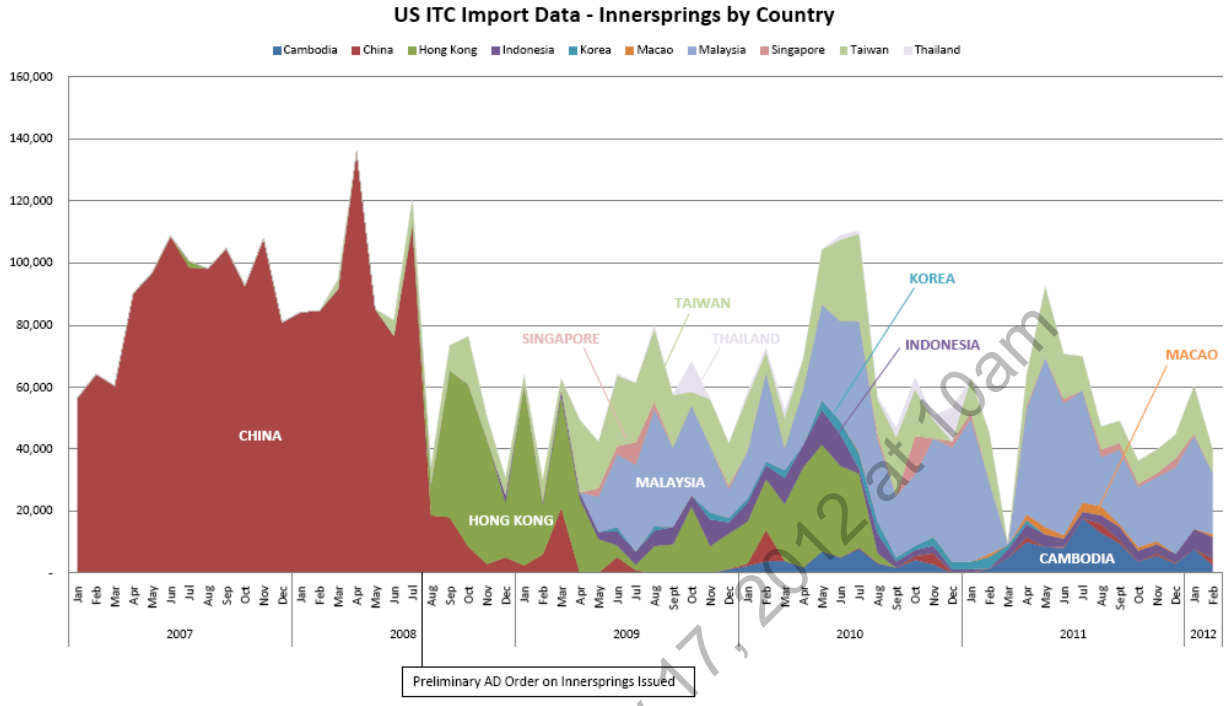
Since the order went into effect, we also have seen skyrocketing imports from Taiwan and Malaysia, again, places where there was no prior production of innersprings.

Taiwan	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2005	-	-	-	-	-	-	-	-	-	-	-	-	-
2006	-	-	-	-	-	-	-	-	-	-	-	-	-
2007	-	-	-		-	-	-	-	-	-	-	-	-
2008	-	-	3,100	-	-	4,932	7,460	5,625	8,219	15,520	7,296	5,340	**57,492**
2009	3,220	6,794	3,496	23,380	15,008	22,680	19,200	23,654	16,790	4,288	15,046	13,680	**167,236**
2010	17,660	6,560	9,756	9,740	17,642	26,382	28,130	11,278	18,822	15,108	5,918	9,446	**176,442**
2011	10,936	15,656	-	10,032	22,837	14,500	10,991	7,400	7,210	7,364	7,660	7,640	**122,226**
2012	15,508	7,530											**23,038**

Malaysia	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2005	-	-	-	-	-	-	-	-	-	-	-	-	-
2006	-	-	-	-	-	-	-	-	-	200	-	-	**200**
2007	-	-	-	-	-	-	-	-	-	-	-	-	-
2008	-	-	-	-	-	-	-	-	-	-	-	-	-
2009	-	-	-	-	11,436	23,426	27,970	37,736	25,676	29,001	21,386	9,286	**185,917**
2010	15,154	28,766	7,124	17,988	30,951	32,246	42,254	26,200	19,895	22,961	31,868	36,744	**312,151**
2011	46,106	23,247	276	33,825	54,725	42,560	36,145	15,849	24,020	19,327	20,608	27,837	**344,525**
2012	30,004	19,723											**49,727**

We have developed substantial and credible evidence that many of the exporters in these countries are involved in transshipment schemes, and are actually shipping Chinese-produced

innersprings to the U.S., all of which should be covered by duties up to 234 percent. We estimate that potentially 1 million or more imported innerspring units illegally evade our antidumping order every year. Conservatively, this would represent over $50 million dollars in antidumping duties – on our product alone – that should have been paid to the U.S. Treasury.



To understand the scope of this issue for our industry alone, if those innersprings had been produced in the United States, it would account for over 58 full time employees, earning over $2.4 million in wages and benefits per year. Our suppliers and their employees and communities would similarly benefit. Evasion of other industries' trade orders has resulted in much larger amounts of duties going uncollected, with even larger consequences for their employees and communities.

We have regularly provided Customs with specific evidence of evasion. Since October 2008, we have met with or sent information to Customs on more than 30 separate occasions. Despite our best efforts to help Customs, the innersprings continue to come into the United States without paying lawfully-owed duties.

In September 2011, we again met with Customs to discuss this problem. At that meeting, we first learned about Customs' RED Team, a task force created after the Senate Finance hearing on this same issue in May 2011. Customs' officials agreed to make the review of one of our e-Allegations (originally submitted in 2009) a line item at the RED Team's October meeting and relay results back to us. Despite numerous follow-up calls and emails, Leggett has not been made aware of any specific enforcement actions or seen any market changes that would indicate enforcement has increased in our industry.

Ours is not an isolated problem. In September 2009, we, and four other industries, formed the Coalition to Enforce Antidumping and Countervailing Duty Orders to work together to find a solution. Today the Coalition includes 14 industries, employing thousands of American workers in high-quality manufacturing, agriculture, and aquaculture jobs, all with trade orders that are being undermined by duty evasion. Every industry in our Coalition could tell you stories very similar to ours. Our members

have also invested their time and money to develop direct and reliable evidence of evasion using techniques such as transshipment through third countries, misclassification at the time of importation, the use of falsified documents, and mis-labeled country of origin markings.

One of the most remarkable aspects of our Coalition has been the striking similarity of the evasion schemes, the lack of meaningful enforcement, and the efforts and huge commitment of resources made by our varied members to essentially enforce and police their own orders. Companies bring trade cases because they have their backs against the wall, and face a choice between fighting to defend their industry or going out of business. As you would imagine, it is incredibly frustrating and disappointing for companies to limp into the ITC and Commerce after deciding to invest the enormous amounts of resources to bring a trade case, only to see their hard-earned remedy undermined by evasion that our government is either unwilling or unable to successfully combat.

The consequences of duty evasion are significant. For example, we collectively estimate that the Treasury loses almost $400 million each year in unpaid duties due to the illegal evasion of orders in just seven of the Coalition's industries. A survey across the wide range of industries with trade orders would undoubtedly yield a much, much larger number. Moreover, the ripple effects of duty evasion – up and down our supply chains, on our workers' salaries, and on our communities – cannot be ignored.

Members of our Coalition have met, individually and collectively, with Customs, ICE, Commerce, USTR, Treasury, this Committee's staff, Senate Finance staff, and numerous Senators and Representatives and their staff concerning these issues. We have been very encouraged by the efforts of many of our Senators and Representatives, and their staff, to help find a solution.

We believe it is imperative that any legislation or policy changes addressing this problem include meaningful provisions capturing three core themes.

First, <u>prompt action</u>. The most important thing for affected industries is that evasion be addressed quickly. We do not believe that successful commercial enforcement and criminal enforcement are mutually exclusive. However, ten cases of prompt commercial enforcement – even if this means simply collecting the duties – will be more effective in changing the cheaters' behavior than one criminal "perp walk" five years after an entry is made.

Prompt commercial enforcement would limit the impact in the market of merchandise entered using a duty evasion scheme. Setting reasonable timelines and deadlines for action would ensure that evasion is promptly addressed. Taking action years after evasion occurs or is reported means that domestic producers continue to be hurt by illegal trade practices while more time passes. Every day this practice continues is a day that U.S. industries and employees are not getting the benefit of the remedy that Congress intended them to receive when they brought and won their trade cases. It is ironic that strict statutory deadlines ensure prompt action when a petition is filed to address the injurious effect of imports, but enforcement of an order arising from that petition can drag out for years.

Second, <u>full use of all existing tools</u>. We need to know that the government agencies responsible for enforcing trade orders are <u>required</u> to use <u>all</u> their existing tools and authority to combat evasion. Tools like risk-based targeting, while important and useful, are not enough by themselves. Such tools must be coupled with prompt enforcement using all existing tools and authorities, such as issuing CF-28 requests for information, conducting audits and focused assessments, and using information already being collected.

Prompt and aggressive use of these tools by actively-engaged enforcement agencies will show trade cheats that our agencies are paying attention and will use every means at their disposal to enforce these orders.

We believe that our agencies can do more to work together on this problem. For example, Customs and Commerce could, and we believe should, share, with each other and with domestic parties, more proprietary information that is gathered in the course of their enforcement and administrative programs.

We note that Congress has recently legislated that Customs change its practice in cases where Customs believes intellectual property rights are being violated. They now intend to share confidential information and physical samples of imported goods with holders of trademarks and other marks, in order to allow the owner of the mark to evaluate whether the imported good is infringing their intellectual property. This important change reflects the recognition that the affected industries are in the best position to assist in enforcement. The same is true in duty evasion. Companies and industries who have fought for and obtained relief under the trade laws are the single best source of expertise and information to assist our enforcement agencies when duty evasion is suspected. Yet, while our enforcement agencies are willing to accept the evidence we develop, we have no idea whether the information is helpful, or what is being done with it. Our members would like nothing more than to have our agencies help us to help them be more effective.

We also believe that an actively engaged agency – one that is utilizing the full extent of its existing authority to address this illegal behavior – would have a deterrent effect on future duty evasion. Our experience has been that, for these unscrupulous importers, success begets further cheating. Without fear of enforcement from the agency tasked with policing our borders, they can and will continue to evade these duties, at increasing volumes.

Third, publicized results. Publishing regular and timely public reports that contain meaningful amounts of detail, and informing the companies reporting the evasion in the first place, will promote a number of important policy goals.

First, this will promote deterrence of companies and individuals who are tempted to try to evade duties. Publicizing the results of a vigorous enforcement program will send a clear message that our enforcement agencies will use all tools at their disposal to combat evasion, that the U.S. government is on to them and will no longer tolerate the blatant disregard of our laws, and that parties tempted to engage in such illegal behavior do so at their peril. We believe it will provide an immediate and effective deterrent to parties that might otherwise consider attempting to engage in evasion.

Second, it will promote transparency of the process. Today's opaque system leaves the stakeholders injured by the evasion wondering whether anything is being done to help them, and also allows agencies to handle evasion allegations with little to no oversight.

Third, it will promote accountability. Transparency goes hand in hand with accountability, and we have seen other situations where Customs has significantly improved its operations when required to publicly account for its internal activities. Requiring public reporting will promote accountability, and we believe will result in a more efficient and effective enforcement program.

Fourth, it will promote recognition of the enforcement agencies. Successes should be promoted, in order to give credit to the agencies and to educate both the trade cheats and the trade community about the talents of our enforcement professionals.

Fifth, it will promote credibility of our enforcement processes. The lack of effective enforcement fosters the perception that our enforcement agencies lack credibility, either because they lack the will or the capabilities to aggressively investigate and combat duty evasion.

Similarly, it is clear that many foreign parties view our trade orders as something that can be evaded with impunity. In late 2010, Senator Ron Wyden published the results of an informal investigation conducted by his staff that revealed just how pervasive the culture of duty evasion has become. By conducting very basic research, they documented numerous offers to evade trade orders. These offers were openly advertised on the Internet, or were quickly elicited when requested.

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Whatever form a solution takes, Leggett & Platt, and the members of our Coalition, will evaluate its effectiveness in the context of these core principles. Codifying practices that are less than fully effective is not enough. It is time to require our enforcement agencies to step up and perform, in the context of a structured program that has appropriate levels of responsiveness, transparency and accountability.

We must find a solution to this problem. Our laws must be promptly enforced, for the integrity of U.S. laws, for the credibility of our agencies, and for the industries and their employees that have been injured by unfair imports. The alternative is unacceptable. The challenge of duty evasion is not about trade philosophy – it is about effective enforcement of U.S. trade laws. Leggett & Platt, and all of the members of our Coalition, are committed to working with all stakeholders to come up with sensible, pragmatic, and effective solutions that go beyond "business as usual" and deliver an effective enforcement program.

Our company, and the other members of our Coalition, work hard to comply with all laws, in the U.S. and worldwide. We have been absolutely shocked to see the way unscrupulous individuals and companies brazenly evade U.S. law, and are equally dismayed by the lack of response we have seen from those charged with enforcing our laws. We support and encourage this Committee to move forward with meaningful, effective legislation to help fix this problem.

Mr. Chairman, members of the Subcommittee, thank you for the opportunity to address you today. I look forward to your questions.