

1 OPEN EXECUTIVE SESSION TO CONSIDER THE ENFORCING ORDERS
2 AND REDUCING CUSTOMS EVASION (ENFORCE) ACT; CITRUS,
3 COTTON, AND WOOL TRUST FUNDS; AFRICAN GROWTH AND
4 OPPORTUNITY ACT (AGOA) AMENDMENTS, DOMINICAN REPUBLIC-
5 CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT
6 (CAFTA-DR) TECHNICAL CORRECTIONS, AND BURMA SANCTIONS;
7 AND RUSSIA PERMANENT NORMAL TRADE RELATIONS (PNTR) AND
8 MOLDOVA PNTR

9 JULY 18, 2012

10 U.S. Senate,
11 Committee on Finance,
12 Washington, DC.

13 The hearing was convened, pursuant to notice, at
14 9:35 a.m., in room SD-215, Dirksen Senate Office
15 Building, Hon. Max Baucus (chairman of the committee)
16 presiding.

17 Present: Senators Rockefeller, Conrad, Kerry,
18 Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez,
19 Carper, Cardin, Hatch, Grassley, Snowe, Kyl, Crapo,
20 Roberts, Enzi, Cornyn, Coburn, Thune, and Burr.

21 Also Present: Tom Barthold, Chief of Staff, Joint
22 Committee on Taxation; Dr. Philip Gordon, Assistant
23 Secretary for European and Eurasian Affairs, Department
24 of State; and Tim Reif, General Counsel, United States
25 Trade Representative.

26 Democratic Staff: Russ Sullivan, Staff Director;
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410-729-0401

1 Amber Cottle, Chief International Trade Counsel; Rory
2 Murphy, International Trade Analyst; Josh Levasseur,
3 Deputy Chief Clerk and Historian; Danielle Edwards,
4 Deputy Clerk; Gabriel Adler, Senior International Trade
5 and Economic Advisor; Chelsea Thomas, Professional Staff;
6 Hun Quach, International Trade Analyst; and Bruce Hirsch,
7 International Trade Counsel.

8 Republican Staff: Chris Campbell, Staff Director;
9 Everett Eissenstat, Chief International Trade Counsel;
10 Maureen McLaughlin, Detailee; Rebecca Nasca, Staff
11 Assistant; Paul Delaney, International Trade Counsel; and
12 Gregory Kalbaugh, International Trade Counsel.

1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
2 MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

3
4 The Chairman. The committee will come to order.
5 The Committee meets today to consider my marks on four
6 bills. First, a bill passed on the revised version of
7 the Enforcing and Reducing Circumvention Evasion,
8 otherwise known as the ENFORCE Act; second, a bill to
9 establish, renew or modify the citrus, cotton and wool
10 trust funds; third, a bill to amend provisions of the
11 African Growth and Opportunity Act, otherwise known as
12 AGOA, and the Dominican Republican-Central American-
13 United States Free Trade Agreement, otherwise known as
14 CAFTA-DR, and, to reauthorize and renew Burma sanctions;
15 and, fourth, a bill to establish permanent normal trade
16 relations with Russia and Moldova, along with the Sergei
17 Magnitsky Rule of Law Accountability Act.

18 Benjamin Franklin once said, "You may delay, but
19 time will not." Franklin's words ring true today. As we
20 work to pass legislation establishing permanent normal
21 trade relations with Russia, or PNTR, we cannot afford to
22 delay.

23 Russia's Duma today enacted its accession package
24 and Russia will formally be a member of the WTO next
25 month. That is our deadline for passing PNTR. There is

1 no time to waste. America risks being left behind.

2 If we miss that deadline, American farmers,
3 ranchers, workers, and businesses will lose out to the
4 other 154 members of the WTO who have already had PNTR
5 with Russia. American workers will lose the jobs created
6 to China, Canada and Europe, when Russia, the world's
7 seventh largest economy, joins the WTO and opens its
8 market to the world.

9 WTO members who have PNTR with Russia will benefit
10 from the more secure business environment that WTO rules
11 provide. This includes increased market access through
12 enforceable tariff reductions, larger beef quotas, and
13 rare access to the telecommunications and banking
14 markets.

15 It also includes greater transparency, binding
16 procedures for settling disputes, and strong commitments
17 to protect intellectual property and to follow sound
18 science on agricultural imports.

19 All this boils down to one thing -- jobs. In my
20 home State of Montana, one in five jobs is tied to
21 agriculture, and ranching is a major driver of our ag
22 economy. When Montana ranchers sell more beef in Russia,
23 it means they can support more workers in Montana. More
24 trade means more jobs. It is that simple.

25 The proposal we are marking up today will make sure

1 American businesses can go after those jobs. It will
2 make permanent the normal trade relations we have already
3 had with Russia for the past 20 years, and it is
4 predicted to double U.S. exports to Russia in 5 years.
5 That is why hundreds of companies and trade associations
6 have come out in favor of PNTR.

7 The PNTR proposal also moves Russia from the
8 Jackson-Vanik amendment. Jackson-Vanik served its
9 purpose 20 years ago by ensuring that Jews and others
10 could freely immigrate from Russia, but it is now out of
11 date.

12 Now, this is why the American and Russian Jewish
13 groups, including the National Conference of Soviet Jewry
14 and the American-Israel Public Affairs Committee, have
15 endorsed PNTR and said Jackson-Vanik should no longer
16 apply to Russia. Russian human rights and democracy
17 groups agree. And Senator Cardin's proposal to add the
18 Magnitsky Rule of Law Accountability Act to the PNTR
19 legislation will help fight human rights abuses in
20 Russia.

21 By enacting PNTR, together with the Magnitsky bill,
22 we are replacing Jackson-Vanik with legislation that
23 addresses the corruption and accountability issues that
24 Russia confronts today.

25 The Chairman's revised mark includes the version of

1 the Magnitsky bill that the Senate Foreign Relations
2 Committee approved last month under Chairman Kerry's
3 leadership.

4 The mark also includes other provisions to address
5 corruption issues in Russia, as well as to ensure that
6 Russia complies with its WTO obligations and that the
7 Administration enforces them.

8 I want to thank Ranking Member Hatch for his hard
9 work in helping to put together these provisions. They
10 make for a stronger proposal. I am grateful for his
11 contribution.

12 I also want to thank Senators Stabenow and
13 Rockefeller. They have long championed strong
14 enforcement of our trade laws, and this proposal reflects
15 their input, as well.

16 The mark also establishes PNTR with Moldova. Like
17 Russia, Moldova has allowed freedom of immigration for
18 many years, and Moldova joined the WTO in the year 2001.

19 It is the only WTO member with whom we do not have
20 permanent normal trade relations. We are long overdue in
21 providing that status.

22 I urge members to pass the combined PNTR/Magnitsky
23 bill today. Doing so will ensure U.S. businesses do not
24 get left behind.

25 We are also marking up a second proposal today to

1 extend a third country fabric provision in the African
2 Growth and Opportunity Act, or AGOA. This gives apparel
3 from AGOA countries, native fabric produced anywhere in
4 the world, duty-free access to the U.S. market.

5 This revision accounts for 95 percent of all apparel
6 imports under AGOA. The uncertainty caused by this
7 looming expiration in September has already led to
8 devastating job losses in African countries and could
9 have ripple effects here in the United States, as well.

10 A timely extension of this provision will help stem
11 the tide of job losses in Africa, and it will ensure that
12 U.S. retailers have the certainty they need to help their
13 businesses succeed and to grow.

14 This proposal also makes technical corrections to
15 the Dominican Republic-Central America-United States Free
16 Trade Agreement. These changes are technical, but they
17 are important to the U.S. textile industry. One of these
18 corrections will lead to increased yarn production in
19 North Carolina and other States.

20 This proposal also reauthorizes Burma import
21 sanctions for 3 more years to July 2015. The Burmese
22 government has taken a number of positive political steps
23 over the last 2 years, but it has not complied with all
24 the requirements of the sanctions set forth in the
25 Burmese Freedom and Democracy Act of 2003.

1 By reauthorizing the import sanctions for 3 years,
2 we maintain pressure on the Burmese government to
3 undertake reforms.

4 We are also marking up a third proposal today that
5 includes the Citrus, Cotton and Wool Trust Funds.
6 Senators Nelson, Menendez, Cardin and Schumer have been
7 tireless advocates for these funds. The Citrus Trust
8 Fund that Senator Nelson championed provides scientific
9 research and technical assistance to combat citrus
10 diseases and pests. This fund is strongly supported by
11 the citrus producers in Florida, Texas and Arizona.

12 This proposal also includes Senator Menendez's
13 Cotton Trust Fund, which expired in 2009. I know this
14 trust fund is very important to thousands of cotton
15 manufacturers, growers and spinners around the country.

16 And this proposal includes the Wool Trust Fund, for
17 which Senators Cardin and Schumer work so hard. This
18 trust fund helps to support wool textile manufacturers,
19 growers, and suit-makers.

20 I have long supported all three of these trust funds
21 and I am pleased that we have the opportunity to consider
22 them in the Finance Committee today.

23 And, finally, we are marking up a modified version
24 of the ENFORCE Act, which was introduced by Senators
25 Wyden, Snowe, Schumer, Cardin and Burr. The ENFORCE Act

1 requires U.S. Customs and Border Protection to
2 investigate the evasion of anti-dumping and
3 countervailing duty orders and it sets hard deadlines for
4 Customs to act to protect our producers from unfairly
5 priced and subsidized imports.

6 Evasion can take many forms, such as mislabeling
7 products or submitting fraudulent documents. But its
8 goal is always the same -- to conceal an import's true
9 country of manufacturing to evade legitimate import
10 duties. These practices rob our government of hundreds
11 of millions of dollars in duty revenue and they deny U.S.
12 producers relief from unfair trade.

13 I agree that Customs has been too slow in
14 investigating evasion, and I have worked with Senators
15 Wyden and his cosponsors to ensure that the ENFORCE Act
16 would require Customs to crack down on such evasion. I
17 urge my colleagues to support it.

18 We have an opportunity to act without delay on all
19 four of the proposals before us today. Let us heed Ben
20 Franklin's advice and take that opportunity, because time
21 will not delay.

22 Senator Hatch?

23

24

25

1 OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR
2 FROM UTAH
3

4 Senator Hatch. Thank you, Mr. Chairman.

5 Today, we are meeting to consider a number of highly
6 important trade initiatives, as the Chairman has listed.
7 At the top of the list is the legislation to grant Russia
8 permanent normal trade relations by removing them from
9 the Jackson-Vanik amendment.

10 Now, it is with some trepidation that we undertake
11 this task. Despite President Obama's reset policy, U.S.-
12 Russia relations remain rocky, at best. Russia continues
13 to define itself as a counterweight to the United States'
14 policies around the world. At the same time, Russia
15 seeks to reestablish hegemony over much of the former
16 Soviet Bloc.

17 Russia's human rights abuses, corruption, and poor
18 respect for the rule of law are well known. Yet, the
19 reality is that Russia will likely be a full-fledged
20 member of the World Trade Organization by the end of this
21 summer.

22 If we do not act to grant PNTR to Russia, our
23 workers and job creators would be left at a competitive
24 disadvantage vis-à-vis our foreign competitors. Given
25 the slow growth of our economy and continued high

1 unemployment rate, we simply cannot allow that to happen.

2 So I will be voting in favor of granting PNTR for
3 Russia today. This decision is significantly easier due
4 to the willingness of Chairman Baucus to work with me
5 over the last several weeks to make sure that many of the
6 concerns raised throughout this process were addressed in
7 the legislative package we are considering today.

8 I want to publicly thank Chairman Baucus and all the
9 members of the Finance Committee, particularly those on
10 my side of the aisle, as well, for working with me to
11 develop a robust package of modifications to PNTR that
12 will hold both Russia and the Administration accountable,
13 and for including PNTR for Moldova.

14 I also want to recognize the work of Senators Cardin
15 and Kyl, along with many others, for helping to craft
16 legislation to hold corrupt Russian government officials
17 accountable for their actions. I understand that this
18 legislation is now part of the Chairman's mark.

19 There are a number of other important bills we will
20 be considering today, including a modified version of the
21 ENFORCE Act, which will strengthen Customs and Border
22 Protection's efforts to combat anti-dumping and
23 countervailing duty evasion. This bill will provide
24 American producers with more transparency into CBP's
25 efforts and will hold CBP accountable for ensuring that

1 AD/CVD duties are paid.

2 Now, I want to commend Senators Wyden, Snowe,
3 Schumer, Coburn, Cardin and Burr for cosponsoring the
4 ENFORCE Act and for their dedication to tackling this
5 important trade issue.

6 Ever since Senator Wyden first offered his ENFORCE
7 bill as an amendment to the U.S.-Korea implementing
8 legislation, my staff has been working, along with
9 Chairman Baucus' team and Senator Wyden's staff, to help
10 develop the bill we will be considering today.

11 I think by working together, we have developed a
12 strong and well-balanced bill, and, for that reason, I
13 expect it will receive significant bipartisan support
14 today.

15 We will also be considering legislation that extends
16 the third country fabric provisions of the African
17 Growth and Opportunity Act, as the Chairman has stated.
18 This will help many struggling workers in Africa continue
19 to benefit from this important program and, also, benefit
20 U.S. businesses, as well.

21 In addition, the bill implements mutually agreed-
22 upon modifications to the textile and apparel rules of
23 origin provisions of the CAFTA-DR agreement. All the
24 other CAFTA countries have implemented these
25 modifications except the United States. The

1 modifications cannot go into effect until all the CAFTA
2 countries implement them. And while these modifications
3 are highly technical, they will help the agreement to
4 operate more effectively and efficiently so that it can
5 continue to fulfill its potential as an engine of
6 opportunity and growth in Central America, the Dominican
7 Republic, and, of course, our own country, the United
8 States.

9 Finally, this bill reauthorizes our statutory
10 sanctions regime on Burma. This provides the
11 Administration with the continued flexibility to ease
12 trade and investment rules between the United States and
13 Burma, while, at the same time, retaining the ability to
14 re-impose sanctions should the situation in Burma
15 deteriorate.

16 I am quite hopeful about the change taking place in
17 Burma. The Burmese people have suffered for much too
18 long under the yoke of poverty and oppression. And while
19 much work remains, I want to publicly acknowledge the
20 leadership of the current governing party, as well as
21 those newly elected representatives, on working to forge
22 a new and open Burmese society, one we hope will be
23 founded on the rule of law and economic opportunity for
24 everybody.

25 We will also be considering legislation that

1 authorizes, extends or modifies three trust funds for
2 citrus, cotton and wool products. I know these bills are
3 important for many members of the Committee and that in
4 order to complete today's work, it was necessary that
5 they be considered.

6 Because of the good faith work of many members of
7 this Committee, most of the legislation we will be
8 considering today should receive strong bipartisan
9 support. Today's markup shows what we can accomplish
10 when we work together, and this stands in sharp contrast
11 to the process undertaken last year during consideration
12 of our FTAs and TAA, which devolved into acrimony and
13 dysfunction.

14 This Committee has some very important work ahead of
15 it in trade, taxes and health care reform, and I hope
16 that today's markup will serve as a model of what we can
17 achieve by working together as we strive to tackle many
18 other highly complex and important tasks in the future.

19 So I want to thank you, Mr. Chairman. I appreciate
20 your leadership on this.

21 The Chairman. Thank you, Senator.

22 I will now recognize other Senators who wish to make
23 opening statements. I ask Senators to confine their
24 remarks to 4 minutes, please, so we can move along.

25 I think I will just go down the row here and if you

1 want to seek recognition -- Senator Hatch. Senator
2 Wyden?

3 Senator Wyden. Thank you very much, Mr. Chairman.

4 Mr. Chairman, I strongly support all four of these
5 bills. I commend you and Senator Hatch for working on
6 this in a bipartisan way.

7 I think we all understand that expanded trade is a
8 job creator for our country, but what is often not
9 recognized is that expanded international trade for
10 millions of middle class Americans is often an income
11 raiser. It helps to raise the incomes and the standard
12 of living for middle class people.

13 I was struck this morning looking at a couple of the
14 government Websites. The Peterson Institute for
15 International Economics has made the case that real
16 incomes are 9 percent higher than they would have
17 otherwise been without this kind of trade-expanding
18 legislation.

19 Mr. Chairman, I strongly support all four of these
20 bills.

21 To just make a couple of quick comments with respect
22 to the ENFORCE Act. Here, technically, what we are
23 dealing with is duty evasion, but the fact of the matter
24 is what this is is merchandise laundering. You have got
25 foreign suppliers increasingly engaging in schemes to

1 transship and mislabel their exports in order to avoid
2 America's trade remedy laws.

3 These are the laws that protect American workers.
4 These are the laws that protect American producers from
5 being harmed by unfair trade practices, particularly
6 those employed by China. And the impact of this kind of
7 merchandise laundering is a loss of a good-paying
8 American manufacturing jobs and opportunities for our
9 middle class folks.

10 I am very pleased that Senator Snowe and a number of
11 colleagues are cosponsors of this legislation. As a
12 result of the work that Chairman Baucus and Senator Hatch
13 have done over the last few years, I think we have a
14 bipartisan piece of legislation.

15 And I want to just make one additional point. In
16 the last few days, we have had legitimate concerns
17 raised, my colleague, Senator Stabenow, being one of
18 them, about who can explicitly go to CBP under the
19 proposed legislation to trigger an investigation of duty
20 evasion. And there has been a concern among some that
21 the legislation is too narrow and that important
22 stakeholders are not going to be able to quickly and
23 expeditiously do it.

24 I simply want to say, Mr. Chairman, as we continue
25 these discussions between now and the time that we go to

1 the floor, I want to pledge to colleagues on both sides
2 of the aisle that we will be working under the leadership
3 of Chairman Baucus -- Senator Hatch, Senator Stabenow and
4 others have mentioned this -- to make sure that all of
5 the stakeholders who care about this issue, and,
6 particularly, because of good-paying jobs at American
7 manufacturing plants and the wellbeing of their workers,
8 are addressed.

9 Mr. Chairman, thank you for your good faith. I look
10 forward to moving this legislation quickly, and we will
11 continue the discussion between now and the time at which
12 we go to the floor.

13 The Chairman. Well, thank you, Senator. And I
14 compliment you and your aggressive work to help assure
15 that the United States Government better enforces its
16 trade laws.

17 Many of us who feel that the government has been a
18 bit lax in enforcing trade laws, Senator Stabenow
19 certainly shares that concern, she is part of this
20 legislation, but I thank you very much for helping add a
21 little more teeth to our trade laws so that we will not
22 be taken advantage of.

23 Thank you very much for what you are doing.

24 Any Senators on this side? Senator Grassley?

25 Senator Grassley. I am a supporter of our rules-

1 based trading system we have. I think we have a strong
2 economy because of the predictability that comes with the
3 WTO system and rules-based trading.

4 The WTO provides an important venue for resolving
5 international disputes. And I am glad that Russia wants
6 to join the WTO. It makes sense for a country of its
7 size and economic impact to be a part of WTO.

8 That being said, this Administration should have
9 done more to advocate the interests of U.S. farmers in
10 this process. We had a prime opportunity during WTO
11 accession discussions to push for a separate SPS
12 agreement, that is, sanitary and phytosanitary agreement,
13 and negotiate things like an equivalence agreement.

14 We should have learned from our lesson of China's
15 accession to the WTO. Despite the fact that we had
16 assurances from China that they would abide by SPS
17 agreements, they have not always done so.

18 Somewhere along the line, the Administration decided
19 to hit the fast-forward button on the President's desire
20 to have a reset with Russia. As a result, farming in the
21 United States did not get the attention to their issues
22 that segment of the economy deserves considering that we
23 make a big impact on international trade.

24 That being said, I do appreciate the Chairman and
25 Ranking Member working to include my amendment language

1 on sanitary and phytosanitary issues. Particularly, pork
2 farmers have had to deal with a number of unjustifiable
3 standards imposed by Russia in recent times.

4 When the USTR reports to Congress on Russia's
5 implementation of WTO SPS agreement, as required by the
6 bill, I expect to hear from USTR on issues like Russia's
7 standard for tetracycline and salmonella, just to name a
8 few specific issues.

9 Of course, with the way that Russia has put up these
10 barriers to U.S. pork, it could be some other issue 6
11 months from now. The point is, very specifically, USTR
12 needs to diligently push Russia to uphold WTO SPS
13 standards. They need to do that for pork, beef, poultry,
14 and whatever type of agriculture product is facing an SPS
15 challenge from Russia.

16 In addition, given that this bill requires USTR to
17 continue efforts to negotiate an SPS equivalence
18 agreement with Russia, I expect USTR to regularly update
19 this Committee on the process.

20 I also want to note that this Administration missed
21 an opportunity to promote an effective intellectual
22 property rights regime for U.S. companies doing business
23 in Russia during this accession process. WE must provide
24 protection for innovators and creators, and USTR needs to
25 do all that it can to push for strong intellectual

1 property enforcement by Russian officials.

2 It is my hope that with the language we have gotten
3 adopted in the Chairman's mark and with the inclusion of
4 the Magnitsky bill, we can move forward today in this
5 process and pass Russian PNTR out of Committee.

6 I thank the Chairman. And I am going to be in and
7 out during this meeting because of my responsibilities
8 with Judiciary.

9 The Chairman. Thank you, Senator, very much. I
10 appreciate that.

11 I am going down the list here. If you want to
12 speak, Senator Cantwell, you are next.

13 Senator Cantwell. Thank you, Mr. Chairman. And
14 thank you for holding this important markup.

15 Expanding trade is a key component of our Nation's
16 economic recovery strategy and it is a source of high-
17 paying jobs in my State. So I am glad we are moving
18 forward on these important trade issues.

19 But I would like to briefly mention the Russian
20 trade bill, in particular, because of the connection to
21 Senator Henry "Scoop" Jackson, whose seat I am proud to
22 hold.

23 Not only did he have a deep compassion and concern
24 for the wellbeing of his constituents, but he also
25 dedicated to helping people on issues that went well

1 beyond our State and our Nation. This is evident in the
2 Jackson-Vanik amendment we are discussing today.

3 Scoop did not consider America's ideals and self-
4 interests to be mutually exclusive, but, rather, he saw
5 them as a complimentary issue and self-reinforcing. So I
6 think when it comes to today, this is why the Jackson-
7 Vanik amendment was so important. And while I am a
8 strong supporter of increasing trade opportunities, I am
9 not ready to do that without including Jackson-Vanik in a
10 new form.

11 Like my predecessor, I am concerned that some of the
12 human rights issues in Russia that have been raised and
13 like the Soviet times, incidents of politically motivated
14 torture, abuse and violence are all too common in Russia
15 today. And reports of serious election violations in
16 March and the return to the Putin presidency reminds us
17 that there are still many issues and problems to address.

18 It is with these issues and concerns that I am
19 dedicated to making sure that this Magnitsky legislation,
20 the Magnitsky Rule of Law Accountability Act, is
21 contingent upon my vote for PNTR and moving this
22 legislation forward.

23 Russia is not a perfect trading partner. It
24 struggles in its protection and enforcement of
25 intellectual property rights and is inconsistent in its

1 application of agricultural standards that are based on
2 science. However, I believe that these battles are best
3 fought effectively through the World Trade Organization
4 by utilizing its dispute settlement mechanisms.

5 So moving forward on this legislation, Mr. Chairman,
6 Jackson-Vanik and the new version was vital, I think, to
7 moving forward on this legislation. I know that every
8 president since 1994 has determined that Russia was in
9 full compliance with Jackson-Vanik. So I think it is an
10 important tool that we continue to strive with in the
11 form of this new legislation.

12 So I am glad to support this legislation moving
13 forward. And I think that Scoop Jackson, if he were
14 here, would be proud of the balance that we have achieved
15 in this.

16 Thank you.

17 The Chairman. Thank you, Senator, very much.

18 Senator Kyl?

19 Senator Kyl. Thank you, Mr. Chairman. I know we
20 want to get on to the markup, but I do think it is worth
21 taking just a moment, again, to thank both you and
22 Senator Hatch for including the very important economic
23 and rule of law issues in the legislation so that we can
24 address all of those things at once, and I appreciate the
25 effort that both of you put into that.

1 I just want to second what Senator Cantwell said
2 and, also, thank Senator Cardin for his leadership on the
3 Magnitsky legislation. It is critical that we include
4 this legislation, the Magnitsky bill, in the legislation
5 we are considering today.

6 We can either, in effect, side with corrupt Russian
7 bureaucrats who are standing in the way of the progress
8 of the Russian people or help them pursue the kind of
9 rule of law that we know will not only help them, but
10 would also help those who wish to trade with them.

11 The only thing I want to say right now is that while
12 I will have one technical amendment later, I want to
13 propose another important amendment that will enable us
14 to deal with the miscellaneous tariff bill issue. There
15 is a way that we have dealt with it in the past. Most of
16 the people on my side believe that that violates the law
17 with respect to earmarks.

18 We have proposed to fix that with a bill that
19 Senator McCaskill and Senator Portman have introduced. I
20 think it is an easy fix. And if we are going to get
21 those things done this year, we are going to have to have
22 a different process for doing it.

23 This legislation would do that, and I will offer
24 that amendment at the appropriate time.

25 Thank you, Mr. Chairman.

1 The Chairman. Thank you, Senator.

2 Senator Menendez?

3 Senator Menendez. Thank you, Mr. Chairman, for
4 convening a markup on the series of important trade
5 matters. And I particularly appreciate your support for
6 moving on the Cotton Trust Fund.

7 The cotton program is aimed at reversing the damage
8 caused by what I call a made-in-America tax on the
9 domestic apparel industry and it is carefully constructed
10 to balance the interests of U.S. shirt manufacturers,
11 while protecting the domestic cotton-growing and yarn
12 industries that are dependent on export markets.

13 The package was uniquely designed to strengthen each
14 industry sector, the growers, the spinners, the shirt
15 manufacturers, several of which are located in my home
16 State of New Jersey. The shirt that I am wearing today
17 was made by Individualized Shirt in Perth Amboy, New
18 Jersey.

19 Beginning with the Canadian free trade agreement,
20 repeated in NAFTA and again in trade preference programs
21 benefitting Andean, Caribbean and African countries,
22 Congress eliminated duties on imported finished dress
23 shirts. While those countries eliminated their duties on
24 shirting fabrics needed to manufacturer dress shirts, our
25 policy was and is still to maintain a duty as high as

1 13.5 percent on cotton shirting fabric.

2 For this reason, the tariff has, I think aptly, been
3 called the made-in-America tax. Not surprisingly, this
4 tax resulted in American manufacturers moving production
5 to Canada and offshore where shirting fabric is not
6 subject to high duties and where the finished product can
7 be exported to the United States duty-free.

8 In 2006, Congress responded with a cotton trust
9 fund, a combination of duty reductions and duty refunds
10 to shirt manufacturers who continued manufacturing in the
11 United States. That program expired at the end of 2009
12 and for the last 2.5 years, we have been taxing U.S.
13 manufacturers for doing business in the United States.

14 And if we do not act now, many of these companies
15 will simply move offshore and they will take 1,000-plus
16 manufacturing jobs with them, many of them in my home
17 State of New Jersey, as well as North Carolina,
18 Pennsylvania, Tennessee, Georgia, Florida, and growing
19 and yarn-spinning jobs in Texas, New Mexico, and
20 California.

21 I think it is crucial to point out that the cotton
22 trust fund is emblematic of our promise to Americans to
23 provide not just free trade, but, also, fair trade.

24 Today, when we pass legislation to expand normal
25 trade relations to Russia, significantly reduced tariffs

1 on Russian imports, technical corrections to DR-CAFTA
2 free trade agreement, and the extension of third country
3 fabric provision of AGOA, these measures are all aimed at
4 promoting free trade and easier access to the United
5 States market. Well, the cotton trust fund holds up the
6 other end of the bargain -- providing fair trade.

7 I just simply do not think, Mr. Chairman, that the
8 same fabric that is assembled abroad, brought to the
9 United States duty-free should now have a 13.5 percent
10 imposition for a U.S. manufacturer using the very same
11 fabric to create jobs here in America. That is what the
12 legislation is all about.

13 I am all for using trade as a tool of sustainable
14 development in Africa and in other parts of the world,
15 but, for me, that trade also is about creating jobs here
16 in the United States. That is what the cotton trust fund
17 is all about and that is why I hope my colleagues will
18 support it.

19 The Chairman. Thank you, Senator.

20 Senator Cornyn, you are next.

21 Senator Cornyn. Thank you, Mr. Chairman.

22 Passing the PNTR bill will ensure that the U.S. is
23 in compliance with WTO norms and that we receive the full
24 benefits of WTO membership. Russia's growing middle
25 class has an appetite for high quality American goods and

1 services, and the PNTR will guarantee U.S. companies
2 access to the Russian market.

3 At the same time, there are serious doubts about
4 Russia's willingness to be a responsible actor on the
5 world stage and its commitment to human dignity and basic
6 freedoms.

7 Internally, Russia is sliding deeper and deeper into
8 lawless autocracy. I am proud to be a cosponsor of
9 Senator Cardin's Magnitsky legislation. I acknowledge
10 the good work that Senator Kyl and he have done on that,
11 which aims to address Russia's clear disdain for both
12 human rights and those who blow the whistle on public
13 corruption.

14 Externally, Russia is increasingly hostile to U.S.
15 interests and its rap sheet of bad behavior in recent
16 years is lengthy. The most recent deeply troubling
17 example is Russia's unfaltering support for the criminal
18 regime of Bashar al-Assad in Syria, even in the fact of
19 Assad's mass murder of his own people.

20 This is the focus of my two amendments. While the
21 case of Sergei Magnitsky illustrates just how ruthless
22 and brutal the Russian government can be, it is not only
23 Magnitsky's blood that stains Russian hands. As we
24 speak, in Syria, the Assad regime continues its campaign
25 against its own citizenry with the implicit blessing of

1 Moscow.

2 Over the last year, Assad's forces have carried out
3 repeated massacres, using weapons such as tanks, attack
4 helicopters, artillery and mortars. The United Nations
5 estimates that more than 10,000 Syrians have lost their
6 lives, mostly civilians. Unofficial estimates by human
7 rights groups put the number at over 17,000.

8 At the same time, Russia has blocked action by the
9 U.N. Security Council that might quell the bloodshed.
10 After decades of delivering Russian-made arms to Syria,
11 Russia refuses to halt the shipments even now.

12 Today's markup affords us the opportunity to send a
13 clear message to the Russians that these actions have
14 consequences and they must immediately halt all arms
15 shipments to Syria and get serious about a post-Assad era
16 there.

17 My first amendment would create a new category of
18 Magnitsky sanctions. My second amendment would delay the
19 effective date of this bill until the President certifies
20 that the Russian government has ceased the transfer of
21 weapons to the U.S.-designated state sponsors of
22 terrorism, including Syria.

23 To my colleagues who support the Magnitsky
24 legislation, as I do, I ask for your vote on these
25 amendments. If the murder of one courageous Russian

1 warrior at the hands of his own government warrants
2 actions, how much more does the murder of more than
3 10,000 Syrian civilians at the hands of their government?

4 We should not squander this chance by gift-wrapping
5 PNTR and handing it to Russia without a second thought as
6 to Russia's actions in Syria, which fly in the face of
7 our most basic values and interests.

8 Thank you, Mr. Chairman.

9 The Chairman. Thank you, Senator.

10 Next is Senator Cardin.

11 Senator Cardin. Mr. Chairman, thank you very much
12 for this markup today.

13 In the 1970s, when the Congress passed the Jackson-
14 Vanik provisions, it was a major statement to the
15 international community of our commitment to human rights
16 and U.S. values, and the United States prepared to lead
17 on human rights issues.

18 It was motivated by action within the Soviet Union,
19 but it applied to all non-market economies. It has
20 served its purpose and it is time for us to enact PNTR
21 for Russia. But it gives us a chance to advance human
22 rights by the enactment of PNTR and allow the United
23 States to maintain its strong leadership internationally
24 on human rights.

25 And, therefore, Mr. Chairman, I thank you very much

1 for including the Magnitsky bill in the legislation that
2 we are considering today.

3 The Magnitsky bill has strong bipartisan support. I
4 want to acknowledge Senator McCain and Senator Lieberman,
5 Senator Wilkerson, Senator Durbin, Senator Sheehan, and
6 so many members of this Committee that are cosponsors,
7 particularly Senator Kyl, who was instrumental in
8 negotiating the final version of the bill that was
9 reported unanimously by the Senate Foreign Relations
10 Committee.

11 I want to thank Senator Schumer, Senators Cantwell,
12 Coburn, Thune, Menendez, Burr, Cornyn and Grassley, and
13 ask consent that Senators Cornyn and Grassley be added as
14 cosponsors to the amendment that has been incorporated
15 into the Chairman's mark that we have before us.

16 This Magnitsky bill arises out of the tragedy that
17 occurred in Russia involving Sergei Magnitsky, a young
18 attorney, who stood up against the corrupt system in
19 Russia. And to this day, those who are responsible for
20 this tragedy have not been held accountable by the
21 Russian authorities and, in fact, have been promoted
22 rather than held accountable.

23 What this bill does is hold gross violators of
24 internationally recognized human rights accountable.
25 That is the purpose of the legislation. And if the

1 governments of the country do not, it denies certain
2 privileges to those individuals to visit our country or
3 to use our banking system so that they cannot enjoy the
4 fruits of their corruption.

5 We do this for many reasons -- to name and shame, to
6 deny the fruits of the corruption, and to maintain U.S.
7 leadership on human rights, and we do this to help the
8 people of Russia.

9 I cannot tell you how many Russians have talked to
10 me about this legislation, knowing that their country can
11 do better, and encouraging us to pass this legislation.

12 Mr. Chairman, I also want to thank you for allowing
13 us to consider the wool trust fund, the corrections to
14 the current trust fund. Senator Menendez explained the
15 reason for this on cotton. The same rationale applies
16 for wool. We have an adverse tariff. It is actually
17 less tariffs on a finished product than it is on the
18 material that could come into this country, creating jobs
19 for the productions here in the United States itself.

20 And, lastly, Mr. Chairman, I want to just make a
21 comment in regard to the ENFORCE Act, a bill that I think
22 is important. But it has come to our attention that some
23 of the modifications that have been made may have
24 affected workers and industries from being able to take
25 advantage of the expedited process.

1 That gives me great concern and I hope as this
2 legislation works its way through the United States
3 Senate, we will have a chance to look at the concerns
4 that have been raised as a result of the modifications
5 that have been made and, hopefully, be able to make sure
6 that the final version that is enacted allows workers and
7 industries to take advantage of this expedited process.

8 Thank you, Mr. Chairman.

9 The Chairman. Thank you, Senator. You have worked
10 very diligently on the Magnitsky matter and you have been
11 very receptive and open to try to find a combination that
12 works, and I deeply appreciate that.

13 Senator Crapo?

14 Senator Crapo. Thank you, Mr. Chairman.

15 Today, we embark on a new chapter in the story of
16 our mercurial relationship with Russia. Much has and
17 will be said about the consequential act of Russia
18 entering the international trade regime of the World
19 Trade Organization.

20 The U.S. can pat itself on the back for the
21 culmination of 18 years of negotiations and work to
22 integrate Russia into the structure of the global market.
23 However, as we reflect on this moment, we should remember
24 it as a lost opportunity to do better and stand for the
25 principle of expecting Russia and all serious nations to

1 act in accord with internationally accepted customs.

2 Even with the much hyped reset in Russia-U.S.
3 relationships, Russia remains a belligerent actor on the
4 world stage, occupying neighboring territory, using its
5 resources to bully trading partners, propping up vicious
6 regimes in the Middle East, derailing international
7 efforts to reverse Iran's pursuit of nuclear enrichment,
8 fighting U.S.-led plans to build missile defense systems
9 in Europe, reasserting its regional hegemony, subjugating
10 its own civil society, rigging elections, sustaining
11 organized crime, and boycotting international gatherings.

12 A lot has been said about inclusion in the WTO will
13 suppress Russia's worst behavior and instincts. I truly
14 hope so.

15 Our 10-year experience with China in the WTO is, at
16 best, a mixed lesson on the tradeoff between increased
17 market access and the limits of international accords.
18 Many U.S. businesses can testify to the struggles of
19 doing business in countries with poor histories of
20 respecting the rule of law, property rights, and
21 transparency.

22 It is hard to argue that the WTO puts a tight
23 straightjacket on bad behavior. That is why the Hobson's
24 choice before us is so difficult. U.S. businesses need
25 export opportunities to kick our anemic economic recovery

1 into higher gear. The accession agreement should lower
2 many barriers to Russian markets, including its
3 controlled agriculture and high tech sectors.

4 Our businesses can compete in any fair market
5 because we have the best goods and efficient workers.
6 But the reality is Russia is being embraced into the
7 world trade system not because of what it has done, but
8 in spite of its recent actions.

9 The accession agreement sends the message to Moscow
10 that its bad behavior is largely overlooked. Russia is
11 now sending marines and a naval task force into Syria,
12 all while fighting international community efforts to end
13 the bloodshed in the country and to rid it of its violent
14 government.

15 Russia's policy record on agriculture trade is also
16 spotty. Too often, our farm exports have been blocked by
17 arbitrary and unscientific sanitary and phytosanitary
18 measures.

19 Moscow has also used costly and bureaucratic
20 approval processes for meat exporters to protect its own
21 less competitive food producers. It took the worst drop
22 in half a century in Russia for the barriers to meat
23 imports to be loosened.

24 To make the accession agreement work, U.S. producers
25 will be reliant on Russia acting in good faith to ensure

1 that its practices comply with fair trade and
2 international SPS and international property rights
3 standards. There seems to be great optimism on the part
4 of the Administration that it will and can vigorously
5 challenge Russia's violations of WTO guidelines at every
6 turn.

7 If our experience with China is any indication,
8 there will be a lot of lawsuits and a lot of challenges
9 brought under this arrangement.

10 Unfortunately, bringing lawsuits before the WTO is
11 both costly and time-consuming. I certainly hope the
12 Administration recognizes the obstacles it faces as we go
13 forward. The White House must do better than its record
14 on the reset demonstrates.

15 Despite my serious misgivings, I will support Russia
16 PNTR. I recognize our exports should not be the victims
17 of Russia's questionable conduct. I fully expect the
18 Administration to be vigilant in pressing for enforcement
19 of Russia's commitments to fair trade.

20 Russia's WTO accession provides a real opportunity
21 to U.S. agriculture and high tech exporters to expand
22 their markets.

23 I commend their competitiveness and will continue to
24 be an advocate for their success.

25 Mr. Chairman, I have further remarks, but I would

1 just ask consent to put them in the record.

2 The Chairman. Without objection.

3 [The prepared statement of Senator Crapo appears at
4 the end of the transcript.]

5 The Chairman. Thank you very much, Senator.

6 Senator Crapo. Thank you, Mr. Chairman.

7 The Chairman. Thank you.

8 Next, Senator Nelson?

9 Senator Nelson. Mr. Chairman and Senator Hatch,
10 thank you for your bipartisan leadership on so much of
11 this. And I just want to call to the attention of the
12 Committee, Senator Cornyn and Senator Kyl and I on this
13 Committee, along with the Senators from California, have
14 a significant problem in our citrus industry with a
15 bacteria that has come from Asia.

16 It is transported by an insect called a Psyllid, and
17 it kills the tree in 5 years. We will not have a citrus
18 industry. That bacteria is already in Texas and if the
19 growers in Arizona have not discovered it, it is there,
20 coming across from Mexico. It is in every grove in
21 Florida and it is in most groves in Brazil.

22 So the citrus trust fund is a temporary 5-year trust
23 fund, taking part of the tariff that is paid by Brazil
24 for their import of fresh juice into the U.S., taking
25 only a third of that tariff each year into the citrus

1 trust fund for the sole purpose of the research and
2 development of finding the cure. Otherwise, we will not
3 have a citrus industry, and, of course, you know that
4 every American breakfast table has orange juice as part
5 of its staple.

6 So this is what we are up against. It kills the
7 tree in 5 years. Now, the growers have found ways to use
8 certain sprays to postpone the killing, but it is only
9 done for 1 or 2, max 2.5 years. We are talking about the
10 death of an entire industry that, of course, is a great
11 tradition in Arizona, California, Texas, and especially
12 Florida.

13 So that is what we are up against. I will just say
14 that you all know, and I have talked to Senator Hatch for
15 2 years about this, this is the moment in which to get
16 this into law.

17 In the meantime, what I have begged, got on my knees
18 with the Department of Agriculture, and they have given
19 grants to the USDA research stations, along with the
20 private donations that are coming in, and the scientists
21 are making progress. This is not like, if Senator Cornyn
22 were here, in the old days, we had a problem of a worm
23 called a screw worm getting in cattle and the way you
24 eliminated that was they sterilized the male flies. It
25 completely eliminated it.

1 They have tried that. That does not work in this
2 particular bacterial disease. And so that is what is in
3 front of the Committee.

4 Thank you very much.

5 The Chairman. Thank you, Senator. I appreciate
6 that.

7 Next, Senator Coburn?

8 Senator Coburn. Thank you, Mr. Chairman. I am
9 sorry. I am Ranking Member on another hearing that is
10 ongoing at the same time.

11 The two bills before us today are bills that defer
12 hard choices on financing their priorities, and we are
13 doing that because we will not make hard choices. Our
14 first problem is, with these two bills, we are kicking
15 the can down the road at a time when we should not be
16 kicking any cans down the road.

17 Both packages incur costs in the first 5 years of
18 the scoring window, yet, provide an offset derived from
19 custom user fees for 10 years. We cannot keep doing
20 that. It is not fair to our children, our grandchildren.
21 It also is ducking the real problems in front of us,
22 which we all know. We all agree they are big.

23 But, yet, here we are going to sit in the Finance
24 Committee and use a gimmick -- a gimmick -- to say we
25 paid for something, when, in fact, we have not.

1 We are relying on lay-away financing and leaving the
2 bills for our kids to pay. If this is a priority --
3 these bills are priority and it is the true cost to
4 taxpayers, we should offset the costs for these bills in
5 the years in which the costs are incurred.

6 If CBO or Joint Tax scoring showing us the costs
7 when the problem is really their scoring rule, we ought
8 to fix the real problem, how CBO and Joint Tax scores
9 things. And I believe that to be the case in the AGOA
10 package. I think they are way off base in terms of what
11 -- let us have that conversation. Let us address the
12 problems with CBO.

13 Problem number two is because the offsets violate
14 PAYGO, these two bills contain elaborately constructed
15 budget gimmicks. We are playing a game. It is a farce
16 to the American people, and they see through us. And I
17 am going to continue to speak up when we are playing
18 games.

19 Corporations estimate how much tax they owe and pay
20 each quarter. They are required under current law to pay
21 100 percent of their liability. Under this bill, some
22 corporations are asked to provide more than they owe.
23 This is equivalent to an interest-free loan to the
24 Federal Government by the corporations that are paying
25 the tax. Why would they want to do this?

1 The thought process behind the gimmick is that the
2 access amount that is paid would be refunded in year 6 of
3 the scoring window with a so-called "corporate payment
4 shift," which would supposedly be repealed in future
5 legislation.

6 It has also been said about this gimmick by staff,
7 "This is the way we have done it for years." Well, the
8 way we have done it for years has this country bankrupt.
9 That is not a good enough reason to do something that is
10 sleight of hand.

11 I would respectfully submit that I will oppose both
12 the package and the trust fund due to the offset. I have
13 offered alternative PAYFORs. I understand that they will
14 not be ruled in order. So I will not offer them.

15 But I believe we in the Finance Committee can do
16 better than what we have done on this bill and I think we
17 must do better if we are going to improve our financial
18 situation.

19 With that, I yield back, Mr. Chairman.

20 The Chairman. Thank you, Senator, very much.

21 Next, Senator Stabenow? You are next, Senator
22 Stabenow. It is kind of confusing here going back and
23 forth of appearance here, but you are next.

24 Senator Stabenow. Thank you very much and thank
25 you, Mr. Chairman and Ranking Member Hatch, for working

1 together on a bipartisan basis, because these certainly
2 are issues that are very important -- exports, which are
3 important to the future of the country.

4 Today, we will consider, as we all know, legislation
5 extending permanent normal trade relations with Russia.
6 And I think that Senator Crapo raised some important
7 issues that I share as it relates to the comparison with
8 China a number of years ago.

9 There are differences, but there are important
10 lessons, I think, for us to learn. And 12 years ago,
11 when China was admitted to the WTO, I voted against
12 permanent normal trade relations because of a number of
13 different concerns that I had at that time, including
14 their track record of protectionism and favoritism for
15 Chinese industries.

16 Unfortunately, we are still dealing with those
17 issues, and many of my colleagues here today are involved
18 in efforts to hold China accountable for their WTO
19 obligations. And that is why we need to move forward
20 with Russia in a way that it is done right and reflects
21 the challenges we have had.

22 As we look at Russia, we see another important
23 growing economy. Last year alone, my State of Michigan
24 exported more than \$225 million products to Russia, an
25 increase of 60 percent since 2010. And we certainly want

1 to export our products, not our jobs.

2 And that is why it is also critical that -- and I am
3 very pleased, Mr. Chairman, that you have included an
4 effort that I have worked with Senator Burke of Ohio on
5 and a number of colleagues to make sure that there is
6 accountability and that Russia lives up to their
7 responsibilities under the WTO, including protections for
8 intellectual property and punishments for those involved
9 in bribery and corruption.

10 I have also, with Senator Lindsey Graham, introduced
11 the Trade Prosecutor Act to help businesses who are hurt
12 by illegal trade practices. I am pleased the President
13 has signed an executive order in February to implement
14 this. I look forward to working with them.

15 There is one area that has not been so far put into
16 law and I am disappointed it was not included here, I
17 will pursue it on the floor, and that is to create a
18 chief manufacturing negotiator in our processes.

19 We have an economy in America because we make things
20 and grow things. At USTR, we have a chief agriculture
21 negotiator to make sure we are negotiating our interests
22 in growing things and making sure markets are open and
23 available. I believe very strongly we need to do the
24 same thing on the manufacturing side.

25 And our bill, Senator Graham and I, would include a

1 chief manufacturing negotiator, and I think it is
2 important as we move forward that we include that
3 position.

4 I have also introduced the Protect America
5 Innovation Act to strengthen Customs officials' ability
6 to stop counterfeit goods and by increasing penalties for
7 companies that repeatedly attempt to bring pirated goods
8 into the country.

9 We have in Detroit, actually, the largest border
10 crossing at the northern border, over \$1.3 billion in
11 goods coming across the border every single day. And the
12 question of integrity in those processes is very
13 important.

14 So, Mr. Chairman, I appreciate your willingness and
15 the Ranking Member's willingness and interest in the bill
16 that I have introduced and your willingness to work with
17 me in the future to look for ways that we would include
18 this in a customs bill coming forward. I appreciate
19 that.

20 I also want to thank Senator Wyden for his
21 leadership and willingness to work on issues in the
22 ENFORCE Act, and I am supportive of the ENFORCE Act and
23 the process it creates. But it is very important that
24 this process be open so that we can ensure that the same
25 people who initiate the underlying trade cases also are

1 able to initiate investigation of evasion under the Act.
2 And it would not make sense for those who have won a
3 hard-fought trade case to be kept out of the process of
4 enforcing it. So thank you very much.

5 And I finally will say, and I will submit additional
6 language, Mr. Chairman, as part of a broader statement,
7 but I want to thank Senator Rockefeller for introducing
8 amendments to extend and expand in raising issues of the
9 health coverage tax credit for workers who have lost
10 their jobs, very, very important.

11 This is something I have worked on and helped to
12 author, and I am very concerned that we focus on those
13 families, including Adelphia Delphi salaried employees
14 who have seen their pensions dramatically reduced during
15 the bankruptcy process, and we still have a need to
16 address those issues, as well.

17 So thank you again, Mr. Chairman, for the hard work.

18 The Chairman. Thank you, Senator.

19 Senator Thune?

20 Senator Thune. Thank you, Mr. Chairman. I want to
21 start by thanking you and Ranking Member Hatch for
22 working together on a package of amendments to Russian
23 PNTR that will improve the legislation we are marking up
24 today and that will, I hope, result in a broad bipartisan
25 vote in favor of PNTR for Russia and Moldova.

1 The case for Russia PNTR is clear if we consider the
2 facts. Russia will become a member of the World Trade
3 Organization next month regardless of what Congress does
4 or does not do.

5 We are not giving Russia anything new. Russia has
6 received normal trade relation status on a recurring
7 basis for the past 20 years.

8 The only issue today is whether or not we will allow
9 United States businesses to take advantage of the new
10 trade commitments that Russia has made as part of joining
11 the World Trade Organization. If we do not act, American
12 manufacturers, farmers, ranchers, and service providers
13 will be placed at a competitive disadvantage relative to
14 their foreign competitors doing business in Russia. At a
15 time when our economy is slowing, this is the worst thing
16 that we could do.

17 According to the Department of Commerce, jobs
18 supported by exports increased by 1.2 million between
19 2009 and 2011. If we are serious about encouraging job
20 creation, we need to continue to open new markets in
21 order to create new business opportunities abroad for
22 American entrepreneurs. Normalizing our trade
23 relationship with Russia will help to accomplish this.

24 Russia is the world's sixth largest economy, the
25 world's fifth largest global importer of agricultural

1 products, and home to 140 million potential customers,
2 the largest consumer market in Europe.

3 Russia is an important and growing market for U.S.
4 businesses. Of the top 15 U.S. trading partners, Russia
5 was the market where American companies enjoyed the
6 fastest export growth last year at 38 percent. If we
7 enact PNTR, it is estimated that U.S. exports of goods
8 and services to Russia could double over the next 5
9 years, and that is why groups ranging from the American
10 Farm Bureau, the National Association of Manufacturers,
11 the American Soybean Association, just to name a few,
12 strongly support PNTR.

13 However, the bill before us will not only support
14 American jobs by promoting our products and services
15 abroad, but it will also help to strengthen the rule of
16 law and combat corruption and human rights abuses in
17 Russia. By joining the Magnitsky legislation, authored
18 by Senator Cardin and supported by many of us on this
19 Committee, with Russia PNTR, we will replace the outdated
20 Jackson-Vanik law with a new mechanism to support
21 democratic reforms in Russia.

22 It was over a month ago that Chairman Baucus and I
23 and Senators Kerry and McCain introduced legislation to
24 enact PNTR for Russia. I hope that after today's vote,
25 the House Ways and Means Committee can move forward and

1 that Majority Leader Reid will commit to allowing a vote
2 on this legislation before the August recess.

3 We have a very limited window to get this bill done
4 before the August recess, but I hope we will continue to
5 make that push.

6 I also want to commend Senator Wyden for the good
7 work that he has done in putting together the ENFORCE
8 Act, which will be the first bill we consider today.

9 Last May, Senator Wyden and I, as the Chairman and
10 Ranking Member of the Trade Subcommittee, held a hearing
11 regarding customs fraud and duty evasion. We heard from
12 multiple witnesses, including Richard Adee of Adee Honey
13 Farms in Bruce, South Dakota, that evasion of our trade
14 laws continues to harm a number of U.S. industries,
15 including honey producers.

16 I believe the ENFORCE Act that we are marking up
17 today will help to remedy this problem by requiring
18 greater cooperation between American producers and U.S.
19 Customs and Border Protection.

20 I also believe we should continue to keep the
21 pressures on Customs regarding tariffs that are owed, but
22 that Customs has not collected.

23 Last month, Senator Wyden and I sent a letter to the
24 acting commissioner of Customs asking about the estimated
25 \$349 million in unpaid duties that are backed by bonds

1 posed by surety companies, but which Customs has not yet
2 collected.

3 In the letter, Senator Wyden and I asked for a full
4 accounting of Customs' efforts to collect these amounts.
5 I hope that a timely and thorough response from Customs
6 will be forthcoming.

7 Mr. Chairman, I look forward to a productive markup
8 today and to considering PNTR on the Senate floor in the
9 near future. And I yield back.

10 The Chairman. It is my understanding that no more
11 Senators seek recognition. So we will proceed and we
12 will turn to the bills.

13 I announced my mark of each bill last Friday. For
14 each, we will walk through any modifications to the mark
15 and answer any questions, and, after that, consider
16 amendments to the mark of that bill and then vote whether
17 to report.

18 If a quorum for a vote is not present, we will just
19 move on to the next bill and then vote when we do have a
20 quorum.

21 The first order of business to consider is the
22 ENFORCE Act mark that requires U.S. Customs and Border
23 Protection to investigate evasion of antidumping and
24 countervailing duty orders.

25 There have been no modifications to this bill since

1 we released the mark last Friday. Gabriel Adler of my
2 staff is here to answer questions on the bill. Paul
3 Delaney is here from Senator Hatch's staff to answer
4 questions. But we also have an Administration official
5 here to answer questions.

6 Tim Reif, General Counsel of the Office of the U.S.
7 Trade Representative, is here.

8 Welcome, Mr. Reif.

9 I am wondering now whether Senators have any
10 questions regarding the bill.

11 [No response.]

12 The Chairman. Is a quorum present? In order for
13 Senators to offer amendments to the revised Act, we will
14 go back and forth.

15 Are there any amendments?

16 Senator Hatch?

17 Senator Hatch. My first amendment is I am very
18 concerned that Customs and Border Protection, CBP, I will
19 call it, continues to seek vast reimbursement authority,
20 which, in effect, creates a shadow budget at CBP.

21 Moreover, it deeply troubles me that CBP has tried
22 to secure this authority in an appropriations bill, while
23 providing only a cursory briefing to the Finance
24 Committee staff before working with the Appropriations
25 Committee on its proposal.

1 The Administration offered a broad CBP reimbursement
2 proposal in its budget. The Senate voted down the
3 President's budget 99-0, and the House voted it down 414-
4 0, which certainly must be a record.

5 The President's proposal advocated for by CBP and
6 included in the Appropriations Subcommittee on Homeland
7 Security's Appropriations markup would give CBP virtually
8 unlimited ability to negotiate contracts with private
9 parties, foreign governments, State and local
10 governments, and others for reimbursement of additional
11 CBP services.

12 Now, CBP has told any Senator's office who would
13 listen that whatever CBP resource problems their
14 constituents are facing, whether at airports, seaports or
15 land ports, whatever problems they may have, this
16 reimbursement authority would fix that problem.

17 What CBP will not tell anyone is how they would use
18 this new unprecedented authority and what constraints
19 would be on them. Granting CBP complete discretion to
20 use this untethered reimbursement authority could create
21 any number of distortions and undermine national security
22 and policy mandates for CBP.

23 The actual CBP Appropriations Committee proposal
24 does not address these distortions and concerns, because
25 nothing in the legislative language constrains CBP

1 adequately to address them. President Obama's failed
2 budget is no justification for adding this vast expansion
3 of CBP's discretion and reinvestment authority.

4 Now, that is why I have offered my amendment, which
5 would establish a CBP reimbursement pilot program. Let
6 us figure out what works and does not work before
7 granting across-the-board reimbursement authority to CBP
8 or any agency, for that matter.

9 This pilot program would authorize CBP to contract
10 with public entities for reimbursement of CBP services at
11 three airports, three seaports, and three land ports, for
12 a total of nine ports over a 5-year period.

13 Now, based on these pilots, we could make an
14 informed decision on whether or not to grant additional
15 targeted CBP reimbursement authority to enhance the
16 provision of CBP services without compromising the policy
17 priorities that Congress has set for CBP.

18 And, Mr. Chairman, I will withdraw this amendment
19 because I am supportive of the underlying ENFORCE Act we
20 are considering, but we need to work together to ensure
21 that our Committee retains its jurisdiction over CBP and
22 to ensure that any reimbursement authority Congress
23 grants CBP is targeted and set by the authorizing
24 committees.

25 It is clear that I am not the only one concerned

1 about this. Allow me to cite a recent letter of a broad
2 group of business leaders and labor in opposition to the
3 appropriations proposal. They write, "This represents
4 such a dramatic departure from the manner in which CBP is
5 funded, it should not be inserted into an appropriations
6 bill without the proper consideration of any of the
7 relevant authorizing committees. Such consideration is
8 necessary so that members and stakeholders can fully
9 understand the implications of such a fundamental
10 change."

11 So I hope that we can hold hearings on this issue
12 and take up a customs bill this year. We have
13 jurisdiction over CBP's revenue functions, trade
14 enforcement, and trade facilitation missions. It is
15 critical that we take the lead on this and many other
16 important issues.

17 And I will withdraw the amendment, Mr. Chairman, and
18 want to thank you for allowing me to make these remarks.

19 The Chairman. Well, thank you, Senator. I totally
20 agree with you. Another committee should not have taken
21 that action.

22 The authority to collect customs fees or to provide
23 customs services falls squarely within the jurisdiction
24 of the Finance Committee, and it clearly includes
25 collection of duties and processing of imports at every

1 port of entry in the United States.

2 It has long been established that the Customs
3 Service has this authority, first created in 1789. I
4 will work with you, at the appropriate date, to provide
5 the provisions that you suggest in your bill. There will
6 be another time this year perhaps we can take up a
7 customs bill and we can take up your bill then.

8 It is a good idea. We are just not quite ready at
9 this point. But when it is ready, we will take it up
10 and, hopefully, pass it.

11 Senator Hatch. All right.

12 The Chairman. Are there other amendments?

13 Senator Stabenow?

14 Senator Stabenow. Thank you, Mr. Chairman.

15 I would call up an amendment at the desk, Stabenow
16 No. 1. My amendment, the Protect American Innovation
17 Act, would help stop the theft of American ideas.

18 For far too long, foreign companies have violated,
19 as we all know, international intellectual property laws
20 and engaged in outright theft of American entrepreneurs'
21 ideas and our country's cutting-edge technologies.

22 It is critical that we protect our American
23 competitiveness and that we focus to keep counterfeit
24 goods from crossing our borders.

25 This amendment would establish new fines for

1 violators, impose stiff penalties on repeat offenders.
2 It would create a watch list to alert Customs and Border
3 Security about shipments from those suspected of breaking
4 the law and provide more resources and authority for
5 Customs agents to focus on intellectual property theft.

6 Mr. Chairman, it was my intent to ask for a vote,
7 because I understand that you and Senator Hatch plan to
8 move a customs reauthorization bill through the Committee
9 in the coming months and would prefer to address this at
10 that time on that legislation -- is that correct?

11 The Chairman. That is correct.

12 Senator Stabenow. I would appreciate your help and
13 support at that time as we really --

14 The Chairman. I appreciate you bringing this out
15 and talking about this because that helps move the issue
16 along. Again, as the previous case, there will be, I
17 think, a more appropriate time and we can keep working on
18 the revision and make sure it has got teeth and works and
19 all the bugs are out of it and perfect it.

20 So thank you, Senator, very much.

21 Senator Stabenow. Thank you. And, Senator Hatch,
22 I appreciate your willingness to work, as well.

23 The Chairman. We will work with both you and
24 Senator Hatch.

25 Senator Hatch. Well, thank you. As we move

1 forward with customs reauthorization, there are few
2 issues more important than ensuring that American
3 intellectual property rights are protected against
4 infringement by foreign competitors.

5 So I congratulate the Senator for the amendment. We
6 will go ahead, hopefully, before the end of this year to
7 further address it.

8 Senator Stabenow. Thank you. I appreciate it.

9 The Chairman. Are there any further amendments to
10 the ENFORCE Act? Do any Senators wish to offer any?

11 [No response.]

12 The Chairman. If there are no further amendments,
13 I would entertain a motion.

14 Senator Hatch. I so move.

15 The Chairman. All those in favor, say aye.

16 [A Chorus of Ayes.]

17 The Chairman. Opposed, no?

18 One no. The ayes have it. The bill is reported.

19 Now, we are going to move on to the next matter.

20 The next order of business is to consider the mark for
21 the bill on the citrus, cotton and wool trust funds.

22 There have been no modifications to this bill since
23 released last Friday. Chelsea Thomas is here to answer
24 questions, as is Greg Kalbaugh of Senator Hatch's office,
25 and Tom Barthold, Joint Committee, Hun Quach from my

1 staff.

2 Do any Senators have any questions regarding this
3 bill? These are the three trust funds that we talked
4 about earlier.

5 Senator Kyl?

6 Senator Kyl. Mr. Chairman, if you are ready for an
7 amendment, I have one.

8 The Chairman. Yes, we are ready.

9 Senator Kyl. Thank you.

10 Colleagues, this is Kyl Amendment No. 1, and it
11 deals with the miscellaneous tariff legislation problem
12 that we are confronted with right now because of our
13 Senate rules, which include, in the earmark definition,
14 the term "limited tariff benefit," which is the
15 miscellaneous tariff bills that we ordinarily request
16 here and then pass.

17 The term "limited tariff benefit," under our rules,
18 means a provision modifying the harmonized tariff
19 schedule of the United States in a manner that benefits
20 10 or fewer entities. And that is a problem, because
21 that is precisely why these are offered up.

22 There is a solution for the problem, and that is
23 legislation that has been introduced by Senators
24 McCaskill and Portman. And what I am proposing here is
25 precisely that solution.

1 If we do not modify the process, we are not going to
2 have any of these miscellaneous tariff bills this year.
3 And I know there are some who think, well, maybe by some
4 magic, this will get worked out in the lame duck session
5 and so on.

6 The problem on the Republican side in the Senate is
7 that there are a majority who read the rule as pretty
8 clearly, saying it is an earmark -- not pretty clearly,
9 but clearly, and they are not going to subject themselves
10 to the criticism that they are violating Senate rules.

11 Now, there is a process that the Chairman of the
12 Ways and Means Committee worked out which tries to work
13 around this, and my own view, as a lawyer, and that of
14 many others is that it simply cannot change the
15 definition of the Senate rules. What they do is ask for
16 a certification that, theoretically, the relief sought
17 could benefit more than 10.

18 But that is not what the Senate rule says. The
19 Senate rule says "in a manner that benefits 10 or fewer
20 entities." So you cannot get around it with a
21 certification that, hypothetically, more people might
22 have benefitted from it. The reality is the rule says 10
23 or fewer.

24 So it is not a big deal to modify the law to provide
25 a different process. And what McCaskill-Portman does is

1 simply say that instead of the only way of doing this is
2 to have members of Congress request it and then have it
3 sent to the ITC for review -- usually, the ITC reviews it
4 and says, "This is an appropriate tariff relief."
5 Sometimes they do not, but ordinarily they do.

6 Instead of doing that, just reverse the process and
7 have the entity seeking the relief go directly to the
8 ITC, have them review it then, send the report to
9 Congress in advance of our action, and then we act on it
10 the same as we always have.

11 It is just reversing the process, in effect. It
12 should not be a big deal. If we do not do that, there
13 are not going to be any this year, and this is our
14 opportunity to fix it.

15 The Chairman. So, Senator, are you going to offer
16 the amendment?

17 Senator Kyl. There is no point in withdrawing it.
18 Look, we have a chance to fix it now. If we do not, it
19 is not going to get fixed. It is 6 months through the
20 year and there have been a lot of discussions back and
21 forth about should we do it, can we do it. Nothing has
22 come of those discussions and I have not been shown
23 anything by anybody that suggests it will get resolved,
24 except by legislation passing, and this is the only
25 legislation that has been offered up.

1 It is bipartisan. It is simple. I do not see what
2 objection there could be to it. It will enable us to
3 seek the relief on these bills.

4 I have some miscellaneous tariff requests that I
5 want to see done. Almost everybody here does. They are
6 not going to get done, because it requires consent and
7 consensus, and that is just not going to happen if we do
8 not modify the process.

9 So, yes, this is our chance to do it and I urge my
10 colleagues to do it. And, incidentally, my vote on this
11 particular trust fund bill is going to depend upon
12 whether we can fix this problem.

13 Senator Nelson. Would the Senator yield?

14 Senator Kyl. I am happy to yield, certainly.

15 Senator Nelson. Why did you not find another
16 vehicle to do this and, instead, jeopardize your own vote
17 on trying to save your citrus industry?

18 Senator Kyl. Well, we do not have the problem in
19 the citrus industry that Florida does. I am willing to
20 support the legislation that the Senator from Florida has
21 offered up here if I can solve this problem now.

22 The answer to your question is I have been waiting
23 for 6 months, no vehicle has emerged, no willingness to
24 proceed to answer the problem, and I do not see any in
25 the future or a willingness to do it.

1 Sometimes, somebody has to step forward, put the
2 legislation out there, and say, "All right. If we are
3 serious about solving the problem, let's do it."

4 Part of the problem is ITC has to review all of
5 these requests, and we have made an exemption to the
6 process for 2012. So that in the remainder of the year,
7 they can get that work done.

8 But the more time that passes, the less likely they
9 will be able to review these independent miscellaneous
10 tariff bills and the less likely they will be to pass,
11 and some of them are very, very important.

12 Senator Nelson. Would the Senator further yield?

13 Senator Kyl. Sure.

14 Senator Nelson. You say you do not have the
15 problem. You do have the problem.

16 Senator Kyl. You are talking about the citrus
17 problem. My citrus people tell me they do not.

18 Senator Nelson. It just has not been discovered.
19 That same thing happened in Texas. The bacteria is
20 there. It has come all across the southern border,
21 wherever there is a citrus industry, and your entire
22 citrus industry is at risk.

23 So I would implore the Senator to look for another
24 vehicle and still have his support of saving the citrus
25 industry.

1 Senator Kyl. Well, with all due respect, I think
2 it is germane. This is the time to do it. Why not adopt
3 my proposal? And then we can adopt your proposal, as
4 well.

5 The Chairman. Senator Cardin seeks recognition.

6 Senator Cardin. Mr. Chairman, I appreciate the
7 point Senator Kyl is bringing forward. I do have
8 requests for relief here from Maryland companies.

9 I just do not know why we look for a solution that
10 weakens the Congress and strengthens the -- let us fix
11 the mistake that we have made ourselves.

12 To me, that is the way to do it. You do not change
13 the basic structure. I do not know whether it is going
14 to be better for our companies to go to ITC or to seek
15 the help here, but I do know that this is the traditional
16 authority of the Congress of the United States, and here
17 we are saying we are not going to take on that
18 responsibility because we have this earmark fixation.

19 Let us be realistic as to what earmarks are not.
20 Let us take responsibility to be able to pass the
21 miscellaneous tariffs bill, which we should be doing.

22 So I just think we should work together to fix this
23 the right way rather than looking for something that I
24 think starts to institutionalize making Congress a weaker
25 branch of government.

1 Senator Kyl. Mr. Chairman, if I could respond.

2 It is a serious question. It takes two-thirds to
3 change our rules. It will take either 60 or 50 to adopt
4 this legislation. And, if I could, I doubt that we are
5 going to change our rules in the next 6 months.

6 If we do, then we can revert to the current
7 procedure that we have. But Congress is not giving
8 anything up. All we are doing is reversing the order.
9 Instead of Congress sending these -- under the law today,
10 we send them to the ITC for review. All we are doing is
11 saying ask ITC first, have them send the report up to us,
12 and then we act on it just like we otherwise would. We
13 can pass it, defeat it, amend it, whatever we want to do.

14 Senator Cardin. I just would respond. I do not
15 believe we need to change our Senate rules in order to be
16 able to pass a miscellaneous tariff bill.

17 Senator Stabenow. Mr. Chairman?

18 The Chairman. Senator Stabenow?

19 Senator Stabenow. Thank you, Mr. Chairman.

20 I would, with all due respect, urge a no vote for
21 actually very different reasons. I think this takes a
22 flawed process and actually makes it worse.

23 In the beginning, as I understand it, the
24 miscellaneous tariff process was to bring in imports, raw
25 materials, imports, component products, materials, to be

1 able to help our industries, things that were not here.

2 If you look at it today, and I have done a thorough
3 review of it, we have not only gone from just a handful
4 of miscellaneous tariff products, we are now -- there are
5 850 requests in the Senate, 1,500 in the House.

6 And they are finished products. A lot of these are
7 finished products that we are saying can come in duty-
8 free and compete with American products. And I have
9 serious questions just about this whole process now that
10 I think needs to be reviewed, not by taking it away from
11 Congress, but, honestly, going in the whole different
12 direction.

13 It makes sense to me around imports and materials.
14 It does not make sense to me that we would take finished
15 products and allow them to come in duty-free and
16 potentially compete, and there is no reason that we could
17 not be making a lot of those here.

18 And maybe if they were not coming in duty-free,
19 there would be a market here in America to actually make
20 those products.

21 So, Mr. Chairman, I strongly oppose this, with all
22 due respect, for very different reasons. I think this is
23 a flawed process and, if anything, we should be going in
24 totally the opposite direction.

25 Senator Kyl. Mr. Chairman, I do not have a comment

1 on whether we are being too liberal on this or not. That
2 is Congress' decision. But, again, we are not taking
3 anything away from Congress in the McCaskill-Portman
4 legislation.

5 Congress still would have to do exactly what it does
6 today. It is just that the members of Congress would not
7 have to go to the Chairman of the Committee and file
8 their requests. Instead, those requests would come to us
9 from the ITC, with either a member of Congress or the
10 manufacturing entity asking the ITC to review their
11 request. It then comes to Congress and we act on it just
12 like we would as if the members had brought it to our
13 attention, but the ITC review is before rather than
14 after.

15 Senator Stabenow. Would you be willing to yield
16 for a comment?

17 Senator Kyl. Sure, yes.

18 Senator Stabenow. I guess what I would say is I
19 think this is something that, in the global economy that
20 we are in, really deserves a separate look and hearings
21 and a very thoughtful look at this, because I personally
22 think that it has gotten way out of control. And I would
23 hate to see us do anything on it until we took a complete
24 look.

25 The Chairman. There are several problems with this

1 amendment, as I see it. One is touched on by the Senator
2 from Michigan, and it is there were no hearings on this.

3 We do not know what this really is.

4 This is just an idea that a couple Senators have
5 come up. It has not been vetted. It has not been
6 examined.

7 I have been around here long enough to know that,
8 generally, there are unintended consequences with
9 unvetted proposals, some of them good, some of them not
10 good. There have been no hearings on this. We do not
11 know what this is really. It is just an idea that a
12 couple of Senators have come up with.

13 Why did they come up with it? They came up with it,
14 to be honest, to try to deal with what I regard as an
15 ideological argument that is based more -- it is form
16 over substance.

17 By that, I mean the question is are these tariffs or
18 are they earmarks. These are tariff reductions. They
19 are tariff reductions that are not earmarked because they
20 have more general applicability.

21 They do not apply just to one company, but any
22 companies in that situation. These are not earmarks.
23 They are tariff reductions.

24 So I think it is not helpful to get to this argument
25 whether this is a tariff reduction or earmark, because

1 these really are tariff reductions. They are narrowly
2 tailored tariff reductions and they apply to any American
3 business that might benefit from this tariff reduction.
4 So it is not earmarks.

5 Beyond that, this process, as I understand it,
6 although it has not been vetted, is one that reduces
7 transparency. It does not increase transparency, it
8 reduces it, because currently, when we consider these
9 tariff proposed MTBs, they are filed individually.

10 Senators are required to file disclosure statements
11 that there are no conflicts of interest. All bills are
12 posted on our Websites. We seek public comment on all
13 those that are posted on the Website.

14 All that is out the door under this proposal. It is
15 all hidden. ITC alone, lobbyists go to ITC. Who knows
16 what interest groups go to ITC for their own special --
17 they are not public, they are not posted on Websites,
18 they do not state that there is no conflict of interest
19 anywhere.

20 This is a process which I think goes in the wrong
21 direction because it is a secret process. It is not a
22 transparent process.

23 So I just think that it is not a good idea at this
24 point or maybe any point to adopt this. We will keep
25 working the rest of this year to find ways to pass these

1 provisions.

2 We both have been around here long enough, Senator,
3 to know it is pretty hard to predict the future around
4 here. But if they keep working at it, keep working and
5 try to get something passed, you could find a way to get
6 it passed.

7 I just think this is a step backwards. And I might
8 say, if it means much to Senators, this provision is
9 strongly opposed by the chairman of the relevant
10 committee of the other body. He thinks it is a bad idea.
11 He is opposed to this.

12 Just for all these reasons, I think, at this time,
13 we should not pass this. There is a time and place for
14 everything. This is not the time, not the place for this
15 provision.

16 Senator Kyl. Mr. Chairman, I am ready to have the
17 vote now. If I could just make one final point.

18 Your argument, with all due respect, is
19 contradictory. The reason we have all of those
20 requirements by members to certify that they get no
21 personal benefit from an earmark is because we have
22 defined certain things under our Senate rules as
23 earmarks.

24 I do not think these miscellaneous tariff bills
25 should be defined as earmarks. I do not. I think they

1 are generally good things for us to do, and I said I
2 would like to do some.

3 But because, under our Senate rules, we have done
4 that, then all the rules that pertain to the
5 certifications that members have to file do pertain. You
6 are absolutely correct about that.

7 Now, in the legislation that has been cosponsored by
8 22 of our colleagues here, we could include those same
9 certifications if the members sought the relief. WE do
10 not have to, we could. And I am very happy to have
11 hearings by this Committee to consider the kind of
12 process reform that would enable us to both request these
13 miscellaneous tariff bills and not violate our earmark
14 provisions.

15 But one of two things is true. Either these are
16 earmarks and we have to do all of those transparency
17 certifications that you said or they are not earmarks and
18 we do not. And, unfortunately, as I read the rule of the
19 Senate, we have defined them in a way that makes them
20 earmarks and, therefore, all the transparency things that
21 you suggest are, in fact, necessary.

22 It is up to us to decide whether we want to define
23 these earmarks or not, but until we resolve this issue,
24 there are not going to be anymore.

25 The Chairman. Senator Hatch?

1 Senator Hatch. Mr. Chairman, I do think that we
2 need to do a hearing about how best to structure this MTB
3 process and authorize unilateral tariff relief to improve
4 our competitiveness.

5 We also need, in my opinion, to do more analysis and
6 we need more insights from the International Trade
7 Committee to better understand which sectors would most
8 benefit from tariff relief.

9 Now, with this much needed information, it would
10 help us to set priorities both within trade negotiations,
11 but, also, within the MTB process itself.

12 Now, I agree with Senator Kyl that we need to vote
13 on legislation to improve the MTB process, and I am
14 supportive of many of the ideas in his amendment. But if
15 we are going to go to a vote today, I would have to vote
16 against it, because I believe our Committee needs to do
17 some more work on this MTB issue before we report out a
18 legislative reform.

19 Senator Roberts. Mr. Chairman?

20 The Chairman. The Senator from Kansas.

21 Senator Roberts. Well, I hate to -- or I do not
22 think it is wise for me to speak against the wisdom of
23 the distinguished minority member and the Chairman, but I
24 usually get into situations like that, and I just think
25 we ought to vote on this.

1 And my dear friend and colleague, the Chairwoman of
2 the Ag Committee, has mentioned the over 1,000 different
3 products that are coming here, finished products, as
4 opposed to a handful that has been the case before and
5 how we deal with that is with each and every member of
6 Congress.

7 That is 435 of us. I cannot think of a more awkward
8 situation than that, and then the unusual petard that we
9 have hoisted ourselves on to determine whether that is an
10 earmark.

11 I will leave the discussion on earmarks and the
12 sheer stupidity of that to another time.

13 But at any rate, I think that the Senator from
14 Arizona is trying to take action here where we could
15 really fix something and at least get those finished
16 products in a process by which we could handle them in a
17 much more expeditious manner.

18 I am struck by the concern of the Senator from
19 Florida, who I sympathize with in regard to a pest that
20 you cannot find, but is killing trees in 5 years, and
21 then you get frustrated, and then you get mad, and then
22 you get on your hands and knees before the Agriculture
23 Department.

24 Bill, do not do that. You could hurt yourself. And
25 give it to the Ag Committee. As a matter of fact, the

1 jurisdiction, both citrus and cotton belong in the Ag
2 Committee, Mr. Chairman, speaking as the Ranking Member,
3 and I know the Chairwoman agrees, although she might not
4 want to say that.

5 So at any rate, I think we ought to fix this and I
6 do not see what the big hullabaloo is about. If you have
7 got a system now where you have finished products
8 determined by each and every member of Congress and then
9 we go through the due process and we figure out whether
10 it is an earmark, my God, we will never get anything
11 done.

12 What he is suggesting is simply reverse it and then
13 that would clean up this area, it seems to me. I am a
14 cosponsor of the amendment. This made sense to me when I
15 cosponsored it.

16 So I hope we have a vote on this.

17 The Chairman. Any further discussion?

18 [No response.]

19 The Chairman. All those in favor of the amendment,
20 signify by saying aye.

21 [A Chorus of Ayes.]

22 The Chairman. Those opposed, no?

23 [A Chorus of Nays.]

24 The Chairman. In the opinion of the Chair, the
25 noes have it and the amendment is not agreed to.

1 Are there any further amendments?

2 Senator Wyden?

3 Senator Wyden. Thank you, Mr. Chairman. This is
4 my Amendment No. 1.

5 The Chairman. Why don't you proceed?

6 Senator Wyden. Thank you very much, Mr. Chairman.

7 Mr. Chairman and colleagues, in the course of
8 chairing the Trade Subcommittee, I have come across a
9 serious problem that I do not believe most Senators are
10 aware of, and Senator Crapo and I have both filed
11 amendments to correct it.

12 And the heart of the problem is the Trans-Pacific
13 Partnership agreement that is now being negotiated would
14 be the biggest trade agreement this Committee will be
15 examining for years. It could become up to 40 percent of
16 all American trade.

17 The problem is that special interests called
18 advisors by the U.S. Trade Representative have far
19 superior access to the text of this agreement than
20 virtually all of us on this Committee have.

21 In fact, to just kind of lay it out, you can have
22 one of these special interests, called an advisor, sit in
23 their K Street office, use their laptop, put in their
24 user name and password, and analyze sections of the
25 Trans-Pacific Partnership agreement they are interested

1 in in ways that almost all of us on this Committee
2 cannot.

3 So we have got a situation where the public is kept
4 in the dark, most members of this Committee are kept in
5 the dark, but you have got these advisors, these special
6 interests, basically getting an all access pass to the
7 sections that they care about so they can analyze it.

8 Now, Chairman Baucus and I have been discussing this
9 and the heart of the problem, in my view, is that the
10 consultation by the U.S. Trade Representative's office
11 with the Congress and the American public currently is
12 woefully short. It is simply inadequate, particularly
13 given the enormity of this agreement. It could encompass
14 40 percent of all American trade.

15 And I think it is critical that we get some changes
16 to ensure that members of this Committee, in particular,
17 but I think colleagues with staff that has classified
18 access, ought to have approval, as well.

19 So, Mr. Chairman, this is new for most members of
20 the Committee and the Senate. So I would like to see how
21 you and I and Senator Hatch and colleagues can ensure
22 that there is access so that we are least are not in a
23 significantly reduced position with respect to examining
24 this agreement than these interests are on K Street who
25 can be sitting there this morning, putting in their user

1 name, putting in their password, and perusing this
2 document over a cup of coffee, and that is not possible
3 for most members of this Committee.

4 Mr. Chairman, you and I talked about this and I
5 would like to come out of this with an effort that is
6 bipartisan here in this Committee to get this corrected.
7 And Senator Crapo has filed an amendment on this. I have
8 introduced legislation that Senator Coburn and Senator
9 Burr have cosponsored, and I think it is time now, even
10 though most members of this Committee are not aware of
11 this, that we move to have it corrected so that on an
12 agreement with this sort of impact on the American
13 economy is something that we are in a position to analyze
14 just the way these advisors/special interests with their
15 lobbyists are able to.

16 The Chairman. Thank you, Senator. This clearly is
17 a matter that requires some sensitivity and some
18 reasonable, responsible discussion. We have to protect
19 the confidentiality, clearly, of our negotiators.

20 We do not want to publicly reveal their negotiating
21 strategy. Confidentiality is very important here. We
22 know of lots of instances when there are negotiations
23 where -- you do not reveal your whole card. You do not
24 reveal your bottom line, and you do not want to negotiate
25 against yourself.

1 So confidentiality is very important. It is,
2 however, very important that the appropriate people have
3 access and that is basically the point that you are
4 making here.

5 So we have to work to find a way where people are
6 cleared, that is, they receive the proper security
7 clearance to have access to this negotiation.

8 All members of this Committee are cleared. That is
9 not an issue. And many of the staff on this Committee
10 are also cleared. But you have raised a question,
11 really, the degree to which more staff should be cleared.
12 That is really the question. How many more? That is
13 really the question. And it comes down to a judgment
14 call, trying to draw that line between confidentiality
15 and public access to what is going on.

16 So I will work with you. Perhaps we could figure
17 out a way to deal with this at a future date, perhaps
18 when we take the trade promotion authority. But you
19 raise an interesting point and I want to work with you.

20 Senator Wyden. Mr. Chairman, I appreciate that.
21 And serving on the Intelligence Committee, I see Senator
22 Conrad, I see a number of us who deal with classified
23 materials.

24 What got me interested in this is my staff did get
25 security clearance and they were not able to get access

1 to these documents.

2 So I think that your point of saying that we ought
3 to be expanding access when people have security
4 clearance is clearly the path that best represents the
5 public.

6 I know that today, for example, those who care about
7 Internet freedom, and we have had a pretty spirited
8 debate about this issue in this session of the Congress,
9 a lot of those people have not been able to get the same
10 access as those in the content industry who have powerful
11 lobbies and sit on K Street at their desk with a cup of
12 coffee learning about provisions that are important to
13 them.

14 So I hope that we can get this corrected and I think
15 it is important that we do it quickly, because the Trans-
16 Pacific Partnership agreement, colleagues, is being
17 negotiated now.

18 Senator Thune, who has been a very gracious
19 colleague in working with me on the Trade Subcommittee,
20 he and I sat and witness after witness talks about the
21 importance of the Trans-Pacific Partnership agreement,
22 and there is a double standard, colleagues, with respect
23 to access to this agreement.

24 And as far as I am concerned, the public is being
25 kept in the dark, almost all of us are being kept in the

1 dark, and these interests are given this all access pass.

2 Mr. Chairman, I think, let me, if I might, bring
3 Senator Crapo into this discussion. But the fact that
4 you and Senator Hatch will work with us on this is
5 sufficient for me, and we have worked together on a host
6 of these trade issues, and I want to work this out with
7 colleagues.

8 Senator Crapo. Senator Wyden, would you yield?

9 Senator Wyden. I would.

10 Senator Crapo. I will be very brief. I want to
11 support Senator Wyden's effort here. I think it is
12 important to note that the amendment simply requires that
13 the members of this Committee be given the same access
14 that corporations, the unions, NGOs and other entities
15 already have to this information, if they are designated
16 as special advisors or cleared advisors.

17 This Committee, of all people, should be able to
18 have the kind of access that is already provided to
19 others.

20 The final point is that I understand the concerns
21 about confidentiality and I understand the need to make
22 sure that our trade negotiators do not have information
23 inappropriately or inopportunistically disclosed, but this
24 amendment would simply require that we have access to
25 information they have already disclosed to others.

1 I believe that the need for us to have the kind of
2 transparency and access to information that we require
3 for us to do our duty in monitoring and reviewing these
4 trade agreements is critical, and I believe that that --
5 I appreciate the Chairman's willingness to work with us
6 on this.

7 If we need to refine it in some way, so be it, but
8 we need to have much greater access to information and
9 flow of understanding of what is happening with the USTR
10 that we do not have at this point.

11 The Chairman. Does the Senator withdraw his
12 amendment?

13 Senator Wyden. Mr. Chairman, I do. And I want to
14 make it clear, particularly in light of our recent
15 discussions, that I think that both political parties are
16 now coming to the judgment that the consultation that is
17 offered by the U.S. Trade Representative and this double
18 standard with respect to easy access for special
19 interests and a much more difficult hurdle for members of
20 this Committee to analyze these documents is
21 unacceptable.

22 The fact that you and Senator Hatch will work with
23 us, and Senator Crapo's points are well taken, is
24 sufficient for me. This is new to most of our
25 colleagues. We always have worked together to resolve

1 these matters.

2 And with that, Mr. Chairman, I will withdraw the
3 amendment.

4 The Chairman. Thank you, Senator.

5 Are there any other amendments?

6 Senator Crapo?

7 Senator Crapo. Thank you, Mr. Chairman. I think I
8 have one that we can adopt, I hope. Anyway, I call up
9 the Crapo-Snowe amendment for consideration.

10 Also, I have a substitute to the text that addresses
11 concerns that have been raised by the USTR and have, I
12 understand, been cleared by both staffs of the Committee.

13 Without objection, I ask that it be adopted at this
14 time.

15 The Chairman. Without objection, it is adopted.

16 Senator Crapo. Under myriad trade agreements, Mr.
17 Chairman -- did we just adopt it?

18 The Chairman. We just adopted it, unless --

19 Senator Crapo. The entire thing? I am done. I
20 thought we were substituting the text. But if we are
21 adopting that text, I am fine with that.

22 The Chairman. Senator Snowe, do you wish --

23 Senator Conrad. Mr. Chairman, could I just say, if
24 you are in an accommodating mood like that, maybe I have
25 got an amendment I could come up with.

1 [Laughter.]

2 Senator Hatch. We are not going to go that far,
3 are we?

4 [Laughter.]

5 The Chairman. Do you want to speak, Senator Snowe?

6 Senator Snowe. No. I am not going to prolong it.

7 I am on the winning side. But I want to thank Senator
8 Crapo for his longstanding leadership, and thank you, Mr.
9 Chairman and Ranking Member, for working with us on this
10 issue that has been a tremendous problem in the past for
11 a very important industry, the soft wood lumber industry.

12 So I appreciate the efforts that have been made, and
13 I think this is going to go a long way to resolving many
14 of the issues that have been intractable in the past
15 between the United States and Canada.

16 Thank you.

17 The Chairman. Thank you, Senator.

18 And, Senator Crapo, we have the same problem in the
19 State of Montana, and I very much appreciate this
20 provision. Thank you.

21 Senator Crapo. Thank you, Mr. Chairman.

22 The Chairman. Are there any other amendments?

23 Senator Thune?

24 Senator Thune. Mr. Chairman, I have an amendment
25 to extend the expired trade promotion authority to trade

1 agreements signed in 2013.

2 And the amendment would also express the sense of
3 the Senate that TPA is critical to U.S. competitiveness
4 and the global economy and that Congress should enact a
5 longer-term, updated, modernized TPA procedure by the end
6 of next year.

7 The amendment has a very simple intent, and it will
8 allow whoever is President next year to conclude the
9 Trans-Pacific Partnership agreement, which I think most
10 of us agree is a very important trade agreement.

11 At the same time, my amendment will put this
12 Committee on record that TPA needs to be updated to
13 reflect the modern economy. An example of why we need to
14 update TPA is included in the package of modifications to
15 the Russia PNTR agreed to by the Chairman and Ranking
16 Member.

17 Among other provisions, the USTR will now be
18 required to report on any Russian policies that deny fair
19 and equitable treatment to U.S. digital trade. The
20 digital marketplace, such as downloaded apps and movies,
21 was still relatively new in 2002 and our trade laws have
22 yet to catch up to the changes in our economy, and this
23 is just one example of that.

24 We all know that the most recent TPA was enacted a
25 decade ago as part of the bipartisan Trade Promotion

1 Authority Act of 2002 that expired July 1 of 2007, near
2 the end of the Bush Administration.

3 The current Administration has had 3.5 years to
4 propose an extension to Congress, but has not done so.
5 As a result, the United States is falling behind as other
6 nations negotiate agreements that we are not a party to.

7 And just as a point of fact, there are now more than
8 300 trade agreements in force around the world. The
9 United States is only involved in 20 of them out of 300.
10 There are more than 100 free trade agreements currently
11 being negotiated and the U.S. is participating in just
12 one, and that is the Trans-Pacific Partnership agreement.

13 We cannot afford to lead from behind when it comes
14 to trade. The longer we wait, the more export
15 opportunities that our farmers, ranchers, and
16 manufacturers lose out on.

17 The U.S. Chamber of Commerce reports that U.S.
18 exports to countries with whom the U.S. has entered into
19 a trade agreement have historically grown four times
20 faster in the 3 to 5-year period following the agreement
21 taking effect than U.S. exports generally.

22 So in my view, making sure that future
23 Administrations have the tools necessary, such as TPA, to
24 open new markets to American products is in our economic
25 interest in a world in which 95 percent of all consumers

1 and 80 percent of the world's purchasing power is outside
2 our borders.

3 Just let me point out this amendment does not tie
4 the hands of whoever is in the White House next year, but
5 instead allows that person to work with Congress on
6 exactly how TPA ought to be renewed so that America can
7 get back in the game when it comes to trade.

8 So very straightforward. It renews or extends the
9 TPA for the year 2013 and then includes a sense of the
10 Senate resolution that Congress needs to move quickly to
11 reform and modernize TPA to reflect the modern world and
12 the modern economy that we are operating in.

13 And, again, the facts are very clear. We are losing
14 out. We are losing opportunities all the time, and I
15 would hope that the Committee would give a favorable vote
16 to this amendment.

17 The Chairman. Is there discussion?

18 Senator Hatch?

19 Senator Hatch. Mr. Chairman, I strongly support
20 this amendment. I think that this amendment extends
21 trade promotion authority through December 31, 2013.

22 Of course, the purpose of TPA is to empower our
23 trade negotiators with the tools, guidance and authority
24 needed to successfully conclude the best trade agreements
25 for our businesses and workers.

1 Right now, President Obama is negotiating the Trans-
2 Pacific Partnership agreement without trade negotiating
3 authority. USTR may act as if it does have TPA, but it
4 most assuredly does not.

5 This regional trade agreement currently includes the
6 United States and eight other partners. It is Australia,
7 Brunei, Chile, Malaysia, New Zealand, Peru, Singapore,
8 and Vietnam. Mexico and Canada are expected to join the
9 negotiations in November.

10 And President Obama has made it clear that swift
11 progress toward conclusion of TRP is a top priority.
12 Since 2009, the Obama Administration has said he will
13 seek negotiating authority for the TPP at the appropriate
14 time. Yet, that time never seems to come.

15 Well, here it is, 2012, and President Obama has yet
16 to seek or even conduct meaningful consultations with
17 Congress about extending TPA. Now, this stands in sharp
18 contrast to all of his predecessors, as I view this. In
19 fact, every President since 1974 has sought TPA
20 negotiating authority from Congress.

21 TPA establishes the foundation upon which trade
22 agreement negotiations and meaningful Congressional
23 consultations take place. And if it is going to succeed,
24 if the Trans-Pacific Partnership is going to succeed, it
25 seems to me we need to reauthorize TPA now.

1 So I urge our colleagues to support Senator Thune in
2 this endeavor. I think it is the right thing to do and I
3 think it will help the President, it will help those who
4 are negotiating these agreements in every step of the
5 way.

6 The Chairman. Senator Stabenow?

7 Senator Stabenow. Thank you, Mr. Chairman.

8 I would hope we would not proceed to adopt this
9 amendment at this point. I think, Mr. Chairman, you and
10 the Ranking Member have done a very good job of balancing
11 various interests and focusing on exports and open
12 borders, good enforcement, and so on and if, in fact, we
13 were to proceed with this, I would want an opportunity[
14 to offer a number of enforcement amendments that relate
15 to accountability around the border issue.

16 So I would hope we would not go down this route at
17 this point, because it seems to me there is a larger
18 discussion that we need to have around this. And what we
19 have in front of us is something that is a more balanced
20 approach.

21 The Chairman. Thank you.

22 Senator Cardin?

23 Senator Cardin. I would also oppose this
24 amendment. Trade promotional authority, of course, gives
25 up power that the Congress has. It is acceding our power

1 to the executive branch in order to have, supposedly, a
2 more effective way to negotiate a trade agreement.

3 Of course, the advantage America has in trade
4 agreements is that we do have an independent
5 Congressional legislative branch of government.

6 Although TPA may well be needed, it has to be
7 carefully negotiated and cannot be considered as part of
8 this effort here about the opportunity to determine what
9 parameters we want to grant that authority to any
10 President, whether it be a Democratic President or a
11 Republican President.

12 So I know that the Senator is well intended in his
13 amendment. I understand the frustration on trade
14 agreements. But I would just urge us that this is a very
15 fundamental power of the legislative branch of government
16 and should be considered after very careful deliberations
17 and negotiations with the executive branch and should not
18 be something that we just hand over to any
19 administration.

20 The Chairman. Any further discussion?

21 Senator Thune. Mr. Chairman, I would just say to
22 that, I do not disagree with what the Senator from
23 Maryland said. And that is the whole point of just doing
24 this for a year.

25 I know there are colleagues on the other side,

1 perhaps some on this side, who would like to sort of
2 reform, restructure, if you will, set different
3 parameters for how this trade promotion authority is
4 granted. But the facts are very clear. We are losing
5 out all the time.

6 Under the last TPA that we signed, we enacted trade
7 agreements with Chile, Singapore, Australia, Morocco, the
8 CAFTA, Bahrain, Oman, Peru, Korea, Colombia, and Panama.
9 We have signed zero since that trade authority expired.

10 All this does is allows us to complete the TPP,
11 which I think everybody here agrees is important, in the
12 year 2013 and then creates a process or it goes on the
13 record to say that we think it is important beyond that
14 that Congress get about the business of modernizing and
15 reforming TPA and prescribing those types of parameters
16 that I think people on both sides are referring to.

17 So I do not view this as being contradictory to the
18 intention that has been expressed by some of my
19 colleagues. I think it rather allows us to move forward
20 on a trade agreement that is so critical, obviously, to
21 the TPP getting enacted this next year and then puts us
22 on the record to say that we need to get on with TPA for
23 the future.

24 The Chairman. I believe, clearly, this country
25 needs -- the Congress needs to pass trade promotion

1 authority at the appropriate time. The world has changed
2 dramatically since the last trade promotion authority.

3 I think we should put the horse before the cart.
4 That is, before we pass TPA, know what modifications,
5 what changes we want to put into TPA. That is, we should
6 not take delegation of trade promotion authority lightly,
7 but, rather, as something that is very serious.

8 And if it is very serious, it means we have got to
9 seriously consider the change that has occurred in the
10 world.

11 For example, what about environmental standards?
12 There are labor standards, investment standards,
13 intellectual property standards. We could go down the
14 list of measures which I think this Congress would want
15 to include in trade promotion authority when it delegates
16 that authority to the Administration.

17 Administrations can always negotiate agreements, as
18 the Administration is now with TPP, which could be 40
19 percent of world GDP. That is not an issue. This
20 Administration can go ahead and negotiate TPP, what it is
21 now doing.

22 Trade promotion authority is only needed for the
23 Administration to negotiate changes in the law, which
24 then this Congress would later then adopt.

25 There is a time and place for everything. This is

1 not the time and place, in my judgment, to pass trade
2 promotion authority, which is not ready because the world
3 has changed so much. So much has happened since the last
4 TPA.

5 This Administration, I am guessing, will conclude
6 TPP sometime later next year and that would be a good
7 time for this Congress then to decide whether or not it
8 wants to -- under what circumstances it proceeds with
9 trade promotion authority.

10 It is hard for this body today to know what the
11 political climate will be next year, who knows what it
12 could be next year. And I submit that it is better to
13 wait until next year to see what is most appropriate,
14 what provisions would most appropriately you can include
15 in the TPA before we proceed.

16 So I think it is inadvisable for us to adopt this
17 amendment.

18 Senator Wyden. Mr. Chairman, I would like to
19 associate myself with your remarks, particularly, because
20 Senator Thune has been such a great partner on the Trade
21 Subcommittee, and let him know I am very interested in
22 working with you on this.

23 For example, you and I share great interest in
24 expanding markets for American digital goods and
25 services. This is one of the most promising -- really,

1 an electrifying opportunity for American workers and
2 American companies.

3 We have brands that people all over the world want.
4 TPA does not even reflect the changes that we have seen
5 in digital goods and digital services. In other words,
6 if we simply re-up on TPA for a year, we do not
7 incorporate some of the very thoughtful work that we have
8 tried to do in our subcommittee, and I think what we saw
9 in the last 20 minutes or so -- and I thought Senator
10 Crapo's comments were very helpful on this -- if we just
11 re-up the TPA with this wholly inadequate consultation
12 process that is run by the USTR, again, members of this
13 Committee would have far less information about a lot of
14 these critical issues than these special interests on K
15 Street.

16 So, Mr. Chairman, I share your view that now is not
17 the time, but I want Senator Thune to know that I am very
18 interested in working with him on this, and,
19 particularly, making sure that TPA incorporates some of
20 the leadership that you have shown in digital goods and
21 services, where I share your view about the opportunities
22 for the American economy.

23 And I yield back.

24 The Chairman. Any further discussion on the
25 amendment?

1 The Senator from Iowa.

2 Senator Grassley. Mr. Chairman, if not now, when?

3 The Chairman. Next year.

4 Senator Grassley. Well, I heard you say that. But
5 if not now, when?

6 For 60 years, the world followed the United States
7 in international negotiations for rules-based trade, and
8 our leadership brought this about to where we are now.
9 But off and on over the last 15 years, we have had this
10 lapse in this authority for the President to negotiate.
11 And, by golly, the rest of the world is not going to sit
12 around and wait for the United States like they used to.
13 They are moving ahead.

14 We have got dozens of free trade agreements all the
15 time being negotiated, and the United States is left out.
16 We have a chance with this vote to show the rest of the
17 world that we want to maintain our leadership in
18 international negotiations on trade, because the whole
19 world benefits from trade.

20 Not only do you benefit economically, you benefit
21 from the standpoint of businesspeople around the world
22 breaking down the barriers to peace that can be
23 established a lot better than diplomats and politicians
24 can.

25 The Chairman. Any further discussion?

1 Mr. Reif. Mr. Chairman?

2 The Chairman. Yes, Mr. Reif?

3 Mr. Reif. Good morning, Mr. Chairman.

4 The Chairman. Good morning. Thank you for raising
5 your hand and getting involved on this. I appreciate
6 that.

7 Mr. Reif. Very briefly, I want to, on behalf of
8 Ambassador Kirk and the Administration, to thank you and
9 Senator Hatch for holding this markup.

10 I would say, with respect to the discussion that is
11 ongoing about trade promotion authority, I think that the
12 discussion supports the Chairman's point that trade
13 promotion authority requires a longer conversation than
14 is possible at this particular time.

15 The Administration recognizes the importance of TPA.
16 At the same time, just this year, the Administration has
17 made and this country has made important advances into
18 the critical exports sector, which is a strong element
19 for the economy.

20 We brought into effect just this year the largest
21 trade agreement in more than 20 years, our agreement with
22 Korea; an important agreement, also, with Colombia, and
23 are moving quickly to implement the agreement with
24 Panama.

25 Through our enforcement efforts, we are also opening

1 markets for American exporters. Just this Monday, we won
2 an important case involving electronic payment services
3 in China, and we have a number of other cases of that
4 sort.

5 So in terms of the growth opportunities through
6 exports, we are working and do not, respectfully, share
7 the view that we are not, through the United States,
8 through various means, working in that direction.

9 With respect to TPP, if I might just conclude, very
10 briefly, Mr. Chairman, through our more than 300
11 consultations with the Committee and with others, we have
12 worked on some of these new issues and we hope that that
13 will help to lay the foundation -- small and medium-sized
14 businesses, the Internet, IPR questions, the issue of
15 state-owned enterprises, that we hope will help to lay a
16 foundation for a discussion at the appropriate time of
17 TPA.

18 Thank you.

19 The Chairman. Any further discussion?

20 Senator Thune. Mr. Chairman, the gentleman, Mr.
21 Reif, just makes the point. All the trade agreements
22 that he is referring to were done under TPA authority in
23 the previous Administration, all the progress that has
24 been made.

25 And the idea of having a longer discussion about

1 this, we have had 3.5 years since the last TPA expired.
2 When does this discussion begin? And I agree with the
3 Senator from Iowa. If not now, when?

4 We talk about it, we bat it around, but we never do
5 anything. In the meantime, we are losing out on
6 opportunities for American exporters every single day. I
7 mentioned this earlier. There are 300 free trade
8 agreements on the books today, we are party to 20 of
9 them. There are 100 being negotiated right now, we are a
10 party to one. And the TPP is going to get done next
11 year. It is going to get negotiated before we have an
12 opportunity to pass TPA authority.

13 That is why I think the timing is so important to at
14 least allow whoever the Administration is in 2013 to work
15 on getting TPP done next year and then we engage this
16 debate about what kind of TPA we want to have and what
17 the parameters ought to be for the future.

18 But we ought to be able to at least finish this
19 particular agreement, which is so important to our
20 economy.

21 The Chairman. All those in favor, signify by
22 saying aye.

23 [A Chorus of Ayes.]

24 The Chairman. Those opposed, no?

25 [A Chorus of Nays.]

1 Senator Thune. Mr. Chairman, I would ask for the
2 yeas and nays.

3 The Chairman. The yeas and nays are requested.
4 The Clerk will call the roll.

5 The Clerk. Mr. Rockefeller?

6 Senator Rockefeller. No.

7 The Clerk. Mr. Conrad?

8 Senator Conrad. No.

9 The Clerk. Mr. Bingaman?

10 The Chairman. No by proxy.

11 The Clerk. Mr. Kerry?

12 The Chairman. No by proxy.

13 The Clerk. Mr. Wyden?

14 Senator Wyden. No.

15 The Clerk. Mr. Schumer?

16 Senator Schumer. No.

17 The Clerk. Ms. Stabenow?

18 Senator Stabenow. No.

19 The Clerk. Ms. Cantwell?

20 Senator Cantwell. Aye.

21 The Clerk. Mr. Nelson?

22 Senator Nelson. No.

23 The Clerk. Mr. Menendez?

24 Senator Menendez. No.

25 The Clerk. Mr. Carper?

1 The Chairman. No by proxy.
2 The Clerk. Mr. Cardin?
3 Senator Cardin. No.
4 The Clerk. Mr. Hatch?
5 Senator Hatch. Aye.
6 The Clerk. Mr. Grassley?
7 Senator Grassley. Aye.
8 The Clerk. Ms. Snowe?
9 Senator Snowe. No.
10 The Clerk. Mr. Kyl?
11 Senator Kyl. Aye.
12 The Clerk. Mr. Crapo?
13 Senator Crapo. Aye.
14 The Clerk. Mr. Roberts?
15 Senator Roberts. Aye.
16 The Clerk. Mr. Enzi?
17 Senator Enzi. Aye.
18 The Clerk. Mr. Cornyn?
19 Senator Cornyn. Aye.
20 The Clerk. Mr. Coburn?
21 Senator Coburn. Aye.
22 The Clerk. Mr. Thune?
23 Senator Thune. Aye.
24 The Clerk. Mr. Burr?
25 Senator Hatch. Aye by proxy.

1 The Clerk. Mr. Chairman?

2 The Chairman. No. The Clerk will announce the
3 results.

4 The Clerk. Mr. Chairman, the final tally is 11
5 ayes, 13 nays.

6 The Chairman. The amendment is not agreed to.
7 Are there further amendments?

8 Senator Wyden?

9 Senator Wyden. With respect to my third amendment
10 on counterfeits, I believe if we can have a colloquy
11 between you and the Ranking Member, Senator Hatch, we can
12 dispose of that quickly. It is Amendment 3 on
13 counterfeits.

14 The Chairman. Go ahead.

15 Senator Wyden. Colleagues, the refrain in the
16 trade community is essentially fake goods and big
17 problems, and particularly with China, where there is
18 evidence that we lost \$1 billion last year just with
19 counterfeits. And it is a whole host of products.
20 Sometimes it is shoes, sometimes it is computer chips.
21 But the bottom line is it is always a problem.

22 The issue, which essentially is the origins of my
23 amendment, is the reluctance on the part of the Customs
24 Department to share information with the companies, with
25 rights-holders to determine whether suspicious

1 merchandise is fake.

2 What the amendment that I have filed would do is
3 correct this problem. And the heart of the solution is
4 when Customs suspects that merchandise is fake, they need
5 to move quickly to check with the companies and check
6 with the rights-holders. That is not being done.

7 And I think, Mr. Chairman, we have now agreed, your
8 staff and Senator Hatch's and mine, on a colloquy to
9 ensure that the Customs Department works more
10 expeditiously with the companies, with the rights-holders
11 to make sure that we achieve the bottom line that every
12 member of this Committee wants to achieve, and that is to
13 keep this counterfeit stuff, to keep this suspicious
14 merchandise from entering the stream of commerce and our
15 having to play catch-up to enforce the rights of our
16 workers and our companies.

17 And I would yield, and I think we can dispose of
18 this, Mr. Chairman, with a brief colloquy on the part of
19 you and Senator Hatch.

20 The Chairman. Senator, I appreciate your concerns,
21 I share them, about preventing counterfeit goods from
22 entering U.S. commerce.

23 Those counterfeit imports cost U.S. IP holders
24 millions of dollars every year. It clearly hurts our
25 competitiveness. It is why I worked to include a

1 provision in the 2012 National Defense Authorization Act,
2 and that provision authorizes CBP to share information
3 with rights-holders to verify legitimate goods and help
4 identify counterfeits.

5 Senator Hatch?

6 Senator Hatch. Well, let me just thank you, Mr.
7 Chairman. I certainly agree that we need to fix this
8 issue.

9 The bottom line is that Customs and Border
10 Protection enacted a flawed policy. Refusing to share
11 information needed by rights-holders to assist in
12 identifying counterfeits is absurd.

13 The NDAA included language which clarified that CBP
14 could share information with rights-holders, and,
15 unfortunately, CBP reacted by adopting additional hurdles
16 to doing just exactly that.

17 Now, this issue has important implications for our
18 national security, health, safety, and economic
19 wellbeing, and sharing this information on a timely basis
20 is vital to securing our supply chains from counterfeit
21 merchandise.

22 So we need to fix this, and I look forward to
23 working with both of you in order to do so.

24 The Chairman. Thank you, Senator. We will figure
25 out a way, because Senator Wyden is correct.

1 Senator Wyden. Mr. Chairman, with that, I will
2 withdraw the amendment. And I do appreciate especially
3 that last point. Both of your points were very helpful.

4 And the point that Senator Hatch made at the end
5 with respect to the national security implications, I
6 would just say to the Senator, one of the issues I am
7 concerned about is these computer chips, for example. If
8 they are counterfeit, they have the prospect of getting
9 into important national security facilities.

10 And I appreciate you, Mr. Chairman, and Senator
11 Hatch working with me on it. And I withdraw the
12 amendment.

13 The Chairman. The amendment is withdrawn.

14 Senator Cantwell, do you have an amendment?

15 Senator Cantwell. Thank you, Mr. Chairman. And
16 thank you for this hearing and markup.

17 There are so many important issues facing us today
18 and our economy growing through trade, I think, is at the
19 forefront.

20 My State is one of the most trade-dependent States
21 in the country, and I think it is imperative that we work
22 to reduce trade barriers and open foreign markets and
23 reduce tariffs that will hold back the sales of American
24 goods.

25 Likewise, I think it is important that we remove

1 tariffs that no longer make sense. For example, duties
2 placed on footwear, which now go back to the Smoot-Hawley
3 law of the 1930s, were designed to protect American
4 shoemakers and encourage consumers to buy American-made
5 shoes.

6 However, today, less than 1 percent of the shoes
7 sold in this country are made in this country. Simply
8 put, these duties no longer protect a domestic shoe
9 manufacturing industry and only hurt American consumers.

10 That is why I originally introduced the Affordable
11 Footwear Act, along with my colleague, Senator Roy Blunt,
12 and that is why today I would like to offer an amendment,
13 along with my colleague, Senator Roberts, to raise
14 awareness on this important issue.

15 U.S. import duties on footwear are extremely high,
16 with some high rates as much as 67 percent. In 2010, the
17 U.S. footwear importers paid \$2 billion in duties to the
18 U.S. Government, more than the duties paid on virtually
19 any other single type of product.

20 For example, a pair of canvas tennis shoes with
21 rubber soles that cost \$10 to import, there is an
22 additional \$2.90 in an import tax. This increases the
23 cost of these sneakers by nearly 30 percent to the base
24 price.

25 As the sneakers travel through the supply chain to

1 retailers, the price the American family is paying is
2 even greater due to retail markups and the State sales
3 tax, and, ultimately, to the consumer end paying
4 significantly more because of this initial 30 percent
5 increase caused by the tariff.

6 In larger terms, these markups may mean revenue, but
7 they also cost shoppers billions of dollars more. And so
8 while Americans are struggling with day-to-day costs, I
9 think it is important that we find reasonable ways to
10 help put more money back in the hands of American
11 households, including working families with children, who
12 spend a large share of their disposable income on basic
13 needs like shoes.

14 So I recognize the challenges of getting these
15 duties removed and I hope that we can continue to work,
16 Mr. Chairman, through a process to eliminate these high
17 tariffs.

18 I would also like to thank Senator Roberts for
19 championing this issue today, and Senators Kerry and
20 Wyden, who are cosponsors of the Affordable Footwear
21 Act. And I look forward to continuing to work with the
22 Committee on trying to resolve this issue as it moves
23 through the process.

24 The Chairman. Thank you, Senator.

25 We need to find, obviously, the appropriate vehicle

1 to deal with footwear tariffs, and I appreciate you
2 working with it.

3 Any further amendments?

4 [No response.]

5 The Chairman. Seeing none, I would entertain a
6 motion to report the Chairman's mark.

7 Senator Hatch. So move.

8 Senator Schumer. Mr. Chairman?

9 The Chairman. The Senator from New York.

10 Senator Schumer. Just a brief word on wool. I
11 know my colleagues have talked about the cotton and the
12 citrus.

13 Just briefly, we have a tariff inversion here. In
14 other words, if you import fine wool fabric, the tariff
15 is much higher than if you import the finished product.
16 So that encourages manufacturing overseas. This would
17 eliminate the inversion on wool, very important to a
18 number of producers of suits in America.

19 My interest is Hickey Freeman in Rochester, New
20 York. So I appreciate us moving the bill.

21 The Chairman. All those in favor of the bill, say
22 aye.

23 [A Chorus of Ayes.]

24 The Chairman. Those opposed, no?

25 [A Chorus of Nays.]

1 The Chairman. In the opinion of the Chair, the
2 ayes have it, and it is agreed to.

3 The next bill is AGOA. The next order of business
4 is to consider the mark of the bill to amend AGOA and DR-
5 CAFTA and to reauthorize and renew Burma sanctions, all
6 three.

7 There have been no modifications to this bill since
8 we released the mark Friday.

9 Ms. Thomas and Mr. Adler from my staff are available
10 for questions, as is Mr. Paul Delany from Senator Hatch's
11 staff.

12 Any questions? Any amendments?

13 Senator Enzi. Mr. Chairman, I do not have an
14 amendment, but I have been a constant voter against the
15 Burma sanctions, because they are too unilateral and that
16 has never worked anywhere.

17 So I have a statement that I would like to be a part
18 of the record.

19 The Chairman. Without objection.

20 [The statement of Senator Enzi appears at the end of
21 the transcript.]

22 The Chairman. Are there amendments?

23 [No response.]

24 The Chairman. If there are none, the Chair
25 entertains a motion to report out this bill.

1 Senator Hatch. So move.

2 The Chairman. All those in favor, say aye.

3 [A Chorus of Ayes.]

4 The Chairman. Those opposed, no?

5 [A Chorus of Nays.]

6 The Chairman. The ayes have it, and the bill is
7 reported out.

8 Next, we have before us to consider the mark for the
9 bill to establish PNTR with Russia and Moldova.

10 Yesterday, I modified my mark. Bruce Hirsch from my
11 staff is here to briefly describe the differences. Mr.
12 Kalbaugh will have any additional comments, if asked,
13 representing Senator Hatch.

14 We also have the Administration here. Dr. Phil
15 Gordon, Assistant Secretary of State for European and
16 Eurasian Affairs, is available. Welcome, Dr. Gordon.

17 It is now in order to offer amendments. Do any
18 Senators have any amendments?

19 Before we do that, frankly, I would like to have a
20 brief walk through the modification, very brief. Where
21 is our walker? He is walking. Our walker is walking.

22 Mr. Kalbaugh, why don't you proceed?

23 Mr. Kalbaugh. I would be happy to, Mr. Chairman.

24 Page 3 of the Chairman's mark requires a report
25 under Section 182 of the Trade Act of 1974 on laws,

1 policies or practices of the Russian Federation to deny
2 fair and equitable treatment to U.S. digital trade.

3 The modification requires that the report be under
4 Section 181 of the Trade Act of 1974 rather than Section
5 182.

6 The modification adds, on page 3, prior to the
7 description of Moldova PNTR, the Sergei Magnitsky Rule of
8 Law Accountability Act of 2011, as reported out of the
9 Senate Committee on Foreign Relations on June 26, 2012.

10 My colleague, Mr. Hirsch, has arrived. I will turn
11 it over to him.

12 Mr. Hirsch. Thank you very much.

13 The Magnitsky bill would direct the Secretary of
14 State to submit to the appropriate Congressional
15 committees a list of persons the Secretary determines to
16 have been involved in the death of Sergei Magnitsky, as
17 well as other human rights violators in Russia and around
18 the world.

19 Listed individuals are to be denied U.S. visas, and
20 the Secretary of the Treasury is directed to freeze their
21 assets.

22 There are exceptions in the case of national
23 security interests, though those must be justified.

24 In addition, the Magnitsky bill requires the
25 Secretaries of State and Treasury to report annually on

1 actions taken under the Act and on efforts to encourage
2 other countries to take such actions.

3 And that concludes our summary of the modification.
4 Thank you.

5 Senator Hatch. [Presiding.] Do members have any
6 questions?

7 Senator Schumer. Mr. Chairman, I have an amendment
8 here -- a question. Sorry. I do not have any questions
9 at this particular time and place.

10 Senator Wyden. Senator Hatch?

11 Senator Hatch. Yes?

12 Senator Wyden. Chairman Baucus is out of the room.

13 I want to express my appreciation to you and Chairman
14 Baucus for the provision that was just mentioned with
15 respect to making sure that we recognize what an
16 important trade issue is and what an important democracy
17 issue it is when the Russians restrict access to the
18 Internet.

19 It seems to me that what we have tried to do in this
20 Congress is to recognize that the Internet is a symbol of
21 freedom. It is a symbol to people who have been held
22 back and have not had a chance to express themselves in
23 their political system, to ensure that they can go on the
24 record and they have an opportunity to be heard.

25 And now, as a result of the changes that you and

1 Chairman Baucus have allowed in this legislation, it is
2 going to be possible. It often is called the "name and
3 shame," that we are going to have a report that, in
4 effect, ensures that we have a watchdog over Russian
5 practices that would suppress access to the Internet.

6 I want to thank you and Chairman Baucus for adding
7 that. I think it is going to be an important statement
8 about our values, our respect for freedom and democracy
9 in that country.

10 Senator Hatch. Well, thank you, Senator.

11 It is now in order for Senators to offer amendments
12 to the PNTR mark. We will go back and forth, Republican
13 and Democrat. We will start with a Republican amendment.

14 Does any Senator on this side -- Senator Cornyn?

15 Senator Cornyn. Thank you, Mr. Chairman, Senator
16 Hatch.

17 I have two amendments, Cornyn Amendment 1 and 2.
18 Just to reiterate, my concern has to do with arms
19 shipments by Russia to Syria. And while I am a cosponsor
20 of the Magnitsky legislation, I want to acknowledge and
21 say how much I appreciate the huge amount of hard work
22 that has gone into the current compromise language.

23 My first amendment would create a new category of
24 Magnitsky sanctions for persons who facilitate weapons
25 transfers to regimes that commit mass atrocities, such as

1 the Assad regime in Syria. This would apply to Russian
2 officials and executives who facilitate these arms
3 transfers to Syria, as well as Iranian agents who
4 continue to smuggle weapons into Syria.

5 But because of the current compromise language of
6 the Magnitsky legislation, I do not want to do anything
7 that might jeopardize that balance to that part of the
8 legislation, I would withdraw my first amendment.

9 And if you would permit me to offer my second
10 amendment, briefly.

11 The Chairman. Sure.

12 Senator Cornyn. The second amendment would delay
13 the effective date of this bill until the President
14 certifies that the Russian government has ceased to
15 transfer weapons to all U.S.-designated state sponsors of
16 terror, which includes Syria.

17 Mr. Chairman, I would actually like to modify that
18 to limit it to solely Syria. I do not have any
19 reasonable expectation that Russia will change its
20 dealings with Iran and other state sponsors of terror.
21 My focus is really Syria.

22 So to my colleagues who support the Magnitsky --

23 The Chairman. The amendment is modified to apply
24 only to Syria.

25 Senator Cornyn. Thank you, Mr. Chairman.

1 To my colleagues who support the Magnitsky
2 legislation, as I do, I would ask for your support. If
3 the murder of one courageous Russian lawyer at the hands
4 of his own government warrants our action, which it does,
5 then how much more does the murder of more than 10,000
6 Syrian civilians at the hands of their government warrant
7 the same action by this Committee?

8 Again, this would require certification by the
9 President. If, in fact, the President does certify that
10 there is no transfer of arms from Russia to the Assad
11 regime, used to kill civilians, then there would not be
12 any delay in the effective date of this bill. All it
13 would require is a Presidential certification.

14 But we should not squander the chance by gift-
15 wrapping PNTR and handing it to Russia without a second
16 thought as to Russia's actions in Syria which fly in the
17 face of our most basic values and interests.

18 The Chairman. Discussion?

19 Senator Cardin?

20 Senator Cardin. Let me thank Senator Cornyn for
21 bringing up both of his amendments, and I appreciate his
22 withdrawing the first.

23 The purpose of the Magnitsky legislation -- and I
24 thank Senator Cornyn and I thank all the people who have
25 helped draft that legislation -- is to have a legacy from

1 the PNTR and granting that to Russia similar to the
2 Jackson-Vanik law in the 1970s; that, yes, it will speak
3 to the justice for Sergei Magnitsky, which I think is
4 very important. This is a case that has gained
5 international attention. It is a tragic situation, a
6 lawyer representing his client who found corruption in
7 the Russian system, reported it, as he should have. As a
8 result, he was arrested, tortured, and left to die in
9 prison without being given any type of medical attention.

10 The Russian authorities know what happened. There
11 have been investigations that have shown who were
12 responsible. And they not only have not taken action,
13 they have actually promoted the people who are
14 responsible for the atrocity.

15 The issue here is to bring justice for Sergei
16 Magnitsky as it relates to Russia, but, also, to
17 establish the authority for us to take action against
18 gross violators of internationally recognized human
19 rights standards. That is institutionalized in this
20 bill.

21 Senator Cornyn raises a separate issue, an issue
22 about what Russia is doing with Syria, an issue that all
23 of us are concerned about. I find it outrageous that
24 Russia is facilitating, through the use of arms to the
25 Syrian government, the loss of civilian life.

1 Now, this has been acknowledged to be a civil
2 campaign and subject to international standards, and we
3 expect, at times, there may well be claims, particularly,
4 that President Assad has violated international standards
5 and should be held accountable for his activities within
6 Syria.

7 But it is a separate issue from what we are dealing
8 with under the Magnitsky law and it is a separate issue
9 than what we are dealing with with PNTR.

10 So I would urge the Senator to withdraw the
11 amendment. If he brings it to a vote, I am going to
12 oppose it not because I do not support what he is trying
13 to do, and that is to find some effective way to stop
14 Russia from supplying weapons to the Syrian government,
15 but denying our participation -- Russia's participation
16 in the WTO, to me, is not an effective way to bring this
17 issue to the attention of Russia for action. In fact, I
18 think it would probably be counterproductive.

19 So I do not think it would accomplish the objective
20 that the Senator is attempting to do. I am more than
21 happy to work with the Senator, as I already have, with
22 resolutions that have passed, statements that we have
23 made urging our government to do everything it can to
24 expose Russia's activities within Syria as being, first,
25 again, I think, support of the international community,

1 but, also, counterproductive to bringing about a
2 successful resolution for the Syrian people.

3 But to put it on this vehicle, I think, would be
4 counterproductive. It would not further the Magnitsky
5 legislation, and I do not think it would further the
6 objectives of PNTR and what we can accomplish through
7 PNTR.

8 Senator Cornyn. Mr. Chairman, if I can respond,
9 just briefly.

10 The Chairman. Yes, go ahead.

11 Senator Cornyn. I want to congratulate the Senator
12 from Maryland for your very good work on the Magnitsky
13 legislation. That is very significant. But I would ask,
14 if it is important to vindicate the rights of a single
15 person who suffered atrocious treatment at the hands of
16 the Russians, how much more compelling is it that under
17 some human rights groups, that they estimate as many as
18 17,000 Syrians have been murdered by the Assad regime
19 using, by and large, weapons supplied by the Russian
20 government?

21 And while I support PNTR, I think we are obligated
22 to do so, I do not think we ought to just -- that this
23 ought to be a one-way street. I have not gone through
24 the litany of ways that Russia tries to undermine the
25 United States and our interests around the world. This

1 is focused on a very narrow issue, and that is the
2 provision of arms to Assad to kill innocent civilians who
3 are trying to embrace the values that we celebrate here
4 in this country.

5 And so it is extraordinarily narrow, but I would say
6 that the easiest way to resolve this is for Russia to
7 quit doing it.

8 All this amendment would do is require the President
9 to certify that they are no longer transferring weapons
10 to the Assad regime, and it would satisfy the
11 requirements of this amendment.

12 The Chairman. Discussion?

13 Does the Senator want to withdraw his amendment or
14 is he going to push it?

15 Senator Cornyn. I would like to have a vote on it,
16 if you call that pushing it, Mr. Chairman.

17 The Chairman. Do you want a voice vote or do you
18 want a recorded vote?

19 Senator Cornyn. I would like to have a recorded
20 vote, yes.

21 The Chairman. You would like a recorded vote.

22 Senator Kerry?

23 Senator Kerry. I just want to say very quickly
24 that the purpose of this amendment is that if we withhold
25 PNTR for Russia until they stop selling arms, then Russia

1 is going to stop.

2 The problem with that is that not only will they
3 probably not stop, but withholding Russia PNTR does not
4 hurt Russia, it hurts our exporters.

5 So this is a totally counterproductive initiative
6 and if you were to apply the same standard, I assume that
7 the Senator would want to do that, you would have to take
8 away PNTR from China, too, and I do not think anybody
9 here wants to do that.

10 But the bottom line is it is going to hurt us more
11 than it hurts Russia, because it will not leverage Russia
12 to change their fundamental behavior here.

13 Secondly and equally important, today, at the U.N.,
14 there is an effort with respect to what is happening in
15 Syria. I think if you follow the news, you see that
16 things are unraveling relatively more rapidly than some
17 people thought they might be.

18 A lot of work is going into changing Russia's
19 attitude without binding ourselves to something that has
20 been as significant as the PNTR and Jackson-Vanik and
21 Magnitsky relationship.

22 So I would strongly urge colleagues to oppose this
23 amendment, because it is counterproductive. And I think
24 I will just leave it at that.

25 The Chairman. Senator Hatch?

1 Senator Cornyn. Mr. Chairman, if I could just -- I
2 am sorry.

3 Senator Hatch. Go ahead.

4 Senator Cornyn. I would just say, very briefly,
5 that is not the premise of the amendment. The premise of
6 the amendment is to get Russia to stop.

7 Senator Kerry. Well, I understand what the premise
8 is, but --

9 Senator Cornyn. And the idea is that the United
10 States is acting as though this is not happening and
11 Russia is suffering no opprobrium in the world community
12 or statement by this Congress that this is simply
13 unacceptable conduct.

14 I realize it is a message and they are going to do
15 what they are going to do, but I do not see why we should
16 have to sit silently by and act as if it is not
17 happening.

18 So really it -- there are some stories that suggest
19 that Russia is no longer supplying weapons. There are
20 contradictory stories, I know the Senator is aware of
21 that. Who knows what the truth is, but the President of
22 the United States, as commander in chief, has access to
23 all elements of our intelligence community, he can make
24 that determination.

25 And once he makes the determination to his

1 unilateral satisfaction, it would do nothing to delay the
2 granting of PNTR status to Russia.

3 Senator Kerry. If the Senator would yield just for
4 a minute. First of all, I am not voting for messages
5 that shoot the messenger, and that is what this does.

6 Secondly, the indications are -- I mean, the
7 Russians would say that they are fulfilling some past
8 contracts, but not proactively providing any weapons,
9 particularly the kind of weapons that are being used, and
10 some friends of ours are, people you know in the Gulf
11 States and others are very overtly supplying a lot of
12 weapons right now.

13 And so this would be a completely uneven and wrongly
14 directed way to try to have an impact on Russia. I do
15 not disagree with you. I do not think. I wish they
16 would not complete the contract and send a helicopter
17 that has an ability to be used as a lethal weapon,
18 obviously. But I do think that some progress is being
19 made and I think this would be counterproductive, because
20 as I said, it winds up hurting our exporters, not Russia.

21 The Chairman. Senator Hatch?

22 Senator Hatch. Mr. Chairman, I think the amendment
23 is a good amendment. The problem here is we want to pass
24 PNTR, and I have agreed to vote with the Chairman against
25 all amendments that could cause some troubles with PNTR.

1 We have worked long and hard to get this put
2 together. I do compliment my colleague from Texas for
3 his amendment, and, ordinarily, I think I would probably
4 want to support it. But I also want to get this matter
5 through.

6 It is extremely important, and it is extremely
7 important we do it today, and, therefore, I will have to
8 vote against my colleague, even though I tend to agree
9 with him.

10 The Chairman. Thank you.

11 Senator Conrad?

12 Senator Conrad. Mr. Chairman, I think the Senator
13 from Texas has raised what, to me, is an important point,
14 but I do not think this is the -- personally, I do not
15 think this is the way to achieve the result.

16 I think we should find a way to send the message
17 that he seeks to send, because I think we should send
18 that message. But I do not think this is the way to do
19 it, because it puts the President, whoever the President
20 is, in an impossible position.

21 By treaty, we are obligated to extend PNTR to
22 Russia. We have crossed that bridge. We have put
23 ourselves in that position. We are obligated to do it.
24 At the same time, Russia's behavior is atrocious with
25 respect to what is happening in Syria and it should be

1 condemned, and we should find a way to do that
2 effectively.

3 I do not think it works here, but I would be eager
4 to join with the Senator and others who might be
5 interested in finding another way to accomplish that
6 result.

7 The Chairman. We are going to have to wrap this
8 up. It is getting repetitious. But go ahead, Senator
9 Cornyn.

10 Senator Cornyn. I promise not to make it
11 repetitious. I understand what the Chairman of the
12 Foreign Relations Committee and the Senator from South
13 Dakota are saying -- North. Excuse me. Somewhere up
14 there.

15 [Laughter.]

16 The Chairman. The South guy is on your left. He
17 is over there.

18 Senator Cornyn. There is a bipartisan resolution
19 that is already in markup in the Senate Foreign Relations
20 Committee. Senator Durbin and I are the chief sponsors.
21 I know that other members of the Committee, Senator
22 Cardin and others, and it is a genuinely bipartisan
23 resolution expressing the sense of the Senate on this
24 issue.

25 I would welcome and appreciate a commitment by the

1 Chairman to consider that bipartisan resolution and to
2 mark it up in the Foreign Relations Committee. I think
3 that would be maybe a good way to address the issue.

4 Senator Kerry. I absolutely promise you we will
5 consider it.

6 Senator Cornyn. Consider it meaning a markup?

7 Senator Kerry. I do not know about a markup yet.
8 I do not know where we are in terms of it, but I promise
9 you -- look, I want to say to the Senator, I agree with
10 Senator Conrad. I think it is important that a message
11 be sent. I want to have a chance to evaluate it. But I
12 promise you we will give it fair consideration. I will
13 sit with the Senator and we will talk about.

14 Senator Cornyn. To say that this is an
15 inappropriate vehicle, time and place to express this
16 concern and then to say --

17 Senator Kerry. Well, I just have not seen the
18 language of it. I cannot commit to mark up something I
19 have not seen.

20 But I promise you we will give it the fair
21 consideration it deserves, and I will sit with you and we
22 will work it through. And I think the members of the
23 Committee will work with me now if I say that. We will
24 give it fair consideration.

25 The Chairman. Senator Hatch?

1 Senator Hatch. Mr. Chairman, I think a lot of us
2 are very sympathetic with Senator Cornyn's amendment, but
3 several of my members requested that with the exception
4 of Magnitsky, the PNTR bill only address economic issues.

5 Now, the package we worked out reflects their
6 request and only addresses economic issues. And for that
7 reason, I am going to have to oppose this amendment, even
8 though I am very sympathetic to it, but will work with
9 you going forward to address this in a proper way.

10 That is all I need to say about it.

11 The Chairman. Let us vote on the amendment. The
12 Clerk will call the roll.

13 The Clerk. Mr. Rockefeller?

14 Senator Rockefeller. No.

15 The Clerk. Mr. Conrad?

16 Senator Conrad. No.

17 The Clerk. Mr. Bingaman?

18 The Chairman. No by proxy.

19 The Clerk. Mr. Kerry?

20 Senator Kerry. No.

21 The Clerk. Mr. Wyden?

22 Senator Wyden. No.

23 The Clerk. Mr. Schumer?

24 Senator Schumer. No.

25 The Clerk. Ms. Stabenow?

1 Senator Stabenow. No.
2 The Clerk. Ms. Cantwell?
3 Senator Cantwell. No.
4 The Clerk. Mr. Nelson?
5 Senator Nelson. No.
6 The Clerk. Mr. Menendez?
7 Senator Menendez. No.
8 The Clerk. Mr. Carper?
9 Senator Carper. No.
10 The Clerk. Mr. Cardin?
11 Senator Cardin. No.
12 The Clerk. Mr. Hatch?
13 Senator Hatch. No.
14 The Clerk. Mr. Grassley?
15 Senator Hatch. Aye by proxy.
16 The Clerk. Ms. Snowe?
17 Senator Hatch. Aye by proxy.
18 The Clerk. Mr. Kyl?
19 Senator Kyl. Aye.
20 The Clerk. Mr. Crapo?
21 Senator Crapo. Aye.
22 The Clerk. Mr. Roberts?
23 Senator Roberts. Aye.
24 The Clerk. Mr. Enzi?
25 Senator Enzi. Aye.

1 The Clerk. Mr. Cornyn?
2 Senator Cornyn. Aye.
3 The Clerk. Mr. Coburn?
4 Senator Coburn. Aye.
5 The Clerk. Mr. Thune?
6 Senator Thune. No.
7 The Clerk. Mr. Burr?
8 Senator Burr. No.
9 The Clerk. Mr. Chairman?
10 The Chairman. No. The Clerk will tally the vote.
11 The Clerk. Mr. Chairman, the final tally is 8
12 ayes, 16 nays.
13 The Chairman. The amendment does not pass.
14 Are there any further amendments?
15 Senator Schumer?
16 Senator Schumer. I have an amendment. It is
17 listed here No. 25. I am just going to have a colloquy
18 and then withdraw it, with you, Mr. Chairman, that we
19 have agreed to.
20 The information technology agreement is one of the
21 most meaningful and successful trade agreements in the
22 WTO. From 1996 to 2008, total global ITA trade increased
23 more than 10 percent annually from \$1.2 trillion to \$4
24 trillion, and the ITA helps drive innovation, accelerate
25 productivity, increase employment, lower consumer prices,

1 and bridge communities across the globe in ways we could
2 not imagine 15 years ago when the agreement was forged by
3 reducing tariffs on these important 21st century goods.

4 The ITA deserves our attention. Russian compliance
5 is important to creating jobs across New York State and
6 across the country. These jobs are good, high paying
7 jobs that will help the U.S. continue to innovate and
8 compete.

9 Mr. Chairman, I believe after consultation with my
10 office, you have committed to giving this vital agreement
11 its own section in the USTR's annual report to Congress
12 on Russia's compliance with their World Trade
13 Organization agreement. Is that correct?

14 The Chairman. That is correct.

15 Senator Schumer. Thank you, Mr. Chairman. I
16 withdraw my amendment.

17 The Chairman. Are there further amendments?

18 [No response.]

19 The Chairman. Seeing none --

20 Senator Menendez. Mr. Chairman?

21 The Chairman. Senator Menendez?

22 Senator Menendez. Mr. Chairman, I have an
23 amendment which I will not pursue a vote, but I would
24 like to enter into a colloquy with you. And, basically,
25 it is a matter of serious importance to many Americans

1 with respect to Russia's accession to the WTO when we
2 talk about the protection and enforcement of intellectual
3 property rights.

4 And I appreciate that the Chairman's mark includes a
5 requirement that the U.S. Trade Representative report
6 annually to the Committee and to the Ways and Means
7 Committee on Russia's progress in meeting its WTO
8 obligations with respect to IPR.

9 These obligations are of great importance to many of
10 my constituents, including the pharmaceutical chemical
11 industry, publishing industry, as well as hundreds of
12 composers, authors, producers and entertainers who call
13 New Jersey home.

14 So, therefore, I expect the USTR report outlined in
15 the Chairman's mark would detail U.S. action on the full
16 range of IP issues facing American rights-holders in
17 Russia, including whether Russia has fully enacted and
18 implemented comprehensive intellectual property rights,
19 as required by their accession to the WTO, as agreed to
20 in their working party agreements; whether Russia's
21 existing laws properly recognize the rights associated
22 with the performance of audio/visual works under its
23 international treaty obligation; whether Russia's
24 application of a value-added tax to certain types of IP
25 products and services is being applied in a

1 discriminatory fashion that would violate its existing
2 trade obligations.

3 I believe, Mr. Chairman, it is crucial for the
4 United States to support training on IP issues in Russia,
5 to train and educate law enforcement officers, judges,
6 lawyers, and government officials, as well as U.S.
7 Embassy and consulate staff in Russia on IP issues.

8 And I hope that when the Committee produces its
9 final report, that these issues would be fully addressed.

10 And I would ask the Chairman if he would continue to
11 work with me to address these issues.

12 The Chairman. I will.

13 Senator Menendez. Thank you, Mr. Chairman.

14 The Chairman. Any further amendments?

15 Senator Kyl. Mr. Chairman, I have what is really
16 just a technical amendment that would add a report to a
17 requirement that you and Senator Hatch worked out in the
18 bill.

19 Currently, there is no formal structure for U.S.
20 businesses when they encounter bribery and other
21 corruption in Russia that threatens their operations.

22 And so you and the Ranking Member included a
23 provision which directs the Commerce Secretary to
24 establish a telephone hotline and secure a Website so
25 American businesspeople have a central location to report

1 corruption and request assistance from the government,
2 and that is great. There is a report at the end of the
3 year that would describe what goes on there.

4 What we did not include, and my amendment would, is
5 a report by the Secretary of Commerce on his efforts to
6 get this process up and running so that we know that he
7 is providing a real outlet for American businesses to be
8 able to report these to the Secretary of Commerce and get
9 support.

10 The Chairman. Senator Hatch?

11 Senator Hatch. Mr. Chairman, I worked with Senator
12 Kyl to make sure this bill includes an important
13 provision to help mitigate the challenges faced by the
14 U.S. businesses as a result of what we all know is
15 widespread corruption in Russia.

16 Now, Senator Kyl has since raised a concern about
17 reporting requirements, and I hope we can address that
18 through this amendment. I hope we can adopt this
19 amendment by voice vote.

20 The Chairman. Any further discussion on the
21 amendment of the gentleman from Arizona?

22 [No response.]

23 The Chairman. All in favor, say aye.

24 [A Chorus of Ayes.]

25 The Chairman. Those opposed, no.

1 [No response.]

2 The Chairman. The ayes have it, and the amendment
3 is passed.

4 Any further amendments?

5 [No response.]

6 The Chairman. If there are no further amendments,
7 the Chair entertains a motion that the Committee report.

8 Senator Hatch. So move.

9 The Chairman. All those in favor, say aye.

10 [A Chorus of Ayes.]

11 The Chairman. Those opposed, no?

12 [No response.]

13 The Chairman. The ayes have it. It is agreed to.

14 Let us get a roll call. It is important. The Clerk
15 will call the roll.

16 The Clerk. Mr. Rockefeller?

17 Senator Rockefeller. Aye.

18 The Clerk. Mr. Conrad?

19 Senator Conrad. Aye.

20 The Clerk. Mr. Bingaman?

21 The Chairman. Aye by proxy.

22 The Clerk. Mr. Kerry?

23 Senator Kerry. Aye.

24 The Clerk. Mr. Wyden?

25 Senator Wyden. Aye.

1 The Clerk. Mr. Schumer?
2 Senator Schumer. Aye.
3 The Clerk. Ms. Stabenow?
4 Senator Stabenow. Aye.
5 The Clerk. Ms. Cantwell?
6 Senator Cantwell. Aye.
7 The Clerk. Mr. Nelson?
8 Senator Nelson. Aye.
9 The Clerk. Mr. Menendez?
10 Senator Menendez. Aye.
11 The Clerk. Mr. Carper?
12 Senator Carper. Aye.
13 The Clerk. Mr. Cardin?
14 Senator Cardin. Aye.
15 The Clerk. Mr. Hatch?
16 Senator Hatch. Aye.
17 The Clerk. Mr. Grassley?
18 Senator Hatch. Aye by proxy.
19 The Clerk. Ms. Snowe?
20 Senator Hatch. Aye by proxy.
21 The Clerk. Mr. Kyl?
22 Senator Kyl. Aye.
23 The Clerk. Mr. Crapo?
24 Senator Crapo. Aye.
25 The Clerk. Mr. Roberts?

1 Senator Hatch. Aye by proxy.

2 The Clerk. Mr. Enzi?

3 Senator Enzi. Aye.

4 The Clerk. Mr. Cornyn?

5 Senator Hatch. Aye by proxy.

6 The Clerk. Mr. Coburn?

7 Senator Hatch. Aye by proxy.

8 The Clerk. Mr. Thune?

9 Senator Thune. Aye.

10 The Clerk. Mr. Burr?

11 Senator Burr. Aye.

12 The Clerk. Mr. Chairman?

13 The Chairman. Aye. The Clerk will tally the
14 results.

15 The Clerk. Mr. Chairman, the tally of members
16 present is 18 ayes and 0 nays. The final tally,
17 including proxies, is 24 ayes, 0 nays.

18 The Chairman. The ayes have it and the bill is
19 reported.

20 I ask consent that staff be given authority to make
21 technical and conforming changes.

22 If there is no further business before the Committee
23 -- Senator Hatch?

24 Senator Hatch. Mr. Chairman, I just want to
25 congratulate you and all of our colleagues on the

1 Committee. This is a very important vote today, and I
2 think all of them have been very important. So thank you
3 so much.

4 The Chairman. Thank you, Senator. It is a very
5 important vote. And thank you. I want to thank
6 everyone's cooperation.

7 First, members of the Committee, we all worked
8 together to accommodate our mutual interests. Second,
9 the staff, I want to thank staff very, very much.

10 Now, tonight, perhaps the staff can get some sleep.

11 They have not slept in several days. But thanks,
12 everybody, for all your work.

13 The Committee is adjourned.

14 [Whereupon, at 12:17 p.m., the hearing was
15 concluded.]

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I N D E X

PAGESTATEMENT OF:

THE HONORABLE MAX BAUCUS
A United States Senator
from the State of Montana

3

THE HONORABLE ORRIN HATCH
A United States Senator
from the State of Utah

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Statement of Senator Mike Crapo
Senate Finance Committee
July 18, 2012

Thank you, Mr. Chairman.

Today, we embark on a new chapter in the story of our mercurial relationship with Russia. Much has and will be said about the consequential act of Russia entering the international trade regime of the World Trade Organization (WTO). The U.S. can pat itself on the back for the culmination of 18 years of negotiations and work to integrate Russia into the structure of the global market.

However, as we reflect on this moment, we should remember it as a lost opportunity to do better and stand for the principle of expecting Russia, and all serious nations, to act in accord with internationally-accepted customs and practices.

Even with the much-hyped “reset” in Russo-U.S. relations, Russia remains a belligerent actor on the world stage, occupying neighboring territory, using its resources to bully trading partners, propping up vicious regimes in the Middle East, derailing international efforts to reverse Iran’s pursuit of nuclear enrichment, fighting U.S.-led plans to build missile defense systems in Europe, reasserting regional hegemony, subjugating its own civil society, rigging elections, sustaining organized crime, and boycotting international gatherings.

And, to quote the band, *the Who*, with Vladimir Putin, Russia has “a new boss, the same as the old boss.”

A lot has been said about how inclusion in the WTO will suppress Russia’s worst behavior and instincts. I truly hope so. Our ten-year experience with China in the WTO is, at best, a mixed lesson on the tradeoff between increased market access and the limits of international accords. Many U.S. businesses can testify to the struggles of doing business in countries with poor histories of respecting rule-of-law, property rights, and transparency. It is hard to argue that the WTO puts a tight straightjacket on bad behavior.

That is why the Hobson’s choice before us is so difficult. U.S. businesses need export opportunities to kick our anemic economic recovery into higher gear. The accession agreement should lower many barriers to Russian markets, including in its controlled agriculture, services, and high-tech sectors. Our businesses can compete in any fair market because we have the best goods and efficient workers.

But, the reality is Russia is being embraced into the world trade system not because of what it has done, but in spite of its recent actions. The accession agreement sends the message to Moscow that its bad behavior is largely overlooked.

Just this month, the Organization for Security and Cooperation in Europe (OSCE) condemned Russia's human rights record and recommended sanctions against them. The Obama administration has worked furiously to fight every reasonable effort to implement new sanctions on the leaders in Moscow who are cited in the tragic death of lawyer Sergei Magnitsky. If the White House resists sanctioning those connected to the murder, it does not inspire a great deal of confidence that the administration will hold Moscow to a high standard in enforcing its international commitments.

Russia is now sending marines and a naval task force to Syria, all while fighting against international community efforts to rid the country of its violent and repressive government, thus ending a long history of bloodshed which has taken thousands of civilian lives.

Last week, CNN, BBC, and Bloomberg all mysteriously went off the air on a major Moscow telecommunications service provider -- a disruption blamed on a licensing dispute. Three days prior, President Putin complained that foreign news outlets show a negative image of Russia. Although public uproar resulted in the foreign feeds being restored, it does pose serious questions about whether Russia is really mature enough and ready to join the international trading community. If Russia is so sensitive to criticism that it is willing to risk media censorship, how do we expect it to respect foreign investments if they begin to displace Russian producers and jobs?

The passage of Russia PNTR legislation will necessitate the inclusion of additional safeguards on Russia. Those should help.

Russia's policy record on agricultural trade is also spotty. Too often, our farm exports have been blocked by arbitrary and unscientific sanitary and phyto-sanitary (SPS) measures. Moscow has also used costly and bureaucratic approval processes for meat exporters to protect its own, less competitive, food producers. It took the worst drought in half a century in Russia for the barriers to meat imports to be loosened.

To make the accession agreement work, U.S. producers will be reliant on Russia acting in good faith to ensure its practices comply with fair trade and international SPS and intellectual property rights standards. There seems great optimism on the part of the administration that it will, and can, vigorously challenge Russia's violations of WTO guidelines at every turn. If our experience with China is any indication, there will be a lot of lawsuits and challenges brought against Russia.

Unfortunately, bringing suits before the WTO is both costly and time-consuming. I certainly hope the administration recognizes the obstacles it faces going forward. The White House must do better than its record on the "reset" demonstrates.

Despite my serious misgivings, I recognize our exporters should not be the victims of Russia's questionable conduct, and I will vote for passage of the bill. I fully expect the administration to be vigilant in pressing for enforcement of Russia's commitments to fair

trade. Russia's WTO accession provides a real opportunity to U.S. agriculture and high-tech exporters to expand their markets. I commend their competitiveness and will continue to be an advocate for their success.

Thank you, Mr. Chairman.

**Senator Enzi Written Statement on the
Burma Sanctions Bill
Senate Finance Committee Executive Session
July 18, 2012**

I am pleased the Committee is moving forward on normalizing trade with Russia. This is an important step in welcoming that nation closer to the international trade community as well as making sure the United States has recourse in the WTO should that nation not fulfill any of its trade obligations under their accession agreement or in future trade. Normal trade relations with Russia help Wyoming soda ash producers, our state's energy industry and our farmers and ranchers.

I wish to also comment on the Chairman's decision to include the Burma sanction bill in with other measures. I have raised concern before this committee in the past about how unilateral sanctions do not work.

My opposition to sanctions is in no way a support for the government of Burma. There is no doubt that the government of Burma has abused its power and mistreated its people. The question is how we address the situation there.

I believe sanctions can be effective, but only when they are multilateral. In today's globalized economy, no nation solely depends on the United States for trade. Governments have options for buying and selling goods.

I believe that if the United States did a better job of talking with the neighbors of Burma and our allies around the world about the situation there, we would have a much better chance of improving the plight of the Burmese people.

Although we have found some support from other nations in measures against Burma, the United States needs to go further to ensure that sanctions are truly multilateral so that they can stimulate real change in that nation. I will say that I have a strong passion and deep understanding for Africa as well as the impact of the African Growth and Opportunity Act (AGOA) reauthorization. I believe in AGOA and want to see that bill pass. However, I just wanted to make clear to the Committee I still have concerns about our sanctions against the country of Burma.

SENATE FINANCE COMMITTEE
Senator Olympia J. Snowe
Statement for the Record
Open Executive Session to Consider Trade Legislation
July 18, 2012

Mr. Chairman and Ranking Member Hatch, thank you for holding today's mark-up of four different trade measures. I want to commend both of you for making today's session a reality.

I am very pleased that the first item on the agenda today is approving bipartisan legislation I have worked on for years with my friend and colleague, Senator Wyden of Oregon. The ENFORCE Act is essential to helping America's manufacturers compete on a level playing field with their foreign competitors.

The ENFORCE Act will give Customs and Border Protection enhanced enforcement tools, to prevent illegal importation of foreign goods. All too frequently, domestic manufacturers are undermined by foreign competitors who intentionally sell imports at less than normal value or are unfairly benefiting from government subsidies. And our workers pay the price for these illegal imports in lower wages, or even worse, in lost jobs. The ENFORCE Act gives us new enforcement tools to stop this from happening in the future.

The second item on the Committee's agenda is a measure essentially expanding the Citrus, Cotton, and Wood trust funds – a bill I oppose as it simply goes too far in growing these trust funds. In short, this proposal seeks to spend money the Treasury does not have to provide research and development that private industries can and should perform.

With respect to legislation modifying the African Growth and Opportunity Act . . . making technical corrections to the Dominican Republic-Central American Free Trade Agreements . . . and Burma sanctions legislation – I will be supporting this package, in particular due to the provisions extending sanctions against Burma.

I have been at the forefront of the fight for sanctions against Burma's ruling regime for years. I am a co-founding member of the Senate Women's Caucus on Burma; have cosponsored the Burma Sanctions Resolution every year since 2007; and was an

original cosponsor of Senator Feinstein's bill to award persecuted Burmese democracy activist Aung San Suu Kyi the Congressional Gold Medal.

While recent improvements in Burma are a step in the right direction, sanctions remain critical to ensure that Burma's leaders continue to make progress. Accordingly, I urge my colleagues today to join me in supporting this measure as a means of encouraging continued reforms inside Burma.

Finally, I want to speak about the implications of Russia's accession to the World Trade Organization (WTO) and the decision to approve legislation granting Permanent Normal Trade Relations (PNTR) to Russia.

As a longtime critic of trade practices that harm American workers – including intellectual property theft and currency rate manipulation – I do not take this decision lightly. Yet, clearly, approving this bill has several benefits.

First, it allows U.S. businesses to enter the Russian marketplace under terms that are transparent and give our producers the right to challenge unfair trade practices through the WTO dispute resolution process. Second, numerous businesses in my state are supporting this initiative in hopes of opening a new export market for goods produced in Maine, and I am dedicated to doing everything possible to help Maine businesses export their products. Third, Russia was required to enact more stringent internal reforms *before* it was granted accession to the WTO, and to his credit Senator Hatch has successfully incorporated a number of safeguards into the implementing legislation.

Finally, the legislation includes the Magnitsky amendment that I was proud to cosponsor, bringing to light the grave injustice committed against Sergei Magnitsky and sending a strong message against corruption and human rights abuses that can and will be heard around the world. The Magnitsky provision will serve as a new way to address human rights abuses by any nation, through the denial of visas and the potential seizure of assets. In this sense, the Magnitsky legislation promises to be truly groundbreaking.

Still, let me be very clear about the step we are taking today. Membership in the WTO creates a *privileged* trade relationship between economies that function along the same basic lines. As a result, if Russia or any other privileged trading partner fails to uphold a key tenet of this relationship, then it puts American workers and businesses at risk from unfair competition.

Early in my career in Congress, I supported legislation designed to help Maine's textile and footwear industries. Back then, Maine had a textile and footwear industry which provided good jobs for our people. But, under assault from inexpensive, imported goods, we lost those jobs and they're not coming back.

More recently, I reluctantly supported PNTR for China in 2001, under similar circumstances. I was assured that China's rampant piracy of intellectual property rights would be abated; that its embarrassing human rights record would improve; and that its manipulation of its currency would be addressed.

Today, China continues to pirate our intellectual property rights, its human rights record remains unacceptably poor, and there's been no lasting progress on currency manipulation while it enjoys all the benefits of WTO membership.

It is with this foremost in mind that I am pleased that Russia was required to enact a host of legislation, creating a series of protections against many of these same concerns, before its WTO entry was permissible. They were required to reduce tariffs on products in key sectors including manufacturing and farming, and also enact legislation allowing for 100 percent U.S. ownership of companies, an issue that is still a major stumbling block for U.S. companies seeking to do business in China. Russia also had to enhance its intellectual property protection commitments consistent with WTO standards, including both for internet activity and copyright and patent protections.

The legislation we are considering today would also hold Russia accountable for carrying out and standing by these new laws and commitments to which it has agreed.

For example, we fought for and won inclusion in this legislation of a requirement that USTR report to Congress within 6 months of enactment of this legislation, and annually thereafter, on USTR's enforcement actions to ensure Russia's full implementation of its WTO obligations. And USTR cannot sit idly on the information it develops; rather, the legislation requires USTR to develop a plan of action and report to Congress on steps that might be taken to address any concerns. The legislation also empowers U.S. citizens and businesses, providing a mechanism for them to submit comments on whether Russia is complying with its WTO commitments and establishing a "hotline" to use to alert the U.S. government of any corruption or bribery they may encounter when seeking to do business in Russia. This dual monitoring from both governmental and non-governmental sources will provide the transparency necessary to gauge whether Russia is in compliance and the clarion

call to act if Russia is not. Russia is on notice: we have learned from our past experiences with WTO admittance and we are watching.

So, in an effort to support the possibility of creating a new export market for Maine industries, I will vote for PNTR for Russia. But I warn my colleagues: our government – whether it's under Democratic or Republican leadership – absolutely must redouble its efforts to hold our trade partners accountable when they violate their international trade commitments. We simply cannot *afford* – and *literally* I do mean *afford* – to allow history to repeat itself.

Mr. Chairman and Ranking Member Hatch, thank you again for holding this mark-up. I look forward to the Finance Committee having a productive work session today.

Senator Rockefeller Statement on ENFORCE Act Changes

July 18, 2012

- It is my understanding that – just this morning – a few minutes before this mark-up was to begin, we were informed that workers have been completely deleted from the persons who can seek redress under our trade enforcement laws.
- The version of the ENFORCE Act that we are considering today would only allow a domestic producer to access the ENFORCE Act for remedy on an evasion of trade order.
- All other interested parties – including workers – who have traditionally been allowed to seek remedy through our trade enforcement laws would be completely cut out.
- This is a significant change and something that should have been properly vetted and discussed before appearing in this mark-up.
- We should be doing more – not less – to protect the rights of workers. Workers are the backbone of this country. And – in an era where domestic producers are constantly shifting jobs overseas – it is unacceptable to take away critical trade enforcement protections for our workers.
- The Members of this Committee should have been informed before 8:50 AM this morning about a change of this magnitude. I cannot support this change and, therefore, will oppose this version of the ENFORCE Act.