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Coalition Against Unfair Trade Defends U.S. Rights to Distribute CDSOA Funds

(Washington, DC) (January 30, 2004) -- The Committee to Support U.S. Trade Laws (CSUSTL) today responded vigorously to the Cato Institute's recently-published policy paper that asserts the United States is not playing by the rules of the World Trade Organization (WTO).

At issue is the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA), which distributes collected antidumping and countervailing duties to the U.S. companies that suffer injury as a result of the unfair practices of some global trading partners. In a dispute settlement proceeding, the WTO determined in January 2003 that the CDSOA violated certain international obligations of the United States. A deadline was set by the WTO for the United States to take corrective action by December 27, 2003. To date, the CDSOA remains in force.

"The Cato Institute's support for the WTO's decision against the CDSOA is ill-considered and perplexing," said CSUSTL Chairman Joseph L. Mayer. "Historically, the Institute has forcefully opposed any expansion of governmental power and regulation. But now it has endorsed application of arbitrary legislation in the guise of WTO dispute settlement by unelected foreign interests that purport to have the power to direct how the U.S. government may disburse U.S. funds from the U.S. Treasury. Surely, Cato can't seriously support that kind of additional power for the WTO."

An evaluation by CSUSTL of the WTO's ruling against the CDSOA concluded that the United States can cite serious shortcomings in the WTO's analysis and the manner in which the WTO brushed aside historical precedent and central legal principles, thereby disregarding the precept that dispute settlement is meant strictly to interpret negotiated rights and obligations, not legislate. "To say, as the Cato Institute does, that this matter illustrates a questionable commitment by the United States to a rules-based international trading system is to turn a blind eye to the WTO's demonstrated proclivity in this instance to legislate new rights and obligations that the Member States have never negotiated," countered Mayer.

Equally as critical, CSUSTL noted, is that the CDSOA is nothing more than a proper exercise of the sovereign right of the United States to manage its own finances. "There is no more essential or fundamental an attribute of a sovereign nation's authority than the power of the purse," said Mayer.

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Despite these points, a number of the WTO's Member States that have challenged the CDSOA asked the WTO earlier this month to arbitrate and allow them to retaliate against the United States. The principal claim being made is that these countries should be permitted to suspend their trading concessions to the United States on a dollar-for-dollar basis equal to the CDSOA's distributions. At the same time, however, these countries have not demonstrated any burden on their trade caused by the CDSOA's payments to U.S. domestic producers. The decision by the WTO's arbitrator on this question is due later this Spring.

"It is to be hoped," commented Mayer, "that the WTO's arbitration will conclude that the absence of any quantifiable adverse effects by the CDSOA precludes authorization of any retaliation by our trading partners against the United States. Any other outcome will only further bring into question the ability of the WTO to resolve disputes justly. Congress should refuse to cede its authority and responsibility over the fiscal affairs of the United States to the WTO."

CSUSTL is an organization of companies, trade associations, labor unions, workers and individuals committed to preserving and enhancing the U.S. trade laws. Its membership spans all sectors including manufacturing, technology, agriculture, mining and energy, and services. It is committed to ensuring the unfair trade laws are not weakened through legislation or policy decisions in Washington, in international negotiations, or through dispute settlement processes at the WTO and elsewhere.

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