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ADMINISTRATION'S 2007 TRADE AGENDA

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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ADMINISTRATION'S 2007 TRADE AGENDA

THURSDAY, FEBRUARY 15, 2007

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:05 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Stabenow, Cantwell, Salazar, Grassley, Bunning, and Roberts.

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

The CHAIRMAN. The hearing will come to order.

I am pleased to convene the first of many hearings that this committee will hold this year on international trade. I am happy to welcome Ambassador Susan Schwab as our first lead-off, kick-off witness. Ambassador Schwab has demonstrated a steely resolve to promote America's interests, and we thank her very much for that resolve.

About a century ago, tens of thousands of people came to what would become the State of Montana. They came from every corner of the world. They came to a place that many saw as unknown, untamed, unsettled. But those who stayed saw something else: they saw opportunity.

They saw opportunity for themselves, their families, and generations to come. Some saw opportunity in mining and farming, others saw opportunity in hunting and trapping. One 21-year-old German immigrant saw opportunity in ranching for himself and generations to come. Those generations include me, his great-grandson.

Montanans seek opportunity. I grew up with that ethic, and it has stuck with me in my nearly 30 years in the Senate. Today's trade agenda is a place that many see as unknown, as unsettled. But I see opportunity.

I see the opportunity to increase the 12 million American jobs that exports create. I see the opportunity to boost the international trade that already accounts for a quarter of our Nation's output, and I see the opportunity to improve America's economic leadership.

These and other opportunities begin with fast track negotiating authority. Fast track expires in June. I believe we must seize the opportunity to renew fast track. Just as importantly, we must seize the opportunity to re-think it.

We must re-think fast track to ensure that we pursue commercially significant agreements. We must re-think fast track to ensure that our agreements reflect our economy's strengths.

We must re-think fast track to ensure that our trade agreements raise labor and environmental standards, and we must re-think fast track to ensure that our trade agreements improve working conditions around the world.

However we re-think fast track, though, we must find a way so that Congress feels it is listened to before the process begins, and during the process. Too many in Congress feel that the administration does not adequately consult Congress. Many in Congress feel they are not sufficiently listened to and want to be a truly equal partner in trade.

Now, however we re-think fast track, we cannot consider it in isolation. Instead, we must consider fast track in the context of Americans' growing unease over globalization, over international trade, and out-sourcing.

We must consider fast track together with our growing record trade deficits and foreign indebtedness. We must consider it with the knowledge that many in Congress, and many in the country, as I said, have felt left out of the trade policy process.

We must also consider fast track together with the policies that buttress a successful trade agenda. That means making sure that we have the right tools to vigorously enforce America's trade agreements and trade laws. That means making sure that America's export promotion programs work to their full potential, and it means making sure that America's economy is as competitive as it can be.

That means making sure that all American workers can compete and can win on the global playing field. That means making sure that America takes care of those workers whom trade leaves behind. For years I have called for expanding trade adjustment assistance programs to include services workers. I believe we must do that.

I have also pushed for further innovation on these policies, and we should move also to a kind of globalization adjustment assistance, not just trade adjustment assistance, that looks out for those affected by all aspects of our changing economy.

Finally, we must consider our trade agenda together. Everyone should have a voice. I plan a series of hearings to take stock of our trade policy. We are going to dig down deep to make sure our policy works better than it does, trying to determine what has worked and what has not.

We need a consensus. As a next step, I plan to follow up on today's hearing on the trade agenda with another when we return in March. That hearing will include witnesses that share different perspectives on our trade agenda.

It is always a pleasure to welcome you, Madam Ambassador. You have proven yourself tenacious, and you are a tireless negotiator and an exemplary public servant. You are someone who knows opportunity when you see it. I look forward to your testimony.

I would now like to turn to Senator Grassley.

OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM IOWA

Senator GRASSLEY. Thank you, Mr. Chairman. I have a long statement and nine different items, and I am only going to refer to three of them to save time.

One would be that a new Congress now, with new leadership, has an opportunity to produce concrete results for the American people. For me, that starts with implementing our pending trade agreements with Peru and Columbia, soon to be joined by Panama. I am going to have a meeting this afternoon with the President of Panama on that very issue. At least, I think that is what he wants to talk about.

I think these are critically important trade issues. And particularly with the trends that are going on in Venezuela, Bolivia, and Ecuador, we ought to do what we can to promote free markets and free political systems in these countries where we have an opportunity to support that. So, it would be irresponsible for Congress not to act on those agreements.

We also need to reauthorize trade promotion authority. I do not see this as a partisan issue, because every President, Republican or Democrat, has had that authority. The success of the Doha Rounds are only going to happen if we extend trade promotion authority first.

I was skeptical about that during November and December, but I have heard so many good things, like just what you heard from Chairman Baucus, that I believe that that's possible. I know you, Ambassador Schwab, have been working to move that along as well.

One item that I want to point out, although it may be considered something that we also discussed with the Secretary of Treasury, but four members of Congress—Chairman Baucus, me, Senator Schumer, and Senator Graham—are still very much concerned about the China currency issue, and we need to be working to get that issue done.

Then one other thing that I want to point out to colleagues, as much as I do to you, Ambassador Schwab. It was an issue, as we went out in adjournment last fall, both before the election and after the election, and that is, this committee's jurisdiction over Customs and Border Protection to make sure that we do our oversight work in that area, particularly as it involves Customs.

Thank you, Mr. Chairman. Then, I would like to submit my entire statement for the record.

The CHAIRMAN. It will be included. Thank you very much, Senator.

[The prepared statement of Senator Grassley appears in the appendix.]

The CHAIRMAN. Ambassador Schwab?

STATEMENT OF HON. SUSAN SCHWAB, U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Ambassador SCHWAB. Mr. Chairman, thank you very much for inviting me today to address our trade agenda for 2007 and provide an update. I look forward to answering your questions.

I have a fairly brief statement that I think has been provided to members of the committee. But let me thank you in advance, and thank Senator Grassley for your very thoughtful remarks about trade promotion authority reauthorization, about the importance of passage of free trade agreements with Peru, Colombia, and Panama. I will be speaking about all of these issues later.

A key, though, I think, is the importance of bipartisanship in trade and in U.S. trade policy. Mr. Chairman, you and Senator Grassley have been in the forefront for many years of trying to make sure that U.S. trade policy stayed bipartisan, and I thank you for that on behalf of the administration, but also on behalf of many, many Americans, the majority of Americans who benefit from a proactive and open trading system.

I am going to go through these slides, as I said, fairly quickly. You have copies for the record. The first two slides really provide a context for our discussion of the trade agenda.

The first slide articulates the strength of the current U.S. economy, and that's particularly true vis-à-vis other economies. One of the reasons we see a trade deficit as large as it is, is because Europe and Japan, other developed countries, have simply not been growing as fast as the United States.

Average U.S. GDP growth over the last several years has been over 3 percent. We have added 2 million jobs last year, 2.2 million jobs in the last year, and 7.4 million jobs since August of 2003. Real compensation in the United States is up. Real manufacturing output is up.

That said, there are concerns about trade. That is in spite of lots of statistics, and data, and empirical evidence to the contrary. There are some who are concerned about trade and their jobs, and those are very real concerns and we need to be attentive to that. You alluded to that in your opening statement, Mr. Chairman.

When we look at changes in the workforce, we need to acknowledge that productivity increases and technological change, as well as global competition, have a great deal of impact. And even though it is clear from all of the statistical evidence available that only a very, very small minority of those who are unemployed can attribute that unemployment to trade, those individuals and those plants that are shut down and those communities that face the dislocation are facing very real problems, and we need to be cognizant and understanding and seek solutions to help those Americans.

The day before yesterday, the 2006 trade statistics were issued. They offer an interesting and, in many ways, upbeat insight into what is going on. U.S. nominal goods and services exports last year grew by 13 percent. Imports also grew, but by less than that, by 10.5 percent.

Ninety percent of the increase in the U.S. trade deficit last year can be attributed to the increased price of petroleum, so that is an interesting note in terms of the composition of the trade deficit.

On an inflation-adjusted basis, also, U.S. exports are up much more dramatically than imports. In fact, if you look at the role of trade in the economy, in the broader economic growth picture, you discover that exports accounted for over a quarter of real GDP growth last year, and, in the fourth quarter, trade accounted for almost 50 percent of GDP growth.

In fact, on this inflation-adjusted basis, the trade imbalance was largely unchanged last year. In fact, the imbalance, the trade deficit, shrank slightly, again, because of strong economic growth.

I note in the slides that strong U.S. exports help offset the downturn in the housing market. I also note that where we have jobs related to exports—and you refer to those who benefit in the economy from such jobs—those jobs are better paying than the national average.

Finally, the vast majority of Americans benefit from trade liberalization, and have benefitted from trade liberalization, and we have offered just a few of those statistics.

Today I am going to talk about four elements of our trade agenda and provide an update: first, the Doha Round negotiations; second, trade promotion authority; third, trade agreements, including our free trade agreements; and finally, and certainly not least, enforcement compliance and dispute resolution and how that is, indeed, an active and integral part of the administration's trade policy.

Let me begin with the Doha Round. A lot has been said about that. The Doha Round has been sputtering, starting, moving ahead, falling back for over 5 years now. The key to remember about the Doha Round is that 95 percent of the world's consumers live outside of our borders. Ninety-five percent of the markets are outside of our borders, and we need to be cognizant of that, particularly when we think about the importance of trade and exports to our economy.

The other element we need to think about when we are talking about these global trade negotiations is the development angle. The Doha Round, named the Doha Development Agenda, was launched after September 11, 2001 with a view to lifting out of poverty many, many, many—in this case, tens of millions—of the world's poor.

If, for example, in the case of Africa, we were to be able to help Africa and Africa were to be able to increase its share of global trade from 2 percent to 3 percent—and I note that at one point Africa's share of global trade was, in fact, 6 percent—but just an increase of 1 percentage point in world trade would be the equivalent of $70 billion a year for sub-Saharan Africa, which is well in excess of any kind of aid program, official aid program, that anyone could identify.

I would note, as you noted, Mr. Chairman, a Doha Round, if we are to achieve a successful outcome to the Doha Round, simply could not be enacted, could not be implemented without trade promotion authority being reauthorized.

On page 6 of the slides we have a summary of the Doha Round's state of play. As you all know, in July of 2006 we walked away from a bad deal. I would note, there is a trust element in trade promotion authority.

Mr. Chairman, you spoke about re-thinking trade promotion authority. Trade promotion authority is a contract between the executive and legislative branches of government. Part of that requires an element of trust. Parts of it are written in stone.

One element of trust includes the United States not being stampeded into, or feeling forced by, a deadline such as the expiration of trade promotion authority to embrace a bad deal.

Last July we showed that we were not going to embrace a Doha Round agreement that we could not recommend to the Congress to enact under trade promotion authority, even if it meant the expiration of trade promotion authority before we were able to close a Doha Round agreement.

Since last July, we have had very intensive and much quieter negotiations going on, a lot of "what if" exercises on a bilateral basis with key trading partners, where we are focusing on key priorities, on key sensitivities, red lines, and trying to backward-integrate or reverse-engineer into the top-line numbers.

Last year you will recall, we spent a lot of time pointing fingers at each other on the top-line numbers. We were not going to get to "yes" on the top-line numbers. We decided the key was to go back and really focus on key export priorities, market access priorities, how could we get meaningful trade flows.

I am happy to say that last month, in an informal meeting in Switzerland among 25 trade ministers, this sort of bottom-up approach was embraced by the members. That means that we still have a lot of work to do, particularly in terms of market access, whether we are talking about agriculture, or we are talking about manufacturing, or we are talking about services, but that work is ongoing, and I am cautiously optimistic that we could reach a breakthrough in the coming months.

On page 7, we have more detail in terms of what I have been describing in the Doha state of play, the Doha Round. I do not need to explain to this committee why the Doha Round is, and could be, phenomenally important for our farmers and ranchers.

Market access, again, is the key where the focus is on meaningful new trade flows. The challenge that we faced in the Doha Round on these top-line numbers is that we are dealing with a framework that really makes a lot of sense in many ways.

That framework in agriculture and manufacturing is a very progressive tariff-cutting formula, so the highest tariffs that are out there would get cut the most. That is really important when you are the country with the lowest agricultural tariffs in the world. Our average agricultural tariff is 12 percent. The global average is 62 percent. India's tariff average is 114 percent.

So, a tariff-cutting formula that is progressive makes a lot of sense if you are looking for market access. The E.U.'s average is 23, 24 percent. However, within this framework there are also allowances for exceptions, sensitive products, special products, special safeguard mechanisms.

And we should not have been surprised when all the countries that were worried about this progressive tariff-cutting formula suddenly decided to move their sensitive products, or the products they did not want to cut tariffs on, into these sensitive product categories for special treatment, so now we are focused specifically on those sensitive products and how to treat them.

One thing that we have managed to do already in the Doha Round negotiations is get agreement on the elimination of agricultural export subsidies. And finally, you will not be surprised to learn that U.S. trade-distorting domestic support, agricultural trade-distorting domestic support, is key to this negotiation.

You have not been surprised to know that there is increased litigation vis-à-vis our farm programs, in part because there are countries that are giving up on us being able to resolve some of these issues through the Doha Round.

In terms of manufactured goods, in terms of services and other key——

The CHAIRMAN. Madam Ambassador, let me say we are going to have to be very succinct here this morning and get to the point of all of this, because there will be three votes beginning at 10:30. We will just have to work our way through that.

Ambassador SCHWAB. All right. Let me just go through this.

You have it in front of you. Manufactured goods. Again, a major priority. Services. Eight out of ten U.S. jobs. Other key issues under negotiation include trade remedies, environmental issues, and development issues.

Trade promotion authority, Mr. Chairman. You spoke about trade promotion authority. Every President since 1974 has had trade promotion authority and been able to use it in the interests of the U.S. economy, particularly U.S. exporters, to open markets.

In this game, if you are not on the field, you are not playing. If you are not moving forward, you are probably moving backwards. If the trade promotion authority is not extended, that does not mean that other countries are not going to be out there negotiating bilateral and regional trade agreements. Pages 10, 11, 12, and 13 refer to bilateral FTAs.

The CHAIRMAN. Right. Yes. Those are good summaries, those slides. We have gone through them.

Ambassador SCHWAB. All right.

Just to note, U.S. exports to our FTA partners have gone up more than twice as quickly as U.S. exports to the rest of the world. These FTAs are very much in the interest of the United States' economy.

The CHAIRMAN. I am going to have to ask you to wrap up if you could, please.

Ambassador SCHWAB. Let me go to enforcement.

The CHAIRMAN. Quickly.

Ambassador SCHWAB. The last two slides. Enforcement is as important as negotiating trade agreements, enforcing those trade agreements. What we have in the last two slides, we note that we use all the tools in our arsenal to address barriers to trade. That includes negotiating. That includes enforcing agreements, it includes litigation.

We have a results-oriented approach, whether it is China, whether it is Japan, whether it is the E.U., and we take that very seriously. We have a very strong record in terms of winning 88 percent of the WTO cases that we have taken, and we have won over half of the cases on an offensive and defensive basis.

The last slide, again, is an illustrative list of how we use the different tools at our disposal in a results-oriented approach to solve problems and to open markets for U.S. exports.

[The prepared statement of Ambassador Schwab appears in the appendix.]

The CHAIRMAN. Thank you, Madam Ambassador, very much.

One point I just want to remind you about. You said that FTA is a contract between the two branches of government. That is incorrect. It is not a contract. It is solely up to Congress. A "contract" implies a negotiated agreement between two entities. That is not a contract.

Under the Constitution, the U.S. Congress decides whether it wants to delegate fast track to the administration. It is the sole prerogative of the Congress to delegate fast track authority. That is basically what this hearing is about. That is, what should the conditions be under which Congress delegates that authority to the administration? It is not a contract.

I would like to ask you, though, on another subject, what the administration is doing and what you are doing to help get fast track authority approved by the Congress. That is, to encourage the Congress to go ahead and extend it. What else are you doing? Those are great statistics. Everybody has statistics.

But the real thing is, the American people and this Congress are quite, quite skeptical about granting fast track authority. So what are you doing to help persuade Congress that it should?

Ambassador SCHWAB. Mr. Chairman, when I referred to fast track authority, trade promotion authority as a contract, it is clearly an understanding between the executive and legislative branches of government. Article 1, section 8 of the Constitution gives the responsibility to the Congress, no question.

The last time the Congress tried to do its own trade negotiating was in 1930 and the result was the Smoot-Hawley Tariff Act. Since 1934, that has been delegated to the executive branch. It was delegated in total up until 1974. Starting in 1974, when the negotiations involved non-tariff barriers, it became clear that——

The CHAIRMAN. All right. I do not want to get into an argument, Madam Ambassador. I have many points to refute what you are saying. I would like you to answer my question. My question is, what is the administration doing to help persuade Congress and the American people that Congress should extend fast track authority?

Ambassador SCHWAB. First and foremost, we are using fast track, we are using trade promotion authority in a way that clearly benefits U.S. exporters and U.S. economic interests. We are negotiating a Doha Round agreement and not settling for a "Doha light." We are pushing for an agreement that clearly opens markets to trade, both in terms of U.S. export interests, but also in terms of global economic growth and development.

As I said in my opening remarks, we walked away from the outlines of a trade deal last July that would not have met those criteria, so that is the first thing. We are negotiating agreements like the Peru and Colombia free trade agreements that level the playing field. In those cases, those two countries have one-way free trade access to the U.S. market.

Those countries have chosen to negotiate free trade agreements with us that we need to implement under fast track whereby they open their markets in their entirety to U.S. exports instead of a one-way free trade situation. In the case of Korea, we are in such a negotiation with Korea, the seventh-largest trading partner.

The CHAIRMAN. You have not really answered my question in the deeper sense of the term. You are basically going through trade agreements. I do not think that is going to suffice. This Congress is going to want to know more.

Let me give you some suggestions: enforcement. What is the administration doing to more aggressively enforce the current agreements? You have done some things, and I commend you on what you are doing in China. But I can think of lots of examples where the administration has been lax. So what are you doing about enforcement? That is one.

The second one is trade adjustment assistance. What do you propose expanding in trade adjustment assistance to make it work an awful lot better? Those are two. I can think of many other things the administration could and should do, and must do, if it is going to get fast track authority granted by this Congress.

Ambassador SCHWAB. Mr. Chairman, let me refer you to the two pages of my testimony that I skipped over on enforcement. Let me begin by agreeing with you on enforcement, which is, enforcement has to be an integral part and is just as important as negotiating new agreements. We do not use trade promotion authority, per se, to enforce.

We have all of the authorities that we need to enforce existing agreements in terms of the antidumping/countervailing duty laws that the Commerce Department administers, the dispute resolution mechanisms, either bilateral or through the World Trade Organization.

And as I said, we have taken cases. The largest case ever taken was taken on Airbus against the European Union. That case is pending. We just launched a case less than 2 weeks ago against China on prohibited subsidies. Those are subsidies that are prohibited export subsidies. We think they have identified six of them.

We have identified three import substitution subsidies that are illegal and we believe to be prohibited under their WTO accession commitments. So, we have gone into a preliminary stage, pre-litigation stage on that. Intellectual property rights.

The CHAIRMAN. For the benefit of members, Senator Grassley is going to come back so we can just keep the hearing going. I must say, I cannot think of anything else. Senators are just going to have to figure out when they want to be here or not. But we will have a continuous session because Senator Grassley and I can rotate back and forth. All right.

Senator Stabenow, it is going to be tight, but why do you not go ahead?

Senator STABENOW. Yes. Well, thank you. I know it is tight. I would say, first of all, just as a comment, when we look at the numbers as you go through—and I will not have time to go through all of them—I can show you a very different picture from middle-class America and what has happened as we look at the economy: 3 million lost manufacturing jobs, productivity being up but wages being down. There is a whole different world that is out there.

I guess my first question would be, do you feel we have a level playing field on trade for American businesses? Do we have a level playing field?

Ambassador SCHWAB. I think it depends on the country. I think that in some cases we do not have a level playing field, and that is where we need to be applying our strongest enforcement compliance tools.

In some cases, there are trade barriers that are out there, tariff and nontariff barriers that are out there, that are fully legal under the international trading system. I will give you the example of autos in Korea. You and I have spoken about this before.

Senator STABENOW. Right.

Ambassador SCHWAB. There, Korea has an 8-percent tariff, the U.S. has less than a 3-percent tariff. Both of those tariffs are fully legal under the WTO. To level that playing field, to get both countries with zero tariff, you can use a free trade agreement negotiation like the one we are using.

However, we need to make absolutely certain that behind the tariff, the nontariff barriers in autos that we know the Koreans maintain, whether it is standards, tax policies, those need to be eliminated as well. So, there is a specific example where you need to use a negotiation to accomplish it.

In some cases, I used a couple China examples. Where there is not a level playing field and what China is doing is inconsistent with its WTO obligations, then we need to get those problems resolved, get those barriers removed, or go to litigation to get them removed, or to retaliate.

Senator STABENOW. Well, Madam Ambassador, just in terms of South Korea, I would say you are acknowledging there is not a level playing field on trade for autos, and I certainly could tell you about appliances as well, manufacturers and so on.

I am assuming you will not come back to us with a trade agreement that does not level that, since it is in America's interests to level that. Anything short of that, there is going to be a tremendous amount of concern about. I would throw out again, as I did in talking to you before, that we have seen, in other agreements in the past, efforts that would create a threshold for market access.

I would suggest you look at something like a trigger that would not open access until we reach certain penetration for our automobiles. There are ways to do this that would move us in the right direction. It has been done before. I had mentioned to you, in 1991, the semiconductor agreement with Japan. There was a targeted 20-percent impact penetration by 1992, for the semiconductor market. They did not reach it until 1994, but they moved in the right direction.

So I hope that you are going to come back with something, and we would certainly be happy to work with you on the idea of some kind of a trigger mechanism, but something needs to happen there. And I would finally, as I know we are running out of time here, there is much, much more I want to have an opportunity to talk about, but I would also say this.

In your charts, as you talk about things like trade adjustment assistance to help the fewer than 3 percent of workers who have been laid off due to import competition or overseas relocation, that is a very narrow definition of people who have been impacted by trade.

I would encourage you, we have to work together to look at counterfeiting. We have lost over 200,000 jobs due to a $12 billion auto

parts counterfeiting market, though we toughened up our counterfeiting laws a couple of years ago. I do not see us using that to go after that industry.

Over 1.5 million jobs have been lost due to currency manipulation. There are a whole lot more folks in America being impacted by this. I am all for trade, but I want to trade our products, not our jobs. Right now in America, we have too many jobs that we are losing. Thank you.

Ambassador SCHWAB. Senator, let me answer your question specifically about Korea. We will not bring back a free trade agreement with Korea that does not level the playing field. I mean, that is obviously a key component.

I would note that the 1991 semiconductor MOU that you are referring to was not a formal trade agreement, and the market access language was an industry projection of what would take place. It was not a government commitment.

We cannot be in a position of negotiating market share guarantees. We can be in a position of negotiating opportunities and fair opportunities, and I think that is what we can be working together to make sure.

In terms of trade adjustment assistance, the Chairman specifically talked about trade adjustment assistance. I did not have a chance to respond. The President recently said that he wants to extend trade adjustment assistance.

I think it is important that trade adjustment assistance, and quite frankly anything that we can do to help those who are negatively impacted by trade, I think that is a very important component of our trade policy, and I look forward to working with you on it.

Senator GRASSLEY. Senator Cantwell, I will let you ask questions if you do not think you are going to miss the vote.

Senator CANTWELL. I think I am going to have to ask the question and stay for a few minutes of it, but I think I am going to make sure I make the vote.

But I think this Korean agreement is an interesting point, which is, if we do not have TPA done in time to get the Korean deal, then what will happen with the disparity? If you could just comment for the record on the rate and speed at which the rest of the global community is doing bilaterals.

If we do not have TPA, are we going to lose ground? So not only do we not get these issues that are on an unlevel playing field for the United States right now and Korea, if we do not have TPA to actually go forth, how do we prevent ourselves from losing ground on that issue if the rest of the world is moving much faster on these bilaterals and we are without that capacity?

You will just have to excuse me. I do not want to miss the vote. Senator Reid is being very diligent about the 15-minute rules these days, so I may not stay, but I will have the record. To me, this is a very important question.

Ambassador SCHWAB. Senator, I understand. You raised two very, very important questions. If the United States walks off the field, which is effectively what we do if we do not have trade promotion authority, other countries will continue to negotiate bilateral and regional deals, as they are currently doing, that are going

to exclude us. That is likely to be to the detriment of our negotiators.

In terms of Korea, we hope that that free trade agreement can be negotiated in time to use the current allocation of trade promotion authority. But obviously if we are unable to do that, if we are unable to reach a bilaterally satisfactory FTA with Korea by the end of March, then the issues that Senator Stabenow and you have pointed out will not be addressed, or will certainly not be addressed as well as they could be in a free trade agreement.

Senator GRASSLEY. I am going to ask my questions now. Then when Senator Baucus comes back, I have to run and vote. So, we are going to do that over the course of these two or three votes.

Congress recently extended the Andean Trade Preference Program until June 30. We need to implement our trade agreements with Peru and Colombia by that date. I spoke to that in my opening comment as to how important I think that is, not only for Peru and Colombia, leveling the playing field for American farmers and manufacturers, because Peru and Colombia have all this stuff coming in here relatively duty-free and we do not, and under this agreement we get that, so we have a level playing field. That is why all this is a no-brainer.

But I have also stated that we have countries down there that are nationalizing everything, like Ecuador, Bolivia, and Venezuela. So, we want to promote free economies like Peru and Columbia have, and obviously not anti-America economies, as Venezuela has tended to be, and as Chavez is kind of working with Bolivia and Ecuador for them to become.

So with respect to Ecuador and Bolivia, I do not see why we should reward bad behavior by extending trade preferences for those two countries. What is the administration's point of view?

And I hope it is not different than mine, that I do not think they deserve the benefits. Ecuador was starting to negotiate with us, then they nationalized something and we backed off. They do not keep their commitments, so why should we continue to give them the benefits?

Ambassador SCHWAB. Senator, you point out that, whether we are talking about free trade agreements or preference agreements, in many cases we are looking at both commercial value and we are looking at geopolitical implications.

In the case of the Andean preferences and the free trade agreements that have been negotiated with Peru and Colombia, obviously both come into play, as well as our anti-narcotics objectives in the region.

I thank you for your strong endorsement of the Peru and Colombia free trade agreements. Those are, in fact, critical not just to those economies, but to our economy as well. They are very, very strong commercially and have very important geopolitical implications.

In terms of extension of preferences, last year when we addressed this issue the administration's position favored extension of preferences for all four of the Andean countries, as you know.

That position has not changed. Obviously, if there is a piece of legislation as we approach the expiration of the current pref-

erences, we will go back and revisit our position as an administration.

But the last official administration position at the end of last year was for at least a 1-year extension of all four of the preferences. We are very comfortable with the extension for Peru and Columbia such that that should give us time to enact the FTAs into law and have them enter into force.

Senator GRASSLEY. Well, just to remind you, and I accept your answer for now, we have made some mistakes in regard to Venezuela. The first mistake we made was when we sent observers down to the first referendum on whether Chavez ought to be in office the way he is, and run the country the way he is.

There is all sorts of evidence that that election was rigged, and our people, whoever they were that went down there—and I suppose it is probably some people from the State Department, and you sometimes wonder whether America is first or America is second in their determinations—and they said that it was a legitimate election. Everything indicates that it was not a legitimate election.

So, we need to send strong signals, if we believe that the direction of these countries is wrong, that they are wrong. I think that is one way to do it for Bolivia and Ecuador.

You are well aware of my concerns about Korea's de facto ban on imports of U.S. beef. I also have major concerns about Korea's treatment of another major Iowa product, pork. Korea is currently a large export market for our pork and there remains significant potential for growth.

But Chile, a major U.S. competitor, recently implemented a free trade agreement with Korea, and Chilean pork will be duty-free in Korea. U.S. pork will be at a disadvantage then unless an ambitious outcome is reached in our negotiations with the Koreans.

So I encourage you to negotiate an agreement with Korea on pork that is based on the standards set in the Peru and Colombia free trade agreements.

Ambassador SCHWAB. Senator Grassley, beef, we have spoken of on a number of occasions. You have been an avid and enthusiastic advocate of making sure that U.S. beef exports to Korea, to Japan, to China resume the levels that they have had in the past, and then some, and that these countries adhere to OIE standards, internationally recognized standards in terms of their treatment of U.S. beef exports. We will continue to pursue that, and we are certainly doing so in the case of Korea.

Similarly, with pork, we find, as you know, in a number of countries, including Korea, including the European Union, quite frankly, that we are frequently facing SPS—sanitary and phytosanitary—barriers to U.S. exports. It is a very, very high priority of ours to see that those are eliminated.

Senator GRASSLEY. All right. Before I go to Senator Roberts, my last point will be a status on our engagement with the European Union over the biotech moratorium and the E.U. member state bans. How are you working to see that the E.U. comes into compliance with the WTO obligations?

Ambassador SCHWAB. Senator, that is a very good example of how the U.S. Government uses our compliance tools to address a trade problem, an unfair trade barrier in this case. This is a WTO

case that we took against the European Union on biotech products. We won that case.

The E.U. maintains that it is now in compliance with the WTO standard. We do not believe that that is the case, even though there have been some approvals of biotech product entry. As you note, member states are still not in compliance. We continue to monitor that and will return to the WTO to make sure those are enforced.

Senator GRASSLEY. Yes. I did not get a very good response from the European Union Commissioner on Agriculture, even though she is, I think, somewhat personally sympathetic to getting this solved.

There was a lot of hope of getting it solved, considering this 10- or 15-year-old statement you always get from the Europeans, that somehow there is consumer resistance to our GMOs (genetically modified organisms). Then the fact that they say, well, it is labeled, that is tantamount to a ban on our products as well.

Senator Roberts?

Senator ROBERTS. Thank you, Mr. Chairman. Pardon me. Thank you, Senator. I had a momentary lapse there. But at any rate——

Senator GRASSLEY. Sounded good.

Senator ROBERTS. Yes. [Laughter.] Maybe we want a recount on some of these. Well, never mind.

Senator GRASSLEY. Yes. We had better just accept the——

Senator ROBERTS. Yes, I know that. I know that.

Senator GRASSLEY [continuing]. The verdict of the people.

Senator ROBERTS. Yes. I am perfectly willing. And now I have 4 minutes remaining. [Laughter.]

But I want to thank you and the Chairman for holding this hearing. Ambassador Schwab, if in fact Margaret Thatcher was the Iron Lady, you are now the Steel Lady, apparently, by the Chairman referring to your steely resolve. I thought "Steely Resolve" was a rock group, but that is another whole thing.

You have been described as tenacious. But the thing that I like is that you know when to hold them and when to fold them. That is a Dodge City term, where I am from. You made a point of that. I think that was very important to let our competitors know that we are not going to accept something that is simply not right.

I want to commend you for aggressively pursuing the Airbus Aviation case before the WTO dispute settlement panel, and then also pressing for some kind of a negotiated settlement.

I do not understand. Well, I understand, but I think it is being very disingenuous, to say the least—that is the nicest word I can say—for the E.U. to come back and say, well, now that Boeing is making a profit we have to have more subsidies. That is unbelievable to me. So, I want to thank you for doing that.

Do you have any comment on that particular issue?

Ambassador SCHWAB. As you state, we would prefer to be able to resolve this issue without continuing the litigation, with the elimination of launch aid on the part of the Europeans. That has not been possible up to this point and could be getting worse, so we continue to pursue the litigation. We feel we have a strong case.

Senator ROBERTS. Well, hold them, do not fold them.

This is going to be repetitive. The distinguished Senator from Iowa has brought up the fact that I have more cows than people, and so does he. Maybe hogs. I am not sure.

Senator GRASSLEY. Thirteen million five hundred thousand hogs in Iowa.

Senator ROBERTS. I see.

Senator GRASSLEY. Thirteen million five hundred thousand.

Senator ROBERTS. We have more cattle. I am not going to get into the numbers, but we have more cattle than people, and they are usually in a better mood. [Laughter.] But at any rate, U.S. beef continues to be blocked. And I have a whole series of questions about that, and I am not going to get into all the adjectives and adverbs, from the Korean market, and we have problems with Japan as well.

The FTA negotiations appear to be moving forward. What happens if the negotiators come to an agreement on FTA and the beef issue remains unresolved? Because you are not going to get support. We have laid that one down very clearly here in the Senate. Would such a circumstances weaken your negotiating position on the trade resumption?

Ambassador SCHWAB. The issue of Korean beef is one that is very, very high priority for us, U.S. exports of beef to Korea, and we have been extremely disappointed up to this stage in terms of the reaction.

Those negotiations are separate from the free trade agreement negotiations, but I think it has been very clear to any Korean official who has been listening to the U.S. Congress, that the chances of us being able to close a free trade agreement and expect it to be approved by the U.S. Congress if the beef issue has not been resolved is pretty slim, and I think the key, really, is for Korea to adopt internationally recognized standards for beef consumption.

Korea has every right to protect its consumers, its consumer health and welfare. There is no question about that. But Korea is not adhering to OIE standards, and Korea needs to be adhering to OIE standards.

Senator ROBERTS. Well, that was my next question. I do not mean to interrupt you, but that is what I am doing.

What is your sense that, once the United States receives a determination from the OIE on the BSE risk, that we can use that as leverage on not only Korea, but Japan and China?

Ambassador SCHWAB. I think that is very, very important. The agreements that we reached, the FTA agreements with Peru, and Colombia, Guatemala, lay the groundwork and set some very good precedents.

With the OIE recommendations scheduled at the end of this month, sometime in March, we assume the United States would be designated a so-called "controlled risk" country, which we believe we are already, if not "negligible risk."

That should make it a lot easier for governments, for vets to explain to their people. But quite frankly, it is very clear under current OIE standards that there is no risk whatsoever from U.S. beef as long as SRMs (specified risk materials) are removed, as you know.

Senator ROBERTS. I know, in dealing with something called FIFRA, which is an acronym for the amount of risk in regard to our food supply, and I have been sentenced with that ever since I have had the privilege of public service, but instead of saying "negligible risk," why do we not use "sound science risk?"

That is the one I think—you cannot let false barriers and fake science determine market access. So, it is part of a larger issue even though it is separate.

One other quick comment. My time is over and I know we have several votes, although there does not seem to be anybody here other than the distinguished Senator.

Stalled Doha talks. I think that many of my colleagues would agree that any bill—and I am talking about the farm bill now and the farm bill debate—first and foremost, should be written to the benefit of our farmers.

So I understand where Canada is coming from. No, I really do not. I do not know why they filed this. It just does not make any sense to me. And I know where Brazil came from on the cotton case. But we are going to write the farm bill the best we can to benefit our farmers and ranchers, period.

I hope we have success in the Doha Round, and I certainly hope we do not go back to the Tear Gas Round in Seattle, or something like that. That was devastating. I just, again, want to thank you for being so steadfast. You can ride shotgun with us in Dodge City any time. Thank you.

Ambassador SCHWAB. Thank you, Senator.

Senator GRASSLEY. Another question that I have deals with corn in Canada and their complaint against us. What is the status of the complaint and what effort is the administration making to see that U.S. interests are fully defended if Canada moves their complaint to the WTO?

Ambassador SCHWAB. As you know, Canada formally asked for consultations with the United States over our corn program. I think Senator Roberts was referring to that case as well. We think it is most unfortunate that they have done so, and a number of other countries have joined in that case.

Consultations are under way, but I fully expect, ultimately, the Canadians will decide to go ahead with a formal filing of the case. We believe that our corn program, our commodity program is fully consistent with our WTO obligations, and we will be defending that program.

The issue of our commodity programs, though, and the farm bill—and this goes to the question of the current farm bill—that the administration is proposing that we are working with the Senate House Agriculture Committee on, is not a Doha Round offer.

It is a farm bill proposal where reforms are recommended because they are good for our farm program, not because this is a particular offer in the Doha Round. That said, the fact that the Doha Round has not moved ahead more quickly, in part because of agricultural issues, means that we are seeing, and we will probably continue to see, additional litigation against not just our farm programs, but additional litigation period, around the world over trade issues.

One of the tools that you use to address trade compliance and potential litigation is negotiation, and some of that was going on in the Doha Round. As you know, with the so-called "peace clause" expiring a year ago under which there was no agricultural litigation, we then found the cotton case was filed, the corn case has now been filed.

Again, we believe that in the cotton case, for example, that we are now fully in compliance with the WTO panel finding, and in the corn case we will defend our current programs.

But surely a better way to go for all parties concerned is a Doha Round agreement where we have new market access for trade flows, meaningful new trade flows in agriculture and more disciplines on trade-distorting domestic support.

Senator GRASSLEY. Thank you very much.

On another issue, the Generalized System of Preferences, GSP for short, as part of this extension that we passed last year—December, I think—we authorized the President to limit the availability of GSP benefits for super-competitive products.

Is the administration currently taking steps to see that these benefits are indeed revoked for super-competitive products, including products from—and I am mentioning these countries for two different reasons. One, is Venezuela, as I expressed before, because of the Castro-ization of that country.

Number two, Brazil and India, because Brazil and India are countries that have been dragging their feet on moving ahead on Doha without our taking further action, which we have now taken, and I have not seen that they have made any moves since then. Maybe you know more about that than I do. But right now let us deal with the super-competitive product issue.

Ambassador SCHWAB. We very much appreciated the extension of the Generalized System of Preferences at the end of last year and Congress's request that we use the competitive need limits to address some of these countries that are exporting certain products where they clearly do not need, or should not need, preferences to have access to the U.S. market.

We are undergoing the review anticipated by the extension of the GSP program and will, in the near future, be finalizing that review and announcing the results.

Senator GRASSLEY. All right.

In regard to Doha, most of the time we talk about agriculture. I would like to mention services. Obviously, even in the United States this is the really growing part of our economy. Services account for nearly 80 percent of our private sector employment here in this country. Our trade surplus in services is now growing from $66 billion 2 years ago to $72 billion last year.

What is the status of the services negotiations in Doha, and where do we go from here? How do we ensure that, if an agreement is reached in other parts of the negotiation, that we will reach an equally ambitious outcome with respect to liberalization of services?

Ambassador SCHWAB. That is an extremely good question. As you note, services is such a fundamental part of the U.S. economy. Eight out of ten jobs in the United States is related to the service

sector. Many of those jobs are knowledge-intensive jobs and high-skilled jobs, and very, very important to us.

In the services negotiations, or in the Doha negotiations, we have formulas that are fairly well-established in the framework, in the Doha declaration and so on, for agriculture and industry, and I described those earlier.

In terms of services, it is more complicated. It is more of a traditional request/offer process that we used to use with agriculture. It involves a plurilateral, or groups of like-minded countries where we have a focus on specific sectors, different countries have come together, coalitions of countries to work with other countries to try to get more liberalization, computer services, telecommunication services, environmental goods and services, as a matter of fact, financial services, and so on.

We are trying to make sure that those negotiations proceed at the same pace as agriculture, as manufacturing, and as some of the others, but we are very conscious of trying to keep the momentum going in the services negotiations because we have such an important interest in terms of enhancing U.S. exports.

And, quite frankly, in the development objective, services trade liberalization, even unilateral services trade liberalization, can provide tremendous development benefits to developing countries.

Senator GRASSLEY. Yes. What about our protocol for accession of Russia to the World Trade Organization and the Working Party report that goes with it? Are we inclined to continue in that direction, even considering Putin's re-Sovietization of their political system?

Ambassador SCHWAB. The state of play, as you know, in terms of Russia's accession to the World Trade Organization is, last year, toward the end of last year, we were able to complete the bilateral component of the U.S.-Russia accession negotiations for Russia's accession to the WTO.

In that bilateral agreement, Russia made commitments to not just increase its market access and lower its barriers to trade, but also discipline intellectual property rights, and eliminate some of the SPS problems that we have faced, for example, in beef, in pork, and poultry—beef and pork in particular.

The next phase, the current phase, is the multilateral phase. These accession discussions are focused primarily, almost exclusively, on the commercial issues. They are not proceeding as well or as quickly as I think Russia had hoped. Russia is not moving ahead with the kind of WTO commitments that it would need at this point to become a full-fledged member of the WTO.

Senator ROBERTS. Mr. Chairman, could I ask a question on that?

Senator GRASSLEY. You sure can. When Senator Hatch comes—he is not on the list here, but he wants to ask questions. So if other people who are not on the list arrive, then Senator Hatch would take over. Go ahead.

Senator ROBERTS. The second vote has started, as staff has informed me. But I was intrigued by your comment in regards to Russia and their current posture.

Have you read the remarks by Putin? I mean, he could have taken his shoe off and pounded the table.

Senator GRASSLEY. The ones he made in Munich, you mean?

Senator ROBERTS. Yes, in Munich, with the NATO security situation, where he talked about building bridges to Iran by assisting them with their nuclear weaponry, then castigated the United States for being in step with Poland and Czechoslovakia. Hello. That is the politics of it.

I can tell you, on a not-too-recent trip to Russia with Saxby Chambliss, who was leading a delegation to talk about agriculture and to talk about our efforts with APHIS, helping the Russians with the BSE problem and the fact that we have inspected 600,000 animals, and we would certainly like some progress, at least, to increase our exports of beef, or anything that we raise, to Russia. The individual that was in charge of that, wearing his Armani suit, was not very helpful and complained about a 1988 case of BSE in mink.

Ambassador SCHWAB. It was polar bears.

Senator ROBERTS. Well, polar bears and mink, I suppose. We do not have too many polar bears in Kansas. We are not opposed to them, but we just do not have them. So I told this fellow, after this tirade, which is what it was, we got nowhere. Saxby was being nice. Finally, I just got up and left and said, I will send you a picture so that you can determine the difference between a cow and a mink. I do not see much give in that direction, more especially with the political posturing that they are doing now. So I think the Chairman's question was certainly worthwhile.

The only other thing that I wanted to ask you was, in 1996, somebody—I do not remember who it was—crafted a new farm bill that directed direct payments to farmers, and it was green. It is not easy being green. But that was green. Basically they were called AMPTA payments. It was a transition payment. I do not think we can go back to that.

But my question to you is, I am not very excited about this counter-cyclical program where people who do not have a crop do not get any assistance, but I am very much interested in direct payments. I think probably that would help you out in regards to your negotiations. Is that a yes?

Ambassador SCHWAB. Two quick comments. One, the beef issue in Russia, we think we have resolved that issue since your trip as part of the bilateral WTO accession.

Senator ROBERTS. Maybe my walking out helped, I do not know.

Ambassador SCHWAB. In terms of direct payments, those are generally considered to be so-called green box payments.

Senator ROBERTS. Yes.

Ambassador SCHWAB. As you know, it is amber box and blue box.

Senator ROBERTS. Right.

Ambassador SCHWAB. It is the trade-distorting payments that are the ones that are questionable and are disciplined under the World Trade Organization. So, obviously to the extent we move away from amber box commodity programs toward green box programs, that would help us a great deal.

Senator ROBERTS. Thank you for your comments.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator, very much.

Ambassador Schwab, what are we doing about China? What are the top three things you are doing to address American concern about China?

Ambassador SCHWAB. We are doing many more than three things.

The CHAIRMAN. What are the top three?

Ambassador SCHWAB. The top three? The top three are, we are negotiating. Let me begin with the most obvious. We are using the compliance tools that I referred to earlier, including litigation, settlement negotiations, clearly trying to get results and get unfair barriers removed.

Where China is not in compliance with their WTO obligations and we are not able to resolve it, we are taking cases to the WTO. I can address some of those, but most recently, the auto parts case and the prohibited subsidies case.

The CHAIRMAN. But which of those do you think is the highest profile, the most significant? Again, I am trying to do two things here. One, is do what is right by our people, but second, show to everyone we work for that the administration does care about enforcement. So which examples can you give that fulfill both those objectives?

Ambassador SCHWAB. If you were an auto parts manufacturer, you believe that the auto parts case——

The CHAIRMAN. That is right.

Ambassador SCHWAB. Or if you are an auto mechanic——

The CHAIRMAN. If you are in a manufacturing State.

Ambassador SCHWAB. That is exactly right. So I am reluctant to say one case is more important than another case. If we have gone so far as to threaten a case and then to take a case to the WTO, it means it is very, very serious. So the most recent case that we have sought formal consultations under, that is the prohibited subsidies case.

There, we are talking about prohibited subsidies—six export subsidies, three import substitution subsidies—that we believe are prohibited under China's WTO obligations. Those are subsidies that come in the form of tax breaks, other kinds of breaks to foreign invested enterprises in China.

Foreign invested enterprises account for 58 percent of China's exports, so the scope of this case could be extremely significant. If you are talking about who is affected in the United States, it is workers and, in particular, small- and medium-sized companies that are not invested in China that either compete with Chinese products in this market, compete to export to the Chinese market where perhaps the import substitution subsidies keep them out, or compete with Chinese products in third markets. So, that is the most recent case.

We sought formal consultations. We will see whether we can actually resolve these, get these subsidies eliminated in the consultation phase. If not, we will go to formal litigation. That is the most recent example.

But we have, as I said, the auto parts case that is also pending. We were about to take a kraft liner board case, and that problem was resolved 24 hours before we were supposed to file that case. We have won a case related to semiconductors and the value-added tax 2 years ago. We have the potential for other cases. We have the potential for an intellectual property rights case if we are not able to——

The CHAIRMAN. What about that? That has been hanging around for years. There has been a lot of talk, and I know it is a difficult case to make, I guess, in some respects. But it is getting embarrassing, frankly. It has been years now. There is a lot of talk about counterfeiting and piracy in China. I know it is true in other countries, too. We are talking about China right now. Do you not think it is kind of embarrassing that we are not doing something about that?

Ambassador SCHWAB. It is. We walk a very fine line between wanting to be able to get results and not getting sufficient results and opting for litigation. If you go into litigation, sometimes you end up in an 18-month period where nothing happens. You are in a stalemate until you get a panel decision. If you can work out the problems, you really are helping the U.S. producers, the U.S. property rights holders.

But in answer to your fundamental question, intellectual property rights: counterfeiting is a very, very serious problem in China. The Chinese leadership have been very public, very up front about wanting to address the problem, and in some ways they have through, for example, our Joint Commission on Commerce and Trade, which is a bilateral vehicle that we have.

The Chinese pledged, last year, last April, to have any computers manufactured in China load legitimate operating software before they leave the factory.

The CHAIRMAN. But by what percentage is that addressing the problem? What proportion?

Ambassador SCHWAB. That has turned out to be very, very significant.

The CHAIRMAN. Like, how much? Is that half the problem?

Ambassador SCHWAB. Half of the software problem? We do not know. We know that there are enforcement problems, serious enforcement problems, in terms of thresholds, in terms of criminal enforcement. We know that there are problems associated with government agencies, provincial level agencies that are not buying legitimate software.

We have, as part of our Special 301 process, engaged in our first provincial-level IP review. So we know that the issue is very big. We know, for example, that well over 70 percent of the counterfeit products that are stopped at our borders come from China. We also know that the Chinese authorities, while they are trying to resolve the problem, have not done enough.

The CHAIRMAN. So again, I think it is embarrassing that this country has not addressed counterfeiting/piracy sufficiently in China, and it has been going on for years and years, as you know as well as anybody, right next to our embassy in Beijing. There were sales of pirated products right there.

That was an effrontery to have that out there right next to the embassy, and they finally moved that a few blocks away. That is gone, I guess. I have not been over there lately. But I think most people, most companies feel that this country has not sufficiently addressed the problem.

Ambassador SCHWAB. Mr. Chairman, I believe that China has not done enough. We have documented——

The CHAIRMAN. How do we get them to do more?

Ambassador SCHWAB. We are taking an approach that, by any definition, is results-oriented. We are in very close consultation with the industry. When we were about to file a case last fall, we had an intellectual property case ready to file.

We had informed the Chinese we were about to file it. The Chinese asked for some more time for us to try to resolve the problems. The U.S. industry felt that that was a good idea. The industry endorsed us not filing the case at that time. But that is a potential case, and the Chinese know it.

There is a market access case that also is related to intellectual property rights. That one is also out there. It is a potential case.

The CHAIRMAN. Do you have sort of a strategic plan, a kind of road map to address the imbalances?

Ambassador SCHWAB. Yes.

The CHAIRMAN. Our trade imbalances with China are certainly out of hand. Not only imbalances. What is your road map to deal with the economic trade-related problems that we have with China? What is it? What is the plan?

Ambassador SCHWAB. The road map, the plan in terms of addressing trade imbalances with China, basically I laid out in my testimony this morning.

The CHAIRMAN. If you could just summarize it, maybe.

Ambassador SCHWAB. It is a combination of negotiating for additional access, for example, in certain financial services areas where China, we believe, made insufficient commitments in the WTO accession process. We need to negotiate, through the Doha Round, additional financial services commitments.

We are using the strategic economic dialogue for the longer-term, macroeconomic strategic issues, including the financial services area. In financial services, where China has made commitments as part of its WTO accession process, we are bearing down very hard to see that those commitments are complied with. If they are not complied with, we go to litigation.

Similarly, we will use all of the tools in our arsenal to level the playing field when it comes to unfair trade practices. Now, I am talking primarily on the export side. Obviously if Carlos Gutierrez, Secretary of Commerce, were here, he could be talking about the use of our antidumping/countervailing duties.

But when it comes to U.S. trade policy and the trade agenda, recognizing that the trade imbalance between the United States and China is the result of multiple factors, including macroeconomic factors related, as you know, to our savings rate or lack thereof——

The CHAIRMAN. Let me address something else that is similar. As you know, when PNTR was negotiated with China—something I pushed for and supported strongly because I think we have to engage China, eyes wide open, without illusions, but certainly engage—included in that legislation, as you know, is a provision, known as the section 421 safeguard, that permits action to adjust to surges of Chinese products in the United States.

Four separate times, the ITC has determined that China's imports would cause market disruption and recommended relief, as you well know. But in every case, the President disregarded the ITC finding and provided no relief, and thousands of jobs were lost

as a consequence. So those are cases where the administration backed off and did not do what ITC recommended.

Now, I ask a deeper question. How in the world is this Congress going to trust the administration on trade negotiations, FTAs, and PNTR if, at the same time, you do not enforce the law? How are you going to get Congressional trust if you do not enforce the law, if you do not follow up on ITC recommendations, or at the very least come up with a compelling reason not to address the problems that those surges caused?

Ambassador SCHWAB. Mr. Chairman, let me address your question in two parts, one specifically on 421 and, secondly, on the broader issue of trade promotion authority and trust.

In terms of 421, there have been a number of such requests, as you note. The administration takes that provision very seriously. In the last case, for example, the ITC made its recommendation. The ITC makes its recommendation on the basis of certain criteria.

The administration then needs to look at, what is in the national economic interest? In that particular case, since I am more familiar with that one than the previous cases, there were over 50 other suppliers of the product, so using 421 would not have helped the U.S. suppliers, and U.S. users would have been charged 5 times what they were paying for the product. So the sense there was, 421 is an important piece of statute——

The CHAIRMAN. Why is it even in the statute then?

Ambassador SCHWAB. To be used when it is in the national economic interest.

The CHAIRMAN. And when has the administration found it to be in the national economic interest to trigger 421 and implement safeguards? When? What examples are there?

Ambassador SCHWAB. Well, up to this point there have not been that many cases filed.

The CHAIRMAN. Well, I gave you four examples.

Ambassador SCHWAB. And in those cases they were found not to be in the national economic interests.

The CHAIRMAN. That is correct. The perception for many in Congress is that "not in the national economic interest" is a loophole through which the administration drove, not a Mack truck, but a huge locomotive.

Ambassador SCHWAB. Well, let me suggest, on 421, I would be happy to sit down with you, with members of the committee, and above all with Secretary Gutierrez, because this is technically under his jurisdiction, and talk about the use of 421. But the administration takes it very, very seriously. It had a very thorough process, thorough review to determine whether or not to apply it in this case.

Let me address your broader issue, though, in terms of trust and in terms of trade agreements.

The CHAIRMAN. Yes. That would be helpful.

Ambassador SCHWAB. Let me give you a couple of numbers here. In terms of formal and informal consultations with the Congress on the Panama free trade agreement, we have counted 84 consultations. In the case of Peru, we have counted 170 consultations. In the case of Colombia, 168 consultations.

On the issue of China trade alone last year, over 60 consultations going on between the U.S. Trade Representative's office—this is not other parts of the administration, this is my office—and the Congress, primarily with this committee, with the Ways and Means Committee, and any other interested parties.

I think, first and foremost, when it comes to the delegation of authority to the executive branch to conduct trade policy, it is incumbent upon us to make sure that there is an open channel of communication. That is with you, with the members, with your staff, and on a regular basis so that there are no surprises on either one.

The CHAIRMAN. Yes. But there is a sense, I think, on the Hill with those so-called consultations, that those are used to some degree—and do not take this in the pejorative sense—by the administration to just learn what is the least amount it can do to get by.

That is, by talking to members of Congress, what is the least amount we in the administration have to do to get by, and maybe squeeze out a one-vote win on a trade agreement. There is that sense. I have been involved in many, many consultations with many, many of your predecessors, many of them in addition to you. I can tell you, it is not what it could, and should, be.

That is why a lot of members in Congress are thinking of changing fast track so that it requires more direct participation by Congress—not just consultation, but participation by Congress.

You and I have discussed several ways that that could be changed, but I just suggest that you deal with those because the administration's response to 421 does not help your case.

Ambassador SCHWAB. A specific point, then, again, addressing your more general point.

One of the things we do in terms of trade negotiations is, before we table any text in a trade negotiation, we are up here at least 5 days in advance to work with your staff. There is a huge amount of very serious, not notification, but consultation that goes on that is a two-way exchange.

If that process does not work, we need to know about it because it is not in our interests to have members of Congress feel that they are not being consulted—not notified, consulted, a two-way exchange.

Which goes to the broader point, which is, you will notice that, when the President called for renewal of trade promotion authority, when I have spoken about renewal of trade promotion authority, we have not sent up an administration bill that says we need it for this many years for all of these purposes, and here are the conditions. What we have said is, it is time for us to consult with the Congress as to what that trade promotion authority should look like.

The CHAIRMAN. Let us go to part of that, labor standards. I think we are past the day when FTAs provided that, in our agreements, we merely require our trading partners to enforce their own laws. We are past that. We are now at the point that they have to raise their labor standards to internationally accepted levels.

I would ask your thoughts on that. How do we go about finding proper ways to raise other countries' labor standards? It is insufficient to say they will not reduce them. Those days are over. How can we raise them?

Ambassador SCHWAB. In terms of raising labor standards, I think we can make a compelling case, looking backward, that the free trade agreements—all of the free trade agreements that have been negotiated in the last 5 years—have in fact had the impact of raising the labor standards in each of the countries where we have engaged in FTA negotiations. That has been more on an ad hoc basis and has been the product, quite frankly, of a huge amount of consultation back and forth.

We believe that we should try to bridge the gap in terms of Republicans' and Democrats' differences over the treatment of labor and environment on these trade agreements. We have been having discussions in the Ways and Means Committee with Chairman Rangel, with Congressman McCreary; your staff, Senator Grassley's staff have been involved in that. The question there is, what kind of approach, template——

The CHAIRMAN. I know what the question is. I am asking you what your answer is. We all know what the approach is. I am a part of all the discussions. I want to know the administration's view: to what degree does the administration say, and how in the administration's view do we raise labor standards in these agreements? That is the question I am trying to ask you. You are our Trade Representative. What is the administration view?

Ambassador SCHWAB. I will give you the following answer, and I am not being glib. One, in any free trade agreement that you negotiate, even without labor standard provisions, you are almost by definition raising labor standards.

Two, in the agreements that we negotiate, we raise labor standards. Countries make significant changes and make commitments associated with those improvements in the FTAs. However, in terms of the current dialogue—and I am not going to negotiate in public. That is a conversation that is going on between my office, others in the administration, and your leadership—I think it is clear that countries should not be able to backslide in terms of labor commitments.

We are talking about internationally recognized labor rights and we are talking about issues relating to enforceability, and those are issues where we are engaging in a conversation, and we hope that we will be able to bridge the gap.

The CHAIRMAN. Right. The more you are forthcoming, the more likely you are going to get fast track renewal. That is a major factor.

I urge you to go back to your staff and urge them to find a way to do this. It is not sufficient to say labor standards have the effect of going up. That is not sufficient. You are going to have to find a way to make sure they come up more quickly.

Ambassador SCHWAB. I appreciate that, Mr. Chairman.

The CHAIRMAN. You have a lot of experience with trade laws that have expired, based upon when you worked here on the Hill, for example. 301, Special 301, Super 301, all those. WTO superseded some of that. But what leverage can you suggest that we enact or pursue to help the United States?

Ambassador SCHWAB. I think, actually, the Congress does a very good job in terms of building leverage. The tools are very much in

place. You were involved in the 1984 and 1988 Acts where the National Trade Estimate Reports were put into law.

Those National Trade Estimate Reports have become a very important vehicle for us to research, review, and identify where the most egregious barriers are, unfair trade practices are, to U.S. exports, U.S. trade, including a variety of barriers.

Similarly, the Special 301 report, which articulates the intellectual property rights challenges we face abroad. Those lay out a lot of the key barriers and assess and offer a sense of priorities. We then use the tools that we have.

301 is on the books. We use 301 as a statute to impose retaliation. But in the last number of years, companies or groups that have trade problems do not need to file a formal 301 complaint. They come in, they talk to us.

We try to put together and try to assess what kind of case they have, and we just go with the case. They do not need to file a 301 case. It saves them money, saves them time, saves us time.

We have a strong staff on enforcement, compliance, and litigation. We have added enforcement personnel, particularly vis-à-vis China. We have an enforcement task force we have created. We have a new USTR person who is going to be at the U.S. Embassy in Beijing. That is a first for us. We have a new Chief Counsel for China Enforcement. So where we need to add capacity, we have been adding capacity. I think the tools are there.

I think interacting with you when you have constituents who have problems, making sure they come to us so we can see what kind of a case it is and see whether, are we are talking about a practice that is WTO-compliant, are we talking about a practice that needs to be negotiated in the context of a free trade agreement or in the context of a Doha Round agreement, that is very, very helpful.

The CHAIRMAN. Canadian lumber. Provinces are not abiding by the agreement. What are you doing about it?

Ambassador SCHWAB. We are extremely concerned that a very important and needed bilateral softwood lumber agreement that we reached with the Canadians is being threatened by provincial governments in Ontario and in Quebec.

I have spoken to the Canadian Trade Minister, Minister David Emerson, about this. We are convening a group the week after next, a binational group, to take on this issue. But it is of great concern. I have expressed, both in writing and in person, our concerns to the Canadian government, and we will continue to pursue this. There are dispute resolution options under the SLA.

The CHAIRMAN. Well, maybe that is why the federal government agreed: they knew that the provinces could backslide.

Ambassador SCHWAB. The provinces also agreed. The provinces are not supposed to be backsliding. So we need to be working with the federal government, and they with the provincial governments, to make sure that whatever they do is fully compliant with the softwood lumber agreement.

The CHAIRMAN. So, as you know, in the Canadian system, provinces have a lot more power than do States in the U.S. So what leverage do you have at the federal level, or with the provinces?

Ambassador SCHWAB. I think that both sides understand the importance of this softwood lumber agreement succeeding and surviving for at least the 7 years that it is supposed to be in place.

I think I would like to start with that positive leverage, which is the interest that we all have, and the commitments of the provinces to the original agreement, to remind them that certain types of subsidies and subsidies that are going to be in violation of that agreement will not work.

The CHAIRMAN. I appreciate that, because that has to be enforced, that agreement. It is disappointing that provinces are not abiding by it.

I would like to go back a little bit to how we change fast track to get more Congressional approval. As you know, in another year, in the time of the Canadian free trade agreement, Congress had a much earlier role up front.

Back in that time—I do not know if it was Congress, I do not recall, or whether it was the Finance Committee and Ways and Means Committee, but they could choose which countries the administration would negotiate with. That is, the administration had to send up a list of countries it intended to negotiate with, if my facts are right, if my recollection is right.

Ambassador SCHWAB. The committee could reject an administration proposal.

The CHAIRMAN. Correct. And that was very important. Very important. I remember with Canada, it was 10–10, or virtually a tie. But the main thing there is, the Congress, therefore, had a little leverage over permissions it wanted going into negotiations with Canada, and Congress got a couple of things out of that because the administration wanted to negotiate with Canada.

Why is that not a good procedure to reinstitute?

Ambassador SCHWAB. Let me suggest that the ultimate leverage that Congress has when trade promotion authority is in place, is the leverage to reject a trade agreement.

The CHAIRMAN. I beg to differ with you, Madam Ambassador. That is not the ultimate leverage. It is not. That is way often too late for many members of Congress. I think it is better to look on preventive measures as opposed to remedial. There is no remedy at the end.

Right now, essentially, the administration can do what it wants to do if it has fast track. It can negotiate with any country it wants to if it has fast track. It can so-called consult, talk to Congress, try to figure out what you can get by with the least amount, and then send it up and Congress has no role. None. None whatsoever, effectively, except to reject it. It is all Congress can do.

Congress cannot pick the countries now. The administration picks them. Moreover, the mock mark-ups are irrelevant by this administration's treatment. They thumb their nose at the Congress on the mock mark-ups.

When legislative language comes up, this committee can say no. That, too, is irrelevant. It still goes to the floor. The committee is discharged automatically under current law. So basically right now, Congress has no leverage except to say no. That is basically the situation right now.

Ambassador SCHWAB. Mr. Chairman, let me respectfully disagree with you, and I will do so on the basis that our negotiators, day in and day out, are interacting with members of Congress, with your staff, with constituent groups, with private sector advisory committees who also come and talk to you, and we change and adapt what we are doing in the negotiations every single day based on those consultations.

Maybe that is not apparent from the Hill. If that is not apparent from where you sit, then there is a problem, because I can tell you that the Congress of the United States, particularly the Finance Committee and the Ways and Means Committee, influence what we do day in and day out in terms of the cases we bring, in terms of the priorities we set, in terms of the text of the negotiation. There is very, very strong interaction between the committees.

That said, we are not always able to get, in a negotiation, everything we want, everything Congress would want. We are not always able to avoid giving things that constituent groups may object to. The mock mark-up, we take very, very seriously.

But rather than quibble over the specifics, let me suggest this. The fact that you are concerned about this is of great concern to me, and it means the process is not working as well as it should be working.

You have my commitment as we go forward and talk about trade promotion authority and a renewal of trade promotion authority to talk about what needs to be in there to make sure that Congress is convinced that Congress is being heard and is a full partner in this exercise, and in a way that does not tie the administration's hands as our negotiator.

The CHAIRMAN. Well, that is right. We are a unique country. We are not a parliamentary form of government, we are a democracy. I know it is corny. It is overstated. I repeat too often a Winston Churchill quote, which I will not quote properly, the point that democracy, for all its fits and starts and inefficiencies, is the world's worst form of government, except we have none better. That is true more in this country than I think it is in a parliamentary form of government. So, it is hard.

But there is a sense, I think, in the Congress that cooperation has to be better, and Congress is going to try to find ways, properly, to intercede its role in trade.

I just urge you to respect that, understand that, and not fight it, but get to "yes." What should those provisions be? That will help very, very much. In addition to all the other things that have to be done: enforcement, talking about labor standards—we have not talked much about TAA and how much TAA could, and should, be expanded, for example.

Many other countries do a much, much better job than does this country in dealing with worker angst and job loss, whether the job loss is directly related to trade or whether it is not, whether it is caused by globalization or whether it is caused by increases in advances in technologies, and so forth.

We do not do a very good job in this country—no pun intended—of dealing with job loss in this country. I just urge you to think much more deeply, and the administration to think much more

deeply—I do not want to be critical in this sense—about caring for Americans, the American people.

There is a real sense, and I have heard many very influential members of Congress say—and do not take this the wrong way—USTR is for the CEOs. That is a CEO operation, just helping American multinationals get good deals so they can fatten up their profits and operate worldwide. That is the perception that is fairly widely held by many very influential and high-ranking members of Congress. You have to change that.

I am asking tougher questions to urge you to think more deeply about how to change it, because we have the same goal, and that is fast track. But it has to be the right fast track. The right fast track. That is what is critical here.

Thank you very much for your patience. More Senators did not come back because Senator Reid scheduled a caucus at 11:30, so I will adjourn.

[Whereupon, at 11:40 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

United States Senate — *Sen. Chuck Grassley · Iowa*
Committee on Finance — *Ranking Member*

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Opening Statement of Senator Chuck Grassley
Senate Finance Committee Hearing on
"The Administration's 2007 Trade Agenda"
February 15, 2007

This is an important hearing. There are a number of trade issues that must be dealt with this year. Our nation's economic health and prosperity depend on our getting it right. We need to produce concrete results for the American people. For me, that starts with implementing our pending trade agreements with Peru and Colombia, soon to be joined by Panama. These are critically important trade agreements. Not only do they level the playing field for U.S. exporters in important markets. They're also a means of counter-acting the damaging trend toward statism that we're seeing in Venezuela, Bolivia, and Ecuador. It would be irresponsible if Congress fails to implement these agreements with our allies in Latin America.

We also need to reauthorize Trade Promotion Authority (TPA) this year. I don't see this as a partisan issue. Every president should have Trade Promotion Authority. Without it, I think the chances that we're going to get meaningful market access commitments from our trading partners are between zero and none. The Doha negotiations are up and running again. Ambassador Schwab is working hard to achieve a breakthrough in those negotiations. I support her efforts. But I remain skeptical that we'll get a real breakthrough unless Congress first extends Trade Promotion Authority. Why would our trading partners put their final cards on the table if it appears that the President can't close out a deal with the assurance of an up or down vote in Congress? The answer is, they won't. So, we have to extend TPA, and we have to do so in a manner that will promote the successful conclusion of our trade negotiations.

Just as important is the reauthorization of our Trade Adjustment Assistance (TAA) program. The current authorization for TAA expires at the end of this fiscal year. I look forward to examining how we can improve TAA in a fiscally responsible way. Senator Baucus and I commissioned a series of GAO studies of TAA, and I anticipate building on that work to ensure the program best meets the needs of our workers dislocated by trade.

One item that we're going to revisit from the last Congress is the issue of currency exchange rates. I've committed to working with Chairman Baucus and our colleagues, Senator Schumer and Senator Graham, on revamping our currency oversight legislation. Twenty years ago our concern was

the Japanese yen. Today our primary concern is with China's currency. Tomorrow, who knows? We need to overhaul our currency oversight laws in a way that meets today's concerns and is flexible enough to meet tomorrow's needs, too. We have other issues to examine with respect to China, such as compliance with China's obligations under the World Trade Organization and enforcement of intellectual property rights.

Another area for committee oversight is with respect to our trade relations with Russia. We've closed out our bilateral accession agreement on Russia's entry into the World Trade Organization. But we still need to conclude the multilateral Working Party Report and Protocol of Accession. The Working Party Report will detail how Russia will change its trade regime to conform to the rules of the World Trade Organization. That includes rules for the protection of intellectual property rights, an area where Russia currently is lagging. The coming year presents an opportunity for Russia to evidence that it is a good-faith partner on trade. We need to see a sustained course of action that demonstrates Russia's commitment to respect and enforce the rule of law as a future member of the World Trade Organization.

Later this year I also expect to revisit with Chairman Baucus our work on customs issues. In 2006, Congress passed the Security and Accountability For Every Port Act, also known as the SAFE Port Act. The SAFE Port Act included a number of mandates on the Department of Homeland Security and the Bureau of Customs and Border Protection to report back to Congress. We'll use those reports as we continue our oversight to ensure that Customs and Border Protection is meeting its dual mission of securing our borders and facilitating the flow of international trade.

Hopefully we'll have additional matters to address, such as new trade agreements with South Korea and Malaysia, and maybe even a Doha agreement at the end of the day. Clearly, there's a lot of work to be done. So I look forward to working with Chairman Baucus, the other members of the committee, and the Administration, to produce concrete results for the American people.

U.S. Trade Update and Agenda

Senate Finance Committee Hearing

Presentation of United States Trade Representative
Ambassador Susan C. Schwab

February 15, 2007

U.S. Economy is Strong

- **Strong Growth:** U.S. Real GDP grew at 3.4% in 2006 – faster than the EU and Japan

- **Creating Jobs:** 2 million jobs created over last 12 months and 7.4 million created since August 2003; unemployment low at 4.6%; over ten years almost 2/3 (63%) of all job creation by the G-7 countries occurred in the U.S.

- **Rising wages:** Real compensation in the U.S. has risen by 8% since 2001; real consumer spending has risen over 17% in the last five years (adjusted for inflation)

- **Strong Manufacturing:** Real U.S. manufacturing output from 1995-2005 grew by 39% - slightly faster than overall U.S. GDP growth at 37.6%

- **Changing Workforce:** Productivity increases, technological change, and global competition can lead to increased opportunity for many workers and potential short-term worker dislocation for others; the President has called for reauthorization and improvement of Trade Adjustment Assistance to help the fewer than 3% of workers who may have been laid off due to import competition or overseas relocation

Trade is Spurring Economic Growth

- **Export-Driven Growth in 2006:** Nominal U.S. goods and services exports grew by nearly 13% last year; U.S. imports grew by 10.5%; 90% of the trade deficit increase resulted from higher prices for petroleum imports (Department of Commerce)

- **Expanding Trade:** On an inflation-adjusted basis, exports in the GDP accounts show substantially faster growth of U.S. exports (8.9%) than for U.S. imports (5.8%) (Department of Commerce)
  - Exports accounted for over a quarter (28%) of real GDP growth in 2006
  - In the 4th Quarter 2006, U.S. trade accounted for almost 50% of GDP growth

- **Offsetting Housing Downturn:** At over $1.4 trillion, U.S. exports were twice the size of the new housing market in the United States in 2006; U.S. exports more than offset the housing decline, with export growth adding $1.44 to U.S. GDP for every $1.00 of GDP growth lost to declines in new home construction (Department of Commerce)

- **Better Paying Jobs:** Jobs supported by goods exports pay an estimated 13% to 18% more than the U.S. national average (various studies)

- **Trade Benefits All Americans:** Post World War II trade liberalization has raised annual incomes by $1 trillion, or $9,000 per American household; elimination of remaining global barriers would add another $500 billion to annual income or $4,500 per U.S. household (Institute for International Economics)

2007 TRADE AGENDA

1) Doha Round Negotiations

2) Trade Promotion Authority

3) Trade Agreements

4) Enforcement and Dispute Resolution

Benefits of a Doha Deal

U.S. Economy and Global Economic Leadership

- 95% of world's customers are abroad; a Doha deal will generate trade liberalization among the WTO's 150 Members, opening more markets for more American goods and services exports

- Uruguay Round and NAFTA agreements raised the income of an average U.S. family of four by an estimated annual $1,300 to $2,000 (USTR)

- If Doha were to achieve even a one-third cut in global barriers to trade in goods and services, the real income gain to a U.S. family of four could be around $2,500 annually (University of Michigan)

- The United States leads the multilateral trading system's promotion of rule of law, transparency, predictability and democratic values

Global Development

- Outside the United States, the elimination of global trade barriers could lift 66 million of the world's poor out of poverty (World Bank)

- Raising Africa's share from 2% to 3% of world trade would provide export revenues of $70 billion, nearly three times the amount that sub-Saharan Africa receives from global aid donors (Blair Commission on Africa)

Need Trade Promotion Authority to Implement Doha

Doha State of Play

July 2006

- Impasse leads to formal suspension of negotiations

July through December 2006

- U.S.-led push to revive negotiations
- Drilling down below "headline" numbers to explore specific sensitivities and priorities

January/February 2007

- Endorsement of bottom-up approach at Davos Ministerial gathering
- Intensification of informal bilateral engagement with key partners
- Some progress, but much work still required for breakthrough

Doha State of Play

Agriculture

- United States is the world's largest exporting country of agricultural products, with a 9.7% share of world exports in 2005 (WTO)

- One out of three acres are planted for export; given high agriculture trade barriers abroad, U.S. agricultural exports are a big potential winner from successful Doha negotiations

- **Market Access:** Agreement must deliver new export opportunities for U.S. agricultural producers and generate meaningful new trade flows

- **Exceptions:** Assure market access not negated by loopholes
  - Scope of "Sensitive Products" for developed countries
  - Scope of "Special Products" for developing countries
  - Scope of "Special Safeguard Mechanisms"

- **Export Subsidies:** Complete elimination as part of final agreement

- **Trade-distorting Domestic Support:** Reform and reduce most trade-distorting subsidies

Doha State of Play

Manufactured Goods (NAMA)

- Manufactured goods represent 62% of total U.S. goods and services exports; manufactured goods exports have increased by 107% since 1995 when the Uruguay Round went into effect; the United States exported $891 billion of manufactured goods in 2006 (Department of Commerce)
- Seeking real cuts in tariffs and non-tariff barriers to generate meaningful trade flows in both developed and advanced developing markets; elimination of tariffs in key sectors (e.g., chemicals, electronics/electrical products, health care products, environmental products and forest products)

Services

- U.S. exports of services have doubled over the past 12 years (up 107%); generated $72 billion surplus in 2006 on exports of $414 billion (Department of Commerce)
- Expanded market access in key services sectors (e.g., financial, telecommunications, computer, express delivery, energy, distribution, and environmental services)

Other Key Issues Under Negotiations:

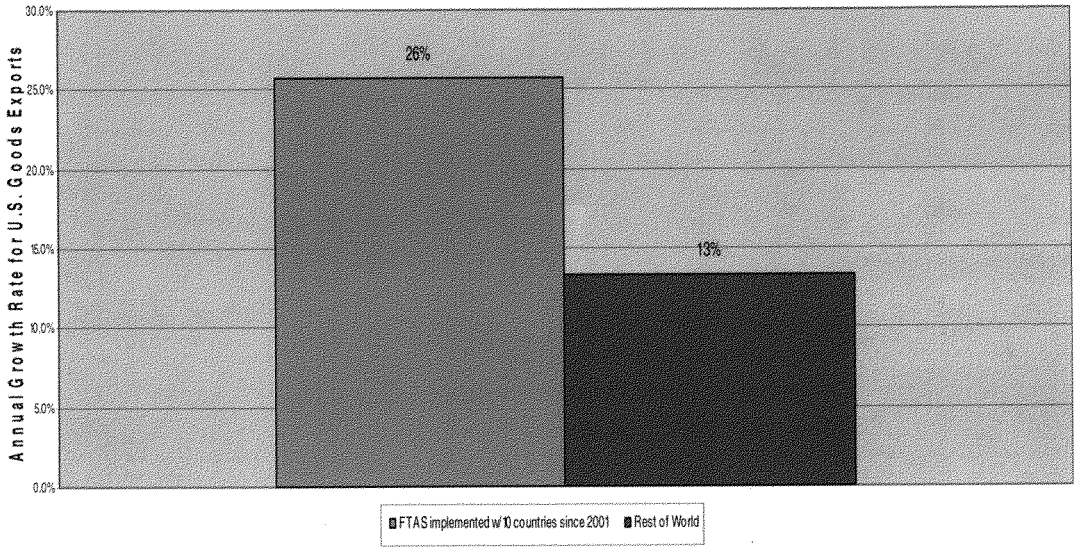
Trade Remedies (Rules), Subsidies Causing Over-fishing, Trade Facilitation, and Development Issues

Trade Promotion Authority

- All Presidents since 1974 have used authority to help open markets for American workers, farmers, ranchers and service providers
- Need TPA to implement Doha
- Need TPA to negotiate regional and bilateral agreements to open markets for U.S. exporters, to level the playing field, and to keep pace with U.S. competitors
- Few countries will negotiate seriously with the U.S. without TPA; should TPA lapse, the U.S. will be excluded from future regional and bilateral trade agreements – harming U.S. exporters and threatening U.S. economic growth
- To help U.S. companies and workers succeed globally, the U.S. government must be on the field
- The Administration has used TPA to increase U.S. exports and to level the playing field and will continue to do so

U.S. FTAs = Expanded Exports

U.S. Exports to 10 recent FTA Partners* Grow Twice as Fast



The 13 FTA countries with agreements currently in force account for 7.2% of global GDP, excluding the U.S., but account for 42% of U.S. exports to the world

*** Jordan, Chile, Singapore, Australia, Morocco, El Salvador, Nicaragua, Honduras, Guatemala, and Bahrain**

U.S. FTAs = Expanded Exports

U.S. Export Growth with FTA Partners (since entry into force)

		Date of Entry
Israel	325%	(1985)
Canada	222%	(1989)
Mexico	223%	(1994)
Jordan	92%	(2001)
Chile	150%	(2004)
Singapore	49%	(2004)
Australia	25%	(2005)
Morocco	67%	(2006)
CAFTA-DR*	18%	(2006)
Bahrain	40%	(2006)

* Includes 4 countries in force: El Salvador, Nicaragua, Honduras, Guatemala

Free Trade Agreements

Ongoing Negotiations within Current TPA:

- **Korea** – Seventh largest trading partner – two-way goods and services trade valued at $98 billion (2006)

- **Malaysia** – Tenth largest goods trading partner with two-way trade in goods amounting to $49 billion (2006)

Timeline under Current TPA:

- Notify Congress of intent to sign by April 1
- Sign agreement by June 30

Agreements Pending Enactment

➢ Peru and Colombia – Leveling the Playing Field

- Agreements will eliminate tariffs and unfair barriers to U.S. exports, opening a combined market of almost 72 million consumers and a combined GDP of almost $550 billion (purchasing power parity basis)

- U.S. farm exports to Peru and Colombia will increase by an estimated $1.5 billion per year after full implementation of these FTAs, with gains spread among all sectors of U.S. agriculture (American Farm Bureau)

- Over 80% of U.S. exports of industrial and consumer products to Peru and Colombia will become duty-free immediately upon entry into force of the agreements, with the remaining tariffs eliminated within 10 years

➢ Panama

- Agreement would open opportunities to participate in the $5.25 billion expansion plan for the Panama Canal

Enforcement – A Record of Success

- **Employ all tools needed for aggressive enforcement**
- **Litigation the tip of the iceberg**
- **Use litigation where most effective:** Airbus (largest WTO case ever filed), China Auto Parts, China Subsidies
- **Less litigation by all Members at WTO since 1998 as backlog drawn down and rules clarified:**
  - 50 cases in 1997 → 21 cases in 2006
  - More cases brought by developing countries
  - U.S. and EU brought comparable number of cases each year since 1995
- **Won 88% of WTO cases brought** (at a consistent rate since 1995) SCS: NOTE: Clinton was 85% and for Bush 91.7%
- **Won About 55% of All Cases:** Offensive and defensive, at a consistent rate since 1995
- **Others also asking us to implement:** Legislative implementation still needed (Section 110, Section 211, Hot-Rolled Steel)

Enforcement
Creating and Using Tools

- **Bilateral Consultations**
  - EU Wine Agreement
  - China pre-loaded operating Software
- **FTA/WTO Negotiations**
  - Peru/Colombia FTAs – Beef, Poultry, IPR protection
  - Accessions (Vietnam, Russia, Ukraine)
- **Threaten/Bring WTO Case**
  - China Kraft Linerboard
  - China Semiconductors
- **WTO Cases brought to conclusion**
  - Mexico High Fructose Corn Syrup Tax
  - Mexico Telecom
  - EU Biotech

USTR has used all our tools to ensure China lives up to its commitments:

- Intellectual property: pre-loaded operating software JCCT consultation, semiconductor case settlement, kraft linerboard settlement, auto parts case panel, subsidies case consultations

FINANCE COMMITTEE QUESTIONS FOR THE RECORD

United States Senate
Committee on Finance

Hearing on
"The Administration's 2007 Trade Agenda"
February 15, 2007

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR BAUCUS

Question 1
The Softwood Lumber Agreement contains provisions requiring increased export taxes on lumber should exports from certain Canadian regions surge beyond a specified limit. This provision is particularly important as unrestrained import surges would be detrimental to an already struggling U.S. industry. Indications are that the Canadian federal government may not be administering the surge provisions of the agreement properly. What is the status of Canada's administration of the surge mechanism, and what discrepancies you have found?

Answer:

The Administration shares your concerns about the importance of proper Canadian administration of the surge mechanism, especially in the current down market. USTR and Commerce Department officials spent considerable time discussing the issue with their Canadian counterparts during last week's meeting of the Softwood Lumber Committee in Washington. At the meeting, it became clear that Canada's views on certain aspects of administering the surge mechanism are different from the views held by the United States. U.S. representatives agreed to discuss the matter further but made clear that this is a priority matter that needs to be resolved promptly.

Question 2
I understand that the International Intellectual Property Alliance (IIPA) recently submitted its Special 301 recommendations to USTR. Among these was a recommendation to place Canada on the Priority Watch List. While not the only reason for IIPA's PWL recommendation, illegal camcording has clearly reached a crisis level in Canada with well over 200 US films illegally recorded in over 40 different Canadian theaters since 2003. At a time when the United States should be working to promote those industries that contribute so heavily to America's competitiveness, is there any reason why the USTR would not elevate Canada to the Priority Watch List in 2007?

Answer:

The United States has been urging Canada to make progress on specific IPR issues for some time, including strengthening copyright protection. On Monday, February 12, a number of interested persons, including the International Intellectual Property Alliance (IIPA), submitted information and recommendations to USTR. As you note, the IIPA

submission recommended that Canada be elevated to the Priority Watch List. Other groups provided other information and recommendations. For example, some noted positive progress in the area of protection of pharmaceutical test data. U.S. Government agencies are still in the process of studying all of the information received. USTR will announce the results of that review in its annual Special 301 Report at the end of April.

Question 3

I am concerned about Thailand's plan to issue compulsory licenses for medicines to treat cholesterol and other drugs that are not used to treat HIV/AIDS. I understand the special considerations that surround HIV/AIDS drugs. But I am afraid that issuing licenses for other types of drugs will open a Pandora's box where any country feels it can use any patent it wants for any reason. What is USTR doing to combat Thailand's compulsory licenses on these non-HIV/AIDS drugs?

Answer:

We recognize that Thailand and other developing countries face grave public health emergencies. At the same time, however, we believe that countries need to act judiciously, addressing the immediate situations they face in a way that does not undermine the equally important goal of promoting the development of new drugs that patients need now and will need in the future. We have communicated to Thai authorities our view that, in considering the use of compulsory licensing, Thailand would benefit from engaging in discussion with all stakeholders, including the companies that create and manufacture innovative drugs, and we are disappointed that the Thai Government chose not to do so before announcing that it would be curtailing certain patents. We will continue to urge Thailand to engage in dialogue with patent holders, among other stakeholders, in order to help Thailand reach outcomes that are in its best interest with respect to public health policy, the promotion of the development of future medicines, and the health of its citizens.

Question 4

I have heard reports that Korea is resisting including an investor-state dispute settlement mechanism in the KORUS FTA. These reports concern me in light of Korean treatment of foreign investors such as Lone Star. Exclusion of an investor-state dispute settlement mechanism would also set a bad precedent at a time when U.S. investments have been nationalized in Venezuela and Bolivia. How can we make sure U.S. investments are protected in Korea if we do not include the investor-state dispute settlement mechanism in the KORUS FTA?

Answer:

Our objective is to complete a KORUS FTA that includes an investor-state dispute settlement mechanism, as well as our core substantive investment protections, which are of critical importance for U.S. investors doing business in Korea. Our negotiators are working hard to achieve agreement on the investor-state dispute settlement mechanism and to complete a strong investment chapter in the KORUS FTA. Indeed, we believe we

can address the serious concerns Korea has raised regarding investor-state dispute settlement without weakening either that mechanism or the other fundamental protections of the chapter for U.S. investors.

Question 5

The U.S. pork industry has been a leading advocate for expanded international trade. Unfortunately, there has not been much in the Doha negotiations for U.S. pork producers to cheer about. The tariff cutting proposals promoted by the European Union and the G20 would do little to expand market access for U.S. pork. In order for the Doha Round to yield significant market access dividends on pork, the United States must obtain major improvements in market access from two key trading partners - Japan and the European Union. Today, the United States supplies far less than 1 percent of EU pork consumption. While Japan is the biggest value market in the world for U.S. pork exports, there is still enormous potential for growth in Japan.

What assurance can pork producers have that they will receive an aggressive outcome in the WTO Doha Round, particularly in the European Union and Japan?

Answer:

The Administration shares your interest in delivering substantial improvements in market access, including for pork. USTR has been engaged in intensive market access negotiations in recent months, including with Japan and the EU. Our discussions have covered the general parameters for market opening, as well as the terms for accessing specific markets. I will continue to press hard for a strong market access package in the Doha negotiations – including meaningful market access for U.S. pork producers. In addition, USTR is discussing improving terms for U.S. pork access to the EU, following Romania's accession.

Question 6

I understand that certain U.S. companies have difficulty acquiring 100 percent ownership of Indian companies in the information technology sector, despite the Indian government's assurances that it will permit 100 percent foreign ownership in this sector. For instance, I understand that U.S.-based Oracle Corporation acquired 83 percent of a software company based in Mumbai, but faces a number of barriers that prevent it from wholly owning that company. What steps are you taking to address this problem? More generally, what are you doing break down non-tariff barriers in India and barriers to foreign direct investment in India?

Answer:

We are in close contact with Oracle to discuss their concerns. My staff, in coordination with our colleagues elsewhere in the Administration, is working to ensure that the Indian government understands the importance of further regulatory reforms and makes good on its commitment to full participation by foreign investors in the Indian market. The U.S. Consulate in Mumbai has met with the Security and Exchange Bureau of India (SEBI)

(similar in role to our SEC) to better understand India's regulatory process and to identify the shortfalls and potential steps and to discuss SEBI's plans for further reforms.

We take every opportunity to raise with our Indian government counterparts our concerns about market access in India. I will chair the next meeting of the Trade Policy Forum (TPF) with my counterpart, Commerce Minister Nath, in April in New Delhi. The TPF provides a forum for accelerating the pace of growth in our bilateral trade, including addressing barriers to bilateral trade and investment. In addition, I have contacted the Indian government urging for senior-level attention to help sort out the problems faced by Oracle.

Question 7

On September 29, 2006 the Russian Agricultural Inspection Agency, Rosselkhoznadzor, sent a letter to USDA/FAS announcing an import ban on all varieties of U.S. rice citing the discovery of GM rice seeds in shipments of U.S. long grain rice to the European Union (EU). In mid-October 2006, Rosselkhoznadzor extended the ban to all origins of rice citing poor quality, mold and high levels of pesticides and named nearly every rice-exporting nation in the world.

The effect of the ban on U.S. rice exports has been significant. Over the past 5 years, our exports to Russia of "premium medium grain rice" exceeded $3.7 million per year. The rice industry believes there is an opportunity for a 100 percent increase in sales over the next five years. Can you please explain what the Administration is doing to overturn this unjustified ban on U.S. rice?

Answer:

The Russian ban on U.S. rice imports was imposed in late September 2006. The ban on all origins of rice was imposed in early December 2006.

As you noted in your letter, Russia did not observe WTO requirements when it imposed the ban on imports of both biotech and conventional varieties of rice. The ban was imposed without prior notice or sufficient justification for such measures.

The United States has been working both bilaterally and multilaterally to have Russia remove the ban. The U.S. embassy in Moscow is working with other local embassies to engage the Ministry of Agriculture because the December ban affects imports from all sources. In addition, we continue work here and in Moscow for resolution of the biotech-based elements of the ban.

To re-inforce these efforts, in mid-February we delivered a demarche to senior Russian officials urging them to immediately lift the ban on U.S. rice. In addition, we will raise this issue in Geneva next week in discussions about Russia's sanitary and phytosanitary regime and its bid to enter the WTO.

This is an important issue for USTR and we will continue to push Russia take immediate steps to restore trade.

Question 8
The privatization of Japan's postal insurance and banking system is an enormous undertaking. Japan's postal insurance business is by far the largest seller of life insurance in the world, and represents 40 percent of the life insurance marketplace in Japan. U.S. life insurers have also built a $50 billion market presence in Japan. I am concerned that the privatization of Japan's postal insurance system may undermine U.S. life insurers. Specifically, I believe the privatization must be structured to ensure a level regulatory and competitive playing field before the Japanese postal insurance giant is permitted to sell new products that compete with the private sector. What is USTR doing to ensure a level playing field in the privatization process?

Answer:

We are continuing to urge Japan to establish equivalent conditions of competition between the private sector and the new Japan Post insurance, banking and express mail entities. In the case of the insurance sector, we continue to stress that Japan adopt these principles as a precondition for Japan Post to sell new financial products. We have been and will remain regularly engaged with the many Japanese agencies and other parties involved in the reform process.

We also have been making clear the importance of this issue in our bilateral trade agenda. The Administration has consistently raised this issue with Japan at the highest levels over the past three years, and we will continue to do so. We will continue to work closely with the Departments of State, Commerce, and Treasury, as well as other U.S. agencies, to ensure that Japan does not back away from creating a level playing field in the privatization process. We will also continue to work in close consultation with U.S. industry to ensure the reforms to Japan Post are consistent with Japan's international obligations.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR GRASSLEY

Question 1
I understand that U.S. pork exports to Romania might suffer with Romania's accession to the European Union. This is the case as U.S. exporters might face higher tariffs. Are you working with EU officials to see that the impact on U.S. pork producers is minimized?

Answer:

Ensuring that pork trade is not negatively impacted by Romania joining the European Union is one of our top priorities. I have raised this issue personally with my EU counterparts. Discussions with the EU on this issue pose a unique challenge because, under General Agreement on Tariffs and Trade (GATT) Article XXIV.6, the basis for tariff compensation at the WTO relates to bound tariffs, and the pork tariffs in question that are increasing are "applied" tariffs. Nonetheless, we are looking at all possible legal avenues and are intensively engaging the European Commission on this issue.

We have been in close contact with U.S. pork producers in our efforts to preserve trade through these accession negotiations and have recently had great success in removing several of the EU's restrictive pork processing plant approval requirements. It is our hope that this will result in several new pork plants becoming eligible to export to Europe in the very near future.

Question 2

I appreciate USTR's efforts to lower EU tariffs on U.S. agricultural products. At the same time, improved market access through lower tariffs will mean little if the EU continues to impede imports of U.S. products through scientifically unfounded SPS measures. What is USTR doing to get these barriers removed? I'm particularly interested in hearing about the removal of barriers to U.S. beef, pork, corn, and soybean exports.

Answer:

Corn (biotech) -- In November of last year, the WTO dispute panel report in the EU approvals case was formally adopted. We are now working with the EU to determine the measures and timeframe the EU must meet to comply with this ruling. We have stressed that changes to the approvals system must be implemented in a manner that will allow trade in corn to resume. We continue to coordinate closely with U.S. and European biotech industries to monitor whether and how their products are moving through the EU approvals process.

Soybeans (biotech) -- Soybeans remain one of our top exports to the EU and we are watching closely to see if the EU's labeling and traceability regulations have a negative impact on our exports. Currently we are assessing the WTO consistency of the EU's new rules and will be reviewing our options. Our final assessment will take account of the EU's implementation of its new rules, and on the likely effects on U.S.-EU trade.

Beef (hormones) -- We have won the Hormone case against the EU and as a result we are not facing hormone bans in other key markets. However, the U.S still believes that negotiation is the best way to resolve our hormones dispute. We are pursuing greater access to the EU market for beef in exchange for the U.S. eliminating its retaliation.

Pork (limited plant approvals and quota restriction) -- Earlier this year we were successful in getting the EU to remove several of its export requirements for meat plants. We are hopeful this action will result in several more U.S. plants becoming eligible to ship the EU. We have also recently engaged the EU on reducing testing requirements for trichinae. This proposal is a priority for our industry and is currently under review by Member States.

Question 3

I would like to thank USTR for reaching an agreement with Mexico last summer over Mexico's discriminatory tax on high fructose corn syrup. What steps has Mexico taken to come into compliance with this agreement?

Answer:

In July 2006, the United States and Mexico agreed that Mexico would have until January 2007 to eliminate the beverage tax. Mexico met that deadline, repealing the beverage tax effective January 1, 2007.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR HATCH

Question 1

Madam Ambassador, can you please outline for the members of this committee and for the Senate as a whole what will happen in your estimation if we allow TPA to expire?

Answer:

TPA authority is critical for USTR to do its job, and it helps us get the best deal possible for the United States. TPA is an indispensable part of facilitating the negotiating process and legislative consideration of trade agreements. For example, we will need TPA to implement Doha.

Under TPA, other countries are willing to make tough trade concessions to us because they know the deal they strike will not be reopened in the Congress. In addition, the specific negotiating guidance that Congress provided in TPA, as well as our ongoing consultations with Congress, helps us shape our dialog with our prospective FTA partners.

Without TPA, we would be forced to sit on the sidelines as we did during much of the last decade, while our trading partners close deals with other countries. Few countries will negotiate seriously with the United States without TPA. Our major trading partners, the EU, Japan, and China, are aggressively pursuing bilateral and regional deals around the world to lower tariff and non-tariff barriers to their products. For example, Japan is currently negotiating trade agreements with several East Asian nations. The EU is in preliminary trade discussions with India, South Korea, and the ASEAN nations. The ASEAN nations, in turn, are in intensive trade talks with Japan, China, South Korea, India, New Zealand, and Australia ("ASEAN + 6").

Should TPA lapse, our prospects of concluding meaningful bilateral, regional, or multilateral bilateral trade agreements around the world will be greatly reduced. That, in turn, will greatly diminish our ability to dismantle foreign barriers to U.S. products and services, putting our businesses, farmers, and workers at a disadvantage with their competitors around the world.

Question 2

Would you please elaborate on the timing and urgency of Congressional action on both the Columbian and Peruvian Free Trade Agreements?

Answer:

Timely Congressional action on both the Colombian and Peruvian trade promotion agreements is important for many reasons and I hope that Congress will be able to take up these agreements shortly. In addition, it is our expectation that our agreement with Panama will be signed this spring.

The Peru and Colombia agreements will level the competitive playing field by eliminating tariffs and non-tariff barriers for U.S. manufacturers, workers, farmers, and investors, thus allowing U.S. products and services to compete more effectively with those of other countries in the region. Currently, on average 98% of U.S. goods imports from Peru and 92% of U.S. goods imports from Colombia enter the United States duty-free under various preference programs, such as the Andean Trade Preference Act (ATPA) and the Generalized System of Preferences. The United States, on the other hand, faces average tariffs of 18% on exports of U.S. agricultural goods and 12% on exports of U.S. non-agricultural goods going to Colombia; and average tariffs of 16% on exports of U.S. agricultural goods and 9% on exports of U.S. non-agricultural goods going to Peru. These two agreements will give U.S. businesses and workers the same advantages that their Colombian and Peruvian counterparts enjoy in the U.S. market today. For example, the American Farm Bureau estimates that U.S. farm exports to Peru and Colombia will increase by almost $1.5 billion per year after full implementation of these agreements, with gains spread among all sectors of U.S. agriculture.

Both Peru and Colombia have worked hard with the United States to reach these comprehensive trade agreements and are eager to see them ratified quickly. Andean Trade Preference Act (ATPA) benefits will expire on June 30. Peru and Colombia are eligible for an additional six-month extension of ATPA benefits if the agreements are approved by each country's legislature, including the United States Congress, before June 30. We support continuing a preferential trading relationship with Peru and Colombia, and we strongly believe that the most effective way to do this is to permanently lock-in ATPA benefits through comprehensive free trade agreements with these countries.

Together, Peru and Colombia account for approximately 73 million consumers and a combined GDP of almost $550 billion, representing a substantial market for our businesses, farmers and workers. In 2006, U.S. goods exports to Peru totaled $2.9 billion and our exports to Colombia totaled $6.7 billion. Colombia is currently the largest market for U.S. agricultural exports in South America.

In addition, the two agreements will contribute to our goals of promoting democracy and prosperity, combating narco-trafficking, and securing peace and stability in the Andean region through a broader and deeper economic relationship. Both agreements will aid in promoting economic growth and in Peru and Colombia by attracting new investment and more jobs.

Question 3

Ambassador Schwab, as you are well aware the Administration released the 2006 trade deficit numbers this week and they quite disturbing. The U.S. trade deficit rose to a record $763.6 billion last year, a 6.5 percent increase from the previous record of $716.7

billion set in 2005. And for the month of December alone, the deficit rose a bigger-than-expected 5.3 percent to $61.2 billion. I understand that there are several reasons why the deficit is the way it is including currency manipulation and an inability to fully and accurately capture the so called "service trade" dollars when calculating the overall trade deficit. It seems to me that we must take these numbers very seriously and act proactively to bring the import/export accounts into better balance.

Do you agree that this is a disturbing trend? What more can we as a nation – and more specifically as a Congress – do to level these accounts?

Answer:

The U.S. trade deficit is a function of broader macroeconomic factors that merit close attention. Over the last 4 years, the goods and services trade deficit has risen from $421 billion in 2002 to $764 billion in 2006. However, it is important to look at what the deficit does and does not indicate. It is not a measure of a country's economic strength or our competitiveness. The rising trade deficit does not appear to have affected overall economic growth, with GDP expanding at an annual average rate of 3.2 percent and unemployment having fallen from 6 percent to 4.6 percent. Over this period, exports grew a strong 48 percent, but imports expanded faster, at 58 percent.

Trade policy opens markets and helps expand trade, but has little influence on aggregate deficits. This is because trade policy has relatively little influence on the underlying factors shaping the aggregate trade balance. The increase in the trade deficit has broadly been associated with three macroeconomic factors:

- Faster economic growth in the United States than in many of our major export markets for at least a decade. For example, over the last 10 years, U.S. economy has averaged 3.6 percent growth per year, compared to 2.2 percent for the Euro zone countries and roughly 1.3 percent for Japan. Thus, U.S. demand for imports has risen faster than foreign demand for our exports in many countries.
- The existence of high internal savings relative to investment needs in a number of countries (e.g., China and Japan), resulting in net capital outflow to the United States and pressures toward higher U.S. trade deficits.
- Declining savings in the United States, with the personal saving rate having moved into negative territory in 2005 and 2006. Low U.S. savings with attractive investment opportunities encourages net capital inflows from abroad and corresponding trade deficits.

Types of actions that would be helpful in getting the deficit down include encouraging stronger growth abroad as well as increasing U.S. domestic savings rates. It is also important to remember how desirable it is to reduce the deficit with strong export growth which is usually consistent with healthy growth of the U.S. economy. Lowering the deficit through import contraction is often a path associated with much less favorable U.S. economic conditions. U.S. trade policy is clearly focused on reducing barriers, opening foreign markets, expanding U.S. trade and contributing to U.S. economic growth. USTR opens markets through negotiating reductions and the elimination of tariff and non-tariff trade barriers with our trading partners on a multilateral, regional, and

bilateral basis. USTR also opens markets through dispute resolution and enforcement actions that level the playing field for American goods and services and ensure that our trading partners live up to our commitments. In addition, the Administration actively pursues antidumping and countervailing duties to counter unfair trade practices of other countries.

I would also note that although the deficit increased by 6.5% in 2006, nearly 90 percent of the increase was due to rising petroleum prices. In fact, with adjustment to remove price inflation, the recent advance release on U.S. GDP growth for 2006 showed a slight decline in the overall trade deficit in 2006 – from $619.2 billion (in chained 2000 dollars) to $617.7 billion in 2006.

Question 4

As you know Madam Ambassador, I have a long tradition of strong support for American Intellectual property and quite frankly I'm concerned that we are not doing enough to protect it.

As you are aware, the intellectual property aspects of the bilateral deal you negotiated with Russia on their accession to the WTO come due in June. While June is still some time in the future, as best I can tell, the Russians haven't undertaken even the precursory work to come into compliance with their obligations under the bilateral. As this is primarily a trade agreement, I understand that failure to comply could lead to a section 301 case and or the denial of GSP benefits to Russia. I guess what I'm asking you, Madam Ambassador, is what actions are you considering if Russian fails to meet their intellectual property obligations by the June deadline.

Answer:

This Administration strongly supports the interests of U.S. intellectual property owners in securing adequate protection and effective enforcement of their rights around the world. Russia remains one of our top priorities in that regard. As you noted, on November 19, 2006, the United States and Russia signed a strong and enforceable bilateral agreement setting out actions that Russia would take to address piracy and counterfeiting and improve protection and enforcement of intellectual property rights (IPR). At the same time, we continue to seek further progress on IPR issues in Russia through the next phase of multilateral negotiations on Russia's WTO accession, during which the United States and other WTO members will examine Russia's IPR regime. Implementation of the commitments on IPR in the November 19 agreement will be essential to completing the final multilateral negotiations on the overall accession package.

Russia agreed to take several significant actions by June 1, 2007 in the November 19 agreement. This agreement is binding and, if necessary, it is enforceable under the Section 301 provisions of U.S. trade law. However, I expect Russia to do what it has agreed to do, and I have conveyed the need for timely progress to my Russian counterpart, Minister Gref. I also sent a team to Moscow last month to urge swift implementation of the Agreement through the United States-Russia Intellectual Property Working Group. We will also be working with other WTO Members to obtain further

progress through the multilateral negotiations on Russia's accession to the WTO. In short, the Administration continues to use all available tools to press Russia for strong action on this very important issue.

Question 5

Madam Ambassador, it seems to me that the largest impediment to job growth in the IP sector is the effective and determinant enforcement of intellectual property around the world. First, would you agree with my assessment – and secondly, what actions is USTR taking to ensure that the US is leading the way on effective IPR enforcement?

Answer

Counterfeiting and piracy impose enormous costs on the U.S. economy. I agree that improving IPR enforcement could contribute to job growth, both in IP-intensive sectors and the broader economy. Counterfeit merchandise is responsible for the loss of more than 750,000 American jobs, according to U.S. Customs and Border Protection. The U.S. copyright industries alone employed 5.38 million workers in 2005 and paid those workers a 40% premium over the compensation paid the average U.S. worker, according to a recent copyright industry report. Industry has told us repeatedly that strong protection and enforcement of IPR is critical to continued growth.

USTR, working in close cooperation with other agencies, is using our trade tools on the multilateral and bilateral fronts to lead the way on effective IPR enforcement. Our activities include playing a leadership role in many international dialogues and agreements as well as adding to and refocusing our resources within USTR. Here are some notable examples:

- **Focusing USTR Resources.** In order to better use our trade policy tools, we created a new Intellectual Property and Innovation office, headed by Assistant USTR Victoria Espinel. The office also includes a new Chief Negotiator for Intellectual Property Enforcement, Stanford McCoy. This new office is tasked with using the full range of trade policy tools around the world to combat piracy through strong laws and effective enforcement, and to ensure that protection remains effective as technology continues to develop and IP pirates become more sophisticated.

- **Special 301.** The Special 301 process of country-by country intellectual property reviews is at the heart of our efforts. Through that process USTR is actively engaged on a daily basis in working with trading partners around the world to improve the IPR climate. In 2006, for the first time, USTR included in its Special 301 report a list of "notorious markets" that highlighted examples of virtual and physical markets that have been the subject of enforcement action, or merited further investigation for possible IPR infringements, or both. Also unprecedented in the 2006 Special 301 report was the announcement of a special review of China's efforts on IPR at the provincial level. The Philippines and Indonesia are examples of countries where this tool has been particularly effective; both

governments set their sights to improving their status in the report and consequently made significant strides in improving their enforcement regimes.

- **Negotiating and Implementing Trade Agreements**. Another way that we are working in the global system to promote more respect for and enforcement of IPR is in the trade agreements we negotiate. U.S. free trade agreements are raising the standards of IP protection and enforcement, including civil, criminal and customs enforcement. Beyond negotiation, we dedicate significant resources to implementation to ensure that rules are not just negotiated, but also put into practice. To that end, we set up interagency and industry task forces for each FTA and work closely with our trading partners on implementation. These efforts have proved highly successful. For example, Morocco was cited by a copyright industry group as having an excellent system following its FTA implementation process. Singapore has started to pursue criminal end user software piracy cases as a direct result of the FTA. Similarly, following extensive work with El Salvador on implementation of the IPR chapter of the CAFTA, officials in that country have started carrying out major raids against pirate manufacturers using the *ex officio* enforcement authority required in the CAFTA.

  We also continue to use the WTO TRIPS Agreement and related WTO tools to improve IPR enforcement. Most recently, we shared U.S. experiences in fighting fakes at our borders with WTO members through the Council for TRIPS.

- **China.** China is a top IPR enforcement concern for us. We have augmented our focus on the unique challenges of China with the appointment last year of a Chief Counsel for China Trade Enforcement, Claire Reade, who has joined our China Enforcement Task Force. On the diplomatic front, we have communicated unequivocally to our Chinese counterparts that significant and measurable reductions in counterfeiting and piracy are needed to preserve balance in the U.S. trade relationship with China. We have also pressed China to recognize that IPR protection must go hand in hand with full and fair access to China's growing and more affluent market. We will continue to use all of our trade policy tools, as appropriate, to achieve progress on these issues.

- **Russia.** Russia, like China, is a top priority. I have noted some of our efforts in response to your previous question.

- **Forging Alliances.** Two years ago, the Administration announced the Strategy Targeting Organized Piracy (STOP) initiative. As part of STOP, USTR has advocated adoption of best practice guidelines for enforcement. We have also worked with other countries in the Asia-Pacific region to secure APEC Leaders' endorsement last Fall of IPR guidelines that should help efforts to keep supply chains free of pirated and counterfeit goods and should also help improve IPR public awareness campaigns. At the same time, APEC Leaders also made a commitment to fight against copyright infringement on government computer networks. USTR has also played a leading role in the Administration's efforts to enhance the focus on IPR in various international fora, such as the Security Prosperity Partnership with Canada and Mexico, the G-8 summit, and the U.S.-

EU Summit. If we are to succeed in the battle against increasingly sophisticated pirates and counterfeiters, it is imperative that we continue to find new and creative ways to strengthen IPR protection and enforcement around the world and deepen our cooperation with our trading partners. USTR is working closely with key trading partners to explore ways of carrying forward these initiatives.

We continue to work on many fronts – using existing tools, engaging our trade partners on the multilateral and bilateral levels, enhancing our efforts within USTR and across the U.S. Government, and thinking about ways to partner with other countries to achieve more effective IPR enforcement.

Question 6
What is USTR doing to ensure that China is enacting laws that will ensure that the internet will be an effective tool in the years to come?

The Internet has proven to be an effective tool for communication and commerce across the world. China has well over one hundred million Internet users. USTR will continue to engage with U.S. industry to monitor trade-specific issues related to the Internet. In addition, the State Department is in regular communication with Chinese officials to address Internet freedom and related issues.

USTR is also working hard to ensure that China puts in place the necessary rules and enforcement mechanisms to ensure that its rapidly emerging Internet content market is not swallowed up by piracy. We have been working through the JCCT process to press China to improve their legal framework for providing copyright protection over the internet in line with international norms. While some progress has been made, a number of gaps remain to be filled for China to meet the challenges of Internet piracy.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR BINGAMAN

Question 1
As you know, I have historically been a strong supporter of trade liberalization. When Congress was in the process of considering the Central American Free Trade Agreement, or CAFTA, last year, the administration agreed to request appropriations of $40 million in the budget for each of fiscal years 2007, 2008, and 2009. These amounts would support labor and environmental building capacity in the Dominican Republic and CAFTA countries. Of this $40 million annual commitment, the administration agreed to earmark approximately $3 million per year to fund International Labor Organization monitoring and verification in the DR-CAFTA countries.

In addition, the administration agreed to request appropriations of $10 million for each of the Dominican Republic, El Salvador, and Guatemala to support rural development assistance in these countries. This level of funding would continue for each of the following five fiscal years or until such country signed a Millennium Challenge Corporation compact, whichever came first. As of today, only El Salvador has signed an MCC compact.

In a letter dated December 21, 2006, I reiterated the importance I attach to these commitments. You and Ambassador Portman responded in a letter dated February 5, 2007. In your letter, you note that your commitment to request $40 million in capacity building funding remains a priority in FY 2008. You also note that your commitment to request $10 million in funding for rural development in the Dominican Republic and Guatemala remains a priority in FY 2008.

I appreciate your stated willingness to honor your commitment to fund capacity building in Central America at the agreed levels. However, your response to my letter was incomplete. I also asked for, and I quote, "your guidance as to where in the budget the line items in question will appear." Thus far, your office has not told my staff where the line items in question appear in the recently released FY08 budget.

I would appreciate your immediate attention to this matter, as well as your confirmation that the FY08 budget does not offset this capacity building funding with corresponding decreases elsewhere. In addition, your letter did not reference your commitment to earmark $3 million of the $40 million in capacity building assistance for ILO monitoring and verification. Please confirm that this commitment is also a priority for you in FY08.

Answer:

All pages cited below are from the FY08 Congressional Budget Justification.

Rural Development

The President's budget request for FY08 contains bilateral funds to fulfill the commitment of $10 million each for the Dominican Republic and Guatemala to promote regional development. With the signature of El Salvador's MCC Compact on November 29, no similar request was made for that country.

The explanation of the programs for rural development in the Dominican Republic is contained in the paragraph on Economic Growth on page 619. The chart labeled "Request by Element," which begins on page 619, provides categories of the new Foreign Assistance Framework (Framework) relevant to the Dominican Republic. Within these Framework categories, the $10 million breaks down as follows:

Dominican Republic	
Economic Growth	
Trade & Investment	$0.05 million
Infrastructure	$1.75 million
Agriculture	$2.5 million
Private Sector Competitiveness	$4.5 million
Environment	$1.2 million
Total	$10 million

The explanation of the programs for rural development in the Guatemala is found in the introduction paragraph on page 631 and in the paragraphs on Investing in People and Economic Growth on pages 632-633. The chart labeled "Request by Element," which

begins on page 633, provides the Framework categories relevant to Guatemala. Within these Framework categories, the $10 million breaks down as follows:

Guatemala	
Investing in People	
Basic Education	$1 million
Economic Growth	
Trade and Investment	$1.5 million
Agricultural	$6.2 million
Environment	$1.3 million
Total	$10 million

Labor and Environment

The President's budget request for FY08 contains $40 million in regional funds for labor and environment capacity building in the CAFTA-DR countries. The explanation of the programs are found on page 674 for the Central America Regional program (managed by USAID), pages 677 and 678 for the Latin America and Caribbean Regional program (also managed by USAID), and page 681 for the Western Hemisphere Regional program (managed by State). The commitment to allocate $3 million for ILO benchmarking and verification is part of this request.

The charts labeled "Request by Element" for each of these regional programs provide the relevant Framework categories, and within these Framework categories, the $40 million breaks down as follows:

Central America Regional (page 675)	
Governing Justly/ Rule of Law and Human Rights	$1.3 million
Latin America and the Caribbean Regional (page 678)	
Economic Growth/ Trade and Investment Enabling Environment	$18.7 million
Western Hemisphere Regional (page 682)	
Economic Growth/ Trade and Investment Enabling Environment	$20 million
Total	$40 million

U.S assistance to the CAFTA-DR countries in FY08 includes both the State/USAID budget request and anticipated disbursements under the region's Millennium Challenge Account compacts. Under the Administration's request, combined U.S. assistance to these countries in FY08 is expected to exceed FY06 levels by 70%, from a total level of assistance of over $228 million in FY06 to almost $388 million in FY08. We cannot yet provide you information on expected assistance levels for FY07 in light of the continuing

resolution. As you know, the Millennium Challenge Corporation committed, and to be dispersed over five years, almost $461 million for El Salvador in FY06; and $214 million for Honduras and $175 million for Nicaragua in FY05.

Question 2

Recent press reports indicated that you are considering whether to incorporate International Labor Organization standards into the Peru and Colombia trade promotion agreements. In your view, would ILO standards be incorporated by amending the text itself, or via a side letter? If you choose a side letter, what assurances do we have that the side letter is legally binding under international law and is enforceable under the agreement's dispute resolution process?

Answer:

I am committed to working with Congress to address concerns with labor provisions in free trade agreements and to build bipartisan support for the free trade agenda. Once we have come to agreement on the substance, we can determine the appropriate way to execute any substantive changes in a legally binding way. I continue to believe that it should not be necessary to reopen the Peru and Colombia agreements in order to ensure that any new commitments are legally binding.

Question 3

According to International Trade Administration data, in 2005, New Mexico's exports to Peru totaled only $1.3 million. And in 2001, New Mexico's exports to Peru totaled only $350,000. For the period from 2001-2005, New Mexico's median exports to Peru were only $470,000. Nationally, in 2005, U.S. exports to Peru totaled only $2.3 billion. For the period from 2001-2005, U.S. median exports to Peru were only $1.85 billion, a relatively modest amount. These sums are immaterial compared to the amount of time we have invested negotiating the Peru trade promotion agreement.

Why is USTR negotiating so many trade liberalization agreements with smaller countries such as Peru? Isn't it more productive to focus on trade liberalization with our major trading partners, as in fact USTR is doing with Korea? If TPA were renewed, with which countries would you propose that the administration negotiate trade liberalization agreements?

Answer:

FTAs have been a vital part of our comprehensive strategy to advance negotiations on all fronts. They not only carry economic value in themselves, but they reinforce our broader push for promoting democracy, security, and global free trade. In addition to the benefits to U.S. businesses and farmers, our FTAs with Peru, Colombia, and Panama will contribute to meeting our goals of promoting stability, reducing poverty, and combating narco-trafficking and terrorism in the Latin America. The agreements will also support and enhance the democratic and economic reforms these countries have undertaken in recent years.

The Administration has used several criteria when choosing FTA partners. For example, USTR seeks guidance from Congress, along with U.S. businesses and agriculture interests, to gauge whether there is enough support for an FTA. The sensitivities of special products, such as sugar, dairy, and textiles are considered. Further, USTR assesses the seriousness of the partner and whether they are prepared to undertake the obligations that come with a comprehensive, high-quality FTA.

When selecting an FTA partner, we consider a number of factors, such as USTR resources, regional balance, and cooperation issues. A very important factor in selecting FTA partners is how the FTA will support U.S. commercial interests (including beneficial precedents for other negotiations, such as the WTO). For example, the Peru and Colombia FTAs will eliminate tariffs and unfair barriers to U.S. exports, opening a combined market that collectively represents approximately 72 million consumers and a combined GDP of almost $550 billion. The American Farm Bureau estimates that U.S. farm exports to Peru and Colombia will increase by almost $1.5 billion per year after full implementation of these agreements, with gains spread among all sectors of U.S. agriculture. Eighty percent of U.S. exports of industrial and consumer products to Peru and Colombia will become duty-free immediately after the agreements enter into force.

Taken together, countries with which this Administration has concluded or is negotiating free trade agreements represent America's second largest export market, with exports worth $156 billion in 2006. These FTA partners account for 14% of world GDP in 2005 (excluding the United States), but 51% of U.S. exports in 2006. To date, there has been little prospect of negotiating FTAs with certain larger markets, such as Japan and the EU, since negotiations with those markets are unlikely to yield the sorts of fully comprehensive, market opening agreements that would garner widespread support in the United States.

While it would be premature to speculate on prospective FTA negotiating partners at this time, should TPA be renewed, the guidance of Congress and the U.S. business and agriculture community would be vital in determining which countries would make the most appropriate FTA partners for the United States.

Question 4

As you know, Costa Rica is in the process of ratifying the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA). It is the last DR-CAFTA signatory to ratify the agreement.

I understand that Certain Costa Rican officials are claiming that if Costa Rica fails to ratify CAFTA, it will lose trade preferences established pursuant to the Caribbean Basin Initiative. Furthermore, I understand that this position is factually incorrect – that is, that Caribbean Basin Initiative benefits would not expire even if Costa Rica fails to ratify CAFTA.

While I hope that Costa Rica will ratify CAFTA, I believe that its decision should be based on accurate information. Can you confirm that my understanding is correct? And

if so, have you communicated with your Costa Rican counterpart to set the record straight on the Caribbean Basin Initiative?

Answer:

The "Caribbean Basin Initiative," commonly known as CBI, is a series of U.S. trade preference programs for Central America and the Caribbean region that have evolved and developed over more than 20 years. The original program, established in 1983 as the Caribbean Basin Economic Recovery Act (CBERA), was designed to facilitate economic development and export diversification. At the time, traditional and primary products such as coffee, bananas, and mineral fuels accounted for the majority of U.S. imports from the region. The CBERA was originally scheduled to remain in effect until September 30, 1995. In 1990, the CBERA was made permanent.

The Caribbean Basin Trade Partnership Act of 2000 (CBTPA) provided additional benefits beyond those provided in previous CBI legislation, mainly in the areas of apparel, liqueurs, and other articles considered "import sensitive". The Trade Act of 2002 further expanded the apparel benefit of CBTPA.

Unlike the original CBERA, which is permanent, CBTPA benefits, under which Costa Rica exports textiles and other products, are legislated to expire on September 30, 2008.

CBTPA provides for the expiration of its tariff benefits on September 2008 or upon entry into force of a free trade agreement for a party, whichever comes first. Under President Arias, Costa Rica is working to ratify and implement the CAFTA-DR. Upon entry into force of CAFTA-DR, Costa Rica will be eligible for tariff preferences provided under the agreement, but would no longer be eligible for CBI.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR BUNNING

Question 1

Ambassador Schwab, Kentucky has a diverse economy – with a number of auto manufacturing and auto supply plants as well as being home to more cattle thank any state east of the Mississippi River and still having a few textile operations left. Therefore, I am quite concerned that both our beef exports and our auto exports have equal and fair access to the Korean markets. I am also concerned about the illegal transshipment of textiles.

Without acceptable solutions in those these areas, it will be difficult for me to support that Free Trade Agreement should it come before the Committee.

Can you comment on progress being made in negotiations with the Koreans in these areas?

Answer:

Leveling the playing field for U.S. auto suppliers to the Korean market is a top priority for the Administration. We have worked with U.S. industry to identify a wide range of

tariff and non-tariff barriers impeding U.S. access to Korea's automotive market, and we have tabled proposals to address these barriers in the FTA negotiations. On tariffs, we are seeking elimination of Korea's high 8 percent tariff on passenger vehicles. We are seeking to eliminate the discriminatory element of Korea's auto taxes based on engine size. With respect to Korea's automotive regulatory and standards-setting process, we are seeking to enhance transparency and allow for meaningful input earlier in the process. Also in the area of standards, we are seeking to address existing concerns with specific automotive safety and emissions measures in Korea. We also are seeking a commitment by the Korean government to not engage in anti-import activities. Finally, we are in the process of developing additional ideas intended to ensure further opening of the Korean automotive market to U.S. exports.

With respect to beef, we have made clear to the Korean government that full reopening of the Korean market to U.S. beef and beef products is critical for Congressional approval of the FTA. A USTR-led technical team met with Korea on February 7-8 to discuss both the current import protocol for deboned beef, and market access for all U.S. beef and beef products. We were unable to agree to a revised protocol for deboned beef due to Korea's policy of zero tolerance for bone chips. We disagree with Korea as to the scientific justification for this policy. Moreover, the U.S. beef industry has made clear that this policy is commercially infeasible. While we continue to press Korea for flexibility in this regard, we are focusing on concluding an agreement that provides market access for all beef and beef products.

Likewise, establishing effective cooperation commitments to detect and prevent illegal textile transshipment, and strong penalties in the event transshipment is found, is a high priority for the Administration. Our proposal to Korea includes textile-specific customs cooperation provisions, and we have made it very clear that the FTA must contain such disciplines.

Question 2

Ambassador Schwab, Chinese subsidies are a major problem for U.S. manufacturers. The W.T.O. case you initiated is one way to deal with some of these problems, and I support its filing.

However, I also think the countervailing duty law has certain benefits for dealing with harmful subsidies. First, it is swift, and it has the advantage of dealing with domestic subsidies which are not addressed in U.S.T.R.'S W.T.O. case. For some industries, such subsidies can be particularly damaging.

Do you agree that the U.S. countervailing duty law can be an effective tool to address subsidies in China that hurt U.S. companies?

Answer:

The Commerce Department, as you know, administers the U.S. countervailing duty law and is therefore in the best position to assess its effectiveness. The issue of whether the

U.S. countervailing duty law applies to China is currently before the Commerce Department in a case involving coated paper, so I am not in a position to comment further. For legal reasons, it could be highly problematic if the Administration were to appear to prejudge a quasi-judicial investigation underway under Title VII of the Tariff Act of 1930.

Question 3

Obviously, renewal of Trade Promotion Authority will be the biggest trade issue to come before the 110th Congress.

One concern that has been raised by members is a desire to have input into negotiations as they are happening – not just facing an up-or-down vote once the agreements are complete.

How can the U.S.T.R. and Congress have improved dialogue on these issues?

Answer:

TPA provides for the President and Congress to work together to open markets for U.S. exports around the world and promote fair, rules-based trade. Under TPA, Congress sets negotiating goals, the President consults closely with Congress before and during negotiations, and the President reports on the progress he has made in meeting Congress's negotiating goals. In return, Congress agrees to vote without amendment and within a fixed time on legislation approving and implementing trade agreements that the President brings back.

For TPA to work properly, it is critical that Congress and the Executive Branch maintain an open and active dialogue. Advice from Congress is vital in helping the Administration select negotiating partners and in helping to shape the eventual agreement. We have worked hard to solicit advice from Congress before, during, and after negotiations. We have also done our best to consider and implement the advice we have received. Nonetheless, we are always eager to improve the consultation process.

USTR, in partnership with relevant Executive Branch agencies, consults regularly and extensively with the Congress on the FTAs we negotiate and on the trade agenda more generally. There are fifteen House and Senate Committees with jurisdiction over our trade agreements and we consult with them regularly over the course of our FTA negotiations. For example, in connection with our FTA negotiations with Peru and Colombia, my staff held 170 and 168 separate briefings, respectively, with staff and Members between April 2004 and December 2006 to hear their views.

As part of this consultation process, USTR sends the draft text that we hope to table with our trading partners to the Congressional committees for their review. We seek to make that text available to Congressional staff at least five working days before we table it. During that week, staff is encouraged to respond directly to our negotiators with their suggestions on how the text might be improved. In addition, we brief staff before each FTA trade negotiating round to hear if there are any concerns and to consider any comments or thoughts staff might have on our proposed texts and negotiating strategy.

Finally, my staff and I are always available to answer questions and consider recommendations that individual Members may have.

We have a strong record of putting the ideas we hear from Congress into action. Based on recommendations from Congress, we included an innovative environment public consultation mechanism in the CAFTA. We worked closely with interested Members and their staffs in framing both the outlines of this initiative as well as appropriate provisions to be included in the agreement. As a further example, we have also addressed Congressional concerns that our FTAs might be interpreted to change current immigration law, by including language in our recent agreements, including our FTA with Peru and Colombia, clarifying the FTA will create no new obligations for the United States on immigration.

While we believe we have a strong record of collaborating with the Congress negotiating and concluding FTAs and other agreements, we are always eager to improve the consultation process. I would appreciate any suggestions you may have on how we can do so.

Question 4

The U.S.-Taiwan relationship is a strategic one for U.S. interests. I have cosponsored the efforts by senator Kyl and Chairman Baucus that express support for pursuing a free trade agreement with the Taiwanese. Could you address ways that the existing U.S.-Taiwan trade and investment framework agreement could be expanded and used a step toward an eventual free trade agreement between our two countries?

Answer:

USTR places great importance on our bilateral relationship with Taiwan and the Trade and Investment Framework Agreement (TIFA), is the key mechanism for expanding bilateral trade and economic ties. These meetings offer us a real opportunity to review at high levels our entire trade relationship and look for ways deepen our economic cooperation.

Our last TIFA dialogue occurred in Taipei in May of 2006, with Deputy USTR Karan Bhatia and now-Minister of Economic Affairs, Steve Chen, chairing the meeting. At that meeting, we launched a new bilateral dialogue on intellectual property rights (IPR). We agreed to establish a new Consultative Committee on Agriculture (CCA) that will be a high-level forum to discuss agricultural trade and policy issues, helping facilitate the further opening of Taiwan's agricultural sector to American products. We also launched intensive discussions on health care and pharmaceutical issues, supporting Taiwan's efforts to reform regulatory and pricing policies to create a fairer trade environment and benefit the people of Taiwan. We also continue to support Taiwan's accession to the WTO Government Procurement Agreement and are exploring ways to deepen bilateral cooperation on procurement issues.

We are already planning to hold the next meeting of the TIFA in Washington in the second half of this year. Following up on the progress made last year, USTR has proposed to Taiwan that we use the TIFA to try to move forward in exploring new efforts to enhance bilateral cooperation, such as through possible agreements on bilateral investment and double taxation avoidance. We will be consulting closely with U.S. stakeholders and with the Congress about whether there is broad interest and support for exploring these initiatives. We believe that these new and ongoing efforts under the TIFA will allow us to make concrete progress in reducing the barriers to bilateral trade and investment between the U.S. and Taiwan, and provide a strong foundation for continuing to deepen our economic cooperation in the future.

(Drafted: Eric Altbach, Cleared by: Claire Reade, Catherine Fields, Jean Grier, NSC: Kurt Tong, AIT Washington: R. Ruzicka)

Question 5

Services account for 80% of the U.S. economy, but services trade accounts for only 20% of total world trade. What are we doing to make sure the current W.T.O. negotiations open up markets for our companies and employees?

Answer:

Removing barriers to trade in services is a high priority for the United States in the Doha Round. We have made it clear to WTO Members that there cannot be a final deal unless it includes a strong services component alongside agriculture and goods.

Therefore, we are pushing very hard, placing particular emphasis on achieving real market openings from key emerging markets such as Brazil, India, China, Indonesia, and Malaysia. We are meeting with these countries at the highest levels and pressing for the removal of significant barriers in key sectors such as financial services, telecommunications, computer, energy, express delivery, distribution, environmental, and audiovisual services. These barriers include foreign equity restrictions, prohibitions on branching and other forms of establishment, prohibitions on supplying cross-border services, nationality requirements, and favorable treatment for government entities.

We are using every source of leverage at our disposal. At the same time, it is important to note that the single most significant request by our trading partners is to provide improved market access through temporary entry of foreign service suppliers (so-called Mode 4). Many countries will surely weigh their response to our priorities relative to our response on theirs.

Our expectation is that our trading partners will substantially improve their services market access because it's in their own economic self-interest to do so. In order to be competitive in the international marketplace, countries will need access to lower cost and technology-rich service providers. As with most trade liberalization, the outcome is win-win, and we will continue to press this reality for the most ambitious outcome in services as possible.

Question 6
The W.T.O. recently released a report critical of the E.U.'s barriers to imported agricultural goods. Can you comment on the state of our agricultural exports into Europe and any improvements – or lack thereof – in that area recently?

Answer:

The United States won a case challenging the EU's moratorium on biotech approvals and its illegal Member State bans on biotech products. The WTO panel report was formally adopted in November of last year. We are now working with the EU to determine the measures and timeframe the EU must meet to comply with this ruling. We have stressed that changes to the EU approvals system must be implemented in a manner that will allow trade in biotech products to resume. We continue to coordinate closely with U.S. and European biotech industries to monitor whether and how their products are moving through the EU approvals process.

We have been working closely with the EU to get the use of anti-microbial treatments (AMTs) for poultry approved. The EU has reported the AMTs regulation is expected this fall. Such a regulation will allow for poultry exports to the EU to resume.

We have recently had great success in removing several of the EU's restrictive processing plant approval requirements. This should help improve our access for beef, pork and poultry.

Question 7
From 1996 to 2001, the United States led a major effort in the W.T.O. to challenge the E.U.'s discriminatory banana trade arrangement. Due to USTR's strong leadership, the case was won.

Following the passage of carousel legislation, a U.S. settlement agreement was reached, which U.S.T.R. welcomed as a "significant breakthrough" in trade relations with the E.U. Unfortunately, the E.U. appears to have reverted again to non-compliance by implementing new banana measures that explicitly violate the W.T.O. ruling and U.S. settlement agreement.

Will U.S.T.R. file a W.T.O. compliance action against this new discriminatory trade arrangement to defend the important compliance principles that this case has come to represent?

Answer:

We have been closely monitoring the banana import regime that the EU implemented on January 1, 2006. We, together with several Latin American banana exporting countries, have expressed our concerns about the new regime to the EU on a number of occasions, including numerous meetings in recent months of the WTO Dispute Settlement Body and WTO Council for Trade in Goods in which the bananas issue was raised.

We find troubling the fact that the EU has retained a special zero-duty TRQ for bananas that it allocates to some, but not all, suppliers – this despite the EU's commitments in 2001 to move to a tariff-only banana regime.

A number of Latin American banana exporting countries believe that the new regime also does not live up to the EU's commitment to maintain market access for countries supplying bananas on a most-favored-nation basis. In November 2005, Panama, Honduras, and Nicaragua requested WTO consultations with the EU regarding the new bananas import regime. In November 2006, Ecuador also requested consultations with the EU. The United States, along with a number of other countries joined Ecuador's initial request as a third party. Ecuador has recently requested the establishment of a dispute settlement panel. A panel will likely be established by March 20.

We have strongly urged the EU to work with interested WTO Members to reach an expeditious and mutually satisfactory resolution of this dispute. We are currently evaluating what would be the most appropriate action to take, remaining in close contact with U.S. companies affected by the new regime and interested Latin American countries.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR CANTWELL

Question 1

Ambassador Schwab, if Congress lets Trade Promotion Authority (TPA) expire, do you think other countries will still move ahead aggressively to negotiate their own bilateral trade agreements not involving the U.S.? As a result, could U.S. companies be put at a disadvantage compared to their foreign competitors?

Answer:

TPA is critical for convincing other governments to negotiate and conclude market-opening agreements with the United States. It tells other countries that the United States speaks with one voice at the negotiating table. For example, we will need TPA to conclude and implement a global market-opening agreement in the current Doha round of trade negotiations.

Under TPA, other countries are willing to make tough trade concessions to us because they know the deal they strike will not be reopened in the Congress. In addition, the specific negotiating guidance that Congress provided in TPA, as well as our ongoing consultations with Congress, helps us shape our dialog with our prospective FTA partners and in the Doha negotiations.

Without TPA, we would be forced to sit on the sidelines while our trading partners close deals with other countries that are likely to disadvantage U.S. exporters. Few countries will negotiate seriously with the United States without TPA. Our major trading partners, the EU, Japan, and China, are aggressively pursuing bilateral and regional deals around the world to lower tariff and non-tariff barriers to their products. For example, Japan is currently negotiating trade agreements with several East Asian nations. The EU is in preliminary trade discussions with India, South Korea, and the ASEAN nations. The

ASEAN nations, in turn, are in intensive trade talks with Japan, China, South Korea, India, New Zealand, and Australia ("ASEAN + 6").

Should TPA lapse, our prospects of concluding meaningful bilateral, regional, or multilateral bilateral trade agreements around the world will be greatly reduced. That, in turn, will greatly diminish our ability to dismantle barriers to U.S. products and services, putting our businesses, farmers, and workers at a disadvantage with their competitors around the world.

Question 2

Engagement on trade is important to U.S. geopolitical interests from Asia to South America and the Middle East. If TPA is allowed to expire, would any resulting delay in the ability to negotiate trade agreements lessen U.S. influence around the world?

Answer:

Yes. Trade builds relationships. The stronger our relationships with other countries, the better able we will be to work with them in promoting political and economic reforms that benefit people. Not only do our trade agreements lead to lower tariffs and fewer non-tariff barriers to our goods, services and agricultural products, our trade agreements allow us to engage more deeply with our trading partners and have led to real progress in a number of areas of interest to U.S. businesses and farmers such as promoting intellectual property rights, labor rights, and environmental reforms.

As advanced developing countries emerge as economic powers around the world, the United States must be seen as reliable partner in a mutually beneficial relationship. The last few years have seen a proliferation of bilateral and regional free trade agreements. Our major trading partners, the EU, Japan, and China in particular, are pursuing a number of trade agreements around the world, achieving new market access for their products and strengthening their economic ties. Reauthorizing Trade Promotion Authority will give the United States the tools it needs to stay engaged with the world. For example, in the Middle East, trade can be the catalyst for political reforms and integration of nations into the global economic community. For the United States to be able to shape events in a positive manner, we must be able to deepen and strengthen our trade ties with nations around the world. Without TPA, we cannot succeed in this task.

Question 3

Ambassador Schwab, I appreciate your efforts to complete negotiation of the U.S.- Korea Free Trade agreement. I understand the Koreans are in Washington, D.C. this week. South Korea is a large trading partner and the agreement would benefit our country and my state. What will happen if the Korea FTA talks are not completed by the time TPA expires? Could there be a substantial delay before trade talks are resumed?

Answer:

While these negotiations are challenging given the size and complexity of the economies involved, we will make every effort possible to take advantage of the window of

opportunity to complete the KORUS FTA under the current TPA. Korea also has a strong interest in meeting this deadline, given that its ability to negotiate will become increasingly more limited as it gets closer to the Korean Presidential election in December 2007. In addition, we understand that Korea plans to launch an FTA with the EU sometime this spring, which we fear could divert resources away from our negotiations, further prolonging the time in which it will take to conclude the deal.

Let me assure you, though, that our determination to conclude a high-quality, comprehensive, and balanced FTA with Korea will not be compromised in order to meet deadlines.

Question 4

As the United States and Korea meet this week for the seventh round of free trade agreement negotiations, I am concerned that work remains in Korea to improve the environment for foreign investors. Of particular concern is the treatment of U.S. investors, including my constituent, the Washington State Investment Board based in Olympia, which is part of the Lone Star Funds, the largest and most active foreign investor in Korea. The Lone Star Funds have been under months and months of investigation by the Korean government and their national tax authorities for discriminatory treatment that, if allowed to occur, will cost their U.S. investors tens of millions of dollars. I would like to ask you to look into this matter and press Korea on its investment environment more generally. Could you please provide a report on the status of the Korean Government investigation of Lone Star Funds and share with me what the U.S. government has said to the Koreans concerning this pattern of treatment of foreign investors.

Answer:

We share your concern regarding the handling of the Lone Star case in Korea. As you may know, the effect of our FTAs on ongoing taxation and enforcement actions, such as those involving Lone Star and the Korea Exchange Bank, is limited. Such issues are more frequently addressed in tax treaties. It is therefore difficult to know exactly how the KORUS FTA will impact the Lone Star or other comparable disputes. We can say, however, that the KORUS FTA would go a long way to improving the investment climate in Korea. The investment chapter text that we tabled will require Korea to adopt and maintain very high standards with respect to its investment regime, including improved transparency, fairness, and dispute settlement. Since we do not currently have a bilateral investment treaty with Korea, our investors now have none of these protections.

The Seoul prosecutors' investigation into the underlying transactions involving Lone Star concluded in December 2006. My staff and the U.S. Embassy in Seoul have met with Lone Star and the Korea Exchange Bank repeatedly throughout this process, and on several occasions, have raised our concerns about the handling of this case directly with senior Korean government officials. We will continue to monitor the situation closely to ensure that the due process is accorded those involved in the case, and we will encourage our Korean counterparts to resolve the issue fairly.

Question 5
Ambassador Schwab, thank you for your efforts to convince the Europeans to end unfair subsidies to Airbus. At this point, is negotiated settlement of the Boeing Airbus dispute still possible given the WTO case is moving ahead?

Answer:

We have long argued that it is possible to litigate and negotiate at the same time, and we remain ready to do so. A negotiated settlement is still possible if Airbus and the Airbus governments are willing to end Launch Aid. They have been unwilling to end the practice, though, so we are pressing ahead with our WTO case.

Question 6
Ambassador Schwab, many Senators are concerned about the U.S. trade deficit with China, which was more than $232 billion last year. In response, I believe we should be pressing harder to open new Chinese markets for U.S. exports. In your opinion, what are main non-tariff barriers and market access issues in China?

Answer:

By raising the issue of non-tariff barriers, your question accurately gauges where some of the main problem areas are in regard to market access for U.S. exports to China. China continues to pursue problematic industrial policies that rely on trade-distorting measures such as local content requirements, import and export restrictions, discriminatory regulations and prohibited subsidies, and inadequate intellectual property rights enforcement and protection, all of which raise serious WTO concerns. China has continued to resort to industrial policies that limit market access for non-Chinese origin goods and foreign service providers, and that provide substantial government resources to support Chinese industries and increase exports. In some cases, the objective of these policies seems to be to promote the development of Chinese industries that are higher up the economic value chain than the industries that make up China's current labor-intensive base. In other cases, China appears simply to be protecting less competitive domestic industries. China has, however, significantly reduced its tariffs and reduced or eliminated many of its NTBs as part of its WTO accession agreement – even if incomplete.

In 2006, examples of these industrial policies remain readily evident. One obvious example is China's regulations on auto parts tariffs, issued last year, which serve to prolong prohibited local content requirements for motor vehicles – a matter that is currently the subject of a WTO dispute brought by the United States, the EC and Canada. Other examples include the telecommunications regulator's continuing interference in commercial negotiations over royalty payments to intellectual property rights holders in the area of 3G standards, the continuing pursuit of unique national standards in many areas of high technology that could lead to the extraction of technology or intellectual property from foreign right holders, a July 2005 industrial policy that calls for the state's management of nearly every major aspect of China's steel industry, export restrictions on raw materials like coke, and government subsidization benefiting a range of domestic industries in China. Worrisome new measures over the past year include new requirements for state control of "critical" equipment manufacturers, revised rules for

foreign mergers and acquisitions that confer broad and vaguely defined powers on the government to block investments in a range of industries, and plans to steer government purchases to domestic manufacturers to promote innovation in Chinese enterprises. Some of these policies appear to conflict with China's WTO commitments in the areas of market access, national treatment and technology transfer, among others.

The United States will again press China on these matters in 2007 and will take further appropriate actions seeking elimination of these policies, including WTO dispute settlement, where appropriate. To cite one example – China's use of prohibited subsidies both to increase exports and to increase purchases of domestically made products – the United States on February 2, 2007 requested WTO dispute settlement consultations with China on these measures.

Question 7

Ambassador Schwab, is the U.S. making progress getting China to improve enforcement of intellectual property rights (IRP) or do you believe it will be necessary to file a WTO case?

Answer:

While China's senior leaders have been stepping up efforts to protect IPR over the past couple of years, enforcement is still clearly inadequate. USTR has been working extremely closely with industry to assess areas where China may not be in compliance with its WTO TRIPS obligations. In fact, we were prepared to initiate a WTO dispute on IPR in October, 2006. We postponed our case, in part, because China offered to hold technical discussions to resolve our differences, and our industries strongly supported trying this settlement approach for a reasonable period.

We have worked with industry to develop elements for a settlement that would improve China's IPR enforcement in many practical ways. We will need to determine whether China can properly address our specific concerns. We expect that a case directed at IPR concerns could be initiated if our discussions do not yield satisfactory results.

Question 8

Ambassador Schwab, the Indian market presents substantial opportunities for U.S. companies. What are the main non-market barriers to U.S. investment in India? Are you aware of any recent problems with Indian governmental approvals for U.S. companies trying to set up operations?

Answer:

Most sectors of the Indian economy are now substantially open to foreign investment, with certain exceptions. The Indian government continues to prohibit or severely restrict foreign direct investment (FDI) in certain politically sensitive sectors, such as agriculture, retail trading, railways, and real estate. At the same time, the GOI has liberalized other aspects of foreign investment and eliminated various government approval requirements.

Automatic FDI approval in some industries, including bulk manufacturing activities, is now Indian government policy.

The Indian government's regulations and procedures governing publicly held companies continue to inhibit investment and increase risk to new entrants. There are recent examples of U.S. purchaser attempts to acquire 100 percent ownership of a locally traded company that, while permissible in principle, face regulatory hurdles that make 100 percent ownership virtually impossible in practice.

We are not aware of any U.S. companies encountering difficulty setting up operations in India if the companies understand Indian policies, procedures and regulations.

That said, USTR works closely with U.S. companies affected by India's tariff and non-tariff barriers and we take every opportunity to raise with our Indian government counterparts our concerns about market access in India. India's tariffs and non-tariff barriers have been a central part of our trade dialogue in the Trade Policy Forum (TPF). I will chair the next meeting of the TPF with my counterpart, Commerce Minister Nath, in April in New Delhi. The TPF provides a forum for accelerating the pace of growth in our bilateral trade, including addressing barriers to bilateral trade and investment.

Question 9

Ambassador Schwab, the coffee industry in the United States supports more than 150,000 jobs, including many jobs in my state of Washington. While most beans are imported, U.S. workers and plants add substantial value, and then export roasted coffee products all over the world. Unfortunately, coffee is one of the most protected commodities in the world. The continued ability of U.S. roasters to export coffee depends on decreasing market access barriers. Could you provide an update on efforts to continue to eliminate high tariffs on U.S. coffee in countries like India? What efforts are being made with Korea through ongoing FTA negotiations?

Answer:

On a bilateral basis, we have had informal discussions in the context of the U.S.-India Trade Policy Forum. We understand that discussions are ongoing between U.S. coffee retailers and the Indian coffee board, and that a compromise may be in the works that would allow certain roasted beans (those that do not compete with Indian beans) to be brought in at a significantly reduced tariff rate. Such a compromise could be unveiled in the annual budget to be released by the GOI on 28 February. The budget is the vehicle for annual changes to duties and tariffs. In the run up to the budget, the Administration has pressed the GOI to reduce or eliminate duties/tariffs of concern to US exporters (including those on coffee). USTR will continue to work bilaterally to press the GOI to lower its duties and tariffs across the board, but we recognize that it is less likely that India will unilaterally reduce its tariffs on coffee when the same tariffs are on the table in multilateral tariff negotiations.

In the Korea FTA, we are pushing for the rapid elimination of Korea's tariffs on roasted coffee. We have also tabled a rule of origin that will allow coffee that is roasted in the

United States to benefit from the tariff reductions, regardless of where the coffee was grown.

Question 10

Ambassador Schwab, I have heard that a country's internal "competition policy", such as its anti-trust policy, under certain circumstances, could be considered a non-tariff barrier to trade. Do you believe that there are countries or organizations of countries that are currently using their "competition policy" as non-tariff barriers to trade?

Answer:

I am aware of concerns that the competition policies and related enforcement actions undertaken by some countries could have significant trade effects. In USTR's report on Foreign Trade Barriers submitted each year to this Committee, we examine foreign anticompetitive practices with trade effects tolerated by foreign governments, and how other countries apply their competition policies. In the process of preparing this report, we issue a Federal Register notice soliciting public comments on such barriers, in addition to our consultations throughout the year with stakeholders about barriers they are facing. To the extent we receive complaints relating to the application of other countries' competition policies, we work with our own antitrust agencies, the Department of Justice and Federal Trade Commission, to determine how best to address these problems.

Question 11

Ambassador Schwab, prescriptive national (technical) standards can be used effectively as non-tariff barriers to trade. It has been reported that some countries are pursuing national technical standards in key information and communications technologies and in the future will require companies that want to sell into that country's market to build to a given national technical standard. Does this concern you at all? Is there something USTR can do to ensure that this does not happen?

Answer:

We are very concerned about this issue. We recognize the right of governments to be involved in setting technical requirements in their markets but we typically advocate for reliance, where possible, on voluntary international standards, to prevent technical requirements from being used as a tool for disadvantaging technologies -- particularly in the information and communications sectors, where we have enormous export interests. The temptation of many governments to promote domestic technologies and reduce dependence on foreign suppliers appears to be great, and the use of prescriptive technical standards to achieve that goal could significantly affect U.S. interests. We try to be particularly vigilant in ensuring that WTO members meet their obligations under the Agreement on Technical Barriers to Trade to notify members of proposed new technical regulations and to provide an opportunity to comment on such proposals. In our Free Trade Agreements, we have sought to strengthen these disciplines, both by beefing up general transparency and notice and comment provisions, and by establishing principles that promote choice of technology in the telecommunications sector. We are

active in APEC in developing similar principles, which are beginning to gain significant support.

Question 12
Ambassador Schwab, my state has benefited from agricultural exports to Cuba. Cuba has imported Washington state peas, lentils, and apples. What can we do to increase opportunities for U.S. agricultural exports to Cuba?

Answer:

The U.S. is among the largest food suppliers to Cuba. The Administration has maintained its commitment to implementing the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000. The most productive way to obtain open trade and increased opportunities with Cuba is for Cuba to become a democracy and open its markets. Not until there is verifiable progress toward a democratic transition in Cuba that guarantees political freedom, economic opportunity and holds free and fair elections will Cuba be regarded as a reliable trading partner.

Question 13
Ambassador Schwab, I believe that with Trade Promotion Authority expiring, Congress will be looking to move forward on trade in a way that both promotes a robust trade agenda and that accounts for the concerns of American workers. We must seriously consider how to strengthen the labor and environmental provisions of trade agreements and how to better incorporate enforceable standards into the text of these agreements. How is USTR working to achieve this objective? What will it do to work with Congress in this area?

Answer:

I am committed to working with Congress to address the concerns with labor provisions in free trade agreements and to build bipartisan support for the trade agenda. We have been creative in seeking to promote labor practices consistent with international standards in our FTA partners within the scope of Congressional guidance in TPA. We are working closely with Members and staff of the Finance Committee and the Ways and Means Committee to determine how to improve our approach with respect to labor standards, while preserving Congress' authority to write U.S. labor laws. We will also seek to consult with Congress regarding whether any adjustments in our approach to environmental matters may be appropriate.

Question 14
Capacity building is also an important aspect of making sure that the benefits of trade are shared widely around the world. Is the Bush administration committed to strengthening the capacity of U.S. trading partners to raise core labor standards? What other capacity building efforts involving the environment are priorities?

Answer:

One of the principal trade negotiating objectives of Trade Promotion Authority is to strengthen the capacity of the United States' trading partners to promote respect for core labor standards and protect the environment. All of our recent FTAs have included mechanisms to work with our trading partners to enhance cooperation on labor and environmental activities.

With regard to labor, the Administration devoted $19 million from FY05 and $21.1 million from FY06 to capacity building projects in the CAFTA-DR countries focused on modernizing labor justice systems; strengthening the capacity of labor ministries to enforce labor laws, conduct inspections, and resolve conflicts; reducing gender discrimination and sexual harassment; and promoting a culture of compliance with labor laws. These are all issues identified in the White Paper produced by the CAFTA-DR Vice Ministers of Labor and Trade. Additionally, $3 million of each year's funds has been allocated to the International Labor Organization (ILO) for benchmarking and verification of the countries in meeting the goals set out in the White Paper. The Administration is also funding ILO projects in Bahrain and Oman focusing on educating workers about their rights and helping to ensure that implementation of labor laws is consistent with international standards.

In the environment area, the United States provides capacity building assistance to its trading partners to strengthen their ability to effectively enforce environmental laws and to promote sustainable development. The United States is providing both financial and technical assistance to the CAFTA-DR countries to: strengthen environmental ministries and other institutions; conserve biological diversity and promote compliance with multilateral environmental agreements, such as CITES; provide incentives for market-based conservation; improve private sector environmental performance; and comply with CAFTA-DR specific obligations, such as the receipt and consideration of public submissions by an independent secretariat.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR SCHUMER

Question 1

As you know, last year Senator Graham agreed to set aside our bill on China currency in exchange for an agreement under which Senators Baucus and Grassley would work with us on strong currency legislation that was WTO compliant. I would just to know from you, if the Congress were to pass strong trade legislation related to currency and/or China with bipartisan majorities, and such legislation was WTO compliant, is it your sense that the President would sign such a bill?

Answer:

The Administration would carefully consider any proposed legislation concerning China and its currency policies. Any bill of this nature could raise numerous important issues,

many of which could be within the jurisdiction of the Treasury Department or other agencies in addition to USTR. The WTO consistency of the legislation is critical. However, in addition, the Administration would need to consider other relevant policy issues, such as precedent, before deciding whether it is possible to support a particular legislative proposal. We are always available to discuss potential legislation proposals with you and your staff.

Question 2

The U.S. optical fiber industry faces significant non-tariff barriers abroad. I am concerned that we will reduce our tariffs on optical fiber without eliminating these non-tariff barriers. Quite frankly, I don't want us to unilaterally disarm. Can you ensure that we will not trade off our tariff without eliminating the non-tariff barriers and ensuring that U.S. our optical fiber manufacturers have the market access commitments they need?

Answer:

The United States seeks comprehensive tariff elimination in our bilateral trade agreements and usually does not consider a priori exclusions on specific products in the context of our multilateral negotiations. However, any commitment to reduce tariffs goes hand in hand with our working to resolve any non-tariff barriers to ensure that our agreements provide real market access for U.S. exports. We look forward to working with your staff and U.S. industry on any specific non-tariff barrier concerns you have with optical fibers in the context of our bilateral or multilateral negotiations.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR CRAPO

Question 1

The softwood lumber agreement between the United States and Canada appeared all but impossible just two years ago. But on October 12, 2006, what is known as the 2006 Softwood Lumber Agreement was implemented and is now in force. Bringing about this agreement can largely be credited to the skills and dedication of the office of the United States Trade Representative under the leadership of Ambassador Susan Schwab.

Implementing an agreement is only the first step. Perhaps the more important step is to enforce the agreement and clearly communicate that violations of the agreement will not be tolerated.

Canada has announced more than $1 billion dollars worth of new subsidies since the implementation of the agreement, and distributions of these new subsidies have already begun. I understand that many of these subsidies are in clear violation of the agreement. While U.S. lumber producers are curtailing production and laying off workers to the detriment of their communities, Canadian producers are enjoying new substantial subsidies. The end result is that Canadian producers will keep producing uneconomic

lumber. This will further depress an already weak market at a time when U.S. companies and workers can least afford it.

The new subsidies issue has not been adequately addressed so far by this Administration. This is evidenced by the fact that on an almost weekly basis there are media reports regarding new subsidy payments to Canadian softwood lumber producers.

What concrete steps have you taken to address this issue, and what has been the result of your actions? Will either you or Deputy USTR John Veroneau attend the February 23 meeting between the United States and Canada in order to expeditiously resolve this issue? Was the February 23 meeting arranged to deal specifically with the new subsidies issue, or it is a more general meeting of the Softwood Lumber Committee to initiate a dialogue regarding miscellaneous Softwood Lumber Agreement technical issues – such as tracking imports from excluded provinces and companies?

Answer:

I share your concerns about these assistance programs. I wrote to Canada's trade minister, David Emerson, about our concerns at the end of January. Ambassador Veroneau raised the issue in bilateral meetings he held with Canada's deputy Trade minister on February 26 and 27, and other U.S. officials raised the issue during last week's meeting of the bilateral Softwood Lumber Committee in Washington. During the extensive discussion of this issue in the course of that meeting, Canadian government representatives provided our officials detailed information about their programs. We intend to evaluate that information and determine our next steps after consulting with U.S. industry.

Question 2

Critical concerns have emerged about Canada's implementation of its SLA 2006 export measure obligations. The concerns relate to an provision of the agreement that mandates an adjustment in calculation of volumes above which exports from "Option A" provinces are subject to higher "surge mechanism" export fees ("trigger volumes") and an adjustment in calculation of "Option B" quota volumes (Annex 7D, para. 14).

Surge mechanism "trigger volumes" and quota volumes are determined based on calculations of the shares of the U.S. lumber market that provinces have had recently. Those market share calculations are based, in turn, on estimates of U.S. lumber consumption. Under Annex 7D, para. 14 of the agreement, consumption estimates must be adjusted if statistics from the most recent quarter for which there is data show that actual consumption in that quarter varied significantly from estimated consumption for that quarter.

United States lumber consumption has been falling dramatically. It is precisely for such instances, where there a significant up or down fluctuation in U.S. consumption, that the agreement mandates an adjustment in the consumption estimates. The adjustment is needed because it ensures that market share calculations and, hence, trigger and quota volumes reflect recent fluctuations in U.S. lumber consumption.

Recent reports suggest that Canada is considering adopting an interpretation of the adjustment provision of the agreement under Annex 7D, para 14 that would be counter to the text and spirit of that provision. First, the Canadian federal government is considering a petition by British Columbia that the adjustment provision under Annex 7D of the agreement does not apply at all to the calculation of the surge mechanism trigger volumes. Second, many Canadian parties claim that the adjustment to the U.S. consumption estimate does not apply to calculation of trigger volumes or quota volumes during these early months of the agreement.

Both of these arguments are inaccurate. The United States specifically negotiated, and secured, the application of the adjustment to U.S. consumption estimates to be applicable to both the determination of quota and trigger volumes now.

Continued oversupply of unfair Canadian lumber imports is contributing greatly to abysmal market conditions, closures of U.S. sawmills and mill worker layoffs across the United States. Particularly in these circumstances, the United States must insist that Canada live up to obligations that were designed to apply precisely in these types of circumstances.

Do you agree that Annex 7D, para. 14 applies to calculation of both "trigger volumes" and quota volumes and applies now? To the extent that you might disagree, please explain why.

Have you determined whether Canada is applying this adjustment now and intends to apply it to regions under option A of the agreement? If Canada is not applying it, has this been raised with Canada?

Assuming that 1) you agree that Annex 7D, para. 14 applies to calculation of both "trigger volumes" and quota volumes and applies now and 2) to some extent Canada has adopted an erroneous position on these issues, what is the Administration's plan to enforce the United States' rights under the agreement in this area?

Answer:

I share your concerns about the importance of proper Canadian administration of the surge mechanism, especially in the current down market. USTR and Commerce Department officials spent considerable time discussing the issue with their Canadian counterparts during last week's meeting of the Softwood Lumber Committee in Washington. At the meeting, it became clear that Canada's views on certain aspects of administering the surge mechanism are different from the views held by the United States. U.S. representatives agreed to discuss the matter further but made clear that this is a priority matter that needs to be resolved promptly.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR SMITH

Question 1
I have been a steadfast supporter of Vietnam's entry into the WTO, and Senator Feinstein and I have expressed our concerns to you on several occasions about the process the Administration undertook to monitor and potentially self-initiate anti-dumping investigations against Vietnamese-made apparel. This action has caused a great deal of instability and unpredictability for businesses sourcing product in Vietnam, including several companies located in my home state of Oregon. While I recognize that the Commerce Department is responsible for administering the program, USTR was directly involved in crafting the process and will have to defend it if challenged in the WTO. Therefore, I assume that your lawyers have carefully looked at the statutory authority that the Department has to implement this process.

Could you specify for me what authority the Administration has to implement this process – beyond your basic monitoring authority – and whether this authority goes as far as self-initiating anti-dumping cases after the monitoring process?

Answer:

The Department of Commerce has statutory authority to collect and report data on imports. *See* 13 U.S.C. §§ 301-302. In addition, the antidumping statute provides the Department of Commerce with the authority to self-initiate antidumping investigations. *See* 19 U.S.C. § 1673a. Inherent in the latter authority is the authority of the Department of Commerce to collect and analyze information in order to determine whether self-initiation is appropriate. Such action is therefore fully consistent with Commerce's statutory mandate to administer and enforce the antidumping law.

Question 2 (Quesenberry)
The Vietnam apparel and monitoring program has been implemented for more than a month. The five product areas that are being monitored - trousers, shirts, underwear, swimwear and sweaters – cover a large range of apparel products, including products that clearly do not compete with U.S.-made goods.

Can you give us an update on the monitoring program?

Do you believe it is appropriate to monitor Vietnamese apparel products if an identical product is not made in the United States?

Answer:

The monitoring program began with the accession of Vietnam to the WTO on January 11, 2007. The Commerce Department intends to monitor five product groups - trousers, shirts, underwear, swimwear and sweaters. However, Commerce recognizes that these five product groups are too broad for effective monitoring. Within these five groups, Commerce intends to focus on those traditional three-digit textile and apparel categories of greatest significance based on trade trends, composition of the U.S. industry and input from parties, as appropriate.

The Department of Commerce has worked closely with interested parties, including domestic textile and apparel producers, workers, retailers, importers and the Government of Vietnam, and will continue to do so throughout the monitoring process.

Commerce will establish an electronic hotline—vietnam-texapp-monitor-hotline@mail.doc.gov-- for parties to use to provide input and ask questions as well as the basis for establishing an email notification system to provide parties notice of upcoming developments. In addition, Commerce will hold a public hearing on the program in Washington, DC and will announce the details surrounding this event very soon. Commerce is also working to provide public data with the release of the January 2007 Census data in March 2007.

The Administration does not intend to monitor products without commercial purpose. We will not initiate an antidumping investigation if a product is not made in the United States.

However, questions regarding the product scope of an antidumping investigation are extremely technical and complex.

Should the Department ever reach the point of considering self-initiation of an antidumping investigation, any actions would be taken in full accordance with U.S. law and our international obligations.

Question 3

As you know, we are nearing the expiration of the Memorandum of Understanding (MOU) that governs apparel and textile imports from China. Quotas currently in place under the agreement will expire at the end of 2008. Many have presumed that the U.S. textile industry pushed for the new Vietnam monitoring program in order to set a precedent for China post-2008.

Did you consider this when agreeing to the monitoring process for apparel products from Vietnam?

What steps can this Administration take to ensure that this process isn't replicated?

Answer:

The monitoring program applies to imports of textile and apparel products from Vietnam, not China. It terminates in January 2009, at the end of this Administration.

The Vietnam monitoring program is in place through the end of this Administration. The Administration cannot bind future Administrations' policy determinations by extending the program or replicate it in some other fashion.

Question 4
Since the early 1990s, pear growers from my state have sought access to the People's Republic of China. To this day they continue to work through the torturous process in the hope that one day soon they will be successful. In the interim, China has obtained approval to export two varieties of pears to the United States – Ya pears and Fragrant pears – and last year stated that it would now like access for a third variety. It is not the direct responsibility of USTR to work out the technical regulations that govern these types of phytosanitary agreements. However, I now see this issue as an unfair trade advantage that your agency needs to be aware of and help remedy.

How can you help my pear growers?

Answer:

My understanding is that Oregon State University is conducting research on behalf of the Pacific Northwest pear industry to address China's outstanding questions regarding the association of commercially produced pears and the plant disease, fire blight. Once the research is made available to us, we will prioritize a market access request for pears to China, and we will urge China to complete its review of this request as quickly as possible.

Question 5
Last year, Senator Feinstein and I sat down with your predecessor, Ambassador Portman, to talk about how we can work together to correct an inequity in our tariff system that subjects the least developed countries (LDCs) of Asia to higher tariffs than those that face our wealthier trading partners in Europe and Japan. At the WTO Hong Kong Ministerial in December 2005, the United States committed to provide duty-free and quota-free market access to LDCs. Later today, Senator Feinstein and I will be reintroducing legislation that will provide duty-free and quota-free benefits to the LDCs of the Asia-Pacific region.

Can we count on your support for moving our bill through Congress?

Answer:

The Administration shares your view on the importance of expanding the trading opportunities for LDCs, which is the central tenet of both your legislation and our efforts in the Doha Development Agenda (DDA). The commitment made at Hong Kong regarding duty-free, quota-free market access (DFQF) for products from LDC's will be implemented as part of the overall results of the DDA. We have begun the formal consultation process to inform our deliberations on implementation. On January 18, 2007, we requested public comments on issues related to implementation of DFQF in a Federal Register notice. The deadline for these comments is March 15. On February 16, 2007, I sent a letter to Chairman Pearson requesting the USITC to provide an analysis of the probable economic effects on U.S. producers and consumers of providing DFQF to the LDCs.

Implementation of our commitment made at Hong Kong will undoubtedly broaden access to the U.S. and other developed country markets. Since developed country markets are largely open, however, we continue to believe that the most significant prospective gains for LDC exports are in other developing countries, particularly the large emerging economies. Developing country participation in the Hong Kong initiative, and ultimately in a strong overall market access outcome from the Doha negotiations that creates meaningful new trade flows in agriculture, industrial goods and services, will be the critical determinate of the impact of the DDA on economic growth and poverty alleviation in the poorest countries.

Question 6

I understand that our negotiators have been in Korea recently with the goal of working out an agreement to allow for the resumption of normal U.S. beef trade into Korea. Getting this agreement and getting the Koreans to adopt import requirements that are transparent, predictable, and follow internationally recognized guidelines will be key to moving a U.S.-Korea Free Trade Agreement through Congress.

Can you tell me what progress has been made on this front?

Answer:

A USTR-led technical team met with Korean Government officials on February 7-8 to discuss both the current import protocol for deboned beef, and market access for all U.S. beef and beef products. We were unable to agree to a revised protocol for deboned beef due to Korea's policy of zero tolerance for bone chips. We disagree with Korea as to the scientific justification for this policy. Moreover, the U.S. beef industry has made clear that this policy is commercially infeasible. While we continue to press Korea for flexibility in this regard, we are also focusing on concluding an agreement for market access for all U.S. beef and beef products.

Question 7

I'm concerned about the increasingly hostile climate for foreign investors in Korea. I understand that Korean tax authorities have launched a series of what appear to be excessive, burdensome and unfair investigations into a number of U.S. private equity firms. The Oregon Public Employees' Retirement Fund is a major investor in a fund that recently had to withdraw a planned sale of a major asset due to a protracted investigation by Korean authorities, even though the investigation failed to produce any evidence of wrongdoing. I understand that foreign direct investment in Korea has begun to drop over the past year, as other investment groups take a closer look at the Korean government's behavior.

What are your plans to deal with the Korean government's treatment of U.S. investors?

What provisions are you seeking in the free trade agreement negotiations to ensure a level playing field for foreign investors in Korea?

Answer:

We share your concern about the treatment of U.S. private equity firms and other investors in Korea. Both USTR staff and U.S. Embassy Seoul have raised these concerns directly with our counterparts in the Korean government and will continue to press them to treat U.S. investors in a non-discriminatory and fair manner.

We believe that the KORUS FTA will help improve the investment climate in Korea. The investment chapter text that we tabled will require Korea to adopt and maintain very high standards with respect to its investment regime. In particular, among other protections, our text would:

(1) require Korea to treat investors and their investments as favorably as Korea treats its own investors and investments or investors and investments from any third country;

(2) establish a "minimum standard of treatment" based on standards found in customary international law, including "fair and equitable treatment" (the obligation not to deny justice) and "full protection and security" (the obligation to provide the level of police protection required under customary international law);

(3) require payment of prompt, adequate, and effective compensation when direct or indirect expropriation takes place;

(4) require Korea to allow investors to transfer funds into and out of the country without delay and using a market rate of exchange;

(5) prohibit the imposition of certain performance requirements – such as local content, trade balancing, or technology transfer requirements – as a condition for the establishment or operation of an investment;

(6) prohibit nationality-based restrictions on the hiring of senior managers; and

(7) allow U.S. investors to submit investment disputes with Korea to binding international arbitration. There would be no requirement to file a case in Korea's domestic courts before proceeding to international arbitration or to otherwise exhaust domestic legal remedies.

Question 8 (Maruyama/Cutler)
The South Korea economy has suffered from a historic lack of transparency. Recently the chairman of the board of Hyundai Corporation was convicted in a corruption scandal.

Will USTR require Korean companies to abide by the terms of the Foreign Corrupt Practices Act before they gain additional access to the U.S. market under the FTA?

Answer:

In the KORUS FTA negotiations, as in all U.S. FTAs, we are seeking to conclude a high-quality, comprehensive agreement that will bring additional transparency and enhance the rule of law in our trading partners, which would have a positive impact on efforts to combat bribery and corruption. In addition, under the KORUS FTA each party would be obligated to make it a criminal offense to offer or accept a bribe in exchange for favorable government action in matters affecting international trade or investment. Each party would also be required to adopt or maintain appropriate measures to protect those who report acts of bribery. Finally, the parties would commit to work together to encourage and support international initiatives to prevent bribery and corruption.

Question 9

Please explain how the Kaesong process works.

Specifically, how are North Korean workers selected to work in the Kaesong economic zone?

Are they paid directly by their employers or do the employers pay the North Korean government for their services?

What are their wages and working conditions?

Are there any South Korean companies that are importing products or products with components that are made in North Korea's Kaesong district that could gain increased market access to the U.S. under the FTA? If so, please enumerate the companies.

Answer:

The KORUS FTA will be an agreement between the United States and the Republic of Korea. Goods made in the Kaesong Industrial Complex (KIC) would be ineligible for tariff preferences under the Rules of Origins provisions that the U.S. negotiators have tabled. In addition, the FTA would not affect applicable U.S. export-control laws with respect to Democratic Peoples Republic of Korea (DPRK).

With respect to the details on the operations of the KIC, the Department of State is the lead agency with respect to relations with THE DPRK and can provide you with more information on the operation of the KIC.

Question 10

Does the U.S. have a process to license products made in North Korea for import into the United States? If so, please explain the criteria to gain a license and list the products that come in to the U.S. under this licensing process.

Answer:

My understanding is that, pursuant to Sections 73 and 74 of the Arms Export Control Act (22 U.S.C. 2797b-2797c), goods of North Korean origin may not be imported into the

United States either directly or through third countries, without prior notification to and approval of the Office of Foreign Assets Control (OFAC) in the Department of Treasury. The Treasury Department's Office of Foreign Assets Control is the lead agency for determining whether an importer meets the criteria for licensing to import products from North Korea and can provide you with more information as to that process. However, with respect to USTR's negotiations with the Republic of Korea, the U.S. views the KORUS FTA as an agreement between the United States and the Republic of Korea, and only products from those countries will be covered.

Question 11
To what do you attribute the fact that global automobile manufacturers in Asia, Europe, and North America hold less than a 4% market share in the Korean automotive market when the average share of automobile imports in the OECD countries is 40%?

Answer:

We have worked with U.S. industry to identify a wide range of tariff and non-tariff barriers impeding U.S. access to Korea's automotive market. Achieving increased market access for U.S. auto suppliers in the Korean market is a top priority for the Administration, and we have tabled proposals to address these barriers in the FTA negotiations. On tariffs, we are seeking elimination of Korea's high 8 percent tariff on passenger vehicles. We seek to eliminate the discriminatory element of Korea's auto taxes based on engine size. With respect to Korea's automotive regulatory and standards-setting process, we seek to enhance transparency and allow for meaningful input earlier in the process. Also, in the area of standards, we are seeking to address existing concerns with specific automotive safety and emissions measures in Korea. We also are seeking a commitment by the Korean government to not engage in anti-import activities. Finally, we are in the process of developing additional ideas intended to ensure further opening of the Korean automotive market to U.S. exports.

Question 12 (Donnelly)
As part of the free trade agreements (FTA) with Bahrain and Oman, your office successfully secured commitments to stop Omani and Bahraini participation in the Arab League Boycott of Israel. I believe such political reforms are essential to securing Congressional support for FTAs and go to the heart of expanding economic cooperation with the Middle East. Your predecessor, Rob Portman, also made dismantling the boycott a priority and secured a commitment from Saudi Arabia during WTO accession negotiations that he described as "a legal obligation to provide most-favored-nation treatment to all WTO Members, including Israel." Yet, it appears Bahrain and Saudi Arabia may be flouting their commitments, as a recent Department of Commerce report indicates. This report confirms that there has been an increasing number of requests from these countries for U.S. companies to abide by the boycott of Israel.

How do you intend to hold these countries to their anti-boycott commitments?

What progress has Bahrain made in dismantling its boycott of Israel?

Have its domestic laws been adequately changed to meet the terms of its free trade agreement?

Answer:

We have consulted with the Government of Bahrain on this matter and have every indication that Bahrain has fully lived up to its commitment to cease application of the Arab League boycott of Israel

We have confirmed that Bahrain has closed its boycott office, which had been the sole entity responsible for enforcing any aspect of the Arab League Boycott of Israel.

When Congress was considering the Bahrain FTA implementing bill, Bahrain eliminated the secondary and tertiary aspects of the boycott in 1994 –those aspects of the boycott that would directly affect trade between Bahrain and the United States.

Bahrain has circulated a memorandum to all government Ministries to ensure that any boycott language has been removed from government contracts.

When advised of residual references to the boycott in government contracts, the Government of Bahrain has moved immediately to reaffirm this position and correct the situation.

In addition, Bahrain has changed whatever domestic laws are necessary to meet the terms of the free trade agreement.

As you noted, during its WTO accession negotiations, Saudi Arabia made several commitments regarding the Arab League Boycott.

Saudi Arabia specifically confirmed that it had ended all aspects of the secondary and tertiary boycotts of Israel. The Saudi Government has circulated a memorandum directing all government ministries to comply with decision ending these aspects of the boycott. When advised of residual references to the boycott in government contracts, the Government of Saudi Arabia has been cooperative in correcting the situation.

At the time of its accession to the WTO, Saudi Arabia did not invoke the non-application provisions of the WTO Agreement with respect to any Member, and therefore has taken on all WTO rights and obligations, including most-favored-nation treatment, with respect to all Members, including Israel. In our view, continuing the primary boycott of Israel would not be in keeping with these commitments.

Since accession, there have been conflicting signals from Saudi officials on their understanding of their MFN commitment. We have taken every available opportunity to raise this issue with Saudi authorities to remind them of their commitment and our expectation that they honor this commitment. The Administration will continue to monitor the situation.

Question 13
The Administration is committed to creating a Middle East Free Trade Area (MEFTA) by 2013 and has already begun by pursuing individual FTAs that will act as its foundation. The benefits of MEFTA would be as much political as they are commercial, and this Committee views it as essential that Israel be fully integrated into the trading bloc. We applaud your success in securing commitments from Bahrain and Oman to completely dismantle the Arab League Boycott.

Do you intend to continue this process by requiring future FTA partners to likewise dismantle all elements of the boycott?

Apart from working to dismantle the boycott, do you have additional ideas that would facilitate Israel's integration into the region?

Answer:

The United States government has a long-standing policy of opposition to the Arab League boycott of Israel in all of its forms. The Administration continues to work for the removal of the boycott and strongly supports the political process that will encourage the parties to resolve their fundamental differences.

- As part of the President's initiative to promote trade and investment with and among Middle Eastern nations, the U.S. Government has made clear that the Arab League boycott of Israel distorts trade and retards the development of economic relationships and prosperity for all countries in the region.
- The United States government has made clear that successful congressional consideration of a Free Trade Agreement will depend on a country's adherence to its WTO obligation to allow MFN trade with all WTO Members, including Israel.
- In addition, a team of anti-boycott experts from the Departments of Commerce and State regularly visits the region to discuss efforts to eliminate the boycott.

The United States has also made clear in laying out the objectives of the MEFTA that stimulating intra-regional trade and investment is a major goal of our MEFTA strategy. Integrating Israel into the MEFTA is an important element of meeting this goal.

Question 14
Malaysia boycotts Israel economically as well as politically. The Malaysian Central Bank issued a directive prohibiting the use of the Shekel and banning deals with "the State of Israel, or their residents." Malaysia also informally bans Israelis from visiting the country, requiring Israelis – and only Israelis – to submit visa applications to the Ministry of Internal Security rather than the Ministry of Tourism.

Have you raised these issues in the FTA negotiations?

Do you believe you will be successful securing a commitment from Malaysia to dismantle the boycott before an agreement is sent to the Hill?

Answer:

The United States is discussing our concerns on the requirements Malaysia places on trade with Israel parallel to the FTA negotiations and are seeking to secure a commitment to eliminate these requirements before the agreement is signed. Appropriate agencies are seeking to address the issues of visa application requirements and currency prohibitions. While Malaysia is not a member of the Arab League and there is significant trade between Malaysia and Israel ($250 million in two-way trade in 2005), it is the United States' longstanding policy to actively oppose any form of the Arab League boycott.

Question 15

The Administration recently signed a bilateral agreement with Russia that essentially paves the way for Russia's membership in the WTO. Russia has long sought WTO membership, and President Putin has made it a personal goal of his presidency. Yet, this agreement was reached at the very time Russia was actively working against U.S. national security interests vis-à-vis Iran. Russia has continued assisting Tehran's nuclear pursuits, has armed Iran with advanced weaponry - including 29 surface-to-air missile systems to defend its nuclear facilities - and has pledged to upgrade Iran's aircraft and battle tanks.

Why should Congress grant Russia PNTR given Russia's history of assisting Iran's nuclear weapons programs?

Answer:

We have consulted with our colleagues at the State Department and the National Security Council on this question. The Administration shares your concerns about Russia's arms sales to Iran and the broader proliferation threat posed by Iran's nuclear program. The Administration has intensified our work with our European allies and at the United Nations Security Council to address the Iranian nuclear threat. Although we have had some differences with Russia on this subject, Russia has urged Iran to suspend its enrichment related and reprocessing activities, respect its international commitments on non-proliferation, and to cooperate fully with the International Atomic Energy Agency's (IAEA) investigation. Russia joined the other members of the United Nations Security Council in voting unanimously in favor of two Security Council resolutions – 1696 and 1737 – which hold Iran accountable for its harmful and destabilizing activities. Such actions are consistent with U.S. efforts and help to reinforce our message.

The Administration has also repeatedly raised with Russia, at the highest levels, our concern about its arms sales to Iran. These ongoing discussions are reinforced by our actions in international and multilateral organizations. Several Russian entities and individuals have been sanctioned under the Iran Nonproliferation Act and the Iran and Syria Nonproliferation Act because there was credible information indicating they had transferred to or acquired from Iran or Syria certain goods, services and/or technology related to weapons of mass destruction, ballistic missiles, cruise missiles or advanced conventional weapons. Despite differences, we continue to maintain a constructive dialogue with Russia on this critical issue.

The Administration remains committed to terminating application of the Jackson-Vanik amendment to Russia and USTR along with other agencies will work with the Congress on determining the appropriate time for such action. Obviously, Russia's progress on WTO accession - including improving enforcement of intellectual property rights, implementing our bilateral agreements concluded in November last year, and adopting WTO obligations that require transparency and the enhanced rule of law - are among the questions we will need to consider.

Question 16

In a side letter signed by you and the Russian Minister of Trade and Economic Development, Russia agreed to the objective of permanently shutting down the production of pirated optical media within its borders. By almost all accounts, Russia is second only to China in the rate of piracy within its borders.

What progress has Russia made toward implementing the steps set out in the side letter on IP?

How do we ensure that Russia doesn't become another China with respect to piracy enforcement?

Answer:

This Administration strongly supports the interests of U.S. intellectual property owners in securing adequate protection and effective enforcement of their rights around the world. Russia remains one of our top priorities in that regard, and we are taking concrete steps to ensure that Russia makes the necessary improvements. As you noted, on November 19, 2006, the United States and Russia signed a strong and enforceable bilateral agreement setting out actions that Russia would take to address piracy and counterfeiting and improve protection and enforcement of intellectual property rights (IPR). At the same time, we continue to seek further progress on IPR issues in Russia through the next phase of multilateral negotiations on Russia's WTO accession, during which the United States and other WTO members will examine Russia's IPR regime. Implementation of the commitments on IPR in the November 19 agreement will be essential to completing the final multilateral negotiations on the overall accession package.

I believe it is still too early to draw firm conclusions regarding the progress has Russia made toward implementing the steps set out in the November 19 agreement on IPR. I expect Russia to do what it has agreed to do, and I have conveyed the need for timely progress to my Russian counterpart, Minister Gref. I also sent a team to Moscow just last month to urge swift implementation of the Agreement through the United States-Russia Intellectual Property Working Group. We will also be working with other WTO members in the multilateral negotiations on Russia's accession to the WTO and having additional meetings of the IPR Working Group. In short, the Administration continues to use all available tools to press Russia for strong action on this very important issue.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR LOTT

Question 1

Can you realistically get any traction on Doha without Congress agreeing to extend TPA? Where do you see failure to extend fast track putting the U.S.? While other countries are busy making deals and creating economic opportunities for their workers and companies, the U.S. will be on the sidelines. Isn't this a step backwards?

Answer:

TPA is critical for convincing other governments to negotiate and conclude market-opening agreements with the United States. It tells other countries that the United States speaks with one voice at the negotiating table. For example, we will need TPA to conclude and implement a global market-opening agreement in the current Doha round of trade negotiations.

Under TPA, other countries are willing to make tough trade concessions to us because they know the deal they strike will not be reopened in the Congress. In addition, the specific negotiating guidance that Congress provided in TPA, as well as our ongoing consultations with Congress, helps us shape our dialog with our prospective FTA partners and in the Doha negotiations.

Without TPA, we would be forced to sit on the sidelines, as we did during much of the last decade, while our trading partners close deals with other countries. Few countries will negotiate seriously with the United States without TPA. Our major trading partners, the EU, Japan, and China, are aggressively pursuing bilateral and regional deals around the world to lower tariff and non-tariff barriers to their products. For example, Japan is currently negotiating trade agreements with several East Asian nations. The EU is in preliminary trade discussions with India, South Korea, and the ASEAN nations. The ASEAN nations, in turn, are in intensive trade talks with Japan, China, South Korea, India, New Zealand, and Australia ("ASEAN + 6").

Should TPA lapse, our prospects of concluding meaningful bilateral, regional, or multilateral bilateral trade agreements around the world will be greatly reduced. That, in turn, will greatly diminish our ability to dismantle barriers to U.S. products and services, putting our businesses, farmers, and workers at a disadvantage with their competitors around the world.

Question 2

In general terms, why should we have Trade Promotion Authority extended? Can you make the case for why TPA should be not only extended but expanded as well?

Answer:

TPA is a critical part of our economic engagement with the world. The United States already has the most open, major economy in the world, which has allowed our consumers to enjoy a wide array of choices, from food to electronics, and our businesses to obtain the parts and materials they need to stay globally competitive.

TPA gives the Administration the tools to reduce tariffs and other trade barriers to U.S. exports. Reducing tariffs and trade barriers will give our farmers, ranchers, manufacturers and service provides better access to the 95% of the world's customers living outside our borders. Exports are becoming increasingly important to the U.S. economy, driving U.S. economic growth. Over the last year, inflation adjusted exports have grown (9.1%), more than 3 times as fast as the healthy U.S. economy (up 3.0%), accounting for a third (33.3%) of the economy's growth.

Manufactured exports have increased 107% since the end of the last multilateral round a decade ago (through annualized 2006). Manufactured exports support an estimated 5.2 million jobs in the U.S, including one in six manufacturing jobs. Agriculture exports (including processed food) support nine-hundred and twenty-six thousand jobs in the U.S. One of every three U.S. acres is planted for export.

And in services, the U.S. had a $66 billion surplus in 2005 on exports totaling $381 billion, and these exports have nearly doubled since 1994. For annualized 2006, the services surplus is estimated to be $72 billion on exports totaling $414 billion.

In addition, U.S. jobs supported by goods exports pay an estimated 13% to 18% more than the U.S. national average. Today, by some estimates, U.S. annual incomes are $1 trillion higher, or $9,000 per household, due to increased trade liberalization since 1945. If remaining global trade barriers are eliminated, U.S. annual incomes could increase by an additional $500 billion, adding roughly $4,500 per household. And reducing trade barriers will spur the creation of more, higher paying U.S. jobs. Services account for 8 out of every 10 jobs in the United States – an area of significant growth potential from a successful Doha round.

With respect to our bilateral and regional FTAs, our FTA partners represent a large share of U.S. exports. U.S. goods exports to the 16 countries that Congress has approved FTAs with accounted for 43% of total U.S. goods exports to the world in 2006.

Simply put, trade agreements mean more exports, better jobs, and more choices for consumers. TPA is an indispensable part of keeping the United States front and center in creating economic opportunities for our companies, workers, and farmers and in promoting freedom and cooperation through trade and investment.

Question 3

Given the strong link between U.S. investment overseas and the growth of U.S. exports, strong investment rules are absolutely critical in a market like Korea that use less than transparent regulatory barriers. I am concerned by reports that Korea is seeking a weakening of both the underlying protections for investment and potentially a weakening or elimination of investor-state dispute settlement. Can you assure me that U.S. negotiators are seeking high standards and not weakening these provisions that are so critical? Can you tell me very generally how these negotiations are going?

Answer:

We agree that it is essential that a KORUS FTA contain the high-standard investment protections found in our model bilateral investment treaty ("BIT") and FTA investment chapters. We believe that the provisions of our investment chapter will go a long way toward improving the investment climate in Korea, and that the investment chapter text that we have tabled will require Korea to adopt and maintain very high standards with respect to its investment regime.

We also agree with your specific concern that an eventual KORUS FTA should include our high-standard investor-state arbitration mechanism, which is important for U.S. investors doing business in Korea. I can assure you that our negotiators are working hard to ensure that an ultimate agreement includes this core provision (as well as the other core provisions). Indeed, we believe we can address the priorities and concerns that the Koreans have raised with respect to these two issues, and to the chapter overall, without weakening the fundamental protections of the chapter for U.S. investors.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR LINCOLN

Question 1

Ambassador Schwab, in signing the Softwood Lumber Agreement, the United States and Canada agreed on a set of terms to settle the softwood lumber dispute. A key element of the agreement is Canada's commitment to forego providing new subsidies to its lumber industry. I am therefore deeply concerned by announcements by Canada that it is proceeding with new subsidy programs that appear to be in violation of these important terms.

The American lumber and forestry industries are critical elements of the U.S. manufacturing base and many state economies. I have personally seen the great harm subsidized and dumped imports can cause to our industry, its workers, and forest landowners. Can you elaborate on what measures you plan to take to ensure that the United States obtains an ironclad commitment from Canada to discontinue these unfair trading practices?

Answer:

I share your concerns about these assistance programs. I wrote to Canada's trade minister, David Emerson, about our concerns at the end of January. Ambassador Veroneau raised the issue in bilateral meetings he held with Canada's deputy Trade minister on February 23 and 26, and other U.S. officials raised the issue during last week's meeting of the bilateral Softwood Lumber Committee in Washington. During the extensive discussion of this issue in the course of that meeting, Canadian government representatives provided our officials detailed information about their programs. We intend to evaluate that information and determine our next steps after consulting with U.S. industry.

Question 2

Ambassador Schwab, on September 29, 2006 the Russian Agricultural Inspection Agency sent a letter to USDA/FAS announcing an import ban on all varieties of U.S. rice citing the discovery of GM rice seeds in shipments of U.S. long grain rice to the European Union (EU). The EU has not imposed a ban on U.S. rice, but rather insisted on onerous testing and certification requirements prior to customs clearing.

In mid-October 2006, Russia extended the ban to all origins of rice citing poor quality, mold and high levels of pesticides and named nearly every rice-exporting nation in the world. This extension of the Russian ban on rice was equally unjustified and in practical terms was likely an attempt to avoid criticism for singling-out U.S. rice in the initial ban.

The effect of the ban on U.S. and specifically medium-grain rice exports has been significant. Over the past 5 years, U.S. exports to Russia of "premium medium grain rice" used primarily for sushi have grown to exceed 3,000 metric tons per year – in dollar terms over $3.7 million per year. Considering the increasing interest in Japanese style food worldwide, the industry believes there is an opportunity for a 100% increase in sales over the next five years.

Ambassador Schwab, can you elaborate on any steps the Administration has taken or plans to take in order to address this issue?

Answer:

Thank you for your questions related to Russia's ban on rice imports. The ban on U.S. rice was imposed in late September 2006. The ban on all origins of rice was imposed in early December 2006.

As you noted in your letter, Russia did not observe WTO requirements when it imposed the ban on imports of both biotech and conventional varieties of rice. The ban was imposed without prior notice or sufficient justification for such measures.

The United States has been working both bilaterally and multilaterally to have Russia remove the ban. The U.S. embassy in Moscow is working with other local embassies to engage the Ministry of Agriculture because the December ban affects imports from all sources. In addition, we continue work here and in Moscow for resolution of the biotech-based elements of the ban.

To re-inforce these efforts, in mid-February we delivered a demarche to senior Russian officials urging them to immediately lift the ban on U.S. rice. In addition, we will raise this issue in Geneva next week in discussions about Russia's sanitary and phytosanitary regime and its bid to enter the WTO.

This is an important issue for USTR and we will continue to push Russia take immediate steps to restore trade.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR SNOWE

Question 1
Bringing about and implementing the 2006 Softwood Lumber Agreement between the United States and Canada can only be described as a monumental achievement by the office of the United States Trade Representative under the leadership of Ambassador Susan Schwab.

We must now ensure that the agreement provides the intended benefits to our softwood lumber industry. This requires that the agreement terms are not violated.

It is deeply troubling that within weeks of implementing the agreement, Canada announced that it will provide its lumber and forestry industry with over $1 billion dollars of new subsidies over the next five years. It is alarming that payments of these new subsidies have already begun without any consultations with the United States. It is intolerable that Canadian lumber producers are receiving new subsidies while U.S. producers are forced to endure disproportionate layoffs and production curtailments in the face of weak market conditions.

What steps are you taking to ensure that Canada abides by all the provisions of the agreement, including the prohibition against new unfair subsidies? As the media reports on an almost weekly basis about new subsidies and payments to Canadian producers, what, in your opinion, will it take to ensure that Canada stops violating the no new unfair subsidies provision of the agreement? Will either you or Deputy USTR John Veronau attend the February 23 meeting between the United States and Canada? Is the purpose of the February 23 meeting to deal exclusively with the new subsidy issue, or is it a more general meeting to discuss miscellaneous agreement related technical issues?

Answer:

I share your concerns about these assistance programs. I wrote to Canada's trade minister, David Emerson, about our concerns at the end of January. Ambassador Veroneau raised the issue in bilateral meetings he held with Canada's deputy Trade minister on February 26 and 27, and other U.S. officials raised the issue during last week's meeting of the bilateral Softwood Lumber Committee in Washington. During the extensive discussion of this issue in the course of that meeting, Canadian government representatives provided our officials detailed information about their programs. We intend to evaluate that information and determine our next steps after consulting with U.S. industry.

QUESTIONS FOR AMBASSADOR SCHWAB FROM SENATOR KYL

Question 1
I would like to get your reaction to an issue that has been brought to my attention concerning barriers to investment in India. I have heard that investment barriers may exist in a number of market sectors, including retail, insurance and telecommunications, and information technology. It is my understanding that the United States Trade

Representative's National Trade Estimate on Foreign Trade Barriers (NTE) highlighted these barriers. I have heard that, even when 100 percent foreign direct investment is permitted by law, regulatory barriers can make 100 percent foreign direct investment unachievable as a practical matter.

I know your office has been looking into this issue, and appreciate your interest in making sure that U.S. firms are treated fairly under Indian law. Could you give us an update on this specific non-market barrier challenge in India, and the issue of investment barriers in general?

Answer:

One of the Administration's key goals is to broaden the economic relationship between the United States and India. Indeed, India has undertaken numerous reforms over the past two decades to liberalize its economy and better facilitate trade and investment flows. However, India's reforms, liberalization, and market opening are a work in progress. India's policies, laws and regulations continue to impede investment in certain sectors. While some U.S. companies (such as IBM) have succeeded in establishing 100 percent ownership in the information technology (IT) sector, we are aware of at least one company that recently faced difficulties in achieving 100 percent ownership due to India's policies governing the delisting of publicly traded companies. Some of the relevant Indian policies remain out of step with international norms, though generally speaking the problems are systemic and they do not reflect discrimination targeting U.S. firms. That said, we have been told that the Indian regulators are preparing to make further modifications to the regulations in the near future.

I will chair the next meeting of the Trade Policy Forum (TPF) with my counterpart, Commerce Minister Nath, in April in New Delhi. The TPF provides a forum for accelerating the pace of growth in our bilateral trade, including addressing barriers to bilateral trade and investment. Two of the TPF focus groups, Services and Investment, cover these issues. The U.S. side is also working to persuade India to further its market opening and liberalization to allow greater foreign participation in key sectors such as telecommunications, retail, and insurance.

Question 2

It is my understanding that Japan is in the process of privatizing, or has privatized, its postal operations. I have heard concerns that insurance products will be sold from Japanese postal facilities in a manner that may violate the General Agreement on Trade in Services.

Do you believe the concerns are valid? If so, would you please update the Committee on any steps being taken by your office to address the situation?

Answer:

The Japanese Government is currently developing reforms to its postal insurance and banking system, and plans to begin implementing these reforms starting in October. Since the reforms are still under debate, it is hard to reach any conclusions about whether

the final rules and regulations are consistent with GATS rules. As the reform process moves forward, we will evaluate any additional regulations and requirements carefully, and make clear we expect Japan to comply fully with its international trade obligations.

We also have been making clear the importance of this issue in our bilateral trade agenda. The Administration has consistently raised this issue with Japan at the highest levels over the past three years, and we will continue to do so. We will continue to work closely with the Departments of State, Commerce, and Treasury as well as other U.S. agencies to ensure Japan does not back away from creating a level playing field in the privatization process in the upcoming critical months. We will also continue to work in close consultation with U.S. industry to ensure the reforms to Japan Post are consistent with Japan's international obligations.

SENATE FINANCE

COMMITTEE HEARING ON

THE ADMINISTRATION'S 2007 TRADE AGENDA

February 15, 2007

TESTIMONY

SUBMITTED FOR THE RECORD

BY

THE ADVANCED MEDICAL TECHNOLOGY ASSOCIATION (AdvaMed)

Bringing innovation to patient care worldwide

We thank the Committee for holding this important Hearing today on the Administration's 2007 Trade Agenda. As you may know, AdvaMed represents over 1,300 of the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. Our members are devoted to the development of new technologies that allow patients to lead longer, healthier, and more productive lives. Together, our members manufacture nearly 90 percent of the $86 billion in life-enhancing health care technology products purchased annually in the United States, and nearly 50 percent of the $220 billion in medical technology products purchased globally. Exports in medical devices and diagnostics totaled $25.5 billion in 2005, and imports were $23.7 billion. The medical technology industry directly employs about 350,000 workers in the U.S.

The medical technology industry is fueled by intensive competition and the innovative energy of small companies – firms that drive very rapid innovation cycles among products, in many cases leading new product iterations every 18 months. Accordingly, our US industry succeeds most in fair, transparent global markets where products can be adopted on their merits. We strongly support the Administration's effort to expand market access for US products abroad through the World Trade Organization (WTO negotiations and new free trade agreements (FTAs), as well as oversight of market access barriers in countries with which we have strong trade relationships.

Global Challenges

Innovative medical technologies offer an important solution for industrialized nations, including Japan and European Union members that face serious health care budget constraints and the demands of aging populations. Medical technologies also provide a way for emerging market countries, like China, India, and Korea, to improve healthcare to their people, who are increasingly expecting substantially better healthcare to accompany rapid economic development. Advanced medical technology can not only save and enhance patients' lives, but also lower health care costs, improve the efficiency of the health care delivery system, and increase productivity by allowing people to return to work sooner.

To deliver this value to patients, our industry invests heavily in research and development (R&D). Today, our industry leads global medical technology R&D, both in terms of innovation as well as investment. The level of R&D spending in the medical devices and diagnostic industry, as a percent of sales, more than doubled during the 1990s – increasing from 5.4% in 1990 to 8.4% in 1995 and over 11% last year. In absolute terms, R&D spending has increased 20% on a cumulative annual basis since 1990. Our industry's level of spending on R&D is more than three times the overall U.S. average.

Despite the great advances the medical technology industry has made in improving patient quality of life and delivering considerable value for its innovations, patient access to critical medical technology advances can be hindered by onerous government policies. Patients and health care systems experience much less benefit from our industry's R&D investment when regulatory procedures are complex, non-transparent, or overly burdensome – all of which can significantly delay patient access and drive up costs. In the future, patients will be further disadvantaged if reimbursement systems fail to provide appropriate payments for innovative products – which will subsequently affect the availability of R&D funds and the stream of new technologies.

The medical technology industry is facing these challenges around the world as governments enact more regulations. While we support those regulations that ensure product safety and efficacy, many others are being imposed without scientific justification, and in non-transparent processes, which only adds to costs and delays without improving patient outcomes.

As governments prioritize difficult budget decisions, they sometimes look to short-term decreases in health care expenditures without accurately assessing the long-term implications. In most cases, governments do not effectively measure the contributions medical technology makes in enhancing patient outcomes and productivity as well as expanding economic growth, which would more than offset the costs of providing these products. Instead, governments often inappropriately include reduced reimbursement rates as part of overall budget cuts.

In some cases, governments seek to reduce prices of medical technologies in their country by comparing and referencing prices in other countries. By fixing ceiling prices based on the prices found in other countries, governments are imposing price controls on medical technologies that do not appropriately account for different market conditions and contract terms. Our industry is witnessing a spread of these reference pricing schemes. In the longer-term, patients in these countries and around the world will experience less access to innovative medical technologies, as research and development funds decrease.

AdvaMed applauds continued progress on international trade initiatives, including bilateral, regional and global trade negotiations, such as newly concluded free trade agreements (FTAs) in Latin America, and the Doha Development Agenda in the World Trade Organization (WTO). We support new efforts with our other trading partners to provide U.S. exports of medical devices duty-free treatment. We are hopeful that future bilateral agreements, including the U.S.-Korea FTA and the U.S.-Malaysia FTA, can also include directives to knock down tariff and non-tariff barriers for medical technologies. In addition, the President and U.S. Trade Representative (USTR) should continue to pursue trade liberalization in the medical technology sector with our major trading partners.

AdvaMed believes the USTR, Department of Commerce (DOC) and Congress should monitor regulatory, technology assessment and reimbursement policies in foreign health care systems and push for the creation or maintenance of transparent assessment processes and the opportunity for industry participation in decision making. We look to the Administration and Congress to actively oppose excessive regulation, government price controls, foreign reference pricing schemes, and arbitrary, across-the-board reimbursement cuts imposed on foreign medical devices and diagnostics.

Continued U.S. Leadership Needed to Fight Trade Barriers in Japan

The Administration's efforts with Japan under the U.S.-Japan Partnership for Economic Growth are critical for the medical technology industry to maintain access to the Japanese health market.

After the U.S., Japan is the largest global market for medical technologies at $25 billion. Yet the situation facing the medical technology industry in Japan is getting more difficult every year. Japan's system for approving use of new medical technologies is the slowest and most costly in the developed world. Although Japan is one of the wealthiest countries in the world – the second largest economy in the world – its spending on health care is among the lowest of major

developed countries. On a *per capita* basis, Japan's spending of about 8.0% of GDP is lower than 18 other Organization of Economic Cooperation and Development (OECD) member countries.

In April 2005, Japan compounded the problem by imposing even more burdensome and costlier regulations, thereby penalizing the U.S. medical technology industry. Japan's latest regulations are expected to cost our industry over $1.5 billion just to achieve compliance to 2010.

Even after creating a new agency in 2004 to process applications for medical technology products, Japan has a huge backlog of unprocessed applications. A problem for this new agency is the number of staff reviewing applications for approval of medical technology products – about 40 officials, compared to over 700 in the U.S. Due to the long approval process, the medical technologies patients receive in Japan are often several generations behind the products in the U.S., Europe, and even developing countries like China, India and Thailand. Lengthy approvals also translate to higher costs for the U.S. medical technology industry, which must maintain out-of-date product lines just for Japan.

At the same time, Japan has made significant reimbursement reductions for medical technologies that impact the medical device industry in many ways, including limiting the availability of funds that could be devoted to R&D of new and innovative products. Inventing products that save and enhance lives requires large investments. Deep cuts for medical technologies in Japan have put downward pressure on companies' ability to invest in R&D.

The Japanese government sets the maximum reimbursement rates, which usually act as ceiling prices for all medical technology products. These prices are reviewed and usually reduced every two years. For the period April 2002 to March 2006, the total revenue loss from these reimbursement reductions was about $3 billion – a significant share of which would have gone toward R&D. On top of this, Japan imposed additional cuts of several hundred million dollars in April 2006.

Before 2002, Japan adjusted prices according to a process it called "reasonable-zone" or "R-zone." In brief, MHLW surveys its hospitals for prices paid to distributors, and allows for a reasonable margin (or "zone") for discounts off of the government's reimbursement rate. While there are some difficulties with this system – as identified in bilateral Market-Oriented, Sector Specific (MOSS) negotiations between the U.S. and Japanese governments – our industry recognizes that it is at least based on factors in the Japanese market.

In 2002, however, Japan also adopted a system called Foreign Average Pricing (FAP). This system calls for the establishment and revision of reimbursement rates on the basis of prices paid for medical technology products in the U.S., France, Germany, and the United Kingdom (U.K). The prices of medical technology products in Japan are designed to be based not on that market's requirements, but on completely unrelated conditions in foreign markets.

The U.S. medical technology industry has strong objections to this system for calculating reimbursement rates. As a methodology for setting reimbursement rates, it is not economically sound to compare prices in foreign markets that operate under vastly different conditions. Japan is a far costlier market for our industry to operate in compared to other countries. Additionally, Japan's FAP system is an attempt to compare prices for products that are not the same in Japan

as they are in other countries. Due to Japan's regulatory delays, U.S. manufacturers must incur the cost of maintaining older or outmoded production lines for sale in Japan.

Going forward, industry seeks U.S. Government and Congressional support to help ensure an open dialogue with Japan that would seek to identify alternatives to the current reimbursement system and improvements in Japan's regulatory practices. The goal would be to ensure that Japan's regulatory and reimbursement policies promote the timely introduction of innovative medical technologies and do not negatively and unfairly impact U.S. medical technology manufacturers.

Regulatory and Reimbursement Obstacles Impede Market Access in Asia-Pacific

AdvaMed looks to the US government to pursue trade liberalization throughout the Asia-Pacific region, including in China, India, Taiwan and Korea. AdvaMed and its member companies have identified a number of real and potential barriers to doing business in these countries. While most of the barriers pertain to unnecessary or redundant regulatory requirements, there are increasing concerns in the areas of reimbursement and intellectual property.

China has quickly become an important market for the U.S. medical technology sector. The American Chamber of Commerce in China estimates that the Chinese market for medical technology exceeds $8 billion and is growing rapidly. It is on pace to surpass some of the key European markets for medical technology in a few years. As global leaders, U.S. medical technology firms already account for a significant portion of sales in China and the position of these firms underscores the importance of ongoing efforts with the U.S. government to open the Chinese market further.

AdvaMed looks forward to working with Congress and the Administration to address the following barriers:

- A Lengthy and Costly Product Registration Process
- Redundancy in the Registration Process
- Lack of Transparency in Decision-Making
- Inappropriate Price Controls
- Counterfeiting and piracy of Medical Technology

For the medical technology industry, the Bush Administration's efforts with China under the U.S. – China Joint Commission on Commerce and Trade, as well as in less formal meetings, are critical for allowing U.S. medical technology firms broader access to the burgeoning Chinese health care market. The recently-launched U.S. – China Health Care Forum initiative, led by the U.S. Department of Commerce and supported by AdvaMed and other health care partners, holds great promise as another vehicle for addressing many of the trade-related and health policy-related barriers confronting U.S. medical technology firms in China. We also endorse including healthcare under the Strategic Economic Dialogue.

Korea is another important market for U.S. medical technology exporters. Last year, U.S. manufacturers exported more than $500 million worth of medical technology products to Korea, an increase of 24 percent over the previous year. However, access to this market remains marred by antiquated product-testing requirements; inappropriate requirements to re-register products

following a change in manufacturing location; and pricing and reimbursement policies that discriminate against foreign manufacturers. Korea was not a party to the Uruguay Round zero-for-zero tariff agreement on medical technology, and maintains import tariffs on a range of medical technology products. AdvaMed recommends the fastest possible elimination of tariffs and non-tariff measures applied to medical technology products by Korea. AdvaMed is also concerned that Korea's current reimbursement policies create incentives to re-use medical devices designated for a single-use in multiple procedures within several different patients, with the attendant risks of cross contamination and degradation of product quality. AdvaMed looks forward to working with Congress and the Administration through the U.S.-Korea Free Trade Agreement negotiations to address these issues.

India, with its rapid economic growth and large population, will be an important market in the future. India is in the process of developing its regulatory system for medical technologies. The Department of Commerce has provide AdvaMed invaluable assistance in working with the Government of India on its approach to regulations.

Europe: Seek Appropriate Policies That Improve Patient Access to Innovative Medical Technologies

Efforts to oversee foreign policies impacting the export and sale of US medical technologies abroad should also focus on the European Union (EU). U.S. manufacturers of medical devices export nearly $8.8 billion annually to the EU. Within the EU, Germany ($20 billion) and France ($8 billion) are the largest markets for medical devices.

Despite opposition from Congress and the Administration, in 2005, the European Commission approved a directive to up-classify all shoulder, hip and knee joint implants from Class IIB to Class III Industry now is focused on fair and transparent implementation of the directive, so as to minimize disruption of this important market.

In addition, the EU continues efforts towards over-regulation of industry through the implementation of burdensome regulatory measures such as the Medical Device Directive revision, the REACH chemicals initiative, the WEEE/ROHS, and a possible ban on the use of DEHP in medical devices. Industry also remains concerned about the potential termination of an EU exception that allows U.S. exporters to include both metric and non-metric labeling on their products. Elimination of the exception would require U.S. manufacturers exporting to the EU to develop metric-only labeling for the EU.

Finally, as new methods of reimbursement and health technology assessment (HTA) spread throughout Europe, EU Member States should be encouraged to adopt policies for product reimbursement and health technology assessment systems that are transparent, timely, and adequately account for the benefits of innovative technology. Breakthrough products available in the United States to a majority of patients are still available to only a small fraction of eligible patients in the major European markets. Industry should be allowed to participate in the HTA process.

Specific recent issues of concern include onerous new national tendering policies in the United Kingdom and Italy, where product prices will be unilaterally reduced without sufficient regard to quality or innovation. Because US manufacturers are benchmark leaders in the most innovative,

high technology products, these policies have a disproportionate impact on our US companies and threaten to drive innovation out of the marketplace. Because it further becomes less attractive to invest in these markets and conduct research, it increasingly means that the burden for R &D is shifted more to American markets.

Product Reimbursement in Brazil

In December 2006, the Brazilian product registration authority, ANVISA, issued Technical Regulations that require the most sweeping and complex submissions of foreign reference pricing data of any market in the world. Consistent with U.S. policy for other foreign markets, we encourage Congress and the Administration to oppose this policy, as it will seek to artificially fix prices in the Brazilian market, stifle innovation and deny Brazilian patients the benefits of U.S. medical technologies.

Utilize Multilateral, Regional, and Bilateral Forums to Eliminate Tariff and Nontariff Barriers to Trade that Unnecessarily Increase the Cost of Health Care

We encourage Congressional and Administration efforts to eliminate significant tariff and nontariff barriers to trade for medical technology maintained by many countries, particularly developing countries. Such barriers represent a self-imposed and unnecessary tax that substantially increases the cost of health care to their own citizens and delays the introduction of new, cost-effective, medically beneficial treatments. For example, the medical technology sector continues to face tariffs of 15-20% in Mercosur countries, 9-12% in Chile, Peru, and Colombia, and 6-15% in China.

The Doha Development Agenda offers an important opportunity for the United States to ensure global access to medical technology by securing global commitments on lowering tariff and nontariff barriers for the medical technology sector while expanding upon the access to medicines goal at the heart of the Doha declaration. We support resumption of negotiations on this important multilateral trade round. We encourage the U.S. government to build upon the zero-for-zero tariff agreement on medical technology achieved in the Uruguay round by expanding the product coverage and adding countries throughout Latin America and Asia as well. AdvaMed has proposed a sectoral initiative that would achieve this objective to the Administration. Moreover, elimination of nontariff barriers such as burdensome import licensing regulations and non-transparent government procurement policies will help developing countries ensure patient access to lifesaving medical technologies.

Utilize Multilateral Opportunities to Establish Basic Regulatory and Reimbursement Principles to Expand Global Trade and Patient Access to New Technologies

We commend the WTO's recent efforts to ensure global access to medicines and medical products. While all economies seek to provide high quality, cost effective healthcare products and services to their citizens, they should also ensure timely access to state-of-the-art, life-saving equipment and implement compliance procedures that are efficient and effective. To further expand patient access to safe and effective medical devices and ensure cost effective regulatory compliance, USTR should seek to ensure that economies around the world make their policies and practices conform to the relevant and appropriate international trading rules established by the WTO.

Member economies should agree to make their medical device regulatory regimes conform to these guiding principles:

- Acceptance of International Standards;
- Transparency and National Treatment;
- Use of Harmonized Quality or Good Manufacturing Practice Inspections;
- Recognition of Others Product Approvals (or the Data Used for Those Approvals);
- Development of Harmonized Auditing and Vigilance Reporting Rules;
- Use of Non-Governmental Accredited Expert Third Parties Bodies for Inspections and Approvals, where possible.

Similarly, many economies require purchases of medical technologies to take place through centralized and/or government-administered insurance reimbursement systems. To ensure timely patient access to advanced medical technologies supplied by foreign as well as domestic sources, member economies should agree to adopt these guiding principles regarding the reimbursement of medical technologies:

- Establish clear and transparent rules for decision-making;
- Develop reasonable time frames for decision-making;
- Data requirements should be sensitive to the medical innovation process;
- Reimbursement rates should be based on conditions in each country;
- Ensure balanced opportunity for the primary suppliers and developers of technology to participate in decision-making, e.g., national treatment;
- Establish meaningful appeals processes.

The medical technology industry is committed to working with Congress and the Administration on upcoming trade policies and agreements to ensure patients throughout the world have access to medical products.

Conclusion

AdvaMed appreciates the shared commitment by Congress and the President to expand international trade opportunities and encourage global trade liberalization. We look to the U.S. Government to aggressively combat barriers to trade throughout the globe, especially in Japan. AdvaMed is fully prepared to work with Congress to monitor, enforce and advance multilateral, regional and bilateral trade agreements, particularly with our key trading partners.

AMERICAN FOREST & PAPER ASSOCIATION

STATEMENT SUBMITTED FOR THE RECORD

U.S. SENATE COMMITTEE ON FINANCE

HEARING ON THE ADMINISTRATION'S 2007 TRADE AGENDA

February 15, 2007

The American Forest & Paper Association (AF&PA) appreciates this opportunity to present the forest and paper products industry's views regarding international trade. AF&PA is the national trade association of the forest, pulp, paper, paperboard and wood products industry. The industry accounts for approximately 6 percent of the total U.S. manufacturing output, employs more than a million people, and ranks among the top 10 manufacturing employers in 42 states with an estimated payroll exceeding $50 billion. Sales of the paper and forest products industry top $230 billion annually in the U.S. and export markets.

As is the case with many U.S. manufacturing industries, we face increasing domestic and international challenges. Since early 1997, 128 pulp and paper mills have closed in the U.S., contributing to a loss of 85,000 jobs, or 39 percent of our workforce. An additional 60,000 jobs have been lost in the wood products industry since 1997.

U.S. and Global Trade in Forest Products

The U.S. forest products industry for many years has faced the competitive forces unleashed by globalization. The United States is one of the world's most diverse exporters of forest products, as well as the largest importer. In 2005, U.S. exports of forest products grew to $22.9 billion, a year-on-year increase of 7.7 percent, and were composed of $5.9 billion of wood products and $17 billion in pulp and paper products. Exports accounted for approximately 10 percent of total sales of U.S. forest products last year.

However, U.S. imports of forest products have consistently grown at a faster rate than American exports, resulting in an ever-widening U.S. trade deficit. This trend has been intensified as many key foreign competitors have used various tools including protective tariff and non-tariff barriers, subsidies and undervalued currencies to develop world-class, export-oriented forest products industries, which have been able to exploit the open American market. The U.S. trade deficit in forest products grew to $21.7 billion in 2005, an increase of 63 percent from 2001.

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One of the most significant international trends that has emerged over the past two decades is the increasingly important role of developing countries in the global trade of forest products – as both exporters and importers – and similarly as consumers and producers. For example, forest product exports from seven geographically dispersed countries -- Brazil, Chile, China, Indonesia, Malaysia, South Africa, and Thailand – have more than doubled since 1998 and developing countries are rapidly increasing their share of global forest products production.

In addition to being involved in international trade, AF&PA members are international producers, with primary mills and converting facilities in Canada, Europe, South America and Asia that supply local markets. Other AF&PA members have U.S. operations of Canadian, European and other foreign countries.

Opening Global Markets

As an industry that believes in the economic benefits of trade liberalization, we have been a strong supporter of the trade negotiating agenda of both Republican and Democratic Administrations. We believe that multilateral trade liberalization is the best way to achieve greater market access for our companies. However, when multilateral negotiations have stalled or have not produced the desired elimination of tariff and non-tariff barriers, our industry has supported the negotiation of bilateral free trade agreements.

To achieve further trade liberalization, AF&PA strongly supports the President's recent request for renewal of Trade Promotion Authority (TPA) before it expires on June 30, 2007. TPA provides U.S. negotiators with the credibility they need to extract the best possible outcome in new trade agreements. To continue pursuing the reduction of both multilateral and bilateral tariff and non-tariff barriers, the Administration will need a renewal of a Congressional authority to negotiate trade agreements under "fast track" conditions.

The Doha Development Agenda

AF&PA strongly supports the World Trade Organization (WTO) Doha Development Agenda (DDA) and we hope the negotiations, which were suspended in July 2006, can resume quickly and conclude with a final agreement this year. AF&PA backs the Administration's market access proposal for the WTO negotiations. We believe that sectoral tariff elimination should be a principal negotiating modality of the Non-Agricultural Market Access (NAMA) talks to go along with an ambitious overall tariff formula cut that results in substantial cuts in applied tariffs. It is critical to our industry that the early elimination of tariffs on wood and paper products, through a forest products sectoral agreement, be achieved. But for such a forest products sectoral accord to be viable, it is essential that all developed and advanced developing countries that are significant producers, are major markets, and with

substantial forest resources – e.g., Brazil, China, India, Indonesia, Malaysia – fully participate.

The U.S. and most other developed countries agreed in the Uruguay Round to eliminate tariffs on pulp and paper products (Chapter 47, 48) by January 1, 2004. However, developing countries did not make any commitments to reduce tariffs and continue to maintain substantial duties on both paper and wood products. U.S. tariffs on imports of wood products (Chapter 44) are already at or near zero with only a few wood product categories subject to higher rates. Also, these higher rates apply only to a very limited number of countries which are not members of preferential tariff agreements such as the Generalized System of Preferences.

As a result, the U.S. forest products industry has been forced to operate under a significant competitive disadvantage vis-à-vis emerging competitors such as Brazil, China, Indonesia, and Malaysia. High tariffs (combined with non-tariff barriers discussed below) have allowed countries in Europe, Asia and South America to build world-class paper and wood processing industries, at times supported by government financial assistance, which compete with U.S. suppliers both at home and in third country markets. For example, in recent years, China has significantly expanded and modernized its forest products industry, aided by subsidies and other government policies designed to grow and promote a domestic industry, while tariffs and non-tariff barriers (NTBs) limit the ability of competitive U.S. suppliers to fully take advantage of this fast growing market. So while China has significantly reduced its wood and paper tariffs under its WTO accession agreement, China's participation in a forest products sectoral agreement will ensure that U.S. products of wood and paper products have the same duty-free access to the Chinese market as Chinese producers enjoy in the U.S.

Free Trade Agreements

As a supplement to the multilateral process under the WTO, free trade agreements (FTAs) can also serve as a way to address the U.S. forest products industry's trade liberalization objectives. AF&PA has been a strong supporter of the FTA negotiation process and we have already seen the benefits to our industry resulting from the bilateral elimination of tariffs. For example, the U.S.-Chile FTA has been a benefit to our industry's exports. On January 1, 2004, when the FTA was implemented, Chile eliminated its 6% duty on all forest products. Since then, U.S. exports to Chile have more than doubled and exceeded $100 million in 2006.

To achieve maximum benefits from future FTAs, AF&PA believes that the U.S. should seek the immediate tariff elimination on forest products as was negotiated in the Chile and Australia FTAs. Should that not be feasible due to special product sensitivities, the U.S. should seek tariff elimination in as front-loaded a manner as possible. In the ongoing FTA negotiations with Malaysia and South Korea, as well as

in other future FTAs, the U.S. should also focus on the elimination of non-tariff barriers and pursue the industry's policies which seek to address subsidies for capacity building, exchange rates that are not market-based, and commitments to combat illegal logging and related trade.

Subsidies

Subsidies provided by foreign governments for capacity additions or for upgrading existing facilities pose a serious challenge to the competitiveness of the U.S. forest products industry. Government subsidies distort markets by financing new capacity in sectors already experiencing global overcapacity, and supporting production capacity in inefficient facilities that would otherwise be closed in an open market environment. The distortions associated with subsidized capacity building or capacity maintenance have worldwide implications. As American firms compete in a global market, limiting and eliminating these types of market distortions is critical to the economic health of the U.S. forest products industry and to ensuring that American companies are competing on a level playing field.

AF&PA believes that the Doha Round Rules negotiations must address the distorting effects subsidies by foreign governments have on the U.S. forest products industry. Specifically, WTO members should agree to prohibit all subsidies in capacity-sensitive sectors, whether direct subsidies or indirect subsidies provided through government-owned or government-controlled banks, with possible exceptions for capacity closure and associated worker adjustment assistance schemes. This would entail an expansion of existing subsidies disciplines, and measures would be enforceable through the WTO dispute settlement process. The U.S. also needs to seek aggressive commitments to eliminate government subsidies in FTAs, with the current FTA negotiations with South Korea being a prime opportunity.

The emergence of China as a major global economic and forest products industry player has created both business opportunities for AF&PA member companies and a source of market and trade distortions. We are concerned that the Chinese government has provided substantial direct and indirect subsidies to the Chinese paper industry in the form of grants, low interest loans, loan forgiveness and the bailout of failing enterprises. AF&PA has conducted extensive research regarding government subsidies to the paper industry in China and we believe that some of these practices may not be in compliance with China's WTO obligations.

We note that China's 11th Five Year Plan might signal an important change in emphasis from previous plans when it comes to government policy toward industry. Based on publicly available information, it seems that the new Five Year Plan has a more market oriented approach toward economic development and addresses some of the "unhealthy" outcomes of China's rapid industrial expansion, namely the potential for environmental pollution, excessive energy and water consumption, and China's raw material deficit. We hope that greater government concern about the

negative impacts of excessive investment will lead to more balanced and sustainable growth in China's paper production and capacity. In the meantime, AF&PA supports the increased scrutiny which USTR and the Department of Commerce have placed on China's industrial subsidy practices. We also continue to support legislation that would apply U.S. countervailing duty (CVD) law to subsidized imports from non-market economies such as China.

Relationship Between Currency and Market Access

Distortions in foreign exchange markets, stemming from currency manipulation by foreign governments, alter international trade patterns and adversely impact the competitiveness of U.S. firms, including forest products manufactures. A number of the U.S.'s principal trading partners, such as China, Japan and South Korea, intervene in foreign exchange markets to keep their currencies undervalued in order to support exports and effectively limit imports into their markets. It is essential that the U.S. government address the persistent challenge of currency manipulation in an active and responsible manner.

The critical role of exchange rates in determining the quality of market opportunities obtained in trade negotiations is widely accepted. For this reason, Trade Promotion Authority legislation should include language which recognizes that significant or unanticipated changes in exchange rates can negate U.S. market access gains in trade agreements and call for consultations with our trading partners under such circumstances. We recommend that USTR assess the comprehensive impact of exchange rates on market access when negotiating trade agreements, and provide a mechanism for consultations on this subject in the text of trade accords. Otherwise, U.S. trading partners may be able to negate market access negotiated for American producers under multilateral, regional and bilateral trade agreements.

Trade and Environment

The U.S. forest products industry strongly supports efforts to ensure that products entering international commerce in general and the U.S. market in particular, are produced in a sustainable manner. AF&PA members are committed to the highest level of forestry practices, as required by the independently reviewed Sustainable Forestry Initiative (SFI) and our Environmental Health & Safety Principles. We oppose trade practices that permit or foster environmental degradation to gain competitive advantage. We encourage U.S. trade policies that promote enforcement of domestic environmental laws, provide positive incentives for improvements in environmental practices, and preclude the use of environmental standards as barriers to trade.

For example, illegal logging is a shared concern among governments and producers, manufacturers, importers and exporters of forest products and a problem that compromises the economic, environmental, and social objectives of sustainable

forestry. Illegal harvesting can have harmful impacts on biodiversity and the overall environment. It also affects the competitiveness of legal forest product producers when illegally harvested wood enters the marketplace without reflecting the true cost of sustainable forest management, especially as the cost of wood is the largest cost component in any forest product, making it difficult for honest companies to compete.

The presence of illegal material in the marketplace significantly affects the ability of U.S. producers to export. A 2004 report commissioned by AF&PA analyzed the extent and economic impacts of illegally produced and traded wood products. According to that report, up to 10 percent of global timber production could be of suspicious origin and illegal logging depresses world legally harvested wood prices by 7-16 percent on average, depending on the product. If illegally harvested wood was eliminated from the global market, the study estimated the value of U.S. wood exports could increase by over $460 million each year. Domestic shipments are also impacted by a comparable amount ($500 - $700 million annually) because illegally-sourced wood depresses prices for wood products globally, even for those produced in the United States.

The recent Memorandum of Understanding (MOU) on combating illegal logging and associated trade between the U.S. and Indonesia specifically recognizes that illegal logging undermines trade in legally produced timber and forest products, reduces the economic value of forests, weakens efforts to promote sustainable forest management, and robs governments and communities of important revenues. AF&PA applauds the U.S. government's efforts in completing this MOU and recommends that consideration be given toward using this MOU as a model for future agreements with countries where illegal logging has been identified as a concern.

Trade and Labor

The U.S. forest products industry strongly supports efforts to ensure that products entering international commerce in general and U.S. markets in particular, are produced in accordance with internationally recognized labor standards. The U.S. forest products industry opposes the use of unfair labor practices to gain competitive advantage. We encourage U.S. trade policies to provide positive incentives for improvements in labor standards and enforcement of domestic labor laws.

Conclusion

AF&PA appreciates the Committee's interest in these important issues, and the ability to provide comment on them. We look forward to working with the Committee in the 110th Congress to advance the U.S. international trade agenda to the mutual benefit of our member companies and their employees through policies that will enhance their competitiveness.

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PUBLIC DOCUMENT

BEFORE THE
UNITED STATES SENATE COMMITTEE ON FINANCE

In the Matter of:

Hearing on the Administration's 2007 Trade Agenda
(February 15, 2007)

WRITTEN STATEMENT ON BEHALF OF EXPORAMERICA

February 27, 2007

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This statement is submitted on behalf of EXPORAMERICA, an association of Peruvian apparel companies whose objective is to promote increased trade between Peru and the U.S. Fostering the development of the Peruvian textile and apparel industry has been a true success of U.S. trade policy, and one that has maximized the benefits of globalization both to Peru and to manufacturers, workers and consumers in the United States, while minimizing its costs. The successes generated by this policy to date can be extended through the passage of the Peru Trade Promotion Agreement (PTPA), which has already been ratified by the Peruvian Congress and whose approval by the U.S. Congress is pending. Similarly, if the opportunity to pass the PTPA is lost and existing trade preferences expire, both the U.S. and Peruvian economies will suffer significant negative effects.

I. U.S. – Peru Trade in Fibers, Yarns, and Apparel – A Mutually Beneficial Relationship

Since the implementation of the Andean Trade and Drug Eradication Act (ATPDEA) in 2002, trade in textiles and apparel between the U.S. and Peru has grown considerably.[1] In Peru's case, apparel exports have nearly doubled since 2001 and Peru has surpassed Colombia to become the leading Andean exporter of textiles and apparel to the U.S. Although Peru supplied only 1% of total U.S. apparel imports in 2005, it was the fifth largest source of knit cotton shirts and blouses, with shipments of $644 million (equal to 78% of US textile and apparel imports from Peru) and a 5% marketshare.[2]

Peru's growth has also led to significant benefits for the U.S. as demand in Peru for raw materials has outstripped supplies. As noted by the U.S. International Trade Commission (ITC), U.S. cotton for use in the textile and apparel industry is a major export product to Peru,[3] and the provisions of the PTPA are likely to have a significant positive effect on U.S. cotton exports to Peru.[4] In addition, according to the ITC, tariff liberalization under the PTPA will likely result in a large percentage increase in U.S. exports of textiles and apparel to Peru. These exports consist mostly of yarns, fabrics, and garment parts.[5]

Reflecting the mutually beneficial nature of the U.S. and Peru industries' relationship, the Peruvian Textile and Apparel Industry Association, the National Council of Textile Organizations (NCTO) and the National Cotton Council (NCC) have expressed support for the PTPA, and have urged prompt consideration and approval of the PTPA by the U.S. Congress.

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[1] The ATPA (1991) and the ATPDEA (2002), although used interchangeably at times in this testimony, contain differences of importance to the textile and apparel industry. According to the International Economic Review (published ITC #3571 Nov./Dec. 2002), the ATPDEA "authorizes the extension of duty—free treatment to certain products previously excluded from ATPA preferences, including certain textiles and apparel, footwear, petroleum and petroleum derivatives, watches and watch parts (including cases, bracelets, and straps), and certain tuna in smaller foil or other flexible airtight packages (not cans). However, ATPDEA did not renew the reduced--duty provisions on certain handbags, luggage, flat goods, work gloves, and leather wearing apparel."

[2] United States International Trade Commission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects" – USITC Publication 3855, May 2006, p. 3-22.

[3] United States International Trade Commission, "The Impact of the Andean Trade Preference Act" – Eleventh Report 2004, USITC Publication 3803, September 2005, p. 2-38.

[4] United States International Trade Commission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects" – USITC Publication 3855, May 2006, p 3-7.

[5] Ibid p. 3-22.

The PTPA builds upon the benefits of the ATPDEA (which, without further extension, will expire in mid-2007), and its predecessor the Andean Trade Preference Act (ATPA) of 1991. A direct outgrowth of the ATPDEA is the increasing interconnectedness of the U.S. and Peruvian textile and apparel industries, a mutually beneficial trade relationship that will permit industries in both countries to face the stiff competition coming from China and other Asian producers, which largely do not use U.S. inputs in their textile and apparel production. Moreover, Chinese and Asian producers, in many instances depend on subsidies; artificially low exchange rates to promote exports; and labor that in many cases does not conform with minimum, internationally-recognized labor standards, none of which occurs in Peru, a country that scrupulously observes the 71 International Labor Organization (ILO) agreements to which it has subscribed. The PTPA will permit the already thriving U.S.-Peruvian relationship to grow, and thereby help the two industries face new competitive challenges together.

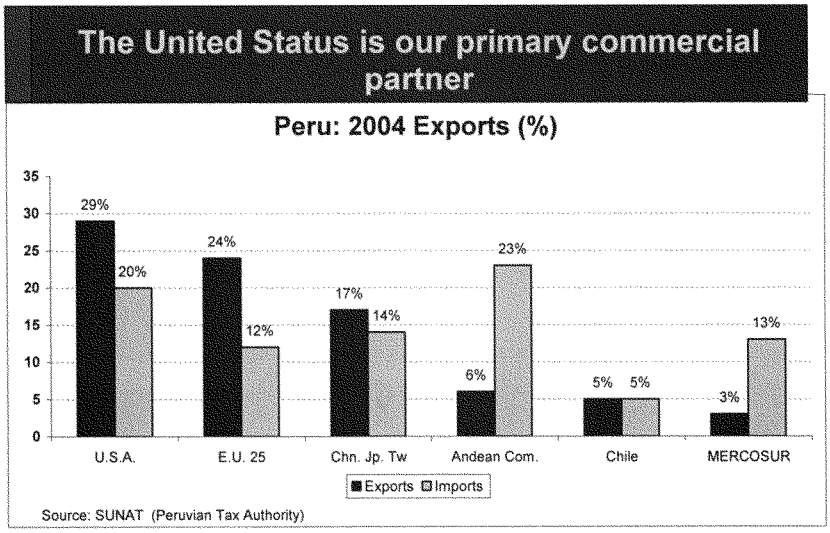
II. Benefits to the U.S. Economy:

A. Cotton

As is shown in the chart below, the U.S. is Peru's primary trade partner and the destination for nearly one third of the country's exports. As indicated earlier, Peru's growing exports also benefit the U.S. In the case of apparel, 95% of Peru's exports are manufactured from cotton fiber. Given that there is a shortfall of cotton production in Peru for use in export garments, the country must import cotton to meet the demand of its textile and apparel sector. According to the ITC, Peru imported an average of 39625 MT of cotton annually from 2000-2005, of which 27,155 MT, or more than two-thirds, were imported from the United States.[6] This growing consumption of U.S. cotton has been spurred by the ATPDEA and will be further encouraged by approval of the PTPA.

It should be noted that, at present, U.S. cotton exports to Peru are currently subject to a 12% import duty on the CIF value. Upon implementation of the PTPA, this import duty will be eliminated immediately. This will further encourage U.S. cotton exports to Peru and in turn make Peruvian apparel more competitive price-wise in the U.S. market. Moreover, Peruvian imports of a variety of synthetic fibers, demand for which has grown on a daily basis, are also likely to increase significantly. However, allowing the ATPDEA to lapse without the PTPA in place would immediately threaten this thriving relationship and hurt Peruvian apparel producers and their U.S. cotton suppliers.

[6] ITC May 2006 report, p. 3-8.



Recognizing the benefits to the U.S. cotton industry of increasing exports of U.S. cotton to the ATPDEA countries, as referenced above, the Memphis, TN-based, National Cotton Council (NCC) passed a resolution supporting the adoption of the PTPA and its strong rule of origin requirements, and informed the USTR that the NCC had determined that the agreement will be beneficial for U.S. cotton producers and for U.S. textile and apparel manufacturers.[7] The chart below shows the growth in U.S. cotton exports to Peru over the last five years.

U.S. Cotton Exports to Peru (including US Pima and US Upland)

YEAR	VOLUME M.T. FIBER	CIF VALUE IN US $	TOTAL IMPORTS %
2001	22,141.82	30,461,312	60.33
2002	32,910.34	38,909,099	77.00
2003	34,374.10	50,018,140	86.03
2004	23,774.70	43,311,251	66.87
2005	34,672.84	48,484,849	74.57

B. Yarns and Fabrics

The rules of origin agreed to under ATPDEA, and the PTPA, are designed to foster the use of inputs produced in member countries (the use of yarn or fabrics from third parties – as is the case in some of the countries that participate in the CAFTA- is not allowed in PTPA except

[7] "Cotton's Week" (NCC Newsletter), February 17, 2006, referring to letter from John Maguire, NCC senior vice president, Washington Operations to Ambassador Portman.

in specific cases). Once the PTPA is in place Peru is expected to increasingly meet its unsatisfied demand for yarn and fabrics with products manufactured in the U.S., because this is the only way in which apparel will qualify for duty free treatment in the U.S. under the rules of origin.

As the ITC notes, U.S. textile firms generally support the rules of origin for textiles and apparel under the PTPA because the rules ensure that the agreement benefits both parties and will further regional integration goals.[8] Under the agreement, yarns and fabrics produced in the U.S. will enter Peru duty free immediately upon implementation. This will boost imports from the U.S., which will have an advantage vis-à-vis yarn and fabric suppliers that pay a 25% customs tariff to enter Peru. Again, expiration of the ATPDEA, without the PTPA in place, will interrupt this flow and will threaten the growth in trade between both countries that would otherwise be expected from a smoother transition from the ATPDEA to the PTPA.[9]

C. The Apparel Value Chain in the U.S. and Other Considerations

In addition to the direct benefits to the U.S. cotton and textile industries noted above, growing apparel imports from Peru under the ATPDEA have generated benefits to the U.S. economy across the entire transportation, distribution, and retail chain. In this regard, if for example a clothing garment has a FOB Callao-Peru value of US$ 6.00, the price at which the same garment is sold in the U.S. generally ranges from US$ 40 to 50. This price differential indicates that a greater portion of the value chain involved in Peruvian apparel exports remains in U.S. hands. These considerable benefits are distributed among U.S. sea, air, and land transporters; couriers; ports; warehouses and distribution facilities; and finally retailers. It is also safe to say that the Peruvian apparel industry supports thousands of U.S. jobs along the value chain associated with this trade. Finally, the last link of this value chain is, of course, the U.S. consumer who as a result of the ATPDEA has had access at more competitive prices to high-quality apparel containing in many instances cotton and animal fibers unique to Peru.

In this regard, it is important to mention that Peruvian apparel exports include those manufactured with wools from species in the camelid family such as the alpaca, llama, and vicuña. This uniquely Peruvian production has grown rapidly in recent years, does not compete with U.S.-produced apparel, and has resulted in concrete conservation and environmental benefits in Peru.[10]

Under both the ATPA, and its successor the ATPDEA, Peru's growing apparel industry, its capacity to generate employment, and its need for imported and domestically grown cotton and other inputs, has also contributed to Peru's success in reducing illegal coca-leaf cultivation and providing alternative, legal employment for tens of thousands of Peruvians. This is an

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[8] United States International Trade Comission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects" – USITC Publication 3855, May 2006, p. 3-23.

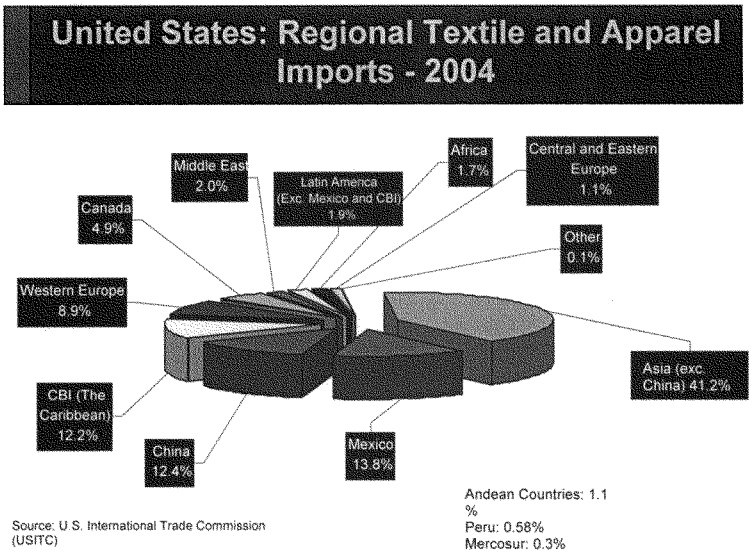
[9] The National Council of Textile Organizations (NCTO), another major U.S. association based in Gastonia, NC, which represents numerous yarn and fabric producers throughout the U.S., but who are mostly concentrated in North Carolina, South Carolina, and Georgia, is also pleased that the PTPA addresses all the major negotiating objectives, which significantly enhances the hemispheric supply chain and makes these improvements permanent. The structure and rules of the PTPA will benefit textile and apparel producers in both countries.

[10] Once endangered wild vicuña herds, which have some of the finest fibers in the animal kingdom, are making a comeback in the impoverished Andean highlands thanks to export markets created in the last 15 years for apparel made with their wool.

important U.S. strategic objective in the war on drugs, the struggle against narcotics trafficking towards the U.S., and keeping illegal drugs out of U.S. communities and neighborhoods. This is also a key reason for approval of the PTPA.

Figures from the ITC noted that net coca cultivation decreased dramatically from 115,300 hectares in 1995 to 27,500 hectares in 2004.[11] Although coca cultivation has risen slightly in Peru in the last two years, it is important to note that since 2000, coca cultivation in the Andean region as a whole has declined by nearly 30% to 158,000 hectares, according to the United Nations Office on Drugs and Crime (UNODC).[12] Given that the ATPDEA has been in place since 1991, it is clear that this program has been an invaluable tool in reducing coca cultivation by spurring the growth of the apparel and other export-driven industries in Peru.

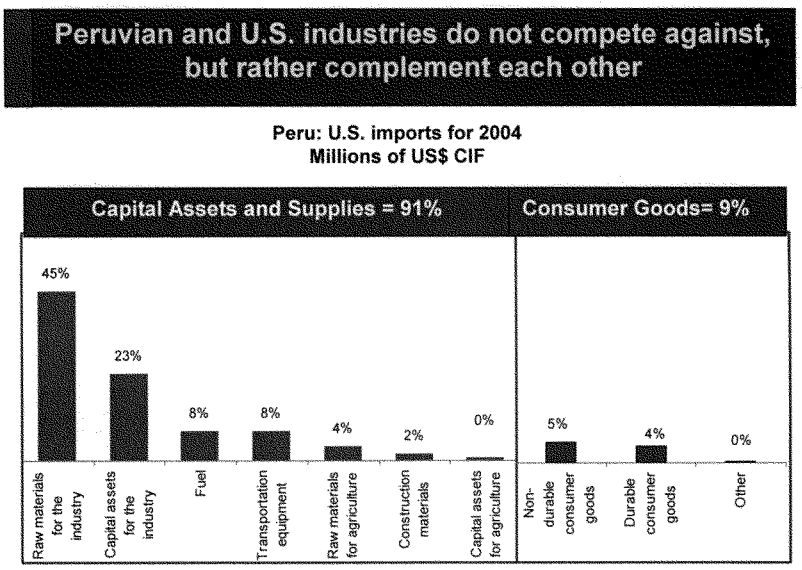
In observing the overall picture, it is also important to note that Andean apparel exports to the U.S. do not even reach 1.1% of total U.S. imports. Therefore, there is no risk of displacement or damage to the U.S. from Peruvian apparel imports.



[11] United States International Trade Commission, "The Impact of the Andean Trade Preference Act" – Eleventh Report 2004, USITC Publication 3803, September 2005, p. 4-14.
[12] UN Office on Drugs and Crime, "Coca Cultivation in the Andean Region: A Survey of Bolivia, Colombia and Peru," June 2006, Preface.

It should be considered that, as shown in the chart below, Peruvian and U.S. economies are complementary in many aspects and barely compete against each other, and therefore, a bilateral agreement generates a win-win situation for both countries.

In this regard, it is estimated that for every dollar exported by the ATPDEA beneficiary countries to the U.S., 94 cents worth of U.S. goods are in turn imported by the ATPDEA countries, whereas by way of comparison the Asian countries only buy 14 cents out of every dollar exported to the U.S.[13]



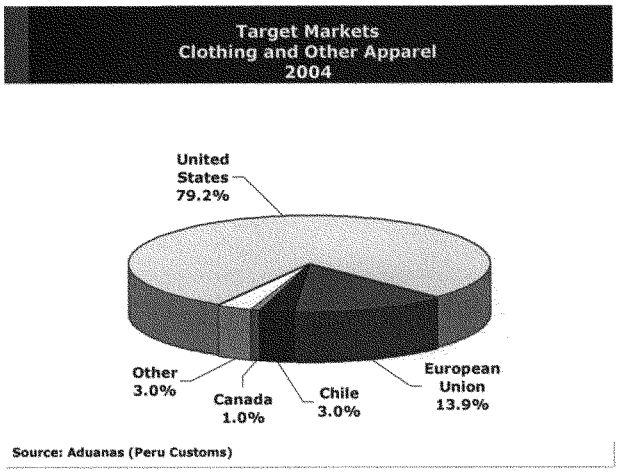
III. Importance of the Textile and Apparel Industry to Peru's Economy

The textile and apparel manufacturing industry represents around 10% of Peru's total exports. It is one of Peru's leading industries and an estimated source of direct and indirect employment for over 500,000 Peruvians. As such, it accounts for nearly 20% of the country's manufacturing jobs and almost 10% (considering an average family size of 5) of Peru's population of 28 million depends on this industry for its livelihood.

It is also one of Peru's fastest growing export industries. In 2006, Peru exported approximately US$ 1.4 billion worth of textiles and apparels, compared to US$ 664 million in 2001. These exports increased by nearly 13 percent from 2005 to 2006. Approximately 79.2%

[13] The ATPDEA beneficiary countries are Bolivia, Colombia, Ecuador and Peru.

of Peru's exports were destined to the U.S. market. This industry has become successful in large part thanks to the ATPDEA.



The qualitative importance of apparel exports to Peru becomes evident when considering that 70% of Peru's exports correspond to minerals (gold, copper, lead, silver, zinc, etc.) and fish meal, all of which represent commodities and have little or no value-added. In this regard, it is estimated that an article of clothing multiplies the value of the fiber approximately 12 times. Peru's apparel industry allows for substantial value added because, unlike neighboring Colombia or the Central American nations which are overwhelmingly maquila (cut & sew) oriented, its industry is vertically integrated throughout the productive chain and its niche market is the "full package" product. Approximately 80% of Peru's textile and apparel exports are represented by cotton garments and fabrics. Of this amount, about 80% are knit fabrics.

IV. Peru TPA and Labor

The growth of globalized, export-based industries in Peru has been such that in parts of the country such as Ica and La Libertad there is full-employment year round and extreme poverty has been reduced by an astounding 36% comparable to levels experienced nationwide by countries such as Chile. The cotton, textile and apparel industries located in these regions have helped to contribute to these successes. Moreover, workers in these industries earn good wages by Peruvian standards which is helping to reduce Peru's extreme poverty levels. For example, former Peruvian Prime Minister Pedro Pablo Kuczynski annouced that extreme poverty dropped from 24% to 18% between 2001 and 2005.

In terms of its commitment to global labor standards, Peru has ratified 71 ILO conventions, including the eight "core conventions." It has been praised multiple times by the

ILO for its progress in improving labor laws. In addition to all of the ILO's Core Labor Rights Conventions, the PTPA's labor standards exceed those of five other previously-ratified trade agreements: Jordan, Chile/Singapore, CAFTA, Bahrain and even the ATPDEA, which does not make ILO or national standards mandatory.

The PTPA goes beyond many other free trade agreements in the enforcement of worker rights and dispute resolution. The PTPA-created Labor Affairs Council develops public participation in reporting and funding to ensure implementation of the agreement and improved cooperation and capacity-building mechanisms. Additionally, the PTPA holds member countries accountable to effectively enforce existing labor laws, under penalty of fines, which are used by the PTPA commission to fund projects improving labor right protections. Noncompliance results in the formation of an arbitral panel, which may fine violating parties up to $15 million per year and suspend tariff benefits to the party complained against if necessary to cover the assessment.[14]

V. Investment and Dispute Resolution

The PTPA's Investment Chapter will facilitate transactions for U.S. industries and banks, as well as commercial and service companies, among others, that have investments or are interested in investing in Peru. U.S. investors will be treated equally as local institutions. Moreover, they will have full freedom to remit investments and profits. Therefore, it is possible that U.S. textile companies will install industrial plants and trading companies in Peru, which will use supplies produced in the United States, such as state-of-the-art fibers, yarns and fabrics.

It should also be pointed out that the PTPA contemplates a dispute settlement mechanism, designed to provide security to U.S. investors in Peru given that any controversy will be resolved on a fair and equitable basis, without the intervention of political or other considerations in the settlement of disputes.

VI. Concluding Remarks

The Peruvian economy, as shown in the chart below, is very small in comparison to the U.S. economy. However, as a direct result of the duty-free access afforded to Peru in the ATPA and ATPDEA, a strategic alliance has developed between the U.S. cotton industry, U.S. yarn and fabrics manufacturers, and participants in the U.S. apparel value chain on one hand, and the Peruvian textile and apparel industry on the other. As discussed in these comments, this alliance has brought significant and widely dispersed benefits to both the U.S. and Peruvian economies, and it will continue to thrive under the PTPA. The PTPA is now an excellent opportunity to ensure the continued prosperity of these U.S. and Peruvian industries, and by extension raise overall living standards in Peru, and ensure the continuation of the benefits enjoyed by U.S. industries, workers and consumers.

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[14] Peru Trade Promotion Agreement, Chapter Twenty-One: Dispute Settlement.

The U.S. is the world's largest market

(Peru's economy is comparable to Utah's in relation to the entire U.S.)

In terms of GDP

Source: Brigham Young U.

PUBLIC DOCUMENT

BEFORE THE
UNITED STATES SENATE COMMITTEE ON FINANCE

In the Matter of:

Hearing on the Administration's 2007 Trade Agenda
(February 15, 2007)

WRITTEN STATEMENT ON BEHALF OF THE PERUVIAN ASPARAGUS IMPORTERS ASSOCIATION

February 26, 2007

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This statement is submitted on behalf of the Peruvian Asparagus Importers Association (PAIA). PAIA is a not-for-profit association of 25 U.S. companies that earn a living by importing fresh asparagus from Peru.[1] Fostering the development of the Peruvian asparagus industry has been a true success of U.S. trade policy, and one that has maximized the benefits of globalization to both Peru and to workers and consumers in the United States, while minimizing – though not eliminating -- its costs. The successes generated by this policy to date can be extended through the passage of the Peru Trade Promotion Agreement (PTPA), which has already been ratified by the Peruvian Congress and whose approval by the U.S. Congress is pending. Similarly, if the opportunity to pass the PTPA is lost and existing trade preferences expire, both the U.S. and Peruvian economies will suffer significant negative effects.

The fact that the U.S. market is already largely open to imports from Peru means that the PTPA would essentially make permanent the existing Andean trade preferences, an important step for the economies of the United States and Peru, as detailed herein. On the other hand, the most significant change in the current trading relationship between the United States and Peru resulting from the PTPA would be the opening of the Peruvian market to exports from the United States. This is an important factor to consider when evaluating the likely effects of the PTPA on the U.S. economy, and argues for the PTPA to be considered on its own merits. A range of U.S industries would benefit. For example, according to the USTR, more than two-thirds of current U.S. agricultural exports to Peru will immediately become duty free as they enter the Peruvian market. In addition to eliminating often significant rates of duty, the PTPA would remedy a range non-tariff barriers that have hindered exports from the United States to date.

The overall effect on U.S. exports could be similar to that experienced as a result of the U.S.-Chile Free Trade Agreement (FTA). According to the USTR, U.S. exports to Chile increased by 90 percent due to this agreement, from $2.7 billion in 2003 to $5.2 billion in 2005. Significant increases in exports were noted in sophisticated machinery, vehicles, and parts. We understand that exports to Chile from one U.S. firm, Caterpillar, doubled after the implementation of the U.S.-Chile FTA. Anticipating benefits of this nature, many U.S. industry groups have voiced their support for the PTPA, including the National Pork Producers Council, the American Electronics Association, the Distilled Spirits Council of the United States, the Grocery Manufacturers Association, the National Council of Textile Organizations and the National Cotton Council.

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1. The member-companies of PAIA are: Altar Produce Inc.; Alpine Fresh; AYCO Farms Inc.; Chestnut Hill Farms; CarbAmericas Inc.; Central American Produce Inc.; Contel Fresh Inc.; Crystal Valley Foods; Dole Fresh Vegetables Inc.; Fru-Veg Marketing Inc.; Globalex Inc.; Gourmet Trading Company; Jacobs Malcolm & Burtt; Mission Produce Inc.; North Bay Produce; Pro-Act LLC; Rosemont Farms Corporation; Southern Specialties; Team Produce International; Triton International; Yes Fresh, LLC; AL-FLEX Exterminators; Customized Brokers; Hellmann Perishable Logistics ; and The Perishable Specialist, Inc.

I. U.S. trade policy on imports of asparagus from Peru has benefited both the United States and Peru

PAIA's particular area of interest in the larger context of U.S. trade policy is the trade between the United States and Peru in fresh asparagus. Under the Andean Trade Preference Act (ATPA) and its successor, the Andean Trade Promotion and Drug Eradication Act (ATPDEA), imports of fresh asparagus from Peru have been accorded duty-free treatment since 1992.[2] For the future, PAIA strongly supports the actions of U.S. and Peruvian negotiators to maintain this duty-free treatment for imports of fresh asparagus under the terms of the Peru Trade Promotion Agreement (PTPA), and urges the Congress to implement this agreement as soon as possible.

The U.S. policy of providing duty-free treatment to imports of fresh asparagus from Peru, which has been in effect since 1992, has resulted in pronounced economic benefits in the United States as well as Peru. As we discuss further in these comments, U.S. consumers, U.S. importing companies, U.S. distributors, U.S. transportation companies, and the many other companies in the domestic commercial chain have benefited as the Peruvian industry has matured and U.S. imports of fresh asparagus have grown. In addition to the growers and exporters in Peru, the Peruvian economy and the thousands of people in Peru whose livelihood is dependent on trade with the United States receive a benefit from this trade policy.

Unless this policy is continued by implementing the PTPA, millions of dollars in U.S.-Peru trade in asparagus and other crops, as well as thousands of jobs in Peru, could be lost. Such losses would be devastating for Peru, a country that has: witnessed remarkable market-led growth in recent years, and has been a strong regional ally of the United States against populist leaders such as Hugo Chavez as well as a solid partner of the U.S. in the war on drugs. Reversal of the current trade policy with Peru by failure to implement the free trade agreement would put all of these gains in jeopardy.

II. Economic Benefits to U.S. Workers, Businesses, and Communities of the US – Peru Trade in Asparagus

Peru is the world's largest exporter of asparagus,[3] and that crop stands squarely at the heart of a dynamic agroexport sector in Peru.[4] As the U.S. International Trade

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2. The ATPDEA was scheduled to expire as of December 31, 2006, but this program has been extended for at least another six months. We note that imports of fresh or chilled asparagus from Peru are not currently subject to duty-free treatment under the Generalized System of Preferences.

3. *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook,* Foreign Agricultural Service, U.S. Department of Agriculture (August 2005) at 1 (data provided for 2004). The United States "is Peru's top market, accounting for 75 percent of Peru's fresh asparagus exports in 2004." *Id.* at 3

4. *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook,* Foreign Agricultural Service, U.S. Department of Agriculture (July 2004) at 2 ("In 2003, asparagus became Peru's leading agricultural export, valued at a record $206 million, bumping coffee to second place.").

Commission (ITC) has noted in its reports on the ATPA, asparagus is a perennial crop that requires substantial long-term investment. Peru's exceptional climate conditions, its favorable geographic location, and the advances made by Peru in its management of water supply for irrigation, has enabled the country to achieve the highest asparagus crop yields in the world.[5] In turn, the asparagus-growing industry in Peru is estimated to employ nearly 60,000 people,[6] and has enabled regions of the country – such as Ica and La Libertad – to become models of economic development and engines of job creation. Of these sixty thousand jobs, roughly half are held by women, the primary breadwinners in many Peruvian households. The trickle down effects of this industry on tens of thousands of Peruvians and their families are helping to reduce poverty and raise living standards. The Asociación de Gremios Productores y Agroexportadores del Perú (AGAP) - Peruvian Coalition of Agro export Associations - estimates that the Peruvian agro export chain as a whole has generated 600,000 jobs, three times more than were generated in traditional agriculture sectors.[7]

While the Peruvian asparagus industry has created tangible economic benefits in that country, the U.S. has also derived a significant economic benefit from this trade. The vast majority of the value chain generated by sales of Peruvian asparagus in this market remains in this country. For example, PAIA estimates that the value chain for fresh Peruvian asparagus imports is worth between $260 million and $285 million. Of that total, approximately 70 percent remained in U.S. hands, including air, sea and land carriers, importers, ports, storage facilities, distributors, wholesalers and retailers. In other words, for every dollar spent by a U.S. consumer on fresh asparagus imported from Peru, 70 cents remains in the U.S. In addition, imports of fresh asparagus from Peru fuel job creation in the United States. PAIA estimates that aside from the several hundred persons employed or indirectly involved in the process of importing fresh asparagus imports from Peru, these imports result directly or indirectly in the creation of at least 5,000 U.S. jobs in companies throughout the commercial chain.

Furthermore, of the roughly 30 percent of the value chains in fresh and processed asparagus that do remain in Peruvian hands, a large portion is invested in U.S. inputs including: (1) asparagus seeds purchased from U.S. suppliers such as California

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5. *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, Inv. No. 332-352, USITC Pub. 3803 (September 2005) at 2-20.

6. *Id.* at 3-14.

7. *See Improving Competitiveness and Market Access for Agricultural Exports Through the Development and Application of Food Safety and Quality Standards: The Example of Peruvian Asparagus*, A Report by the Agricultural Health and Food Safety Program of the Inter-American Institute for Cooperation on Agriculture (IICA), Tim M. O'Brien and Alejandra Díaz Rodríguez (July 2004) at 4-5.

AGAP discussed this finding in a report that it presented earlier this year to the Technical Working Group for the PTPA from the Congressional Agricultural Commission in Peru. AGAP's president, Felipe Llona Málaga, explained that the high level of employment generated in the agroexport sector is concentrated in crops including asparagus, artichokes, paprika, onions, grapes, and garlic, particularly in the provinces of Lima, Ica, Piura, La Libertad, and others.

Asparagus Seeds; Stacy Seeds; and Jacobs Malcolm and Burtt; (2) glass jars used in canned asparagus by a local branch of Ohio-based Owens Illinois; (3) and fertilizers (Peruvian agriculture used approximately $40 million worth of U.S. fertilizers) and pesticides.[8]

While labor costs in Peru are lower than in the United States, Peruvian asparagus must contend with high freight costs (ex: the air freight cost for an 11 lb. box of fresh asparagus represents between 40 to 45% of the overall cost of production). As of 2005, these costs increased from the traditional $0.85 per kilogram to $1.25/kg. Additionally, exporters bear costs associated with U.S. customs brokers ensuring compliance with the Bioterrorism Act and pre-notice requirements (about $10 to $15 per shipment). Conservative calculations of total freight costs paid annually for asparagus exports from Peru to the U.S., using mostly U.S. airlines and shipping companies, were $71 million in 2005.

Finally, while Peru's U.S. exports have increased, the availability of asparagus at competitive prices in Peru and the development of U.S.-Peruvian joint ventures in Peru have also helped U.S. vegetable companies such as General Mills (Green Giant) and Del Monte to survive in a competitive global market.

III. Peruvian Asparagus Imports are *Counterseasonal* to U.S. Asparagus Production, which Reduces Direct Competition between U.S. Farmers and Peruvian Exporters

Imports of fresh asparagus from Peru also serve a U.S. market demand that cannot be met by domestic growers alone. The most important factor here is that imports of fresh asparagus from Peru are largely counter-seasonal to the U.S. crop. As the ITC has noted, historically, the season for U.S. production has differed somewhat from that of most imports from ATPA countries, with the bulk of fresh asparagus imports from ATPA

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8. Transcript of hearing before the United States International Trade Commission: *In the Matter of: U.S.-Peru Trade Promotion Agreement: Potential Economywide and Selected Sectoral Effects*, Investigation No. TA-2104-20 (March 15, 2006) at 33-35.

For example, in 2003 (the last full year for which the complete set of following data are available), the fob value of Peruvian fresh asparagus exports to the U.S. was approximately $78.5 million. The comparable cif value was $132.7 million. The value that accrued to importers was approximately $20 million, while the value that accrued to wholesalers and retailers was approximately $90 million. In addition, other value-added in the U.S. (*e.g.*, for storage, fumigation, etc.) totaled approximately $15 million. These sub-totals sum to $258 million, which represents the approximate retail value of fresh asparagus imports from Peru sold off the U.S. supermarket shelves. In other words, approximately 30 percent of that end-value ($78.5 million out of $258 million) remains in Peruvian hands, while the remainder ($179.5 million out of $258 million) remains here in the United States.

Sources: Aduanas (National Customs Superintendancy of Peru); U.S. International Trade Commission Trade DataWeb; estimates by APOYO Consultoría, and the Instituto Peruano del Espárrago y Hortalizas (IPEH).

countries entered during July through the following January when overall U.S production is low.[9]

According to official U.S. import statistics for 2005, 85 percent of total fresl asparagus imports from Peru entered the United States during the months of July througl January; only 15 percent entered during the remainder of the year (February througl June). In contrast, the peak production period for U.S.-grown fresh asparagus is Februar through June; therefore, all or nearly all U.S. production occurs during a period when th level of imports from Peru is minimal.

This is not to say that there are no imports of fresh asparagus from Peru present ir the U.S. market during the peak production period for the U.S. crop; as referenced above imports of Peru during the February-June period represent 15 percent of total annua imports from that country, or approximately 9,794 net tons (2005 data). However, ever in this period, imports from Peru largely complement, rather than supplant, the U.S. crop The vast majority of fresh asparagus imports from Peru enter the United States througl the Port of Miami,[10] and are sold primarily in East Coast markets. Because of th distances involved and the high costs for transportation, most of the fresh asparagu produced in California and Washington are sold in West Coast and Southwest markets.

Therefore, even to the extent that there is some degree of overlap between th U.S. production period and imports from Peru, direct competition between these source is reduced. Most of the imports from Peru that enter the United States during th February through June period are marketed in the East Coast and southeast United State regions. Indeed, the advent of year-round availability of fresh asparagus thanks t imports from Peru has allowed U.S. consumers in large geographic portions of th country to gain access to this product at times when supply would simply not exist fron U.S. growers, such as Thanksgiving and the year-end holidays. This is one reason wh per capita consumption of asparagus in the United States has doubled in the last decad alone, exceeding the rate of growth exhibited by nearly all other fruits and vegetables As the ITC recently stated, the impact of ATPA on U.S. consumers has been significan in that imports of Peruvian fresh-market asparagus, together with Mexican exports an U.S. production, have resulted in greater availability of fresh asparagus throughout th year. This extended availability of fresh-market asparagus, together with the overal consumer awareness of, and preference for, healthy foods, may be partly responsible fo higher per capita annual consumption of fresh asparagus in recent years.[11]

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9. *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12

10. In 2005, 89 percent of imports of fresh asparagus from Peru entered the U.S. through the Port o Miami. Source: U.S. International Trade Commission Trade DataWeb (subheadings 0709.20.1000 an 0709.20.9000, HTSUS), by quantity.

11. *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12 14.

Notwithstanding the seasonality and regionality aspects of supply and consumption discussed above, the fundamental fact is that since at least 1998, U.S. consumption of fresh asparagus has outpaced U.S. supply.[12] Imports are *necessary* to meet demand in the United States. In the absence of import sources – meaning, specifically, imports from Peru and Mexico – domestic production would be woefully inadequate to meet U.S. consumer demand. This would inevitably lead to a jump in prices, to the detriment of U.S. consumers, and eventually a drop in consumption, to the detriment of U.S. producers. While domestic production of fresh asparagus may have declined in recent years,[13] the decline would surely accelerate in coming years in the absence of reliable import supply.

IV. Asparagus and Other Agroexports as a Weapon Against Narcoterrorism

The intention of the ATPA was to spur the development of alternative industries to assist Peru and other Andean countries in the "War Against Drugs" and the struggle against guerrillas and terrorist organizations dependent on the illegal coca trade for funding. In this regard, U.S. trade Policy has succeeded. Thanks to the ATPA and the vision of US policymakers, the Peruvian asparagus and a number of other industries were able to blossom starting in the early 1990's. These industries have helped Peru to sustain some of the highest growth rates in Latin America, have provided employment for hundreds of thousands of Peruvians, and have helped reduce poverty levels. Just recently, for example, the former Peruvian Prime Minister, Pedro Pablo Kuczynski announced that extreme poverty has been reduced from 24% to 18% between 2001 and 2005. It is estimated that nearly 1 million jobs in Peru are dependent on trade with the United States, most of which is covered by the ATPA program.

As stated earlier the Peruvian agro-export chain has generated approximately 600,000 jobs. 10%, or 60,000 of these jobs are held by workers in Peru's asparagus industry. The Peruvian Asparagus and Vegetables Institute (IPEH) estimates that nearly 40% of the workers in the asparagus industry come from areas that formerly supplied workers to illegal coca cultivation. Asparagus has been a model for other agroexport industries and their growth is having a multiplier effect in terms of their impact on trade, job creation in both countries, reduced illegal coca cultivation, and reduction of poverty

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12. Total imports accounted for approximately 60 percent of the U.S. market for fresh asparagus in 2004. U.S. imports from Peru accounted for approximately 60 percent of total imports in 2004, as well. *See also* U.S. Department of Agriculture FATUS data (http://www.fas.usda.gov/ustrade/). Consequently, Peru's share of the U.S. market was about 36 percent (compared to about 40 percent accounted for by domestic production).

Indeed, the quantity of domestic production in 2004 was approximately 87,000 net tons, which exceeded the volume of imports from Peru that year (61,123 net tons) by 42 percent. About one-fourth of domestic production, or approximately 22,000 net tons, was exported.

13. According to the Commission's most recent report on the impact of the ATPA, domestic production of fresh asparagus declined 4 percent from 2003 to 2004, from 119.4 million pounds to 115 million pounds. However, the value of domestic production increased by 10 percent over that period, from $136.7 million to 150.4 million. *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12.

in Peru. Peru's paprika industry, for example, has enjoyed export growth of 88% from 2004 to 2005, making Peru now the top world exporter of paprika, an industry which employs 15,000 Peruvians. Another successful example is the Peruvian artichoke industry, which has increased exports by 100% from 2004 to 2005, and also employs about 15,000 workers.

It is clear, therefore, that the ATPA spurred industries such as asparagus have had a positive impact in the war against drugs in Peru. Coinciding with the rise in asparagus production, from 1995 to 2004, the ITC reported that coca cultivation decreased dramatically, from 115,300 hectares to 27,500 hectares in 2004. While this figure increased to 38,000 hectares in 2005, the overall decrease remains dramatic, and government coca-eradication efforts remain in effect. The decrease in coca production in Peru helps to reduce the presence of drugs in U.S. communities. These successful eradication efforts have also helped Peru to combat the terrorist guerrillas such as the Shining Path that are financed by proceeds from drug trafficking. The PTPA will help consolidate these gains against the scourge that the illegal drug trade has represented for both countries.

V. Peru TPA and Labor Standards

In addition to Peru's compliance with ILO's core labor standards and the labor rights provided by the country's constitution, the asparagus and vegetables industry has implemented best labor practice programs (Buenas Prácticas Laborales –BPL) to ensure that the industry is engaged the creation of a healthy and safe work environment. The Peruvian asparagus and vegetables industry is also committed to help build schools and health facilities that will contribute to improved living standards for their workers, their families, and the rural communities where they live.

The growth of agroexports in Peru has been such that in parts of Peru such as Ica and La Libertad there is full-employment year round and extreme poverty has been reduced by an astounding 36% comparable to levels experienced nationwide by countries such as Chile. Workers in these industries make wages of between $5 and $7 per day which is considered a good salary by Peruvian standards.

Peru has ratified 71 ILO conventions, including the eight "core conventions." It has been praised multiple times by the ILO for its progress in improving labor laws. In addition to all of the ILO's Core Labor Rights Conventions, the PTPA's labor standards exceed those of five other previously-ratified trade agreements: Jordan, Chile/Singapore, CAFTA, Bahrain and even the ATPDEA, which does not make ILO or national standards mandatory.

The PTPA goes beyond many other free trade agreements in the enforcement of worker rights and dispute resolution. The PTPA-created Labor Affairs Council develops public participation in reporting and funding to ensure implementation of the agreement and improved cooperation and capacity-building mechanisms. Additionally, the PTPA holds member countries accountable to effectively enforce existing labor laws, under

penalty of fines, which are used by the PTPA commission to fund projects improving labor right protections. Noncompliance results in the formation of an arbitral panel, which may fine violating parties up to $15 million per year, and suspend tariff benefits to the party complained against if necessary to cover the assessment.[14]

VI. Peruvian Asparagus and Environmental Concerns

Since asparagus cultivation is undertaken almost entirely on irrigated desert lands along Peru's coast, the environmental impacts of this industry on existing habitats is negligible. In fact, by contributing to the successful reduction of coca leaf production in biologically sensitive rain forest habitats, the growth of the asparagus industry along Peru's arid coast has had, in an indirect manner, highly beneficial environmental impacts.

The growth of the asparagus industry has created a business that is a global player and as a result has adopted rigorous international standards on environmental management practices and labor standards to comply with import requirements in the U.S., the European Union, and elsewhere. The Peruvian asparagus industry complies with very exacting practices of EUREPGAP and GAP (Good Agricultural Practices) to maintain consumer confidence in the quality and safety of its product.

VII. Conclusion

U.S. trade policy beginning in 1992 made imports of fresh asparagus from Peru eligible for duty-free treatment. This policy has served a wide range of economic interests both in the United States and in Peru. In the United States, a steady, year-round demand supply of asparagus enters the U.S. and satisfies the increased demand for asparagus in the U.S that domestic production cannot meet. Asparagus also accounts for about 5,000 U.S. jobs in transportation and distribution.

In Peru, the asparagus industry, thanks to the duty-free access to the U.S. market, has been able to fight extreme poverty by employing at higher wages than other Peruvian jobs. Asparagus in Peru has also indirectly fought coca production and narcoterrorism by providing an alternative source of well-paying employment.

These great changes could not have been possible without the duty-free access afforded to Peru in the ATPA and ATPDEA. The PTPA is now an excellent opportunity to ensure the continued prosperity of these industries, and by extension raise living standards in Peru, and ensure the continuation of the benefits enjoyed by U.S. consumers and workers employed in the asparagus supply chain.

➢ For further information, please contact Carlos Mateo Paz-Soldan at 202.333.8800 or cpaz-soldan@saul.com

14. Peru Trade Promotion Agreement, Chapter Twenty-One: Dispute Settlement.

United States Senate
Committee on Finance
Hearing on "The Administration's 2007 Trade Agenda"
Thursday, February 15, 2007

Written comments for the record by the
Retail Industry Leaders Association (RILA)

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit written comments for today's hearing with United States Trade Representative (USTR) Susan Schwab on the direction and content of U.S. trade policy. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry – retailers, product manufacturers, and service suppliers – which together account for more than $1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

The Successful Completion of the WTO Doha Round is Essential to American Consumers and Businesses

Continued growth and expansion into new markets is key to America's success in the global economy. First and foremost, RILA believes the United States should continue to place a priority on the successful conclusion of the Doha Round of WTO negotiations, with a particular focus on the dual goals of eliminating or reducing tariffs and non-tariff barriers. As the Committee knows, high tariffs and non-tariff barriers prevent U.S. manufacturing, retail, service, and financial sectors from expanding into other markets. In addition, these barriers place burdens on the U.S. import community which translates into added costs for consumers.

Trade can be a powerful economic force to help people improve their standard of living. Trade liberalization raises productivity and real wages while expanding consumer choice and purchasing power. The Doha Round provides a tremendous opportunity to reduce global tariffs. As the Committee seeks to find ways to spread the benefits of trade to all segments of society, RILA suggests the elimination of disproportionately high tariffs on low-cost items such as footwear and clothing.

Today, U.S. tariffs on consumer goods are regressive; the lowest earners pay the highest rates, in percentage terms. Tariffs on some products are in the double digits, such as on certain clothing, footwear, luggage, dinnerware, and food such as butter and cheese. Some of the highest tariffs apply to the types of goods that people of modest means tend to buy, and lower duties are imposed on similar products that are more often purchased by upper-income individuals. For example, tariffs on low-end sneakers range between 48

and 67 percent, but tariffs on higher-end sneakers are only 20 percent, and for leather dress shoes, the tariff is 8.5 percent. This trade policy forces consumers with limited means to pay a greater percentage of their disposable income on life's necessities. RILA recommends reducing the disproportionately high tariffs on everyday consumer products, and recognizes that the Doha Round represents the best opportunity to achieve those reductions around the globe, and particularly in key markets.

In addition to reducing tariffs, RILA believes it is equally important to also eliminate or reduce non-tariff barriers. As the Doha negotiations continue, RILA urges negotiators to (1) protect retail brand names by making it easier for retailers to safeguard their brand names in other countries; (2) establish transparent customs administrations that facilitate rather than hinder the movement of goods and services across national boundaries, which are essential to a modern distribution economy; and (3) prioritize market access improvements in distribution services (broadly defined as retailing and wholesaling as well as ancillary services such as express delivery, telecommunications and financial services). More specifically, RILA supports the elimination of local equity requirements that cap foreign retail investment at 49 percent, the elimination of competitive need limits or investment screening tests, the easing of restrictions on the repatriation of profits, liberalization of telecommunications and transportation sectors, and the removal of unwarranted restrictions on store size and operating hours.

Congress Should Renew Trade Promotion Authority (TPA)

RILA and its members recognize that Trade Promotion Authority (TPA) provides a practical and positive mechanism to facilitate trade, an area in which Congress and the President have shared responsibility. By establishing parameters for consideration of trade agreement implementing legislation by Congress on trade negotiations, requiring continuous consultations and exchanges between the Administration and the Congress, and providing Congressional guidance on the contents of U.S. trade agreements, TPA allows the United States to negotiate and conclude economically meaningful, comprehensive trade agreements that benefit the U.S. economy. Since the enactment of TPA in 2002, the United States has negotiated a number of new free trade agreements (FTAs) and is pursuing negotiations with countries that hold significant new market opportunities such as South Korea and Malaysia.

Global integration is a reality, and the question for U.S. lawmakers is not whether to participate in the global economy, but how to create the best opportunities for U.S. businesses to compete and win. TPA provides the necessary tools to promote and shape trade policy in a way that can benefit all Americans.

RILA and its members are champions for trade expansion and recognize that trade is essential to providing U.S. consumers with the quality and variety of products they expect at prices they can afford, and to creating opportunities for U.S. retailers to offer

goods and services to customers around the world. New trade agreements simply will not be possible without TPA, and the United States cannot afford to let that happen.

Countries around the globe increasingly recognize the benefits of open trade. Regional FTAs are proliferating between countries in Asia, Europe and South America. The rise of such agreements highlights the competition for global market share that is key to growth and prosperity in the 21st century. Some have proposed a "strategic pause" or moratorium on trade negotiations. While on its face this might seem like a legitimate proposal, doing so would only come at the peril of U.S. businesses, consumers and employees. The United States can ill-afford to halt the expansion of U.S. FTAs when doing so means other countries continue to expand services and operations globally without America.

Congress Should Pass All Currently Negotiated FTAs While Aggressively Pursuing New Opportunities

U.S. trade with Columbia, Panama and Peru has nearly doubled over the past seven years, and the United States has an opportunity to expand our trading relationships as well as strengthen diplomatic ties by approving the FTAs that have been negotiated with those countries. These agreements provide meaningful opportunities for U.S. businesses to export and import products. For example, under these agreements, eighty percent of U.S. consumer and industrial products, and a majority of the most competitive U.S. farm exports, will enter these Latin American markets duty-free immediately upon enactment.

Negotiations with South Korea and Malaysia have the potential to be the largest and most economically meaningful FTAs since the enactment of the North American Free Trade Agreement (NAFTA). With a population approaching 50 million people, U.S. businesses are eager to gain a foothold in South Korea's market. Meanwhile, Malaysia is the United States' tenth largest trading partner, with $44 billion in two-way trade in 2005, and an FTA would significantly increase opportunities for more bilateral trade and investment. Beyond the economic benefits, FTAs with South Korea and Malaysia provide opportunities for enhanced diplomatic relationships with strategic allies in a volatile region. The Committee should encourage USTR to continue to aggressively pursue the successful conclusion of those agreements.

Conclusion

RILA and its member companies are grateful for the opportunity to provide comments to the Committee on the U.S. trade agenda. RILA believes it is critical that the United States continue to pursue an aggressive trade agenda. Expanding export and investment opportunities overseas increases the purchasing power of American consumers while providing important jobs domestically. In today's economy, global integration is both a challenge and an opportunity for U.S. policy makers. The key to America's continued

prosperity is to seize the opportunities and mitigate the challenges. RILA respectfully urges the Committee to consider these comments, and we stand prepared to work lock-step with you to help all Americans feel the benefits of open trade. If you have any questions on this statement or require any assistance, please contact Stephanie Lester, Vice President, International Trade.

United States Senate Committee on Finance

Hearing on the "Administration's Trade Agenda"

Thursday, February 15, 2007
10:00 a.m.

Committee on Finance
215 Dirksen Senate Office Building

Testimony for the record by the

U.S. Chamber of Commerce

On behalf of the U.S. Chamber of Commerce, we are pleased to present the Senate Committee on Finance with this testimony regarding trade and globalization. International trade plays a vital part in the expansion of economic opportunities for American workers, farmers, and businesses. As the world's largest business federation — representing more than three million businesses and organizations of every size, sector, and region — the U.S. Chamber views efforts to expand trade opportunities as squarely in the interests of America's workers, farmers, consumers, and companies.

As such, the U.S. Chamber has helped lead the business community's effort to make the case for initiatives to expand trade, including global trade negotiating rounds under the purview of the World Trade Organization (WTO) and its predecessor, the General Agreement on Tariffs and Trade, as well as bilateral and regional free trade agreements (FTAs). We do so because U.S. businesses have the expertise and resources to compete globally — if they are allowed to do so on equal terms with our competitors.

Trade, Growth, and Prosperity

The facts show that while some are hurt — and should be helped — the overwhelming majority of Americans derive great benefits from international trade and investment. America's international trade in goods and services accounts for roughly 27% of our country's GDP. As the Office of the U.S. Trade Representative has pointed out, the combined effects of the North American Free Trade Agreement (NAFTA) and the Uruguay Round trade agreement that created the WTO have increased U.S. national income by $40 billion to $60 billion a year. In addition, the lower prices for imported goods generated by these two agreements mean that the average American family of four has gained between $1,000 and $1,300 in spending power — an impressive tax cut, indeed.

When Trade Promotion Authority (TPA) lapsed in 1994, the international trade agenda lost momentum. The Uruguay Round was implemented, but no new round of global trade negotiations was launched as the 1990s wore on. Moreover, the United States was compelled to sit on the sidelines while other countries and trade blocs negotiated numerous preferential trade agreements that put American companies at a competitive disadvantage.

As we pointed out during our 2001-2002 advocacy campaign for approval of TPA, the United States was party to just three of the roughly 150 FTAs in force between nations at that time. Since then, the United States has approved FTAs with an additional dozen countries, and they are bringing substantial economic benefits. Today, just under half (45%) of American exports go to markets where they enter duty free thanks to these FTAs. Only a third of U.S. exports enjoyed this advantage back in 1994, the year NAFTA came into force. With sales to our newest FTA partners growing twice as fast as U.S. export growth to the rest of the world, it is no surprise that U.S. exporters are enjoying robust growth.

Free Trade Agreements

As noted above, the United States is an extraordinarily open economy. Consider how U.S. tariffs compare with those of countries where FTA negotiations have recently been concluded or are underway. According to the World Bank, the United States has a weighted average tariff rate of less than 2%. By contrast, the weighted average tariff on U.S. manufactured goods falls in the 10-11% range in Colombia, Korea, and Peru.

An academic observer may regard the price disadvantage that falls to U.S. companies from these lopsided tariffs as insignificant. However, business men and women face narrower margins than these every day, very often with the success or failure of their firm on the line, so these tariffs can prove decisive. Best of all, a free trade agreement can fix this imbalance once and for all.

The way FTAs level the playing field for U.S. workers, farmers, and business is borne out in the results attained by America's FTAs. For example, the U.S.-Chile FTA was implemented on January 1, 2004, and immediately began to pay dividends for American businesses and farmers. U.S. exports to Chile surged by 33% in 2004, and by a blistering 85% in 2005. In fact, U.S. exports to Chile nearly doubled in the first two years of the agreement's implementation.

Other recent FTAs have borne similar fruits. Trade with Jordan has risen four-fold since the U.S.-Jordan FTA was signed in 2000, fostering the creation of tens of thousands of jobs in a country that is a close ally of the United States. The U.S. trade surplus with Singapore nearly quadrupled over the first two years of implementation of the U.S.-Singapore FTA (2004-2005). And over the 12 years since implementation of the North American Free Trade Agreement (NAFTA), by far the largest and most important of these agreements, U.S. exports to Canada and Mexico have surged by well over $200 billion (to a total of approximately $375 billion in 2006), sustaining literally millions of new jobs and businesses.

One of the most compelling rationales for these FTAs is the benefit they afford America's smaller companies. The following table reveals how America's small and medium-sized companies are leading the charge into foreign markets, accounting for more than three-quarters of exporting firms to these three selected markets (one a market where an FTA was recently approved, the second where FTA negotiations were recently concluded, and the third where an FTA has just been proposed). As a corollary, it suggests how smaller businesses stand to gain disproportionately from the market-opening measures of a FTA:

Market	No. of U.S. companies exporting to the market	No. of U.S. SMEs exporting to the market	No. of U.S. SMEs as a percentage of exporters
DR-CAFTA countries	15,625	13,557	87%
Peru	5,080	4,010	79%
Korea	17,330	15,233	88%

Source: U.S. Department of Commerce, 2003 data (latest available).

Beyond the highly successful track record of America's FTAs as measured in terms of new commerce, the U.S. Chamber and its members also support FTAs because they promote the rule of law in emerging markets around the globe. This is accomplished through the creation of a more transparent rules-based business environment. For example, FTAs include provisions to guarantee transparency in government procurement, with competitive bidding for contracts and extensive information made available on the Internet — not just too well-connected insiders.

FTAs also create a level playing field in the regulatory environment for services, including telecoms, insurance, and express shipments. In addition, recent FTAs have strengthened legal protections for intellectual property rights in the region, as well as the actual enforcement of these rights.

Following are observations on some of the trade agreements that have been in the headlines lately:

Peru, Colombia, and Panama: Negotiations for the Peru Trade Promotion Agreement were concluded in December 2005, and a similar agreement was reached with Colombia a few months later. In December 2006, the U.S. and Panamanian governments announced they had completed negotiations on a Trade Promotion Agreement "with the understanding that it is subject to further discussions regarding labor," according to the Office of the U.S. Trade Representative.

U.S. trade with Peru, Colombia, and Panama has nearly doubled since 2000, and U.S. commerce with the three countries last year totaled $8 billion, $15 billion, and $3 billion, respectively. These are ambitious and comprehensive agreements. Eighty percent of U.S. consumer and industrial products and a majority of the most competitive U.S. farm exports will enter these markets duty-free immediately upon implementation of the agreements.

U.S. investors in these countries also regard the Trade Promotion Agreements as a helping hand for close allies. As described above, the agreements will lend support for the rule of law, investor protections, internationally recognized workers' rights, and transparency and accountability in business and government. The agreements' strong intellectual property and related enforcement provisions against trafficking in counterfeit or pirated products will

help combat organized crime. The agreements will promote economic growth, lending strength to the regional economy and providing local citizens with long-term alternatives to narcotics trafficking or illegal migration.

The U.S. Chamber is serving as Secretariat of the Latin America Trade Coalition, a broad-based group of U.S. companies, farmers, and business organizations advocating for approval of the three Trade Promotion Agreements.

Korea: The U.S. Chamber also strongly supports the negotiations for a U.S.-Korea FTA. Such an agreement would be the most commercially significant FTA the United States has entered into since NAFTA. In 2005, Korea was the seventh-largest U.S. trading partner, its seventh-largest export market, and its sixth-largest agricultural market overseas. Moreover, a U.S.-Korea FTA would strengthen the important political relationship and alliance between the United States and Korea, further contributing to security and stability in the Asia-Pacific region.

The Chamber-administered U.S.-Korea Business Council is serving as Secretariat of the U.S.-Korea FTA Business Coalition. This coalition already embraces over 200 leading U.S. companies and business associations that strongly support the conclusion and passage of a U.S.-Korea FTA to advance the interests of the U.S. business community and promote further bilateral trade and investment.

Malaysia: When U.S. and Malaysian officials announced in March 2006 that the two countries would undertake negotiations for a FTA, the initiative won immediate broad support. With its middle-income economy of more than 24 million people, Malaysia offers a significant market for American companies. Malaysia is the largest U.S. trading partner in Southeast Asia and the 10th largest U.S. trading partner in the world. Two-way trade between the countries in 2005 surpassed $44 billion. The United States is Malaysia's largest export market, purchasing more than 20% of Malaysia's exports, and the sum of U.S. direct investments in Malaysia surpasses that of any other country. An FTA would enhance these already strong economic ties.

This moderate Muslim-majority country offers important opportunities for U.S. trade and investment. With a highly skilled, multilingual and multicultural workforce, excellent telecommunications and road and port infrastructure, and a stable economic and political environment, Malaysia has attracted more than $28 billion in foreign investment over the last 30 years.

From a regional standpoint, the U.S.-Malaysia FTA is an important strategic step in the overall U.S. foreign policy toward the members of the Association of Southeast Asian Nations (ASEAN), with which the United States will be undertaking a broad Trade and Investment Framework Agreement. The United States already has FTAs with nearby Singapore and Australia. By adding Malaysia to this burgeoning regional relationship, U.S.

companies will be provided with a gateway to the dynamic South East Asian region and its $3 trillion market.

The Doha Development Agenda

While the FTAs the United States has negotiated represent an ambitious and comprehensive way to open markets one country or region at a time, the Doha Development Agenda (DDA) — the global trade negotiations currently being conducted under the aegis of the World Trade Organization — offers the remarkably broad opportunity to lower barriers to trade globally. By leveraging both the breadth of the DDA and the depth of FTAs, U.S. business can attain important new market opportunities in the years ahead.

In essence, the DDA represents a unique opportunity to unlock the world's economic potential and inject new vibrancy in the global trading system by reducing barriers to trade and investment throughout the world. The round was launched on the premise that both developed and developing nations alike share in the economic gains resulting from global trade liberalization, particularly by addressing unfinished business in the agricultural sector.

Ambition is the key to the DDA's success. As one of the most open economies in the world, the United States must be ambitious in its approach to liberalization of trade in manufactured goods, services, and agricultural products if we are to convince our more reluctant trading partners to share our goals. Of course, we cannot lead alone. The European Union and the G20, in particular, need to demonstrate that they, too, are committed to the success of the DDA and willing to make the concessions necessary for a balanced result that can win the support of all WTO member countries.

The U.S. Chamber and its member companies are working with the Administration, Congress, and their counterparts around the world to ensure that the negotiations advance. On October 25, 2005, the U.S. Chamber, in partnership with other leading U.S. business organizations and a broad range of companies and agricultural groups, launched the American Business Coalition for Doha (ABC Doha) to ensure that the U.S. private sector is coordinated, mobilized, and focused on achieving success in the DDA. The recommendations that follow represent the Chamber's priorities for the DDA, and we will be working actively with our trading partners around the world in the weeks and months ahead to build support for the objectives set out below.

Trade in Agricultural Products: In 2001, the WTO member countries committed to making "substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support." We are encouraged that last fall's proposals set forth by the United States and the G20 seem to have re-energized negotiations with respect to agricultural reforms. We hope these advances will stem what we had perceived before the 6th WTO ministerial conference

in Hong Kong last December to be an emerging lack of ambition on the part of some key parties to the negotiations.

In a World Bank paper, Kym Anderson concludes that 92% of developing countries' gains in agricultural trade will come from reductions in market access barriers. The paper finds that such tariff reductions will not only improve the trade climate between developed and developing nations, but more importantly will yield significant gains in trade among and between developing countries. This outcome mirrors what we have witnessed in improved market access provisions in the areas of manufactured goods and services — the most robust gains are seen in trade among and between developing nations.

The United States is uniquely positioned to press for success based on the highest levels of ambition. Bold positions can help break what appears to be a stalemate between developed and developing countries over who should make the first move. We cannot fail to deliver steep reductions in both trade-distorting domestic supports and tariff rates. In the end, success will only be achieved through mutual recognition that comprehensive trade liberalization is an opportunity that will yield enormous benefits to farmers and consumers worldwide.

Trade in Manufactured Goods: Manufactured goods represent 75% of global merchandise trade, and the manufacturing sector is a strong driver of U.S. economic growth and employment. In 2001, the WTO member countries made a commitment "to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries." While some progress has been made toward this goal, much work remains to be done in the non-agricultural market access (NAMA) negotiations.

In order to deliver on its development promises, the DDA must provide genuine new market access by substantially reducing or eliminating tariffs among, at minimum, the developed and developing countries through a formula that focuses on making meaningful reductions in tariffs across all product segments, particularly peak and high tariffs. A final agreement must also allow for a voluntary sectoral approach to tariff elimination. Above all, achieving a "level playing field" requires an approach that recognizes the current differences among countries' tariffs, and mandates reductions in tariffs that will reduce and eliminate those differences, so as to avoid an outcome where countries with high average tariffs are only required to make relatively small reductions.

While tariff elimination is a critical component of the round, non-tariff barriers are increasingly becoming as important, if not more important, as tariffs in constraining global trade. The DDA should focus on removing these hindrances to international trade, using both horizontal and sectoral approaches. In addition, the WTO should strengthen, or create where necessary, problem-solving mechanisms specifically focused on addressing and removing non-tariff barriers.

In order to ensure that the NAMA negotiations lead to substantially increased opportunities for trade, growth, and development for all countries, flexibilities should be built into the process that can provide some room for less developed and small economies to take part without shouldering the same burden as their more developed counterparts.

Finally, we recognize that the NAMA negotiations are impacted by progress in the broader negotiating environment. It is important that negotiations on agriculture, services, and NAMA move forward on parallel tracks to ensure that success in the broader round is achieved.

Trade in Services: The services sector is the backbone of the economy in developed and developing countries alike. In total, it represents about two-thirds of world GDP, or $35 trillion in 2004. Further liberalization of this critical sector will allow WTO member countries to attract greater foreign direct investment and take full advantage of the growth and employment that this vital sector provides.

In 2001, the services liberalization work that had been conducted under the General Agreement on Trade in Services (GATS) was incorporated into the DDA mandate. WTO members endorsed the existing negotiating modalities and set a schedule for successive market access requests and offers. Progress has been unsatisfactory to date: few offers and even fewer revised offers have been tabled, despite the fact that the May 2005 deadline is long passed. The request/offer process is clearly not delivering sufficient progress, and there is an urgent need to realign priorities and to raise the profile of the services negotiations among trade ministers. While new methods that hold promise are being explored to revitalize the process, the objective of achieving substantial new liberalization commitments within the next few months should guide U.S. efforts.

In mode one (cross border supply of services), the U.S. should seek full market access and most-favored nation (MFN) treatment for all cross border services trade. This level of ambition should apply for mode two (consumption of services abroad) as well. In mode three (commercial presence), the U.S. should seek the abolition or, at the very least, substantial easing in equity limits for services investments and allow for the incorporation of services businesses in whatever legal form makes the most business sense. In mode four (temporary movement of professionals), countries should commit to screen temporary workers, ensure they will leave when their visas expire, and generally commit to containing illegal migration in return for their professionals' access to host countries.

Trade Facilitation: The Doha Declaration recognizes the case for "further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area." Trade facilitation initiatives provide significant opportunities to achieve real, nuts-and-bolts improvements for businesses of all sizes. Progress in such areas as port efficiency, customs procedures and requirements, the overall regulatory environment, and automation and e-business usage are

important for all companies but are especially valuable to smaller and medium-sized enterprises.

Major world regions are already embracing trade facilitation. In 2002, the 21 member economies of the Asia-Pacific Economic Cooperation (APEC) forum launched a Trade Facilitation Action Plan that included a commitment to reduce trade-related transaction costs by five percent within six years. In November 2004, the APEC leaders were proud to announce that they had reached their goal three years ahead of schedule. And in the Western Hemisphere, the countries negotiating the Free Trade Area of the Americas committed in 1999 to implement a package of nine customs-related "business facilitation" measures that covered much of the same ground as the APEC action plan. In November 2005, a group of over 100 of the Western Hemisphere's leading business organizations released a declaration favoring an ambitious stance in the trade facilitation negotiating group of the DDA.

These efforts have served to raise the profile of trade facilitation as an opportunity for the DDA, but much more can be done. Trade facilitation can bring great benefits if adopted unilaterally, but a global rules-based approach also offers the advantages of certainty, stability, and enhanced commonality to customs measures and port administration. This is the promise of the DDA's trade facilitation negotiations.

Trade, Labor and Workforce Development

The opportunities trade presents are clear, but there are challenges as well. In recent years, Congress has engaged in a dialogue about how to ensure that U.S. workers and workers in developing countries can benefit from increased trade and investment flows. The U.S. business community encourages these discussions as well as efforts to improve American workers with the tools they need to raise their productivity. We welcome new ideas on ways to improve Trade Adjustment Assistance programs, and we hope that Congress will also consider new programs that will assist American workers in remaining competitive and highly productive.

In addition to the benefits for the United States, there is powerful evidence that deepening economic ties with developing countries promotes their growth, fosters job creation, and promotes improvements in worker conditions in markets where American companies are active and engaged. Numerous studies show that American companies operating in foreign markets lead the way in driving improvements in working conditions and act as stellar examples of responsible corporate citizens. U.S. companies promote ethical and responsible business behavior, market-oriented business practices, and respect for the rule of law. They also operate under high environmental, health and safety standards in developing country markets, and they encourage local suppliers to adopt and adhere to similar practices. Compared to employees in local companies, employees in U.S. companies enjoy competitive to superior compensation, benefits, and training.

The Chamber is hopeful that Congressional discussions with the Administration on trade and labor will seek to reflect the goals we all share for promoting improved working conditions and creating jobs in developing countries. We are optimistic that Congress will develop a way forward on trade legislation that will enable the U.S. to continue an active and engaged trade policy, opening markets to U.S. goods, services, and agricultural products. The U.S. business community stands ready to support those discussions on the way forward, and we want to work in partnership with Congress and the Administration in developing substantive, comprehensive strategies that will bolster America's competitiveness and improve America's workforce.

Conclusion

We believe that trade expansion is an essential ingredient in any recipe for economic success in the 21st century. To make the case more clearly, the Chamber recently issued a landmark report entitled *Global Engagement: How Americans Can Win and Prosper in the Worldwide Economy.* It maps out the benefits of trade — as well as challenges to America's ability to compete that have been laid bare by globalization.

We have also recently published *Impact of Trade*, which lays out in the clearest fashion possible the benefits that the 50 states of the union are already deriving from international commerce. We are pleased to present these documents for the record, and they are available on our website (www.uschamber.com) as well.

If U.S. companies, workers, and consumers are to thrive amidst rising competition, new trade agreements such as the DDA and the various FTAs cited above will be critical. In the end, U.S. business is quite capable of competing and winning against anyone in the world when markets are open and the playing field is level.

The U.S. Chamber appreciates the leadership of the Senate Committee on Finance in advancing the U.S. international trade agenda. We stand ready to work with you on these and other challenges in the year ahead. Thank you.

STATEMENT OF EUGENE K. LAWSON
PRESIDENT, U.S.-RUSSIA BUSINESS COUNCIL

SENATE FINANCE COMMITTEE HEARING ON
THE ADMINISTRATION'S 2007 TRADE AGENDA
FEBRUARY 15, 2007

The U.S.-Russia Business Council (USRBC) is pleased to present this statement to the Senate Finance Committee in connection with its hearing on February 15, 2007, on the Administration's 2007 Trade Agenda.

USRBC is a Washington-based trade association that represents the interests of approximately 300 member companies operating in the Russian market. The Council's mission is to expand and enhance the U.S.-Russian commercial relationship through advocacy efforts and by promoting dialogue between the private sector and U.S. and Russian decision makers. The Council strongly supports Russia's integration into the global economy and the rules-based system of the World Trade Organization (WTO).

Securing a Commercially Strong Agreement on Russia's WTO Accession

After more than a decade of negotiations on Russia's WTO accession, the U.S. business community applauded the signing of the historic bilateral accession agreement between the U.S. and Russia on November 19, 2006. It is a strong agreement and it benefits U.S. interests. In combination with Russia's side letter commitments, it represents an important step forward in solidifying economic opportunities for U.S. firms and farmers, which can have a positive effect on jobs here in the United States.

We congratulate the Bush Administration and the Office of the U.S. Trade Representative in particular, on their stellar work in addressing the concerns of the U.S. business community in the bilateral negotiations with Russia to ensure that the agreement was commercially meaningful. We appreciated the efforts of the leadership of the Committee and your staff who, in a bipartisan fashion together with your colleagues on the House Ways and Means Committee, provided helpful input to the Administration to help ensure this effective result.

The bilateral agreement is not the endgame, however. We look forward to building upon the good communication we have established with the Committee to encourage the proper implementation of Russia's side letter commitments and move forward the multilateral negotiations. The U.S. business community understands that before Congress can move forward with action on Russia's graduation from Jackson-Vanik and the extension of Permanent Normal Trade Relations (PNTR), significant progress must be achieved in the multilateral negotiations and in connection with bilateral commitments Russia has made to the United States. However, when the negotiations near their end point, it is critical for the U.S. business community that the Congress be prepared to act promptly on Jackson-Vanik and PNTR. The competitiveness of U.S. companies engaged in trade with Russia is at stake.

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Once negotiations are completed, Russia will be eligible to join WTO, with or without PNTR. Because our own WTO commitments require us to provide unconditional most-favored-nation trade status to any WTO member, only when the U.S. graduates Russia from Jackson-Vanik and extends Russia PNTR status will U.S. firms and farmers be able to share in the tariff reductions and other liberalizations that form Russia's WTO commitments. Passage of PNTR vote therefore will be critical for U.S. companies and farmers to stay competitive with other foreign competitors.

Additionally, there are benefits of Russia's accession to the U.S. business community that are difficult to quantify, but, over the longer term, are even more important than tariff concessions to U.S. firms. For example:

- Russia's WTO accession will require Russia to comply with transparency and notification requirements and provide a stronger basis for U.S. companies to assert their commercial rights in the Russian market.
- As a WTO member, Russia will need to bind its tariff levels, preventing unilateral increases for purely protectionist reasons. For example, WTO rules would have prevented Russia from tripling its tariffs on U.S. combine harvesters as it did late in 2005.
- Having Russia in the WTO will allow the U.S. to seek redress with Russia through the WTO's dispute settlement procedures if Russia steps outside the boundaries of accepted WTO norms. Without PNTR, the U.S. will be ineligible to use these mechanisms of the WTO vis-à-vis Russia.
- A basic tenet of the WTO is national treatment – requiring that foreigners are subject to the same rules and enforcement practices as domestic parties (with exceptions for national security and balance of payment requirements). As a WTO member, Russia will need to honor its commitments placing foreign companies on a level playing field with their domestic competitors.

Requiring U.S. companies to pay higher tariffs than their competitors and denying them the other advantages of Russia's WTO concessions would be tantamount to ceding to our competitors one of the world's fastest growing and attractive markets. Russia is a key emerging market for U.S. manufacturers, service providers and farmers. It is currently the 10th largest economy in the world, and, with current growth trends expected to continue (Russia has had average annual GDP of 7% over the last eight years), it may be the 5th largest within another decade. Its highly-educated population and vibrant consumer sector make it an attractive export market for U.S. value-added goods and services. U.S. exports to Russia grew 20% in 2006, after growing more than 30% in 2005. And while Russia currently does not rank among the top U.S. trade partners, companies from high technology to services to natural resources to manufacturing see Russia as an important part of their global competitiveness strategy.

For more than a decade, the U.S. has found Russia to be in compliance with its Jackson-Vanik commitments regarding freedom of emigration. Accordingly, the U.S., by an annual Presidential waiver, has extended normal trade relations to Russia on an annual basis. As Russia moves closer to full WTO membership, it should be clearer than ever that Jackson-Vanik, an outdated measure with no relevance to today's Russia, does not advance U.S. interests or its agenda with Russia. On the other hand, graduating Russia from Jackson-Vanik and granting PNTR to Russia

will represent a Congressional vote of confidence in U.S. firms, farmers and workers; it will give the U.S. business and agricultural communities the green light to compete on an equal footing with their European and Asian counterparts in the Russian market.

Finally, USRBC strongly supports Russia's accession to WTO not only because of the important market liberalizations that offer opportunities to U.S. firms, but also because we understand that the U.S. and the global trading system itself can only benefit when one of the world's largest economies abides by the rules of the world trading system. Adherence to WTO rules will bring more certainty to an often uncertain environment which will have ramifications well beyond the Russian market.

Building on the bipartisan spirit of this Committee, we look forward to engaging you and your colleagues in a bipartisan fashion at the appropriate time to ensure that the U.S. business community is on a level playing field with foreign competitors as Russia accedes to the WTO.

We thank the Committee once again for this opportunity to share the views of the U.S.-Russia Business Council regarding this important commercial issue, and we look forward to working with you.