

U.S.-PERU TRADE PROMOTION AGREEMENT

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ONE HUNDRED TENTH CONGRESS
FIRST SESSION

—————
SEPTEMBER 11, 2007
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U.S.-PERU TRADE PROMOTION AGREEMENT

TUESDAY, SEPTEMBER 11, 2007

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

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

Present: Senators Stabenow, Salazar, Grassley, Lott, Crapo, and Ensign.

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

The CHAIRMAN. The hearing will come to order.

In 1998, President Bill Clinton said, “We must do more to ensure that spirited economic competition among nations never becomes a race to the bottom in environmental protections or labor standards. Rather, we should be leveling up, not leveling down.”

President Clinton made that statement almost 10 years ago. For at least that long, we have searched for ways to “level up.” We have struggled to ensure that trade agreements raised environmental standards for our trading partners rather than lowered our own.

We have finally achieved that goal. For the first time in any trade agreement, the U.S.-Peru Trade Promotion Agreement includes meaningful and forceful labor and environmental standards. These protections resulted from the landmark May 10th bipartisan trade deal between Congress and the administration.

Despite the hiccups before and since, this agreement is a remarkable achievement. It is amazing, when you stop to think about it. It reflects the hard work and compromise of many groups. I applaud Speaker Pelosi, I applaud Senator Grassley, I applaud Chairman Rangel, Ambassador Schwab, Mr. McCrery, and all the others who were involved. We should be justifiably proud of what we produced.

For the first time in any trade agreement, the Peru agreement requires the parties to implement the five core International Labor Organization standards. These standards will ensure that Peruvian workers have the right to organize. These standards will ensure that Peruvian workers have the right to bargain collectively. These standards will ensure that Peruvian children have the right to learn in classrooms rather than toil in sweatshops.

For the first time in any trade agreement, the Peru agreement also requires the parties to implement seven core environmental

treaties. These provisions will ensure that the Peru agreement expands our environmental values abroad, and at the same time expands our exports abroad. And, for the first time in any trade agreement, the Peru agreement makes these labor and environmental provisions fully enforceable.

The agreement will subject them to the same dispute settlement mechanism that applies to all other obligations. This mechanism will ensure that the labor and environmental provisions are not merely paper tigers. They have real teeth. I intend to make sure that the administration enforces them vigorously.

These provisions are, in short, exactly what we have been seeking for more than a decade. They promote trade in a way that projects our fundamental values. They benefit workers and encourage environmentally sustainable development. I hope that these long-awaited achievements will serve as a stepping stone to move America's trade agenda forward. We still have a lot of work to do.

I have introduced bills on Trade Adjustment Assistance, currency misalignment, and trade enforcement. I expect Congress to consider those bills before the end of the year. Congress also needs to review pending free trade agreements with Panama, Colombia, and Korea.

As another president, John F. Kennedy, once said, "Things do not happen, things are made to happen." Working together, Congress and the administration have made things happen in the Peru Free Trade Agreement. I am hopeful that, working together, we can make things happen in other areas of our trade agenda as well.

In closing, I would like to extend my deepest condolences to the victims of the tragic earthquake that struck Peru recently. My thoughts and prayers are with them and their families as they recover from its devastating effects.

Senator Grassley?

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

Senator GRASSLEY. Thank you very much, Chairman Baucus, for scheduling this hearing. It highlights a very important part of the work of this committee, and one that I hope we can proceed on not only with the consideration of this agreement, but a couple other agreements that are pending.

This happens to be the second hearing held by the committee on our trade agreement with Peru. The first one was July 29th last year. As we all know, Congress did not enact implementing legislation for that trade agreement with Peru last year.

The Democrats won the election, and probably, if I had been in the minority and won an election, I would want to put my imprint on some things going through Congress. So, the Democrats demanded additional provisions in our trade agreements before they would be implemented.

After lengthy negotiations, particularly with the administration, but some of us in Congress were involved as well, we agreed to compromise with the House Democratic leadership, and that compromise was announced with a lot of fanfare on May 10th. Our trade agreement with Peru was then renegotiated to reflect that compromise.

Today's hearing provides the committee an opportunity to review the trade agreement, as it has been modified. I have accepted the May 10th compromise because, even with those changes, I believe it remains in the national interest to implement these trade agreements.

I hope that we can quickly follow up today's hearing with informal committee consideration of drafting the implementing legislation. I want to complete this implementation process for Peru during this work period so that we can turn to other agreements with Colombia and Panama before the end of the year.

Our agreement with Peru is a very strong trade agreement. It deserves the support of this committee and the Congress. Implementation will provide substantial benefits for U.S. farmers, manufacturers, and service providers. Peruvians will also significantly benefit.

For our benefit, the Farm Bureau Federation, for agricultural exports, said it could increase by over \$705 million each year under the agreement. More broadly, the U.S. International Trade Commission estimated that the agreement will lead to a 25-percent increase in U.S. exports to Peru, while Peru's exports to the United States will grow by 8 percent. So that is a win-win situation.

At the same time, it will help reduce our trade deficit. Critics of our trade deficit in the Congress should take note: if you want to do something positive about the trade deficit, then vote in favor of our trade agreement with Peru.

I did not know this at the time that we brought up CAFTA, but we were in trade deficit with those countries of CAFTA, and now we are trade-positive with those countries, which shows that these trade agreements do have some benefit for our trade deficit.

I believe that we should all understand that Peru has demonstrated that it is committed to market liberalization and the strengthening of relationships with the United States.

For reasons other than economic, this diplomatic relationship is in stark contrast to other countries in the region, like Venezuela, Ecuador, and Bolivia, that seem to be consolidating political power, expropriating industries, and otherwise disregarding investors' rights, and in the process distancing themselves from the United States.

So I think that failure to implement our trade agreement with Peru would send exactly the wrong signal. It would empower leaders down there, like Hugo Chavez, who is already antagonistic towards the United States, and it would disillusion the Peruvian people who view the United States with friendship.

It is, therefore, very important to our national interests that Congress implement our trade agreement with Peru as soon as possible. So in that process, I thank Chairman Baucus for holding this hearing.

The CHAIRMAN. Thank you, Senator, very much.

We are very fortunate to have today's group of witnesses. I look forward to hearing from them and their perspectives on this proposed agreement.

Today's panel begins with Secretary Mickey Kantor, who is currently a partner at the Mayer Brown law firm. Ambassador Kan-

tor—first of all Secretary Kantor, who is also ambassador—formerly served as USTR during the Clinton administration.

Next, following Secretary Kantor, is Ms. Thea Lee, policy director and chief international economist, AFL–CIO. Ms. Lee has long been a chief proponent of including enforceable labor provisions in our FTAs. Thank you for attending our hearing.

The third witness is Patricia Forkan, president of the Humane Society International. The Humane Society played a critical role in ensuring that the environmental provisions of the Peru FTA, for the first time, explicitly covered illegal trade in wildlife.

The fourth witness, Mr. David Winkles, is president of the South Carolina Farm Bureau. He will testify today on the agriculture provisions of the Peru FTA.

Finally, we welcome Thomas Catania, vice president of government relations at the Whirlpool Corporation. Mr. Catania will discuss the FTA's impact on the U.S. manufacturing sector.

Mr. Secretary, why don't you begin? Five minutes is the allotted time here. Of course, all your statements will be included in the record.

**STATEMENT OF MICHAEL KANTOR, PARTNER,
MAYER BROWN, WASHINGTON, DC**

Mr. KANTOR. Thank you very much, Mr. Chairman, Senator Grassley. I want to thank the committee for having me today.

I want to congratulate the Chairman, Senator Grassley, the Chairman of the House Ways and Means Committee, Mr. McCrery, and the administration for working together in reaching agreement on enforceable protections for labor and environment so this agreement will move U.S. trade policy forward in a positive manner.

Mr. Chairman, I have long been a supporter of an open and rules-based global trading system as an important means of promoting and securing U.S. economic interests. Unfortunately, credibility and support for an open and rules-based trading system is increasingly at risk.

Mr. Chairman, the fears brought about by interdependence, driven by technology and globalization, are real and continue to have a profound effect on our future. More and more skills can be outsourced. New competition for industries has arisen. People are rightly concerned.

It is wrong to think we can stop the forces of globalization, but I contend that we can shape them to our benefit by relying on three principles: invoking strong leadership to promote and advocate the advantages we gain through engaging in globalization and molding our policies to take advantage of this phenomenon, with the goal of raising standards of living in the U.S. and around the world; second, reaching common-sense trade deals that address a broad array of American interests, advancing the interests of American workers and their families, and that are consistent with our values; and third, ensuring vigorous enforcement of our trade laws and agreements to build confidence that we are beneficiaries of what we were promised, and that partners are playing by the rules.

For instance, at this time USTR is not organized or funded sufficiently to enforce a policy of this magnitude. This would necessitate building an enhanced capability and a new unit at USTR dedicated

to the effective monitoring and enforcement of our trade laws and agreements, much like you have suggested, Mr. Chairman.

But, Mr. Chairman and members of the committee, without a great commitment to education, research and development, and a 21st-century infrastructure, even the best trade deals will not be enough to sustain our economy, ensure our competitiveness, and fairly distribute the benefits of globalization. In my view, the U.S.-Peru Trade Promotion Agreement is now the kind of trade agreement that is worthy of the support of the Congress and the American people.

Tariffs on goods and agricultural products will be eliminated on both sides. U.S. duties on a majority of imports from Peru are already at zero under the Andean Trade Preference Act. Now our exports from the U.S. to Peru will enjoy the same treatment, providing new opportunity for U.S. farmers and manufacturers. But no trade agreement is a common-sense agreement without enforceable labor and environmental provisions. This agreement establishes a critical precedent.

In my view, we should not conclude trade agreements without provisions of this nature. The American people are not afraid of competition, but they also know when it is not a fair fight. Labor and environmental provisions are essential to trade agreements for a number of reasons that are good common sense.

The recent commitment by the leadership of the Peruvian government has helped to ensure that these provisions will be real and have a solid impact. But we should all be cognizant of the fact that failure to enforce these or other requirements of this agreement will only serve to disappoint those on both sides who worked so hard to implement this agreement and will further erode the confidence of the American people.

We need enforceable provisions in trade agreements to ensure that our trading partners are not using lax labor and environmental laws or are turning a blind eye to enforcement in order to gain an unfair competitive advantage. If we do not use our trade agreements to raise the labor and environmental standards of our trading partners to begin to equalize these differences, U.S. workers and companies will be fighting an uphill battle.

Unless most Americans believe they will be positively impacted by trade, we will not convince the American people to support a forward-looking trade agenda. If the American people fear that our trading partners could be cutting to the front of the line by failing to adopt strong protections for workers and the environment or failing to enforce the laws they have on the books, they will never have faith that the U.S. Government is negotiating agreements that promote their interests.

Labor and environmental provisions are good, common sense for our trading partners as well. We know that providing workers with basic rights and enforcing them leads to rising wages, a growing middle class, and increased pluralism, all of which help to ensure that the benefits of trade agreements are shared by a wide range of society. In addition, it creates independent unions which also help to strengthen democratic institutions and promote the rule of law.

These factors—rising wages, a growing middle class, and stronger democratic institutions—inevitably lead to our trading partners becoming larger and more stable markets for U.S. products. An important part of future economic growth of the United States is tied to our ability to successfully sell our products and services in foreign markets. These worker rights provisions will promote that goal.

Stronger protections for the environment benefit not only the United States and our trade partners, they benefit the global environment as well. Pollution does not know borders. It is critical that environmental provisions are included and enforced in order to avoid a race to the bottom.

Mr. Chairman, these ideas I have laid out are not new. In fact, the need for connection between greater opportunity for trade and greater support for worker rights was first recognized 23 years ago. The U.S.-Peru agreement, at long last, returns us to the standards set in the Jordan FTA. The agreement is supportive of the interests of our economy, companies, and workers, while enhancing the dignity and future of workers in Peru. The Peru agreement is a strong agreement, with an important ally in Latin America. It is good for both economies, good for workers, and good for the environment. I urge members of this committee to give it your support.

Thank you very much.

The CHAIRMAN. Thank you, Mr. Secretary, very much. Thank you very, very much.

[The prepared statement of Mr. Kantor appears in the appendix.]

The CHAIRMAN. Ms. Lee?

STATEMENT OF THEA LEE, POLICY DIRECTOR AND CHIEF INTERNATIONAL ECONOMIST, AFL-CIO, WASHINGTON, DC

Ms. LEE. Thank you so much, Chairman Baucus, Senator Grassley, members of the committee. We appreciate the opportunity to come here today to give our views on the Peru Trade Promotion Agreement, which has been an important issue for our members.

And one thing I wanted to do to start out with was to put the discussion over this bilateral trade agreement into the broader context of our overall trade policy and the enormous challenges facing American workers today as they try to navigate through a dynamic and ever-changing global economic landscape.

They face stagnating wages, eroding health and pension benefits, and hostile—and sometimes illegal—anti-union tactics from employers. I think that context is important to understanding the concerns that American workers have expressed over our trade policy and what can and cannot be accomplished in the context of one trade agreement.

But with respect to the Peru agreement, the first thing I want to say is we welcome and applaud the progress that was made by all the parties who participated in the negotiations around the May 10th deal. The new provisions, in particular, on worker rights and the environment represent significant progress in crucial areas that we have fought to achieve for many years. These issues have been central to the debate over globalization and its impact on working families, both here in the United States and around the world.

These provisions improve on the Jordan commitments by using clear and unequivocal language to commit both parties to the agreement to adopt, maintain, and enforce the ILO core labor standards in their laws and in practice.

They, as Chairman Baucus said, ensure that the same dispute settlement and enforcement provisions will be available for labor and environment provisions as are available for the commercial provisions in the agreement. They represent enormous improvement over the previous FTAs negotiated under the Bush administration.

We hope that the new labor provisions will provide a starting point for future efforts to strengthen and effectively enforce protections for workers in the global economy. Writing labor language into trade agreements will certainly not solve all the problems workers face, but it provides one more important and useful tool to pressure both governments and corporations to respect workers' fundamental human rights.

But it is important that Congress will bring to bear strong pressure on the executive branch to ensure that these newly negotiated provisions are effectively implemented and enforced, as Secretary Kantor said, as these provisions cannot serve their objective if the executive branch does not enforce them.

The Peru agreement also includes new and improved language on procurement, which is an important step forward. It clarifies that government procurement contracts may require that a supplier comply with minimum worker rights conditionality or meet environmental or conservation standards under the technical specifications of the contract.

There are also improved provisions on intellectual property rights, which are of particular interest to our unions which represent performers. We appreciate the enhanced protections achieved in this area on behalf of our members who rely on royalties for their livelihoods.

We are encouraged by the broader new direction outlined by the Democratic leadership to undertake broad trade policy reforms beyond the existing trade agreements. Chairman Baucus mentioned some of the legislation that is under discussion with respect to currency misalignment, imported product safety, strengthening our trade laws, and these are all signs that needed reforms and trade policy are being taken seriously, and we appreciate those.

But beyond the labor and environment provisions, there are several other important issues of concern to working families which were, unfortunately, not addressed adequately in the Peru trade agreement, particularly with respect to investment, the investor state dispute resolution provisions, and procurement issues with respect to out-sourcing American jobs and services.

These are issues that we have raised over the last decade or so in our testimony, in our letters to Congress. They are not new issues for us. They have important ramifications for our members' jobs and communities, and we will continue to fight to strengthen and repair these provisions in future trade agreements.

It is also important to note that, while the May 10th template represents important progress, it is by no means a complete fix, appropriate for any country or any situation. Intractable and egre-

gious human rights violations in Colombia and unequal market access issues in South Korea put these two agreements in a completely separate, and significantly more problematic, category.

Likewise, the extension of fast-track authority raises another entire set of issues about the relationship between Congress and the President with respect to trade negotiating authority. The AFL-CIO will vigorously oppose the free trade agreements with Colombia and Korea, and any renewal of current fast track authority.

We also understand that discussions with the Peruvian government on needed reforms in labor law are under way, and we certainly hope that these discussions will yield strong results. It has been standard practice to negotiate for compliance with the terms of the agreement prior to implementation of those agreements, and we hope that these efforts will bear fruit in the area of labor law reform.

I thank you for your attention, and I look forward to your questions.

The CHAIRMAN. Thank you very much.

[The prepared statement of Ms. Lee appears in the appendix.]

The CHAIRMAN. Ms. Forkan?

**STATEMENT OF PATRICIA FORKAN, PRESIDENT,
HUMANE SOCIETY INTERNATIONAL, WASHINGTON, DC**

Ms. FORKAN. I am, as the Chairman said, Patricia Forkan. I am president of the Humane Society International, which is the international arm of the Humane Society of the United States. HSUS is the country's largest animal protection organization, and in conjunction with HSI we have a constituency of over 10 million individuals, as well as a significant global presence.

I have served on the Trade and Environment Policy Advisory Committee (TEPAC) for a number of years, and HSUS has participated as an accredited Non-governmental Organization (NGO) in three WTO ministerial conferences. We applaud the commitment of the United States to include the environment, along with other areas of economic and trade policy. I am also pleased the results of the bipartisan trade deal will go even further to enhance environment and wildlife protection.

While progress has been made, environmental protection can be strengthened even further. I would ask that my written testimony will be put into the record. That has further details on how to achieve that.

Although not every aspect of the Peru agreement furthers the aims of our organization, we believe the environmental provisions provide needed opportunities and incentives to enhance environmental protection. First, the environmental chapter obligates parties to effectively enforce their environmental laws and, as necessary, to adopt or maintain domestic legislation to fulfill their obligations.

Now, these are for seven Multilateral and Environmental Agreements. We are very pleased that MEAs are specifically provided for. This provision, as currently written, only obligates countries that are already members of the MEAs.

In the future, we believe that this provision should require parties to be members of the listed MEAs prior to ratification of the

trade agreement. Otherwise, we fear that this provision is a disincentive to join an MEA in the future because of additional obligations that might result as a result of the trade agreement.

Second, the provisions concerning party-to-party disputes were changed in the bipartisan deal with Peru. Previously, offending parties were subject to a monetary assessment, capped at \$15 million, which was then to be used to correct the environmental practice that had led to the violation.

Now the default remedy is a suspension of benefits, but no requirement that the money be used to correct the problem. So going forward, we believe the cap on monetary assessments should either be eliminated or monies collected under the suspension of benefits be used to correct the complaint about practice.

Third, we are pleased to see public participation provisions included in the agreement. Both parties have agreed to set up an independent secretariat to accept citizens' submissions. It is critical that the parties ensure that the secretariat effectively carries out its obligations under the environment chapter.

Peru has also agreed to set up and consult a National Advisory Committee on Environment. These provisions give the public a voice concerning implementation of the chapter and provide them with tools to hold their governments accountable for failing to effectively enforce environmental laws.

Fourth, for the first time the U.S. has included a commitment in the trade agreement to protect and conserve biodiversity. Peru is one of the most biologically diverse countries in the world, home to unique and endangered species. This provision underscores the parties' commitment to biodiversity conservation, including endangered species and other animals.

Fifth, we are very pleased the preamble to the annex on the forest sector governance recognizes the link between illegal logging and illegal trade in wildlife. We would have liked this link, however, to be more prominently recognized throughout the annex. It is crucial to have enhanced wildlife provisions included in future trade agreements.

Lastly, we are hopeful the concurrently negotiated Environmental Cooperation Agreement will provide a strong basis for ongoing cooperation. It is incumbent upon the U.S. Government, however, to devote appropriate levels of long-term funding to these cooperative programs.

An impressive amount of initial funding was guaranteed for the DR-CAFTA environmental initiatives. We have witnessed firsthand how these funds enabled environmental improvements in those countries. We strongly urge this committee, and Congress, to also ensure requisite funding is given to the environmental programs in the U.S.-Peru ECA.

For these reasons, we are encouraged that the Peru agreement will support increased environmental protection in both countries. Thank you.

Senator GRASSLEY. Thank you.

[The prepared statement of Ms. Forkan appears in the appendix.]

Senator GRASSLEY. Now, Mr. Winkles?

**STATEMENT OF DAVID WINKLES, JR., PRESIDENT,
SOUTH CAROLINA FARM BUREAU, OSWEGO, SC**

Mr. WINKLES. Thank you, Mr. Chairman and members of the committee. I would like to thank this committee for the opportunity for the American Farm Bureau Federation to testify on the U.S.-Peru agreement.

My name is David Winkles. I am president of the South Carolina Farm Bureau, and I am also a soybean, corn, wheat, and cotton farmer. I am also a member of the American Farm Bureau Federation's Trade Advisory Committee.

Trade is important to U.S. farmers and ranchers, and it is critical for U.S. agriculture that industry, Congress, and the administration work together to further open and develop world markets. For every 25 potential customers for our food, feed, and fiber worldwide, only one lives here in the United States.

Equally important, agricultural productivity is increasing nearly twice as fast as domestic demand for agricultural products. This means that our dependence on trade as an outlet for our growing agricultural product will only increase over time.

AFBF supports all three Latin trade promotion agreements, the Peru, Colombia, and Panama agreements. We encourage this committee, and the Senate, to vote on the Peru Trade Promotion Agreement without delay. At the same time, we would encourage you to promptly take action on the Colombia and Panama agreements.

These three agreements provide gains across U.S. agriculture, and we estimate that passage of the Peru, Colombia, and Panama agreements will increase U.S. agricultural exports by almost \$1.5 billion per year when the agreements are fully implemented.

These three agreements will make agricultural trade more equitable between the U.S. and these partner countries by making U.S. agricultural exports have duty-free access to their markets, equivalent to the access they already have to the U.S. market.

Colombia and Peru receive duty-free access to the U.S. market under the Andean Trade Promotion and Drug Eradication Act, but U.S. products entering the countries have continued to face duties. Panama receives duty-free access under a similar agreement, the Caribbean Basin Initiative.

The recent action by Congress to extend the Andean Trade Promotion and Drug Eradication Act for an additional 8 months disadvantages U.S. farmers and ranchers. The Andean Trade Promotion and Drug Eradication Act allows Peru and Colombia continued duty-free access and provides nothing for U.S. agriculture in currently restrictive markets.

Passage of the Peru and Colombia TPAs would provide U.S. agriculture the same open access to Peru and Colombia and an opportunity to increase competitiveness and boost market share. The Peru agreement expands exports for a wide range of U.S. farm products. Increased exports of the major grain, oil seed, fiber, and livestock products are likely to exceed \$475 million.

The total increase in United States farm exports associated with the Peru agreement could exceed \$705 million per year, including such items as vegetables, fruits, tallow, and other high-value processed products. We do, however, anticipate increased U.S. imports

of Peruvian sugar, estimated at about \$6.4 million after full implementation.

The Peru agreement will allow the United States to compete with Peru's other Latin American trading partners that are currently supplying a large percentage of the Peruvian food and fiber market based on preferential access. Chile has a 28-percent market share of the Peruvian food market, and Colombia and Argentina each have an 11-percent share. Our share currently stands at 8 percent, and fluctuates wildly from year to year given our role as a residual supplier.

Peru's high tariff structure is a major impediment to access in many sectors, including agriculture. For example, Peru uses tariffs on meats, some fresh fruits and vegetables, and pullets, even though there is little domestic production of these items. The average tariff rate is roughly 18 percent, compared to a U.S. rate of zero on many Peruvian products.

Under the Peru agreement, more than two-thirds of current U.S. agricultural exports to Peru will become duty-free immediately. Items that receive immediate duty-free treatment include high-quality beef, cotton, wheat, and soybeans, soybean meal, apples, pears, cherries, almonds, and some processed foods. The Peru agreement requires the elimination of all tariffs on all agricultural products exported by the United States to Peru.

As much as trade agreements focus on tariffs, non-tariff barriers are also troublesome for U.S. exporters. This agreement resolves sanitary and phytosanitary barriers to agricultural trade, including in the Peruvian case regarding food safety inspection procedures for beef, pork, and poultry.

The Peru agreement also allows parties to utilize tariff rate quotas and safeguards to transition their sensitive agricultural products into the agreement. Those tools are eliminated after full implementation. The agreement is positive for U.S. agriculture. The total increase in U.S. farm exports associated with the Peru agreement could exceed \$705 million per year. Congress's quick action on this agreement would greatly be appreciated by U.S. agriculture.

Thank you.

Senator GRASSLEY. Thank you, Mr. Winkles.

[The prepared statement of Mr. Winkles appears in the appendix.]

Senator GRASSLEY. Now, Mr. Catania?

STATEMENT OF THOMAS CATANIA, VICE PRESIDENT, GOVERNMENT RELATIONS, WHIRLPOOL CORPORATION, BENTON HARBOR, MI

Mr. CATANIA. Thank you, Senator Grassley and distinguished members of the committee. As Chairman Baucus introduced me, I am vice president of government relations for Whirlpool Corporation, but I also spent a number of years in Whirlpool's Miami office, which manages U.S. sales to the Latin American region.

Whirlpool is the world's leading manufacturer and marketer of home appliances, with more than 73,000 employees in over 70 manufacturing and technology centers around the world. In the

United States, Whirlpool has 14 major manufacturing divisions and over 26,000 active employees.

Whirlpool is a member of the U.S. Chamber of Commerce, the Association of American Chambers of Commerce in Latin America, and the Latin American Trade Coalition, all of which support the pending trade promotion agreements with Peru, Panama, and Colombia.

I am pleased to be before you today to discuss the merits of the U.S.-Peru Trade Promotion Agreement and its potential to strengthen U.S. manufacturing. Whirlpool strongly supports this agreement because it removes barriers to trade that disadvantage U.S. companies that export to Peru.

At Whirlpool, we welcome the challenge to compete globally with foreign suppliers if subject to the same rule of law. This is made possible by U.S. trade agreements that even the terms of trade. Currently, U.S. exports are disadvantaged by preferential arrangements within the hemisphere that foreign appliance manufacturers take advantage of by setting up operations in Mexico to export within Latin America.

The U.S.-Peru agreement will allow Whirlpool to maintain U.S. jobs rather than relocate or expand operations in other Latin American locations as we try to increase our exports in the region.

Since 1991, Peru has enjoyed duty-free access to the U.S. market for most goods and services as a result of the Andean Trade Preference Act, and subsequently by the Andean Trade Promotion and Drug Eradication Act. The positive effects in Peru of these laws were significant, and they led to numerous political and economic reforms that have helped Peru's GDP grow substantially.

The agreement we are discussing today has the potential to spur even more development and growth in Peru's economy by encouraging trade, creating jobs, and attracting investment. Having fair access to a growing and dynamic market like Peru is critically important to Whirlpool, other U.S. manufacturers, as well as farmers and service providers.

While Peru already enjoys duty-free access to the U.S. market for most goods, Whirlpool currently pays substantial tariffs on U.S. exports to Peru. The U.S.-Peru TPA will help level the playing field by eliminating tariffs and other non-tariff barriers, and providing access to the 28 million Peruvian consumers for our U.S.-produced goods and services.

In fact, should the agreement enter into force, tariffs of 15 to 20 percent on Whirlpool's U.S. exports of refrigerators, ranges, and clothes washers would be immediately eliminated. Today, Whirlpool's exports to Peru come from many of our U.S. manufacturing operations, including those in Arkansas, Indiana, Iowa, Ohio, and Tennessee.

The U.S.-Peru TPA, as well as other Latin American TPAs with Colombia and Panama, would save Whirlpool millions of dollars in duties not paid and would encourage even greater export opportunities for Whirlpool's U.S. manufacturing operations.

In part because of the agreement, Whirlpool forecasts a 400-percent increase in U.S. exports to Peru from 2007 to 2009. In addition, we recently opened a legal entity—primarily a sales and service company—in Peru called Whirlpool Peru.

The U.S.-Peru TPA is expected to have a positive effect throughout the U.S. economy. According to the International Trade Commission, U.S. economy-wide imports from Peru are expected to increase by \$439 million, while U.S. exports to Peru are expected to increase by \$1.1 billion. That is an 8-percent increase in Peruvian exports and a 25-percent increase in U.S. exports.

These figures do not even consider the positive impact of the elimination of non-tariff barriers, which will facilitate and reduce costs on U.S. exports even more. Specifically, U.S. manufacturers will benefit from: non-discriminatory national treatment in all aspects of our business; comprehensive rules of origin that ensure only U.S. and Peru benefit from the agreement; transparency and efficiency in administering Customs procedures, including the agreement's rules of origin which provide clarity, predictability, and certainty to manufacturers; enhanced commitments in distribution services such as wholesaling, retailing, and franchising; and greater protection for intellectual property rights, specifically criminalization of end-user piracy, providing strong deterrence against piracy and counterfeiting and limiting the grounds for revoking a patent, thus providing protection against arbitrary revocation.

Forging new and lasting relationships in Peru, and throughout the region, will provide Whirlpool with an opportunity to improve its competitiveness and achieve economies of scale throughout the western hemisphere.

In addition, healthy Latin American markets translate into greater development of infrastructure to facilitate the movement of more products into the region. In sum, the U.S.-Peru TPA is good for Whirlpool and other U.S. manufacturers, and it will promote economic growth and prosperity in both the U.S. and Peru. We hope the Congress will move quickly to pass this agreement and the Panama TPA to ensure strengthened export opportunities for U.S. manufacturers.

Mr. Chairman and members of the committee, thank you for the opportunity.

The CHAIRMAN. Thank you, Mr. Catania, very, very much.

[The prepared statement of Mr. Catania appears in the appendix.]

The CHAIRMAN. Ambassador Kantor, your thoughts on just how much this should be a template, these provisions, in future trade agreements. Should we go farther? Should we require it, as an absolute minimum? Generally as we look at future FTAs, or maybe fast track for that matter, to what degree should these be included?

Mr. KANTOR. I believe the labor and environmental provisions should be a template. I cannot imagine why we would enter, certainly, into any bilateral or regional agreement without including enforceable labor and environmental provisions.

I even believe we ought to begin seriously at Geneva with the WTO, to have the WTO—finally—seriously involve themselves in these issues and begin to recognize labor and environmental rights, which are just as important as protecting investment or protecting intellectual property rights, or advancing the cause of agriculture, or any other matters that are in trade agreements. So, Mr. Chair-

man, I believe they ought to be a part of every agreement from now on.

The CHAIRMAN. Mr. Catania, as a representative from business, would you agree or disagree?

Mr. CATANIA. I think that there has always been a virtuous relationship between promotion of trade, economic growth, and improvement in labor and environmental standards. Which is the chicken and the egg and whether the provisions in this agreement are an essential prerequisite to it—I think that as long as we end up achieving an ultimate objective of a successfully negotiated trade agreement, I think it is inevitable, as economic prosperity occurs in these countries, that we will see significant improvement in labor and environment conditions.

The CHAIRMAN. Ms. Lee, your thoughts about the enforcement provisions in this agreement. I am also introducing legislation to boost American enforcement of trade agreements. And the degree to which you think that should be improved upon, or just generally, how do we enforce?

Ms. LEE. I think that is an excellent question, Mr. Chairman, and it is the key one for us with respect to labor and environment, that the language is put in place, it is written into the trade agreement. What we need from our executive branch, and we need Congress to keep an eye on, is that there is consistent and effective enforcement across the board of all the provisions that are in trade agreements.

That is what businesses need, I think, and they rely on, is not to play favorites, to pick and choose, or to choose some provisions over others. We have been very frustrated over the last 6 or 7 years with the Bush administration's complete failure to enforce the labor provisions that we have in trade agreements, including the Jordan agreement. We have also filed several cases under section 301 with respect to worker rights in China, with respect to currency manipulation. Those cases have not even received consideration by the administration.

So one of the issues that we looked at is whether there is a way for Congress to strengthen its oversight role of the executive branch in this area to maybe hold annual hearings with subpoena power to get a full reporting from the executive branch on what steps have been taken, what issues have been brought to their attention, what investigations have occurred, and we think that would strengthen the ability to enforce more consistently across the board, and that would be a huge improvement.

The CHAIRMAN. Yes. Because I hear some who say, gee, maybe these provisions are all right, but they do not trust this administration. Now, this administration is not going to be around forever, but maybe they will not be able to trust the next administration. So do you think that oversight, hearings, maybe—you mentioned subpoena power. That is a bit unusual. Sometimes you have to resort to it.

But what else besides oversight hearings? How do you keep administrations' feet to the fire? And, as you say, how do you keep consistency? We do not want an on again/off again, like a yo-yo effect, one administration, then another, and so forth.

Ms. LEE. Well, I think there is also transparency, that the decisions that are made by the administration should be completely transparent. The basis for accepting or rejecting a case should be completely laid out.

I think another issue is what role unions, NGOs, or individuals have to initiate a case and to get a hearing for issues that they bring to attention. Maybe we also need more staff in both the U.S. Trade Representative's office and the Labor Department to ensure that there is monitoring on the ground.

We do look at the Cambodia agreement as a good example of a case where we built an institution with the help of the ILO, the International Labor Organization, to monitor the enforcement of the labor rights in the Cambodia-U.S. apparel quota extension agreement, and that was something that did help create the understanding on the ground in Cambodia on the part of the government, the businesses, and the workers, that there was an understanding that these provisions were to be enforced, and that was useful.

The CHAIRMAN. I know my time has expired, but I know Senator Stabenow has been very concerned about enforcement and just introduced legislation somewhat along the lines that we have discussed here, again, to beef up enforcement in the USTR, for example, and I appreciate her efforts in that regard.

Thank you very much. My time has expired.

Senator GRASSLEY. Our last two witnesses were very clear that they wanted us to pass this Peru agreement. I would like to ask Mr. Kantor, Ms. Lee, and Ms. Forkan, yes or no, do you think we should pass this agreement right away?

Mr. KANTOR. I may have skipped that, Senator, but it was in my statement. Yes, I believe you should.

Senator GRASSLEY. All right.

Ms. Lee?

Ms. LEE. Because of the important issues that I mentioned that were not addressed in this agreement, we will not be advocating for passage of the Peru agreement. We have unions on both sides of this issue, but our priorities will be strong opposition to the Korea and Columbia agreements.

Senator GRASSLEY. All right.

Ms. Forkan?

Ms. FORKAN. Well, I am going to take a different approach here. As the Humane Society, we really do not have policies on vast sections of free trade agreements.

Senator GRASSLEY. All right.

Ms. FORKAN. So we are very interested in what is happening with environment and wildlife, but we do not take a position one way or the other on the entire agreement.

Senator GRASSLEY. That is all right.

Mr. Kantor, our previous trade agreements provided for the use of monetary assessments to improve the enforcement of labor and environmental laws in other countries. However, under the approach embodied in this May 10th compromise, violations of labor and environmental obligations are subject to a suspension of trade benefits just as if it were a commercial dispute. It seems to me—and I would like your view—that this approach is counterpro-

ductive because it deprives us of an effective tool for improving the enforcement of our trading partners' labor and environmental laws.

Mr. KANTOR. Senator, I understand your approach. I believe the suspension of benefits carries with it a greater impact on the country that is not enforcing any provisions of this agreement—particularly labor and environment, but others like IPR investment and other provisions—which will, let us say, encourage the other countries which have had a suspension of benefits to beef up their enforcement and do exactly what would have been done by some fund or some fine, so to speak, being placed upon them to be used then to do the same thing that could be done, I think, by suspension of benefits. I think suspension of benefits carries with it much more impact, and that is what I believe we should be looking for.

Let me say one more time, Senator, I am so worried about the credibility of our trade policy and agreements with the American people. I believe the American people will support trade or support the expansion of trade only if they believe we will enforce these agreements, take them seriously, and enforce our trade laws as well. Our ability and willingness to enforce them, and then to suspend benefits as a result of violations, I think will create more credibility for our trade policy in the future.

Senator GRASSLEY. All right.

That leads me then to the next question, that does not have to be quite as long, with where you just left off. Could you provide some specific examples of problems, perhaps from your clients or anybody else that you know about, that the U.S. Trade Representative is refusing to take to dispute settlement?

Mr. KANTOR. Well, I think this administration, without getting into any specifics, has filed about one-third the number, or even less, the number of trade violations or disputes with trade panels than the previous administration, the administration I served.

Now, numbers do not tell the whole story. I believe, up until the last year and a half, this administration has virtually ignored enforcing our agreements in trade laws. That has changed to some degree. It has changed because of increased—actually with regard to China and with regard to other areas as well.

So I think that is a welcome move in the right direction. I think the fact this administration now has agreed on enforceable labor and environmental provisions in this and other agreements is also a big step forward. So, we are making progress.

I think everyone recognizes, Senator, that trade has lost its credibility with the American people because the American people do not believe we will stand up for their interests. And I think we have to resolve that problem by dealing straight with the American people, by enforcing these agreements, by having strong and enforceable provisions in the agreements. I do not think we can sustain a forward-looking, progressive, and successful trade policy without that.

Senator GRASSLEY. Ms. Lee?

Ms. LEE. Senator Grassley, we would be happy to provide you with a long list of the cases that we have filed, worker rights cases, under the Generalized System of Preferences (GSP), section 301 cases I mentioned earlier, and there are also the section 421 cases where the administration has failed to act and has failed to provide

any basis for not acting with respect to violations of workers' rights that we have documented very carefully.

Senator GRASSLEY. I asked for it, and I should receive it from you. Thank you.

The CHAIRMAN. Thank you very much, Senator.

Senator Salazar? And I deeply regret I am going to have to leave, and Senator Grassley is going to continue chairing the hearing.

Senator SALAZAR. Thank you, Chairman Baucus and Senator Grassley, for holding this important hearing.

First, I want to say I have long been interested in making sure that our trade relationships and our geopolitical relationships are appropriately put together as we look south and north. In the first meeting I had with President Bush some 2½ years ago, I told him that I thought that the focus of this administration had not been appropriately put into the north/south relationships with Latin America.

Earlier this year, I traveled with Senator Reid and several other Senators into Bolivia, Peru, and into Ecuador, and it was part of an undertaking led by Senator Reid in which what he wanted to do was to make sure that we were putting a focus on Latin America and the importance of the relationship between the United States and Latin America.

In my view, the vision that Senator Kennedy had with our relationship with Latin America on the creation of the Alliance For Progress is something which has been abandoned, really, in the last several years, and it is something that we need to reengage and we need to embrace.

It is in that context that I hope to be able to support the Peruvian Free Trade Agreement, and I do intend to support it if I can be assured that the enforcement provisions with respect to labor and with respect to environment are, in fact, going to be more than words on a paper that have been negotiated here.

I am reminded of a conversation that I had with President Garcia when I was in Peru about the historic relationship between the U.S. and Peru dating back to World War II, where Peru essentially provided us the land base in Peru to be able to carry out some of our major activities in that conflict in World War II. So this is a very important document. It is a geopolitical document, an economic document for our country, and one that I very much am looking forward to supporting.

But I want to get to the two principal questions that my colleagues have asked, and that is on the enforcement. I think there is agreement, as I hear from the panel, that the labor and environmental provisions that are now included in the agreement were positive steps forward.

But again, the question becomes, how do you make sure that they are enforced, that they do not become just empty words on a paper? So if I can have Secretary Kantor and Ms. Lee respond to that question. How do we absolutely make sure that we enforce these provisions on labor?

Mr. KANTOR. Well, number one, I do not think you can assume they will be enforced, although I am hoping that they will be on both sides. I would think the first thing is, this committee and oth-

ers should make sure the administration is held accountable if they are not enforced.

The second is, I believe we should build a separate enforcement arm of the U.S. Trade Representative's office, with the head of that arm being confirmable by the U.S. Senate in order to try to make sure not only that USTR has the resources, but that Congress makes it clear that they want the USTR's priority to be to enforce not only this agreement, but other agreements and trade laws as well.

I think the combination of oversight and a separate arm, not separate in terms of administration but separate in the terms of having enough resources and with a confirmable head of that office, as I think Chairman Baucus has suggested, I believe Senator Stabenow has suggested, would be a big step forward. But in terms of assuring, I cannot assure you, nor can anyone else.

Senator SALAZAR. Would you say, Secretary Kantor, that at this point in time we do not have that enforcement capacity, and so we have to create that enforcement capacity to ensure that it occurs?

Mr. KANTOR. I think so. The capacity of USTR is very small. It is the smallest trade agency of any developed country in the entire world. USTR, the people who work there, they do a terrific job. They are very, very praise-worthy folks, and they know what they are doing. But there are very few of them. So, therefore, I think you need to add some resources and make sure the resources are used in the enforcement area.

Senator SALAZAR. Ms. Lee?

Ms. LEE. Thank you, Senator Salazar, for the question. I think there are a couple of things we can do. One is, the current conversation that is happening between the Peruvian government and members of Congress about labor law reform is an important down-payment on the assurance that these provisions are being taken seriously, needed labor law reforms are put into place.

This is similar to the kind of conversations that USTR has had with many other countries, around things like intellectual property rights protections or taxes, that they should take the steps to bring their labor laws into compliance now before the agreement is put into place, in some ways because this is easier to do now than it is to initiate dispute settlement afterwards.

Some of these labor law reforms have been in front of the Peruvian Senate for more than 5 years without action being taken. So, it would be really important to see the Peruvian government show that they are willing to take those steps.

The other issues, I think, have to do with both capacity and will. And as you say, there is a need for more capacity within the administration to ensure that they have the resources to investigate complaints that are filed and that they are taking the action. But the second piece is whether they have the will to do it, and I think that is where Congress's role of oversight is so important, to be vigilant about whether in fact these provisions are being taken seriously, are being acted upon.

Senator SALAZAR. I look forward to hearing more from you on both the capacity and will concept, and I am sorry, but my time is already up.

Senator GRASSLEY. Senator Stabenow, then Senator Lott.

Senator STABENOW. Thank you, Mr. Chairman. Thank you for holding the hearing. There is no question that trade policy for our country is one of the most important topics for Michigan. I am very happy to see Tom Catania from Whirlpool Corporation here. We are very proud of Whirlpool and your location in Michigan, and also about your leadership on energy-efficient appliances. We are very proud of you and look forward to more and more success.

Mr. Chairman, the Peru FTA is really a tough one for me. In fact, any trade agreement right now in Michigan is tough. There is no question, former Secretary Kantor, that the Federal Government has lost credibility with the American people, certainly the people in Michigan, when it comes to whether or not we are going to enforce our trade rules. We are not.

I could bring in a whole range of businesses that have lost patents, stopped making product, laid off people because of illegal practices, currency manipulation, on and on. I am pleased to see that you are suggesting that we need a trade enforcement arm.

I was very pleased to introduce a bipartisan bill with Lindsey Graham in the last session calling for that trade enforcement division. We called it a U.S. Trade Prosecutor. But I am very pleased that the Chairman and Ranking Member have included that in a broader trade enforcement bill, and it is critically important that we get that passed.

But we have serious work to do before the American people will feel that we are credible when we say that we are going to enforce trade agreements, or help them if they lose their job because of trade. I do recognize, though, that this FTA has come a long way, and I want to commend everybody involved, our House colleagues, Senate colleagues, others who have been able to bring our country's values related to labor and environment into this agreement. I think it is an important step forward.

But right now what we have are the right words on paper, and having the right words on paper is not enough when people are losing their jobs, and certainly in Michigan that is the case. I think what we have to be doing is talking about the right trade policy, not the right words on a piece of paper.

Frankly, our trade policy and inaction on enforcement have hurt the middle class of this country. We have had a misguided trade policy, and I believe it is time for a new agenda. A trade agenda that helps working families adjust to globalization, that ensures our trading partners are following the rules, and has the right enforcement for unsafe products that are getting into the hands of our children.

Right now, 33,000 people in Michigan alone—that is 90 percent of the people who have lost their jobs to trade—are not receiving any training funds under TAA because we have not increased the caps or reauthorized TAA. And, with all due respect, just extending it is not enough.

But how do I tell 33,000 people, who were told, we will help you adjust through training and new investments to the new jobs, 90 percent of the people who have lost their jobs are not receiving the assistance that the Federal Government promised?

In the last several weeks, we have also seen product after product recalled because of lead found in imported toys, yet the field

staff for product safety continues to decline. There is a huge relationship in terms of budget issues, as has been addressed.

Most recently, we are facing a credit crunch at a time when so much of our debt is held by foreign markets in countries who are manipulating their currency. We passed a bill out of the Finance Committee. We have yet to enact that into law.

So my position is, Mr. Chairman, that before we go any further, we have to get our trade policy right, regardless of specifics on a trade agreement. We can no longer say, pass this trade agreement, we will fix it, we will enforce it, we will deal with it later, because the American people do not believe that any more. We have to have those things, TAA, currency, and trade enforcement done so that people will have confidence in what we say.

Now, specifically as it relates to Peru, when we talk about fresh fruits and vegetables, we are the major importer from Peru of fresh fruits and vegetables. This has had a tremendous impact already on asparagus prices in Michigan. I realize I have not been asking a question, but I will end by saying that when we talk about TAA, we need to expand it to our farmers. We have duty-free access, but Peru has cut the American acreage for asparagus in half; 40,000 acres of asparagus is gone, and yet our farmers did not qualify for assistance because of outdated calculations on TAA. So, TAA is a very broad, important policy. If I might just say, and without having asked a question, I guess, Mr. Chairman, this is more of a position. I certainly have questions.

Senator GRASSLEY. You are entitled to your position.

Senator STABENOW. Thank you. But I do feel that, from my perspective, representing a whole lot of hard-working middle-class folks who are fighting for their way of life in this country, we have to get it right before we start passing any more trade agreements. Thank you.

Senator GRASSLEY. Senator Lott?

Senator LOTT. Well, thank you, Mr. Chairman. And thank you, Chairman Baucus, in absentia, for going forward with the process and having this hearing today to move toward enactment of the Peru Trade Promotion Agreement. We need to do this, and we need to also take up the others that are pending, particularly Panama and Colombia.

I believe in trade liberalization. I believe it helps us. See, a lot of people view trade as a threat, a challenge to us. But, as Mr. Winkles said, it is an opportunity to open markets for us to benefit. So I think you need to look at these trade agreements, just not in terms of the agreement themselves, but the economic opportunities that they present for American manufacturers, farmers, ranchers, service providers, and that they benefit these countries broadly.

But even beyond that, I believe that it promotes democracy and political stability. Every day, President Garcia has to stand up to Hugo Chavez in Venezuela and those who wish to pull Latin America toward isolationism and anti-Americanism. The same thing with President Uribe. He has shown real courage. They have made real progress in Colombia. This would open up their markets to us. It would help them and help us. So, I support this.

I particularly have been supportive of agreements in Central and South America. I supported the Central American Free Trade

Agreement, and I supported the Andean Trade Agreement because I thought it was the right thing to do for these countries. I think we spend so much time focused on the rest of the world, particularly Europe and the Middle East, that we ignore Central and South America sitting right here under our nose.

There are hundreds of millions of people there who, if we could help their economy rise, it would benefit them, it would benefit democracies, and it would benefit our own economy. So that is why, last year, I was panicked that we were about to defeat the Central American Free Trade Agreement. As a matter of fact, it was very small in terms of what it would mean for either side. Yet, it was huge in terms of the image of what we were trying to do. So, I support Peru.

I have my reservations about the South Korean agreement. That proves that I do not just go for every one of them. I want to know, what have they been doing in terms of opening their markets? I want to know, are they going to keep their agreements? Can we trust them? I ask that about every country, and I have some reservations about the Korean agreement. But I think, in terms of Peru, this is a slam-dunk. And when the questions were raised, negotiations took place with the administration. They made some changes. The Peruvians stepped up and did the job. We need to move this and do it quickly.

But let me address a question to you, Mr. Kantor. You have been through these wars before. I enjoyed working with you when you were our Trade Representative in the Clinton years. We did some good things together. But there is criticism. I have been critical. I can remember standing in the Cabinet room with President Reagan saying, Mr. President, free trade has to also be fair. The world is shoving us around. Enforce these agreements.

Well, it seems that, regardless of who is in the White House, or which party, it has not always been done. I guess some of the people at this table could be critical of the Clinton administration for not doing more to enforce the agreements.

Tell me, tell these people, tell the people watching why we do not do a better job of enforcing agreements. Take out the partisan stuff. Let us talk about the realities of how, when you get involved in that, then you have to deal with the different entities, you have to deal with the State Department, you have to deal with overflight rights, and everything gets tangled up in how we do this. What about it, Mr. Kantor?

Mr. KANTOR. Well, first of all, when I started as USTR I was 6-foot-4 and blonde. [Laughter.]

Senator LOTT. I hope I helped pound you down a little bit.

Mr. KANTOR. Senator, I appreciate that, and I appreciated working with you in the past—and, frankly, every member here I have worked with. I enjoyed it. You were terribly supportive, which I appreciate.

The best part about this bill, frankly—and I will get to your question—is it looks like it is going to be bipartisan in its support. We have to get back to a bipartisan trade policy. Trade should not be like some other issues and become highly partisan.

Trade is a process. It is not ideological or philosophical or theological. It is all about trying to move the American economy for-

ward, making sure we have the jobs and the standard of living, continually raising those to make sure our companies can do well by competing. We are an interdependent world, Senator, as you know so well. We have to engage that world and compete—as one of my friends used to say, compete, not retreat.

In terms of why they are not enforced, what happens, there are all kinds of reasons that come up. Part of it is a lack of resources at USTR. That is part of it, not all of it. Part of it is, you have fights continually with the State Department and others who say, oh, no, you can't do that at this time because we have something going on with X country and that will hurt what we are doing.

Senator LOTT. I have heard it.

Mr. KANTOR. And I heard it until I was up to here with it. The fact is, it is not true in almost every case. Not all, but almost every case.

Number three, I believe, in order to create credibility, as Senator Stabenow was saying, with the American people, we must—must—enforce our trade laws and trade agreements so the American people believe they are getting the benefit of their bargain. They will stand behind an aggressive trade policy that in fact will help our standard of living.

But unless we do that, unless and until, whoever the next President is, and from whatever party, is willing to stand up and say, this is important, it is important for our economy, it is important for the American people, then it is not going to happen. I fully hope we can expect the next President, and whoever the USTR is, and whoever the administration is, will do that.

Senator LOTT. Thank you, Mr. Chairman. My time has expired.

Senator GRASSLEY. Thank you.

Mr. Catania, in your testimony you note that Whirlpool recently opened a sales company in Peru. You also note that Whirlpool's exports to Peru come from operations that you have in Arkansas, Indiana, Iowa, Ohio, and Tennessee. Could you comment on how the establishment of a local presence in a country such as Peru helps to sustain and grow jobs for Whirlpool in the United States? Because I assume that your employment is not going down because you are doing business in those countries.

Mr. CATANIA. Right. Senator, thank you for your question. The important thing to understand about marketing appliances at the retail level is that you have to have a meaningful presence on the sales floor, and you also have to have the ability to provide the after-sales support for appliances that consumers everywhere in the world expect.

So, our initial operation there is primarily focused on presenting a portfolio of products to our retailers from our operations throughout the world. As it stands today, we are somewhat hamstrung by the substantial duties that are imposed on our products coming from the United States. So in the interim, we have been primarily serving that market out of our Brazilian operations.

What this trade agreement does for us is, first of all, ensures that our sales and distribution operations are on an equal footing from a legal, non-tariff trade barrier perspective with all other sales operations there. We can enter into the kind of contracts and

relationships with the retail trade that we need to, to be competitive.

In addition, we have the opportunity to mix product from all of our locations, but primarily bring more of our product in from the United States, clear it through typically duty-free zones and so forth, and bring competitive products, such as we produce at the facility in Amana, IA, to what we expect to be a growing market, which will have a growing appetite for products at the higher end which we produce in the United States.

Senator GRASSLEY. In your testimony, you note the benefits of Whirlpool under the agreement in terms of lower import duties in Peru. Could you comment on the competitive landscape if we fail to implement the trade agreement?

Mr. CATANIA. Well, some of our competitors—foreign competitors, the Koreans in particular—have chosen to make their manufacturing investments in Korea, I believe in part because of their recognition of the favorable trade position that Mexico enjoys with Peru as compared to the United States.

So by eliminating that disincentive potentially, while we are not encouraging or asking our competitors to move more manufacturing into the United States, it is clear why they would have an incentive to choose Mexico for a manufacturing operation in light of the present trading relationship.

Senator GRASSLEY. Yes.

Mr. Winkles, how would implementation of the trade agreement with Peru help the United States evolve from being a residual supplier, as you said in your testimony, to a more significant supplier of the Peruvian market?

Mr. WINKLES. Well, Senator, there is considerable variability. That is why we are a residual supplier. In years where there is a lack of supply with their traditional suppliers, then they have to turn to us, the United States.

The tariff rates set currently create a disadvantage or an uncompetitive nature for us, so, if we had a level playing field, zero and zero, we would become a supplier, a normal supplier, again, adding stability to the marketplace, which is most important for folks involved in agriculture.

Senator GRASSLEY. Mr. Winkles, in your testimony you predict the United States will develop an agricultural surplus with Peru when the agreement is implemented. What other agricultural exporting countries would step in to fill the void if we fail to implement this agreement?

Mr. WINKLES. Certainly Brazil, Argentina. Other countries in the area are ready and willing to step up to the plate and be suppliers. Senator, there is one thing I would like to mention when we are talking about trade in general. There have been over 150 trade agreements signed over the past 10 years.

The American Farm Bureau would really like to see a successful completion of the Doha Round—and I know we are here to talk about Peru today—but these regional agreements, these country-on-country agreements, are absolutely critical for our future benefit as agriculture, our future as a continued supplier to the world.

Senator GRASSLEY. Ms. Forkan, in your testimony you state that, if the remedy applied to a violation of an environmental obligation

is a suspension of benefits, any monies collected should be required to fix the problem that led to the violation. Now, we can appreciate your trying to recapture advantages of the monetary assessment approach, but I am not sure that that is a workable recommendation. Suspension of trade benefits often leads to the cessation of trade because the duties imposed are trade-prohibitive, and, if the trade ceases, no money is collected. I would like to have your response to the position that I have just stated.

Ms. FORKAN. Well, one of the things that I had hoped to be able to talk about earlier was that the enforcement issue that everyone has been talking about, certainly from our point of view, enforcement is important on the ground. And certainly with DR-CAFTA and Peru, we have been working on the ground to help the folks in those countries enforce their laws.

So while I appreciate the fact and agree with what has been said about enforcement, we cannot forget that enforcement has to happen there as well. When we are working with developing countries, we need to have capacity building to do that. So we personally have sent former captains and detectives from American law enforcement to help the enforcement people in those countries carry out enforcement of the laws.

So one of the things that I wanted to also emphasize is, as a result of that, we need to have capacity-building money directed at these countries so that they can carry out what is expected of them, so no matter how many people we have overseeing what they are doing, unless they know how to do it and have the ability to do it and have the understanding, then we are not going to get where we want to go.

As far as the question, one of the things we do not like is that, when you have a trade agreement, a lot of the times that animals are involved, you do not get a remedy for the issue. You get, perhaps, a remedy that makes the manufacturer or whoever happy, but it is not going to make the situation better for animals. So we would rather have monies going towards solving the issues rather than into the individual Treasury of the country. So that is really what we are trying to get at here.

A perfect example is tuna/dolphin, where, if that were ever brought under WTO—it was brought under GATT and that was a different era—we might have to pay Mexican fishermen who are killing dolphins. Well, that just makes no sense. We want the fishermen to change how they are doing it, and so they change by having the ability to learn how to use the nets and doing various other things. So that is what we are trying to get at here, to get a better way of fixing the problem, not just condemning the problem.

Senator GRASSLEY. My last point would be to Ms. Lee. It is not about the substance of these amendments, but about a process. I want to tell you something that I disagree with, tell you why I disagree, and then ask you to respond if you want to. Also, if I am wrong, Mr. Kantor would know if I am wrong because he was in the position of enforcing and carrying out some of these agreements.

In your testimony, Ms. Lee, you state that it is essential that countries bring their labor laws into compliance with the provisions of our trade agreement prior to implementation. You go on to state

that this is standard practice. That is the statement that I disagree with.

The standard practice has been that, upon conclusion of a trade agreement, Congress enacts implementing legislation that authorizes the President to trigger entry into force once the President is satisfied that our trading partner has taken all the necessary legislative and regulatory steps needed to comply with the agreement.

Until the President is satisfied then, the agreement does not enter into force. The argument that you—and I have heard others make it as well—turns that around. If another country demands that we enact the terms of a trade agreement into our law before that country would even begin the implementation process, I would think that we in the United States would be offended and walk away from the trade agreement.

In any event, I see no reason to depart from the standard practice of authorizing the President to trigger entry into force upon determining that our trading partners have fully conformed to the obligations of the trade agreement.

Now, this is the history of it, as far as I am concerned. In one form or another, that is how it has been done, going back at least as far as the Trade Agreement Act of 1979 for both Democratic and Republican presidents. We should not depart from that now. That is my opinion. I think you are asking us to depart. Maybe you did not realize it, but I think you are departing from the standard practice that we have had.

Ms. LEE. Thank you for the question, Senator Grassley. I actually do not think we are in disagreement on this point. If the President is to certify that the parties conform to all the provisions in the agreement, my point is that, with respect to labor law, there are certain areas where Peru, at the moment, does not conform to the provisions that are agreed to in the agreement. So before the President can certify in good faith that the parties conform, then these steps need to be taken.

This is, when I said “standard practice,” maybe it is more of an informal practice. But certainly it has been the case with respect to Guatemala and the intellectual property rights laws, with Dominican Republic and the taxes on soft drinks. These issues were addressed prior to implementation, and that is preferred practice. So I do not think we are actually in disagreement.

One of the points I guess I would make is, there has been selective enforcement or priority placed on this by the administration, and that what we would like to see is the labor provisions given no less weight than the other commercial provisions in the agreement, like the intellectual property rights provisions. I do not think we are actually that far apart, Senator Grassley.

Senator GRASSLEY. Well, maybe we are not, between you and your position and me as a Senator. But it seems like your position is different than the one the House of Representatives has taken, because they have made very clear they were not going to take up these bills in the House of Representatives until actually the Congress has passed the laws that we changed as opposed to the House of Representatives passing it, the Senate passing, and the President signing it.

We have agreed to it, and then maybe a year from now, the President, if the Peruvian Congress has done it, then the President would certify it. If they do not ever do it, it is not certified and it never goes into agreement. In fact, are we not right now under the present provisions—we passed something with Oman several years ago and it has not been certified yet, I do not believe, or some country in that region of the world. So maybe you and I do not agree, but the way it is being carried out is different than since 1979.

Ms. LEE. That may be the case. I think it probably has to do with whether there is confidence that the President is taking all these factors into account.

I guess I wanted to raise one other issue. You had said whether another country were to ask the U.S. to comply, whether we would be insulted. With respect to labor law reforms, we would not be insulted. The AFL–CIO would not be insulted. We think these trade agreements should be two-way streets and the labor obligations should apply to the United States and should be enforced, and our trading partners have a right to raise any issues that they think might be there, just as we have the right to raise those issues with respect to their laws.

Senator GRASSLEY. All right.

Senator Roberts?

Senator ROBERTS. Thank you, Mr. Chairman. I apologize to the panel, and to you, sir, for the lateness of my arrival. I have been saving western democracy this morning, and it is a tough job. [Laughter.]

I have a couple of questions here for the Honorable Ambassador and Secretary and friend, Sir Michael Kantor. I have just dubbed you in that respect.

Mr. KANTOR. My mother would be very proud.

Senator ROBERTS. All right. Thank you very much for the work that you have done in the past, and working with the Congress.

In your testimony, you list three principles that you believe should guide how the United States addresses the big word, the Lou Dobbs special, “globalization.” You mentioned raising standards of living for all participants, advancing the interests of the American worker and their families, and vigorous enforcement of our trade laws.

Senator Grassley said that the situation in South America was tumultuous. That is a very fancy word for being in a tough situation. My question to you is, and it is an obvious question, and I would go back to South America, I think I am correct in saying that there are 31 nations in the southern command, 300 million people, average age 14, a lot of problems down there.

We have taken a lot of infrastructure away from the southern command where they were of help during times of need and actually helping people, and I am talking about the military and our National Guard folks. That is not the case today with Afghanistan and Iraq, and the numbers of people. So, I think it is very tumultuous, obviously, with Hugo Chavez being the next Castro, or whoever he intends to be.

Do geopolitical and national security concerns play a role when negotiating trade agreements? If not, why not? How would you rate national security along with the three that you mentioned?

Mr. KANTOR. Strategic issues are always somewhere in your mind as you negotiate any trade agreement, Senator, because negotiating a trade agreement that is enforceable, that is strong, that strengthens both countries can be very helpful in terms of strengthening the ability of a country to progress, to institute democratic principles, to strengthen their institutions, and so it is always there. Obviously it is not a direct part of any trade negotiation, but it does have an effect. I think in this case with Peru, approving this agreement will have a positive effect on Peru's stability, and hopefully our reputation and credibility in Latin America.

Senator ROBERTS. Well, one of the things I have been trying to say to my farmers and ranchers in the various trade organizations that are very effective in Kansas, I have to tell you, the bloom is sort of off the trade lily. We have a situation where one of the leaders of the House appeared at the State Fair here just this past weekend and said the House-passed farm bill, which I am not very excited about to say the least, basically, I think the words were, "To hell with the WTO."

Now, that is not a very encouraging statement. If we are into a period of, I do not want to say isolationism, or populism, or unhappiness in regards to how people describe globalism, concentration, out-sourcing, all of that, I understand it. But it used to be that when Chuck Grassley gave a speech, about the second thing that he would talk about, and that I would talk about—same speech, him in Iowa, myself in Kansas—was the value of exports and the value of trade.

I do not see that on the American agriculture scene today. I am trying to point out that a trade agreement with Peru, which is a "gimme" in regards to our interests, involves national security. It involves national security, especially given the backdrop of what we are facing in regards to South America, not to mention the rest of the world. So, I appreciate your comments.

One other question, if I might. In your testimony, you note one of the merits of trade agreements is resolving the sanitary and phytosanitary—the acronym for that is SPS; everything has to be an acronym, as you know—barriers to U.S. products and commodities.

We all have seen the damage that what I call "fake science" can do to a market after the BSE discovery in late 2003. How many animals have we inspected now at the USDA? It is over 600,000. There is probably a million now in regards to BSE from which we are still trying to recover. One Canadian critter across the border does not make a sound science problem or challenge for other people, but you would think it does in regards to trade agreements.

Do you see an increasing trend in resorting to these types of non-tariff barriers? If so, what is the importance of determining the equivalency in food safety inspection procedures, and can we do that? In your experience, can we actually do that? I mean, look at the beef trade with Japan and with South Korea. They just discovered a tiny bone fragment about the size of a piece of rice, and they have canceled all shipments in regards to one of our beef packers. Now, come on. That is not sound science, in my view, with all due

respect to theirs. Can we do that? Can we see some progress there and the importance of it?

Mr. KANTOR. Well, it is important. It is important that we be equal to and balance our response to these countries in the way that they are treating us. You know better than I, Senator Roberts, the Japanese have had many more cases of BSE in their population, their cattle population, than we have.

These become barriers to give advantages to local farmers and growers in terms of competing with the United States. In almost every case, that is true. That is where I go back to enforcement and standing up for the interests of the American people.

The American people will be credible—the government here in Washington, whatever administration is in, whoever we are talking to as members of Congress—will be credible if we will stand up for their interests, legitimate interests, and being able to access markets and to sell their products in the way that they wish.

The fact is, our agricultural exports are critical not only to the agricultural community, but to America's economic health. We have to make sure we have access to these markets and that we stand up for America's interests in a legitimate way.

Now, I would not suggest that we operate in a way that the Koreans or the Japanese have at times in terms of—the beef market would be an example. But I do think we can be more resolute, more focused, and we can react in a stronger way to these kinds of impediments to trade.

Senator ROBERTS. Do you see any possibility, in a food safety inspection procedure, that would make it a lot easier in terms of equivalency with all of the various issues that you have talked about? Can we not do this on an international basis? That would sure solve a lot of problems.

Mr. KANTOR. Well, the whole issue of harmonization, harmonization of regulations and standards—

Senator ROBERTS. Exactly. That is the better word.

Mr. KANTOR. We ought to get on with it. The fact is, it is really hurting our economy not to harmonize. It hurts other economies as well. I would hope that this administration, the next administration, and future administrations would try to bring harmonization into the trade agenda in a vigorous way.

Senator ROBERTS. I thank you for your response. Those are the only two questions I have, Mr. Chairman. I apologize to the other members of the panel. I especially would have liked David Winkles, from South Carolina, to respond to several agriculture questions, in that my wife is from South Carolina. That does not make sense to a lot of people, but it does to people from South Carolina. You can take the girl out of the South, but not the South out of the girl. Where is Oswego? Are you close to Sumter, or to Columbia, or maybe Greenville?

Mr. WINKLES. Oswego is rapidly becoming a suburb of Sumter.

Senator ROBERTS. All of her family came from there. We probably went to church together and did not even know it.

Mr. WINKLES. Did not even know it.

Senator ROBERTS. All right. It is nice to have you here, sir. Thank you, Mr. Chairman.

Mr. WINKLES. Thank you.

Senator GRASSLEY. Thank you all very much.

And for Chairman Baucus and for myself, I thank the witnesses very much for appearing today. On behalf of the Chairman, I would ask that any members who have questions to submit for the record, do that by 5 p.m. on Thursday, this Thursday. Then for the witnesses who are at the table, we would like to have the responses for the record come back no later than 6 p.m. on Thursday, September the 20th. Thank you very much.

The hearing is adjourned.

[Whereupon, at 11:32 a.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Testimony of Thomas F. Catania Whirlpool Corporation

Thank you, Chairman Baucus, Ranking Member Grassley, and distinguished members of the Committee. My name is Tom Catania and I serve as the Vice President of Government Relations for Whirlpool Corporation. I am testifying today on behalf of the U.S. Chamber of Commerce, the Association of American Chambers of Commerce in Latin America (AACCLA), and the Latin America Trade Coalition, which consists of over 700 U.S. companies and business organizations that support the pending Trade Promotion Agreements with Peru, Colombia and Panama. I also have spent a number of years in Whirlpool's North American division in Miami, which managed U.S. sales to the Latin America region. Whirlpool is the world's leading manufacturer and marketer of home appliances, with more than 73,000 employees and over 70 manufacturing and technology centers around the world.

I am pleased to be before you today to discuss the merits of the U.S.-Peru Trade Promotion Agreement (PTPA) and its potential to strengthen U.S. manufacturing. Whirlpool strongly supports this Agreement because it removes barriers to trade that disadvantage U.S. companies that export to Peru. At Whirlpool, we welcome the challenge to compete globally with foreign suppliers if subject to the same rule of law. This is made possible by U.S. trade agreements that even the terms of trade. Currently, U.S. exports are disadvantaged by preferential arrangements within the hemisphere that foreign appliance manufacturers take advantage of by setting up operations in Mexico to export within Latin America. We have substantial operations of our own in Mexico and Brazil, but believe our U.S.-produced products provide the best solution for our brands' Peruvian targeted consumer segments. However, we cannot sustain the duty disadvantage under the present trade regime. The U.S.-Peru Agreement will allow Whirlpool to maintain U.S. jobs rather than being left with no competitive choice, but to relocate or expand operations in other Latin American locations to increase exports to the region.

OPENING PERU'S MARKET TO U.S. GOODS AND SERVICES

Since 1991, Peru has enjoyed duty-free access to the U.S. market for most goods and services as a result of the Andean Trade Preference Act, and subsequently by the Andean Trade Promotion and Drug Eradication Act. The positive effects in Peru of these laws were significant and they led to numerous political and economic reforms that have helped Peru's gross domestic product grow significantly. The agreement we are discussing today has the potential to spur even more development and growth in Peru's economy by encouraging trade, creating jobs, and attracting investment.

The agreement makes it easier for U.S. consumers to buy products made by Peru's workers, farmers and companies. Total two-way trade between U.S. and Peru has doubled over the past three years, reaching \$8.8 billion in 2006. However, due to U.S. trade preference programs, U.S. exports to Peru grew by just 80% from 2001-2006, while Peruvian exports to the U.S. grew 130% during the same time period. Having fair access to a growing, dynamic market like Peru is critically important to Whirlpool and other U.S. manufacturers.

PTPA will cut Peru's taxes on U.S. products and as a result, make this trade relationship a more mutually beneficial, reciprocal partnership. The day the agreement enters into force, 80% of U.S. consumer and industrial products and more than two-thirds of current U.S. farm exports will enter Peru duty-free. The U.S.-Peru TPA will help level the playing field by eliminating tariffs and other non-tariff

barriers and providing access to the 28 million Peruvian consumers for our U.S.-produced goods and services. In fact, tariffs of ~~15%-20%~~ on Whirlpool's U.S. exports of refrigerators, ranges and clothes washers would be immediately eliminated.

Whirlpool's U.S. exports to Peru come from many of our U.S. manufacturing operations, including those in Arkansas, Indiana, Iowa, Ohio and Tennessee. The U.S.-Peru TPA, as well as other Latin American TPAs with Colombia and Panama, would save Whirlpool millions of dollars in duties not paid and would encourage even greater export opportunities for Whirlpool's U.S. manufacturing operations. I should add that we recently opened a legal entity, primarily a sales and service company, in Peru called Whirlpool Peru.

BENEFITS OF U.S.-PERU TRADE

The U.S.-Peru TPA is a great step forward in the evolution of our trading relationship with Peru from one based on unilateral trade preferences to reciprocal market access. As such, the economic, employment, and pocketbook impact of the agreement are quite positive. Indeed, PTPA is expected make modest but nonetheless valuable contributions to economic growth, incomes, and employment opportunities in cities and towns across the country.

According to the U.S. Department of Commerce, Peru was the 43rd largest market for U.S. goods in 2006, out of a total of 228 markets. Texas and Florida were the top state exporters, with California, Louisiana, Illinois, South Carolina, New York, Georgia, Pennsylvania, Tennessee, Washington, and New Jersey also posting significant export totals to Peru in 2006.

The U.S.-Peru TPA is expected to have a positive effect throughout the U.S. economy. According to the International Trade Commission, U.S. economy-wide imports from Peru are expected to increase by 439 million dollars, while U.S. exports to Peru are expected to increase by 1.1 billion dollars. That is an 8% increase in Peru exports and a 25% increase in U.S. exports. These figures do not even consider the positive impact of the elimination of *non-tariff barriers*, which will facilitate and reduce costs on U.S. exports even more. Specifically, U.S. manufacturers will benefit from:

- Non-discriminatory, national treatment in all aspects of our business;
- Comprehensive rules of origin that ensure only U.S. and Peru benefit from the agreement;
- Transparency and efficiency in administering customs procedures, including the agreement's rules of origin which provide clarity, predictability, and certainty to manufacturers;
- Enhanced commitments in distribution services, such as wholesaling, retailing and franchising; and
- Greater protection for intellectual property rights, specifically, criminalization of end-user piracy, providing strong deterrence against piracy and counterfeiting, and limiting the grounds for revoking a patent, thus providing protection against arbitrary revocation.

Forging new and lasting relationships in Peru and throughout the region will provide Whirlpool with an opportunity to improve its competitiveness and achieve economies of scale throughout the Western Hemisphere.

ADDITIONAL BENEFITS

Losing access to the U.S. market would mean losing millions of dollars in revenue and thousands of Peruvian jobs. Without these jobs, many Peruvian workers will be forced to find other employment opportunities in a country that has a very high unemployment rate and where nearly half of the population lives in poverty. However, the PTPA makes Peru's favorable access to our markets permanent and provides additional benefits in the form of improved market functioning and enhanced economic growth. In other words, PTPA will provide continuity for the long-term U.S. policy goals of economic development and democratic consolidation in Peru.

In addition to contributing strongly to the expansion of trade and economic relations between the United States and Peru, the TPA will lend a helping hand to our close ally and will enhance U.S. efforts to strengthen democracy in the region. The embrace of democratic norms throughout the hemisphere over the past 25 years has been remarkable. But in some countries, poor economic policy and weak political parties, among other factors, have recently endangered this progress. The recent surge in populist victories, especially in South America, underscores the fact that democratic elections do not guarantee the rule of law.

While questions of the rule of law in the region may legitimately be addressed in a number of ways, we believe that the promulgation of ambitious and comprehensive free trade agreements would do more to enhance the rule of law and transparent governance in the region than any other possible step by the United States. While the commercial benefits are substantial, they go beyond just opening overseas markets for America's workers, farmers and companies. These agreements assist in the creation of a transparent, rules-based economic environment, which is a critical element in the success of democratic institutions and market-based economic policies.

Like much of Latin America, the Andean region is struggling against corruption, which undermines growth, security, and stability. PTPA contains critical provisions to enhance transparency and accountability in governance, providing the countries with important tools to fight the scourge of corruption. As an example, the agreement provides for the criminalization of bribery in government procurement, providing for more efficient procurement and a more competitive marketplace.

PTPA also promotes U.S. security interests by forging a deeper partnership with Peru through a framework for government-to-government relationships that is grounded in the tangible national interests of all parties. Such a framework is vital to enhancing cooperation in the fight against terrorism and narcotics trafficking; it also sets an example for other countries around the world as we pursue our global security goals. By promoting economic growth in Peru, the TPA will help stabilize its economy and provide its citizens with long-term alternatives to narcotics trafficking or illegal immigration.

THE RULE OF LAW

The agreement will strengthen protection and enforcement of U.S. trademarks, patents, and copyrights, creating new opportunities for U.S. innovation-based and creative industries in Peru. In specific terms, PTPA includes strong intellectual property enforcement mechanisms and penalty provisions, including the criminalization of end-user piracy and counterfeiting and the authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. The agreement also provides necessary mechanisms to fight the problem of trans-shipment of counterfeit goods with specific provisions that are aimed at goods-in-transit.

In addition, U.S. direct investors in Peru will benefit from the strong investment chapter in the agreement, particularly the sections dealing with investment protections and dispute settlement. As noted by the Advisory Committee for Trade Policy and Negotiations in its report to President Bush, PTPA goes beyond earlier agreements in this regard and sets the gold standard for future free trade agreements. Indeed, the agreement enables binding third party arbitration for investor-state disputes not only for investments concluded after the agreement goes into effect, but also for many types of investments that pre-date the agreement.

The agreement provides for rights that are consistent with U.S. law and also contains fully transparent dispute settlement procedures that are open to the public and allow interested parties to provide their input. As such, these trade agreements provide an opportunity for the partner countries to improve their investment climate by undertaking legal and judicial reforms, and resolving investment disputes (e.g., the criminalization of commercial disputes).

CONCLUSION

In conclusion, it is worth noting that the commercial benefits of recent free trade agreements have surpassed all expectation. Consider the U.S.-Chile FTA, which 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, a blistering 85% in 2005 and 31% in 2006. While the U.S. International Trade Administration had forecast total export growth of 18-52% over the first 12 years of the agreement's implementation, U.S. exports to Chile leapt by 33% in 2004, 43% in 2005, and an additional 38% in 2006. All told, U.S.-Chile trade has jumped by two-and-a-half fold in just three years. Given the similarities between PTPA and the U.S.-Chile FTA, impressive benefits from this new agreement are likely as well.

While exports are important, it is worth reporting that imports from Chile have also increased. In the end, trade is about more than just exporting — it is about more choices at lower costs for consumers, and as a result a higher standard of living. Sometimes, as is the case with Chile, free trade is about having access to fresh grapes in the winter and more crushed grapes (i.e., wine) year-round. With Peru, our consumers will benefit from more access to healthy foods and vegetables like fish and asparagus. This is especially appreciated during the winter.

We appreciate this opportunity to share our strong support for PTPA. We believe that trade expansion is an essential ingredient in any recipe for economic success in the 21st century, and PTPA is an excellent model in this regard. If U.S. companies, workers, and consumers are to thrive amidst rising competition, new trade agreements such as PTPA are critical. U.S. business is more than capable of competing in the global marketplace when trade barriers are removed and markets are open.

The U.S.-Peru TPA is good for Whirlpool and other U.S. manufacturers, and it will promote economic growth and prosperity in both the U.S. and Peru. We hope the Congress will move quickly to pass this agreement and the Colombia and Panama agreements to ensure strengthened export opportunities for U.S. manufacturers.

Mr. Chairman and members of the committee, thanks again for the opportunity to testify before the committee.



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**Before the
United States Senate Committee on Finance
Hearing on the U.S.-Peru Trade Promotion Agreement**

**September 11, 2007
Washington, DC**

I. Introduction

In the Trade Act of 2002, Congress directed the United States Trade Representative (USTR) to achieve several objectives with respect to the environment when negotiating free trade agreements. These objectives include: the requirement that parties to a trade agreement with the United States effectively enforce their environmental laws; strengthening environmental protection through the promotion of sustainable development and efforts to build the capacity of trading partners of the United States; and ensuring that USTR promotes trade and environment policies as mutually supportive and seeks to protect and preserve the environment and enhance the international means of doing so, while at the same time optimizing the world's resources.

About two and a half years ago, I testified before this Committee on the U.S. – Central America – Dominican Republic Free Trade Agreement (DR-CAFTA) and discussed HSI and HSUS's support of the environmental provisions of that agreement. It is the view of HSI and HSUS that each free trade agreement signed by the United States should be judged on its individual provisions and through an objective lens. HSI and HSUS strongly believe that the inclusion of an effective enforcement framework supported by robust public participation and trade capacity building provisions will significantly increase the likelihood that environmental provisions in free trade agreements negotiated by the United States will be fully and effectively implemented. It should be remembered, however, that these efforts can only go so far without the provision of adequate long-term dedicated funding aimed at improving environmental cooperation between the Parties.

In providing testimony to the Committee, I would like to emphasize that the organizations which I represent do not purport to agree that each and every aspect of the U.S.-Peru Trade Promotion Agreement (PTPA) will further the aims most important to HSI and HSUS -- protecting the environment and promoting the protection and humane treatment of all animals. As a member of the Trade and Environment Policy Advisory Committee we participate in the negotiating process of free trade agreements in order to ensure that the protection of animals and preservation of wildlife habitat is thoroughly considered when completing the environment chapters of these agreements. Through this lens, we view the environmental provisions of the PTPA as providing needed opportunities and incentives to enhance environmental protection and enforcement of environmental laws in Peru and the United States.

II. The Bipartisan Trade Deal, Trade Promotion Authority, and Future Trade Agreements

In May of 2007, Congress and the United States Trade Representative (USTR) concluded the Bipartisan Trade Deal (BTD) in an effort to move forward with the consideration of several free trade agreements. HSI and HSUS are generally pleased with the results of the BTD, which increased environmental protections in the trade agreements including the PTPA. HSI and HSUS believe, however, that enhanced environmental protections in future trade agreements are warranted, and that the BTD can be strengthened the next time that Congress considers granting Trade Promotion Authority (TPA) to the President. There are several areas of particular concern to HSI and HSUS.

First, the BTD changes the structure for enforcement of environmental violations found by a panel in Party-to-Party disputes. Prior to the BTD, environmental violations were subject solely to a monetary assessment (capped at \$15 million) that was to be used to improve environmental enforcement in the offending Party. As a result of the BTD, a monetary assessment is no longer the default remedy. It is still available, but only if requested. Instead, environmental violations are subject to a suspension of benefits, the same penalty ascribed to violations of commercial trading practices. The monies collected under the suspension of benefits scheme, however, are not required to be used to correct the practice or program that led to the violation in the first place. HSI and HSUS strongly believe that whichever remedy is used, the money should not be channeled into the complaining Party's treasury, but must be used to fix the problem in the offending Party. In TPA and future trade agreements, therefore, HSI and HSUS recommend that whether the remedy available is a monetary assessment or a suspension of benefits, or a choice between the two, the existing provisions be strengthened. With regard to monetary assessments, HSI and HSUS believe there should be an elimination of the \$15 million cap, with the fine used to address the violating practice/program. As to suspension of benefits, any monies collected should be required to be used solely to fix the practice/program leading to the violation.

Second, the BTD obligates Parties to these trade agreements to meet their obligations under seven specific MEAs by passing adequate domestic laws, including several MEAs that are of particular importance to HSI and HSUS (*e.g.*, the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES)). The latter requirement, however, is only applicable when countries have already signed and/or ratified the named MEAs before concluding the trade agreement. In future agreements, HSI and HSUS believe that this provision can be strengthened to *require* Parties to ratify the listed MEAs prior to conclusion of the free trade agreement negotiations to ensure this meaningful new requirement is not invalidated. In addition, HSI and HSUS believe that Congress should investigate whether the list of MEAs should be expanded.

Third, HSI and HSUS believe that TPA and any new free trade agreements must include strong provisions regarding wildlife protection and biodiversity. The PTPA annex on forest sector governance, for example, contains a link between illegal logging and wildlife protection. The inclusion of wildlife in the preamble of the PTPA annex will foster cooperation and increase enforcement of CITES and wildlife protection in Peru. In future agreements, HSI and HSUS believe that wildlife protection should be emphasized throughout any agreement discussing illegal logging and not just in the preamble. In addition, the PTPA includes a provision regarding the commitment to the conservation of biodiversity. It is critical that future free trade agreements contain a similar provision.

Finally, HSI and HSUS urge the Committee to remember that dedicated funding for environmental protection and enforcement initiatives is essential to ensuring that the environmental objectives laid out in the PTPA Environment Chapter are met. At present, neither the Trade Act of 2002 nor the BTD include a requirement for dedicated funding for capacity building efforts under the Environment Chapters or Environmental Cooperation Agreements negotiated concurrently with trade agreements. HSI and HSUS believe that going forward, TPA must include language requiring funding for trade capacity building.

III. PTPA Chapter on Environment

Protecting the environment, habitat, and animals (wildlife, farm, and companion) and promoting sustainable development requires education, resources, and most importantly, a commitment from the governments of both Parties to the PTPA to follow through on laws, policies, programs and projects once they have started. In particular, the Government of the United States needs to ensure that its trade, economic, environment, and development policies are well coordinated and that various U.S. government agencies involved in these areas communicate effectively and work together to make sure such initiatives are mutually supportive.

It is incumbent upon the U.S. government, therefore, to devote appropriate levels of funding over the long-term for environmental and sustainable development programs and projects. An impressive amount of initial funding was guaranteed for the DR-CAFTA environmental initiatives through the efforts of Senator Bingaman from this very Committee. HSI and HSUS have seen first-hand the ability of dedicated funds to accomplish meaningful and lasting improvements in environmental protection through our work on the ground in Central America. Based on the success of the dedicated funding for DR-CAFTA, HSI and HSUS urge this Committee and the entire Senate to make sure that the environmental initiatives set out in the U.S.-Peru Environmental Cooperation Agreement receive the same attention that was given to Central America.

HSI and HSUS believe the provisions included in the environment chapter of the PTPA, together with the recently concluded BTDA, build upon environment chapters in prior free trade agreements. As explained, HSI and HSUS believe these provisions can be further strengthened in future agreements. While HSI and HSUS do not support the use of "boilerplate" language for the environment chapter of all free trade agreements, the text of the PTPA does provide for the creation of further opportunities to enhance environmental protection in Peru. Most importantly, the PTPA environment chapter includes important provisions that HSI and HSUS believe will help to promote improved governance and stewardship in Peru, and permit citizens and Non-Governmental Organizations (NGOs) to have their voices heard on important environmental issues.

A. *Environmental Disputes*

Most important to HSI and HSUS under the PTPA environment chapter is the obligation agreed upon by both Parties to effectively enforce their domestic environmental laws, while at the same time striving to improve upon current environmental laws and policies. HSI and HSUS strongly support this commitment by both Parties. Under the current U.S. trade regime with Peru governed by the Andean Trade Preferences Act, there are no similar requirements placed on either government to effectively enforce domestic environmental laws. Following implementation of the PTPA, however, if either Party intentionally disregards its laws intended to protect the environment they will be subject to possible dispute settlement. The current Andean Trade Preferences permit the Parties to turn a blind eye to such inaction without fear of repercussions.

In addition to the requirement to effectively enforce environmental laws, the Parties have also agreed under the PTPA to establish an Environmental Affairs Council (“the Council”) made up of senior level officials with expertise in the environment. Pursuant to the Agreement, the Council is required to attempt to resolve disputes referred to it by the PTPA secretariat when one Party requests consultations alleging a failure to effectively enforce environmental laws.

With respect to Party-to-Party disputes, the PTPA provides each Party with the right to request consultations regarding any matter arising under the environment chapter, including where one Party is failing to effectively enforce its own environmental laws in sustained or recurring course of action or inaction in a manner that affects trade. HSI and HSUS are pleased to note that the dispute settlement chapter allows for the selection of panelists with experience in environmental matters when forming dispute settlement panels.

As explained above, however, the BTD resulted in certain changes to dispute settlement enforcement mechanisms under the environment chapter. Under the previous incarnation of the PTPA, a panel finding that a Party failed to effectively enforce an environmental law could result in a monetary assessment of up to \$15 million annually to be paid by the offending Party into a fund to be used to improve enforcement. The BTD changed this remedy and now requires that environmental disputes be treated on equal footing as commercial disputes, thus, eliminating the use of a fund to improve enforcement and help correct the environmental problem in the offending country.

Where a panel finds that a Party has failed to effectively enforce an environmental law causing trade effects, the PTPA dispute settlement chapter now permits the complaining Party to request the suspension of benefits if a level of monetary compensation cannot be agreed upon between the Parties. Under the BTD, therefore, the imposition of trade sanctions in an environmental dispute will result in money being sent to the treasury of the complaining Party rather than going towards fixing the problem. The PTPA dispute settlement chapter still allows for the creation of a fund, but only after the offending Party requests a monetary assessment in lieu of suspended benefits *and* the Free Trade Commission (not the Environmental Council) determines that the creation of a fund is warranted. HSI and HSUS believe the possibility of eliminating the \$15 million cap could have been discussed and adopted as a reasonable mechanism for dispute settlement enforcement. We are not convinced that replacing a fund dedicated to improving enforcement with a system that serves to send money into the treasury of the complaining Party will help to meet the overall objectives of the environment chapter.

B. Obligations under Multilateral Environmental Agreements

Included in domestic environmental laws covered by the effective enforcement provision in the PTPA generally are multilateral environmental agreements (MEAs) ratified by a Party because those agreements become part of domestic law when ratified or implemented through legislation. The BTD went a step further by obligating both Parties to meet the requirements laid out in seven specific MEAs *if* countries are *already* a party to those MEAs. Several of these MEAs are very important to HSI and HSUS including the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Convention for the Regulation of Whaling (IWC), and the Convention for the Establishment of an Inter-American Tropical Tuna Commission (IATTC). It is, therefore, disappointing that the BTD did not require

all countries who wish to enter into a trade agreement with the U.S. to sign and/or ratify each of the seven MEAs. By mentioning these MEAs without requiring countries to sign them, the BTDA can be seen to provide a disincentive to joining an MEA if a country is not already a member because of the additional obligations that would result under the trade agreement.

It remains our sincere hope, however, that the inclusion of these MEAs will encourage the Government of Peru to quickly bring its domestic legislation into full compliance with the obligations under these agreements. For example, Peru has been identified as one of ten countries by the CITES Secretariat as requiring priority attention for bringing its national legislation into compliance with the Convention. While the previous example is applicable to Peru, it is incumbent upon both Parties to effectively enforce domestic legislation implementing obligations under all MEAs that they have ratified.

C. Effective Enforcement and Public Participation

Another important aspect of the PTPA chapter on environment is the inclusion of several provisions which permit the public and NGOs to participate in bringing environmental issues to the attention of the competent authorities in each of the Parties. HSI and HSUS strongly believe that public participation provisions in free trade agreements are integral to the implementation and formation of ongoing operations of the environmental provisions of these agreements.

The PTPA chapter on environment includes several provisions that HSI and HSUS agree will enhance the ability of the public to participate in the implementation of the obligations included in the chapter. For instance, the chapter specifically requires the Parties to create procedures by which interested persons can request competent authorities to investigate alleged violations of their environmental laws. In addition, each Party is directed to establish a national consultative or advisory committee, comprised of persons with knowledge of environmental issues, to provide views on the implementation of the chapter as well as on issues raised by interested persons in submissions to a Party. Interested persons are also guaranteed access to the competent authorities of each Party to investigate alleged violations of domestic environmental laws.

The environment chapter, furthermore, requires the creation of an Environmental Affairs Council which must establish mechanisms to exchange information with the public, consider public submissions at Council meetings, and request public input on matters relevant to the Council's work. The willingness of the Parties to establish this Council further demonstrates their commitment to ensure effective enforcement of domestic environmental laws and to make sure that persons knowledgeable in environmental issues are intimately involved in the resolution of such disputes.

Most important to HSI and HSUS, however, is the requirement that both Parties cooperate in the creation of an independent secretariat designed to receive submissions from private citizens and NGOs alleging that a Party is failing to effectively enforce an environmental law. This independent mechanism empowers civil society, NGOs, and the private sector to have a voice in their country's environmental policies, programs, and enforcement regimes without fear of governmental intervention in the process. To ensure that this independent mechanism operates in a meaningful manner, it is essential that the Secretariat understand the objectives of

the environmental chapter and be guided by the chapter's working procedures, and that both Parties be vigilant in ensuring that the Secretariat properly carries out the obligations of the Chapter.

Failure to follow these procedures can lead to unpredictable and in some cases erroneous results that undermine the effectiveness of these provisions of the environment chapter. For example, in the first case to come before the DR-CAFTA Secretariat, the Secretariat rejected a submission by HSI in a matter involving the Dominican Republic's alleged failure to enforce its domestic laws designed to protect endangered sea turtles. The Secretariat determined that HSI's submission did not meet the factual requirement under Article 17.7.2(c) of the DR-CAFTA environment chapter that the submitting Party provide sufficient documentary evidence to permit review. However, the reason the Secretariat determined that Article 17.7.2(c) was not met did not relate to the factual and evidentiary information and accompanying exhibits provided by HSI with respect to the laws at issue or the failure to effectively enforce these laws. Rather, the Secretariat explained the submission was deficient because HSI failed to provide sufficient evidence that private remedies were pursued under Article 17.7.4. However, Article 17.7.4 only applies after the Secretariat evaluates whether the submitting Party has met the criteria of Article 17.7.2 (a) – (f). Moreover, Article 17.7.4 merely provides a list of factors that guide the Secretariat in determining whether to request a response from a Party. There is no requirement that private remedies be pursued or exhausted by the submitting party under Article 17.7.4. Thus, it appears there is confusion as to the factors the Secretariat must consider in the submission process, and which factors are actually requirements needing to be fulfilled before the submission process moves forward.

Accordingly, HSI and HSUS believe it is essential that the working procedures for PTPA and future agreements are clear and well-defined to enable independent secretariats to operate effectively and in a manner consistent with the environment chapter's objectives of encouraging high levels of environmental protection and public participation. In addition, the Parties should seek to ensure that the Secretariat properly carries out the obligations of the chapter.

As a member of the Trade and Environment Policy Advisory Committee here in the U.S., HSI and HSUS recognize the importance of public participation in the development of trade and environmental policy. HSI and HSUS, therefore, believe that it is crucial for both Parties, civil society, NGOs, and the private sector to remain engaged in environmental and economic development issues. While HSI and HSUS support the public participation provisions included in the environment chapter of the PTPA, it should not escape the Committee's attention that both USTR and the Congress share responsibility for closely monitoring the implementation of these provisions.

D. Biodiversity

For the first time in a free trade agreement, the United States included in the PTPA a commitment to protect and conserve biodiversity. Under Article 18.10 of the PTPA environment chapter both Parties declare their commitment to the promotion and encouragement of biodiversity, including plants, animals, and habitat. In addition, both Parties explicitly acknowledge their commitment under the Agreement to strive to continue the improvement of their individual levels of environmental protection. Finally, the Parties agree to enhance their

cooperative efforts on issues affecting biodiversity through the Environmental Cooperation Agreement.

Peru is one of the most biologically diverse countries in the world. It is home to unique species such as alpacas, vicuñas and Andean river dolphins as well as a number of endangered species including the yellow-tailed woolly monkey, yellow-eared parrot, Andean mountain cat, and the Andean tapir. We are perhaps most excited about this biodiversity provision which underscores the commitment of both the United States and Peru to the environment and conservation of precious biodiversity, including endangered species and other animals.

The recognition of the important role biodiversity plays in the diverse ecosystems found in Peru and the United States is a historic event. Both Parties should be commended on this accomplishment. Should the PTPA enter into force, however, it is incumbent on the governments of both the United States and Peru to ensure that the Agreement does more than just put words on paper for the first time. Provisions such as the biodiversity Article need long-term financial backing and support in order to achieve their desired results. Through innovative programs and efforts, including the Environmental Cooperation Agreement, such protections may be increased and enhanced.

While HSI and HSUS applaud the inclusion of a biodiversity provision in both the Peru and Colombia trade agreements, we note that this provision was not included in the Panama or Korea agreements. Upon questioning regarding this omission, we did not receive a satisfactory answer as to why this provision was left out of these agreements. When considering TPA renewal, HSI and HSUS urge Congress to incorporate a requirement to include a biodiversity provision in the environment chapter of all future trade agreements where appropriate.

E. Illegal Logging and Wildlife

With regard to the changes effectuated under the BTDA, HSI and HSUS are most pleased with the addition of an annex on forest sector governance to the environment chapter that recognizes the detrimental effect illegal logging has on wildlife. The global timber trade poses one of the greatest threats to the survival of the world's wildlife and the conservation of forest habitat. Throughout South America, including Peru, illegal logging of mahogany degrades rivers and streams that are home to the giant river otters and other species. In addition, unsustainable logging practices result in the creation of roads into the vast forests that are used by poachers to hunt monkeys and other wildlife that end up on the illegal black market for endangered species.

In our experience, wherever nefarious conduct, such as the illegal trade in drugs, guns or timber, occurs throughout the world, trade in endangered or exotic species will also be found. According to Interpol, for example, the value of illegal wildlife trafficking is estimated to be as high as \$20 billion per year, second only to arms and drug smuggling. Thus, it is no surprise that trade in endangered species from Peru and poaching are often linked to the illegal trade in mahogany and other timber products from that country. The inclusion of wildlife in the annex on forest sector governance, we believe, provides an opportunity for further cooperation between the Parties to increase enforcement of CITES and wildlife protection. For this reason, HSI and HSUS are happy to see that both Congress and the USTR recognized the linkage of these issues

and included reference to wildlife in the preamble to the annex. However, HSI and HSUS believe that because of the strong link between habitat loss and its negative effects on animals, wildlife should have been mentioned more prominently in the annex. It is our hope that this link will be enhanced in future trade agreements.

F. Investor State Provisions

While investor state provisions have not been an area of major concentration for HSI and HSUS in the past, we recognize that this is a controversial issue with respect to the environment and agree with the position taken by the majority of Trade and Environment Policy Advisory Committee members in our report to Congress regarding the PTPA. We continue to stand behind the following findings made by TEPAC:

As with the other recent FTAs, one improvement [in the PTPA investment chapter] is the fact that the definition of investment is more precise. Most significantly, the issue of “indirect expropriation” or what we in the United States call regulatory takings has been clarified by changing the terminology from “tantamount” to “equivalent” and elaborating on this term in a letter declared to be an integral part of the agreement. The concern that regulatory actions will provoke claims by affected investors of indirect expropriation has been lessened by the declaration that “[e]xcept in rare circumstances, nondiscriminatory regulatory actions . . . to protect legitimate public welfare objectives, such as . . . the environment, do not constitute indirect expropriations.” The majority of TEPAC believes the “rare circumstances” language should even be strengthened for greater clarification.

Also noteworthy are the concepts which motivate Paragraph 1 of Article 10.2 and Article 10.11 of the chapter on investment, particularly when combined with the other language in the Agreement cited above. Paragraph 1 of Article 10.2 states that in the event of an inconsistency between the Investment Chapter 10 and another chapter (like the chapter on the environment), the other chapter (Chapter 18) trumps Chapter 10. As the majority of TEPAC reads these provisions, any bona fide environmental requirement at odds with an investment-related requirement will trump that latter requirement. Similarly, Article 10.11 expressly precludes reading Chapter 10 to prevent environmental protections taken pursuant to the chapter on the environment.

IV. Funding for Environmental Cooperation

Concurrently with the PTPA negotiations, the Parties negotiated an Environmental Cooperation Agreement (ECA). Recognizing the importance of strengthening the capacity in each Party to protect the environment and promote sustainable development, the ECA provides a critical foundation for long-term cooperation and assistance on environmental issues, programs, and policies. Pursuant to the ECA, each Party is required to take into account the public comments and recommendations regarding cooperative environmental activities.

Although HSI and HSUS support the efforts of the United States to promote enhanced environmental cooperation in Peru, we are concerned about the level of financial commitment to these efforts. For example, ensuring that the public submission mechanism works as intended – including building the capacity of local organizations to participate effectively in the public submission process, strengthening the ability of Ministries to enforce environmental laws (including CITES), training government officials on how to set up a national advisory committee system, and ensuring transparency and openness by communicating issues to civil society – will all require a great deal of funding and technical assistance.

As with all previous free trade agreements that include ECAs, the PTPA does not set forth an essential dedicated funding source to achieve the intended results of the capacity building provisions. Due to current budget constraints, all recently concluded free trade agreements without a dedicated funding source will be competing against each other – and all other programs - for a limited and diminishing amount of foreign aid funds. In addition, it is too often the case that environmental projects are placed at the bottom of the priority list of initiatives to receive funding. For these reasons it is critical that Congress include a dedicated funding source for the Peru ECA.

HSI and HSUS are hopeful that the ECA will provide a strong basis for ongoing environmental cooperation with Peru and, therefore, strongly urge Congress to ensure that the ECA is adequately funded. While we are aware of the need to be fiscally responsible, environmental cooperation is an area where we can achieve a great deal of good and improve the life and health of people and animals in addition to increasing economic opportunities. HSI and HSUS, therefore, recommend that Congress set aside a specific amount of funding for environmental cooperation with Peru as it did in the case of the DR-CAFTA.

V. Conclusion

HSI and HSUS support the efforts of the United States and Peru in including the effective enforcement, public participation, and biodiversity provisions in the environment chapter of the PTPA. In addition, the Environmental Cooperation Agreement illustrates the strong commitment by both Parties to work together to protect the environment and conserve precious natural resources including biodiversity. For all of these reasons, HSI and HSUS are strongly encouraged that the PTPA will support increased environmental protection in both countries.

Thank you very much for the opportunity to testify before the Committee. We would be happy to answer any questions the Committee may have with regard to our comments.

**PREPARED TESTIMONY
THE HONORABLE MICHAEL KANTOR
UNITED STATES SENATE COMMITTEE ON FINANCE
HEARING ON THE U.S.-PERU TRADE PROMOTION AGREEMENT**

September 11, 2007

Thank you, Mr. Chairman, for inviting me to participate in today's hearing. I am truly pleased that Congress is moving forward with its consideration of the U.S.-Peru Trade Promotion Agreement. I congratulate the Chairman, the Chairman of the House Ways and Means Committee, and the Administration for working together and reaching agreement on enforceable protections for labor and the environment so that this agreement will move U.S. trade policy forward in a positive manner.

Mr. Chairman, I have long been a supporter of an open and rules-based global trading system as an important means of promoting and securing U.S. economic interests and enhancing development outside of the United States. Unfortunately, credibility and support for an open and rules-based trading system is increasingly at risk. Mr. Chairman, the fears brought about by interdependence, driven by technology and globalization, are real and continue to have a profound effect on our future. Interdependence and globalization have dramatically increased the pace of change. More and more skills can be outsourced, new competition for our industries has arisen, and people are rightly concerned. It is wrong to think that we can stop the forces of globalization, but I contend that we can shape them to our benefit by relying on three principles:

- Invoking strong leadership to promote and advocate the advantages we gain through engaging in globalization and molding our policies to take

advantage of this phenomenon, with the goal of raising standards of living in the United States and around the world;

- Reaching common sense trade deals that address a broad array of American interests, advancing the interests of American workers and their families, and that are consistent with our values; and
- Ensuring vigorous enforcement of our trade laws and agreements to build confidence that we are beneficiaries of what we were promised and that our partners are playing by the rules. At this time USTR is not organized or funded sufficiently to enforce a policy of this magnitude. This will necessitate building an enhanced capability in a new unit at USTR dedicated to the effective monitoring and enforcement of our trade laws and agreements, much like you have suggested, Mr. Chairman.

Mr. Chairman, in order to rebuild consensus for the kind of open and rules-based trading system that we need to be pursuing, the Administration must convince the American people that their government will not “give away the store.” We need to see greater leadership from the Administration in all three areas I mentioned above. But that alone is not enough. Without a greater commitment to education, research and development, and twenty-first century infrastructure, even the best trade deals will not be enough to sustain our economy, ensure our competitiveness, and fairly distribute the benefits of globalization.

In my view, the U.S.-Peru Trade Promotion Agreement is now the kind of trade agreement that is worthy of the support of Congress and the American people. The agreement reached by the leaders of the Democratic party in Congress and the

Administration have created a supportable TPA. This is a comprehensive agreement that will provide economic benefits to both the United States and Peru. Tariffs on goods and agriculture products will be eliminated on both sides. U.S. duties on a majority of imports from Peru are already zero under the Andean Trade Preference Program. Now our exports from the U.S. to Peru will enjoy the same treatment, providing new opportunity for U.S. farmers and manufacturers.

The U.S.-Peru TPA is helpful to U.S. service suppliers, provides access to government procurements, has realistic protection for intellectual property, and necessary protections for investments. Peru's market, although small by our standards, is increasingly open and rapidly growing, which means more demand for goods, services and investment. Beyond the commercial benefits, the Peru Trade Promotion Agreement will help to strengthen freedom and democracy in Peru and will broaden and deepen ties between the United States and a regional ally. The benefits of this agreement are real, but are limited given the size of the Peruvian economy. However, given the strong support for this agreement by the Peruvian government, it is in our strategic interest to be squarely behind their commitment.

But no trade agreement is a "common sense" agreement without enforceable labor and environmental provisions. What helps distinguish the Peru TPA from others in the recent past is the inclusion of strong and enforceable provisions on labor and the environment. This agreement establishes a critical precedent. In my view, we should not conclude trade agreements -- whether bilateral, regional, or multilateral -- without provisions of this nature. The American people are not afraid of competition, but they also know when it's not a fair fight. Labor and environmental provisions are essential to

trade agreements for a number of reasons that are good common sense. The recent commitment by the leadership of the Peruvian government has helped to ensure that these provisions will be real and have a solid impact.

But, we should all be cognizant of the fact that failure to enforce these or other requirements of this agreement will only serve to disappoint those on both sides who worked so hard to implement this agreement and will further erode the confidence of the American people.

We need enforceable provisions in trade agreements to ensure that our trade partners are not using lax labor and environmental laws – or turning a blind eye to enforcement – in order to gain an unfair competitive advantage. Producers in the United States must comply with a wide array of requirements from paying a minimum wage, providing a safe workplace, to adhering to important regulations to protect the environment, all of which add significant costs to production. If we don't use our trade agreements to raise the labor and environmental standards of our trading partners to begin to equalize these differences, U.S. workers and companies will be fighting an uphill battle. Support for trade agreements has eroded largely because of our failure to fully address this reality up to now.

The United States government has a credibility problem where trade and globalization are concerned. Unless most Americans believe they will be positively impacted by trade, we will not convince the American people to support a forward-looking trade agenda. And if the American people fear that our trade partners could be “cutting to the front of the line” by failing to adopt strong protections for workers and the

environment or by failing to enforce the laws they have on the books, they will never have faith that the U.S. government is negotiating agreements that promote their interests.

Labor and environmental provisions are good common sense for our trade partners as well. We know that providing workers with basic rights and enforcing them leads to rising wages, a growing middle class, and increased pluralism, all of which help to ensure that the benefits of trade agreements are shared by a wide range of society. In addition, independent unions also help to strengthen democratic institutions and promote the rule of law.

These factors -- rising wages, a growing middle class, and stronger democratic institutions -- inevitably lead to our trade partners becoming larger and more stable markets for U.S. products. The provision and enforcement of worker rights will promote a higher standard of living and, ultimately, increased consumption. An important part of future economic growth in the United States is tied to our ability to successfully sell our products and services in foreign markets. These worker rights provisions will promote that goal.

The inclusion of the core labor standards in this agreement, and ensuring that these provisions will be enforced like any other requirement in the agreement, is consistent with, and advances, important values we support. It is fair and empowers workers, allowing them to organize, to pursue legitimate rights, and is a critical component of stable democracies.

Stronger protections for the environment benefit not only the United States and our trade partners, they benefit the global environment as well. Pollution does not know borders. As trade agreements lead to greater production of agricultural and manufactured

goods, it is common sense for these agreements to include protections to ensure that scarce natural resources are not exhausted, that our neighbors' environment is not degraded, that we are not adversely impacting global environmental issues, such as climate change, and for these protections to be enforced. It is critical that environmental provisions are included and enforced in order to avoid a race to the bottom.

Mr. Chairman, these ideas I have laid out are not new. In fact, the need for a connection between greater opportunity for trade and greater support for worker rights was first recognized 23 years ago. In 1984, Congress added a criterion to the Generalized System of Preferences program authorizing the President to withdraw benefits if countries have not made progress toward affording internationally recognized worker rights. In 1988, Congress similarly modified Section 301 provisions to make a persistent pattern of conduct to deny worker rights actionable under 301. In the 1990s, then-Governor Clinton agreed to support NAFTA, but only with the inclusion of side agreements to provide further protections on labor and environment. And in October 2000, the United States signed a free trade agreement with Jordan that contained labor and environmental provisions that were subject to the formal dispute settlement provisions of the agreement.

The U.S.-Peru Agreement at long last returns us to the standard set in the Jordan FTA. The Agreement is supportive of the interests of our economy, companies, and workers, while enhancing the dignity and future of workers in Peru. The Peru Agreement is a strong agreement with an important ally in Latin America. It is good for both economies, good for workers, and good for the environment, and I urge members of this Committee to give it your support. Thank you.

**Testimony of Thea Mei Lee
Policy Director
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
Before the Senate Finance Committee
On the
U.S. – Peru Trade Promotion Agreement
September 11, 2007**

Chairman Baucus, Senator Grassley, Members of the Committee, thank you for the opportunity to participate in today's hearing, on behalf of the ten million working men and women of the AFL-CIO. We appreciate the opportunity to offer our views on the U.S.-Peru Trade Promotion Agreement (TPA), as the trade debate has been so important to our members over so many years.

We believe that international trade and investment can yield broad and substantial benefits, both to American working families, and to our brothers and sisters around the world -- if done right. However, the challenges facing American workers today are enormous, and the reforms needed in current trade and domestic policy go beyond what can be addressed in bilateral trade agreements.

We welcome the progress made by the new Democratic leadership in the House of Representatives in negotiating improved provisions in key sections of pending free trade agreements, including the U.S.-Peru TPA. However, more needs to be done.

The new provisions on workers' rights and the environment negotiated by Ways and Means Committee Chairman Charles Rangel and Trade Subcommittee Chairman Sander Levin represent significant progress in crucial areas that we have fought to achieve for many years. These issues have been central to the debate over globalization and its impact on working families, both here in the United States and around the world.

We hope that the new labor provisions will provide a starting point for future efforts to strengthen and effectively enforce protections for workers in the global economy. These provisions will certainly not solve all the problems workers face, but they provide one more important and useful tool to pressure both governments and corporations to respect workers' fundamental human rights. Congress will need to bring to bear strong pressure on the executive branch to ensure that these newly negotiated provisions are effectively implemented and enforced, as these provisions cannot serve their objective if the executive branch does not enforce them.

The Peru TPA includes new and improved language on procurement, clarifying that government procurement contracts may require that a supplier comply with minimum worker rights conditionality or meet environmental or conservation standards under the technical specifications of the contract.

We are also encouraged by the new direction outlined by the Democratic leadership to undertake broad trade policy reforms beyond existing FTAs. The "New Trade Policy for

America” lays out a strategy to strengthen enforcement of U.S. trade laws, open new markets for U.S. goods and services, and increase assistance and training to displaced workers. New legislation on imported product safety, currency misalignment and strengthening our trade laws, are all signs that needed reforms in trade policy are being taken seriously.

Beyond the labor and environment provisions, however, several other important issues of concern to working families were unfortunately not addressed adequately in the Peru TPA, particularly with respect to investment, other procurement issues, and services. I will outline our specific concerns below. These provisions have important ramifications for our members’ jobs and communities, and we will continue to fight to strengthen and repair these provisions in future trade agreements.

Also, it is important to note that, while the May 10th template represents progress, it is by no means a complete fix appropriate for any country or any situation. Intractable and egregious human rights violations in Colombia and unequal market access issues in South Korea put these two agreements in a completely separate – and significantly more problematic – category. Likewise, the extension of fast track authority raises another, entirely different, set of issues about the relationship between Congress and the President with respect to trade negotiating authority. The AFL-CIO will vigorously oppose the FTAs with Colombia and Korea and any renewal of the current fast track authority.

Detailed analysis of the Peru TPA

Workers’ Rights

The Peru TPA labor chapter requires that signatories to the agreement “adopt, maintain, and enforce in their own law and in practice” the International Labor Organization (ILO) core labor standards, subject to the same dispute settlement, enforcement mechanisms, and selection criteria as the commercial provisions in the agreement. This represents major progress over the Jordan FTA, which required only that countries “strive to ensure” that their laws recognize and protect the core labor standards. It is also an enormous improvement over the agreements previously negotiated by the Bush administration (Chile, Singapore, Morocco, Australia, Bahrain, DR-CAFTA, and Oman), which required only that countries enforce their own domestic labor laws. These previous trade agreements also contained significantly weaker enforcement mechanisms for labor and environment than other commercial provisions.

The Peru labor chapter makes several other improvements over previous FTAs negotiated by the Bush Administration:

- It closes an important loophole that allowed governments to avoid complying with their labor obligations by claiming that they were exercising prosecutorial discretion. The new proposal clarifies that any decisions with respect to allocation of enforcement resources must not undermine the commitment to enforce the core labor standards.
- It replaces the commitment to “strive to ensure” not to derogate from labor laws in order to increase trade with a stronger, straightforward prohibition against derogating from labor obligations in a manner affecting trade or investment.

- It expands the definition of domestic labor laws that a country must “effectively enforce” to include discrimination in employment and hiring, along with the other core ILO standards, and “acceptable conditions of work.”

Despite these improvements, there are still areas where the labor provisions need to be improved:

- The agreement states that “the obligations of this agreement, as they relate to the ILO, refer *only* to the 1998 ILO Declaration on Fundamental Principles and Rights at Work” (emphasis added). This sentence is subject to competing interpretations and should be eliminated.
- The definition of labor laws should be modified to explicitly include all labor laws, both state and federal.
- Concerns have also been raised with respect to ambiguity and implementation of standards concerning recurring violations and the impact of violations on trade and investment. Certainly, with respect to the commitment to “adopt and maintain” the core labor rights in statutes and regulations, requiring that complainants demonstrate a connection to trade or investment between the parties could constitute a problematic hurdle.

Intellectual Property Rights

The Peru TPA also includes improved protection for intellectual property rights, particularly in the copyright/entertainment area, which is of great interest to our unions which represent performers, namely the American Federation of Television and Radio Artists (AFTRA), the American Federation of Musicians (AFM), and the Screen Actors’ Guild (SAG). The United States remains extremely competitive in global entertainment commerce, and foreign earnings in this area are important to domestic employment opportunities. Piracy affects the economic fate of individual creators, from well known actors to unknown session musicians. We appreciate the enhanced protections achieved in this area on behalf of our members who rely on royalties for their livelihoods.

We also appreciate the IPR changes negotiated under the May 10th deal. These changes will improve access to affordable medicines by limiting the period of data exclusivity and ensuring that the IPR commitments for medicines do not go beyond those agreed to in the Doha Declaration.

Procurement

In general, the government procurement chapters of our bilateral trade agreements have included numerous provisions that restrict the ability of the federal government, and those states governments that agree to be bound, from enacting progressive, pro-labor and environment procurement policies, such as anti-sweatshop sourcing regulations and living wage laws. A government should be able to decide how to invest its tax dollars, and to use them, if it chooses, to pursue these and other legitimate social objectives. The new procurement language does include an improvement with respect to specifications regarding workers’ rights. It provides that any government may require that a supplier comply with worker rights conditionality or meet

environmental or conservation standards.¹ This is an important improvement that addresses a problem we have seen in past FTAs. Under NAFTA, for example, if a government were to specify that it would not purchase goods made in violation of child labor or forced labor, that requirement could be subject to challenge. This new language creates an explicit presumption that specification of conservation, environmental, or minimal worker rights conditions is allowed.

However, a different and extremely important provision with respect to procurement was not addressed in the Peru TPA. Our long-held position has been that nothing in procurement rules should in any way prohibit a government from demanding of a domestic or foreign company that *domestic* workers provide services or produce goods. Current FTA procurement rules do not allow covered government entities to create *new* requirements that goods be produced or services be performed domestically or locally.² While existing “Buy America” provisions are generally protected from challenge (“grandfathered” into the FTAs), current procurement rules do limit the ability of the federal or covered state governments to implement *new* legislation limiting off-shoring of government contracts. This is particularly important with respect to government *services*, as these are generally not covered by existing Buy America laws, which generally cover only the procurement of *goods*. Some state legislatures have tried to implement rules prohibiting off-shoring of state government service contracts, but have been told that such laws would violate commitments under trade agreements. It is a top priority for us to rectify this provision in future trade deals.

A second concern with respect to procurement rules is uncertainty about whether living wage requirements for public contracts are protected, as this new language only covers minimum wage laws. Finally, we have sought additional assurance that prevailing wage laws (under the Davis-Bacon Act) are completely insulated from any possibility of challenge. The labor movement has asked that procurement rules include an explicit protection for prevailing wage rules. We will continue to press for inclusion of this provision in all future trade deals.

Investment

Chapter 11 of the North American Free Trade Agreement (NAFTA), which allows corporations to sue governments for violations of obligations under the investment chapter, gives foreign investors greater rights than U.S. investors have under the U.S. Constitution. The investment chapter of the Peru TPA contains essentially the same investor-to-state provisions found so problematic in NAFTA. Other than a non-binding statement added to the Preamble of

¹ This Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications:

- (a) to promote the conservation of natural resources and the environment; or
- (b) to require a supplier to comply with generally applicable laws regarding
 - (i) fundamental principles and rights at work; and
 - (ii) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, in the territory in which the good is produced or the service is performed.

² The federal government is automatically a covered entity, and some states have also signed onto the procurement provisions in some bilateral FTAs.

the agreement,³ our concerns were not addressed in the Peru TPA. In particular, we have argued that private investors should not be granted the right to sue governments over public health, environmental, or labor regulations that might be construed as direct or indirect expropriation, or an action equivalent to expropriation. This provision is both undemocratic and untransparent, and gives individual corporations undue rights with respect to overturning legitimate actions of elected national governments. These investment provisions are often used to undermine developing country governments as well. It is a top priority of ours – and our union brothers and sisters in our trading partners – to eliminate these unbalanced investment provisions from future trade agreements.

Services

For years, we have called for a broad and explicit carve-out in trade agreements that would preserve the ability of federal, state, and local governments to regulate services for the public benefit, allowing distinctions between domestic and foreign service-providers and setting appropriate qualifications or limitations on the provision of those services. This could be guaranteed by negotiating a general exception for such measures to the National Treatment commitments. Moreover, trade agreements should not restrict the ability of signatory governments, as they currently do, to establish appropriate technical standards, qualification requirements, and licensing requirements. These concerns were not addressed in the Peru TPA. We will continue to make reform of the services provisions in trade agreements a priority.

Enforcement Concerns

An overriding concern of the labor movement and many of our allies in Congress has been the enforceability of any labor language negotiated. This concern stems from decades of frustration with both Democratic and Republican administrations that failed to consistently and aggressively enforce worker rights conditions in unilateral or bilateral trade agreements (including the Generalized System of Preferences, the African Growth and Opportunity Act, the Caribbean Basin and Andean preference programs, as well as NAFTA and subsequent bilateral trade agreements). This refusal to enforce the worker rights provisions in U.S. trade law left serious abuses of workers' rights unchallenged, despite the mandate given by the Congress. At the end of the day, no matter how good the labor language in any given FTA, it will not be worth anything if the administration in power simply refuses to enforce it.

We propose the development of a Congressional oversight program that would strengthen the role of Congress in reviewing the enforcement record of the executive branch, particularly with respect to the labor and environment provisions in trade agreements. This could include a mandatory annual hearing, where administration officials would be required to present a factual record of cases initiated, investigations conducted, conclusions drawn, and actions taken. Subpoena powers should be explicitly allowed to ensure that Congress has access to detailed records pertaining to any investigations or alleged abuses. If Congress were to determine that the administration were not adequately enforcing the worker rights or environmental provisions, then further binding measures could be implemented – possibly including withdrawal of funds to

³ The preambular language states: "The Parties agree that foreign investors are not hereby accorded greater substantive rights with respect to investment protections than domestic investors under domestic law where, as in the United States, protections of investor rights under domestic law equal or exceed those set forth in this Agreement."

government agencies found to be failing to enforce these provisions or temporary suspension of trade benefits.

Needed Labor Law Reforms in Peru

While the content of the labor provisions included in the trade agreement are of great importance, it is also essential that countries bring their labor laws into compliance with the provisions in the agreement prior to implementation. This has been standard practice of the U.S. Trade Representative with respect to needed changes in intellectual property rights commitments or non-compliant domestic taxes. We ought to require no less with respect to labor commitments.

House Democratic leaders have argued that Congress should not act on the pending trade agreement until Peru makes much-needed changes to its labor laws – changes that would be needed to bring the laws into compliance with the ILO core labor standards, as required by the trade agreement. In the past, vague promises to implement labor law reforms or to improve labor law enforcement have been largely ignored once an agreement has been ratified and implemented. Indeed, Central America has yet to reform the labor laws and practices identified in its mildly critical white paper. Bahrain has also taken steps to weaken its labor laws since Congress ratified the U.S.-Bahrain FTA. In light of this, the push to seek reforms to the labor code before ratification of the FTA, rather than accepting mere promises to do so later, was an important and necessary step.⁴

A congressional delegation traveled to Peru in July to discuss the government's plans to bring its labor code into compliance with the labor provisions of the Peru TPA. It is our understanding that the government of Peru has made some important commitments, but not sufficient to address some of the key concerns that were raised by organized labor in Peru – especially around temporary contracts and subcontracting. Discussions with the government are ongoing, and they appear to have been constructive.

As of this hearing, the government of Peru has not yet passed all of the laws and decrees necessary to bring its legislation into conformity with its commitments. Moreover, the changes that have been made were undertaken unilaterally by the government, not in consultation with labor or employers. Indeed, union leaders learned of recent changes by reading the newspaper. It is important that the Finance Committee urge the Peruvian government to both pass the legislation and regulations to fully implement the changes it has agreed to, and to consult with unions and employers before issuing new regulations by decree.

Possible Negative Consequences for Peruvian Agriculture

In 2006, 69.3% of Peru's rural population, most of which supports itself with small farming, lived either in poverty or extreme poverty.⁵ Although the causes are many, contributing factors include inadequate infrastructure, limited access to basic services such as water and electricity and little access to credit. The lack of social spending on health and basic education is

⁴ Note that the Administration has also previously required countries to revise laws and regulations, in some cases as a precondition to implementing an agreement. Dismantling the Andean Price Band System, requiring changes to the Dominican Republic's tax system or to Guatemala's drug patent laws are just a few examples.

⁵ INEI Informe Técnico: Medicion de la Pobreza 2004, 2005, 2006 (Julio 2007).

also a serious problem. Any long-term solution to rural poverty will depend upon the adoption of a comprehensive, coherent internal agenda that will modernize the sector, build capacity, increase efficiency and productivity, and in some cases assist farmers in the transition to more productive non-farm pursuits. However, these programs often take many years to implement and to bear fruit. Therefore, the ratification and implementation of a trade agreement now, before any such measures are put in place (if ever) and take effect, will likely hurt the poorest farmers least capable to adapt. It is also unlikely that farmers would be able to easily migrate to new export crops. About 90% of the land under cultivation is used to produce for the domestic market, with about 3% of the land, largely concentrated on the more developed coastal region, dedicated to non-traditional exports. The geography simply does not permit a major conversion to non-traditional export crops. Less likely still is the possibility that labor could be absorbed into those parts of the economy most likely to expand, such as textiles and apparel.

As with other trade agreements in the Americas, the United States demanded a maximum liberalization of agricultural markets, failing or refusing to take into account the vast differences in the level of agricultural development in the two countries. As a condition for even initiating talks on agriculture, the United States made important demands. One was the dismantling of the Andean price band system, which has been used for years to stabilize the import prices of specific, sensitive agricultural products. The United States also demanded that no agricultural products be excluded from the agreement, requiring tariffs for all products to be eventually eliminated. It is not surprising that the United States was able to obtain such painful concessions from Peru, given that they were told that the current trade preferences, which provide preferential market access for some key agricultural and non-agricultural exports, would not be renewed. Thus, negotiators had no real option other than to accept what was offered simply in order to maintain existing levels of market access.

In the end, Peruvian negotiators agreed to immediate tariff reductions for roughly two thirds of its products. Although long implementation periods were accepted for some products, such as rice (17 years) and corn (12 years), the periods are significantly shorter than what was granted under CAFTA (20 years).⁶ Peru also yielded and accepted extremely high import quotas, the effect of which will be to eliminate potential benefit from the extended tariff reduction periods. The duty-free quota for maize, for example, is 500,000 tons, roughly 50 % of total trade in this product.⁷ At the same time, the United States had refused to negotiate over its multi-billion dollar farm subsidies, which will allow its products to enter the Peruvian market more cheaply than locally produced goods. Thus, Peruvian farmers, especially those involved in the cultivation of grains, are rightly concerned about their livelihood. As the ITC has predicted:

[e]xports could increase by an estimated 50 to 80 percent above the \$107 million in U.S. grain exported to Peru in 2005. Approximately two-thirds of the expected additional U.S. grain exports will consist of U.S. rice, with the remainder divided equally between exports of U.S. corn and U.S. wheat.⁸

⁶ Oxfam, *Song of the Sirens* (June 2006), p. 10.

⁷ *Id.*

⁸ USITC, *US-Peru Trade Promotion Agreement: Potential Economy Wide and Selected Sectoral Effects* (May 2006), p. 3-3.

And though cheaper food prices may be viewed as a silver lining, in many cases the majority of cost savings will be captured by the food processors, and these are not necessarily passed on to the ultimate consumer.

Conclusion

Undoubtedly, the Peru TPA, as amended, marks a substantial step forward toward a trade model that will benefit the working people of both countries. We applaud the substantial effort that brought about these changes. However, it is important to remember that the May 10th agreement represents the tip of the iceberg in addressing what is wrong in our trade policy. Improving this agreement alone will not solve America's problems. Further work needs to be done to improve the "template" for future trade agreements. We must work together to build a prosperous economy and workforce of the future, and act expeditiously to address the domestic and international policies that are putting U.S. workers, businesses, and farmers at risk, such as: currency manipulation, unfair and imbalanced asymmetries in the tax code, and lax and inconsistent enforcement of our trade laws.

Statement of Senator Pat Roberts
Senate Finance Committee, Hearing on the Peru Free Trade Agreement
Tuesday, September 11, 2007

Chairman Baucus, Senator Grassley: Thank you for holding this hearing today. It is long overdue and I'm hopeful that our colleagues in the other chamber take similar action promptly.

In Kansas, as it is with the United States as a whole, international trade is very important to our state economy. While the bloom is off the trade lily, farmers and ranchers know the role of international trade in their bottom line. This past weekend I was back in the state talking to Ag producers at the Kansas State Fair. Time and again, folks would come up to me and talk about how Congress needs to push these trade deals through - specifically citing the pending trade agreements. Kansans are paying attention.

But it's not just Kansans. Our global trading partners are paying close attention because how we as policy makers handle this first of four trade agreements will have a profound affect on the U.S.'s role as a leader in the global economy, or relegate us as observers.

In 2006, almost 32 percent of Kansas's farm economy relied on agricultural exports. Kansas's farm cash receipts totaled \$10 billion, and agricultural exports amounted to \$3.2 billion. As the top wheat producer with almost half of all wheat produced exported, the importance of opening and expanding foreign markets is crucial to ensuring rural America's survival. We often talk about the problem of saving and preserving rural America. Trade is a key factor in this survival and growth.

The Peru FTA levels the playing field and opens up two-way trade between our two countries. Right now, nearly all of the exports from Peru coming into the United States comes in duty-free under the umbrella of one of the various preference programs. However, our exporters face duties that range from 12 - 25 percent, in some cases. The agreement before us provides immediate duty-free access to more than two-thirds of current U.S. farm exports and phases out all agricultural tariffs within 17 years. Zero percent is better than 25 percent.

But it's not just Kansas Agriculture that benefits from this deal. Kansas manufacturers exported \$10.3 million in transportation equipment last year. \$10.3 million is a big number in Kansas, and the promise for growth is significant. Looking at the numbers, almost a quarter of total merchandise exports are generated by small and medium sized enterprises in Kansas. Lowering barriers will help to these small and medium sized business to grow.

Finally, I'm compelled to mention my growing concern that trade agreements are increasingly looked to as an end-all-be-all solution for issues unrelated to trade. At some point trade agreements must be more about opening trade markets and agreeing to the same set of rules. While more could be said about on this troubling trend, I'll focus on the merits of the trade agreement. We must do more to talk about the successes of opening foreign markets through trade and expanding access for our exporters. I am hopeful that this is the beginning to more action on trade agreements and eventually, trade promotion authority. The United States should not be warming the bench in the global economic arena.



Statement of the American Farm Bureau Federation

**STATEMENT OF THE
AMERICAN FARM BUREAU FEDERATION
TO THE
SENATE FINANCE COMMITTEE
REGARDING THE U.S.-PERU TRADE PROMOTION AGREEMENT**

September 11, 2007

Presented by:
David Winkles
President, South Carolina Farm Bureau
Member, AFBF Trade Advisory Committee

I would like to thank the committee for providing this opportunity for the American Farm Bureau Federation to testify on the U.S.-Peru Trade Promotion Agreement (PTPA). My name is David Winkles. I am president of the South Carolina Farm Bureau, and a soybean, corn, wheat and cotton farmer. I am also a member of the American Farm Bureau Federation's Trade Advisory Committee.

Trade is important to U.S. farmers and ranchers for several reasons. This year, a record \$1 of every \$4 in sales in American agriculture is coming from the export market. If we look at the volume of products, more than three tons of every 10 tons of agricultural products marketed are moving into export. To put it another way, 96 percent of our current or potential customers live outside the borders of the U.S. For every 25 potential consumers for our food, feed and fiber worldwide, only one lives in the U.S. Equally important, agricultural productivity is increasing nearly twice as fast as domestic demand for agricultural products. This means that our dependence on trade as an outlet for our growing agricultural product will only increase over time.

It is critical for U.S. agriculture that industry, Congress and the administration work together to further open and develop world markets. USDA estimates that in 2007, the U.S. agricultural trade surplus will grow to \$8 billion from recent lows of \$3-4 billion. However, we will not maintain this surplus, let alone return to surpluses as large as \$26 billion just 10 years ago, unless action is taken to bolster our international competitiveness.

AFBF supports all three Latin Trade Promotion Agreements – the Peruvian, Colombian and Panama agreements. We appreciate the committee holding this hearing on the U.S.-Peru Trade Promotion Agreement (PTPA) and encourage this committee and the Senate to vote on this agreement without delay. At the same time, we would encourage you to promptly take action on the Colombia and Panama agreements. These three agreements provide gains across U.S. agriculture and we estimate that passage of the Peru, Colombia and Panama agreements will increase U.S. agricultural exports by almost \$1.5 billion per year by the time the agreements are fully implemented.

These three agreements will also make agricultural trade more equitable between the U.S. and these partner countries by providing U.S. agricultural exports duty-free access to their markets equivalent to the access they already have to the U.S. market. Colombia and Peru received duty-free access to the U.S. market under the 1991 Andean Trade Promotion and Drug Eradication Act (ATPDEA), but U.S. products entering the countries have continued to face duties over the intervening two decades. Panama receives duty-free access under a similar agreement--the Caribbean Basin Initiative. The recent action by Congress to extend for an additional eight months the ATPDEA is to the disadvantage of U.S. farmers and ranchers if it is not balanced with passage of the trade agreements. ATPDEA allows Peru and Colombia continued duty-free access and provides nothing for U.S. agriculture in the currently closed markets. Passage of the Peru and Colombia TPAs would provide U.S. agriculture the same open access to Peru and Colombia and an opportunity to increase competitiveness and boost market share.

U.S.-Peru Trade Promotion Agreement

The PTPA expands exports of a wide range of U.S. farm products, though some increases will not occur until later in the implementation period as Peru's import demand for farm products expands. Increased exports of the major grain, oilseed, fiber and livestock products are likely to exceed \$475 million. The total increase in United States farm exports associated with the PTPA could exceed \$705 million per year, including items such as fruits, vegetables, tallow and other high-value processed products. We do, however, anticipate increased U.S. imports of Peruvian sugar. We estimate that by 2025, when the agreement would be fully implemented, increased sugar imports are likely to total \$6.4 million.

The reason agricultural exports are likely to be so much higher with the PTPA is attributable to changes in world trade. Competitive pricing of quality products available in volume in a timely manner is no longer enough to guarantee export markets. Special agreements that provide a supplier with preferred access to a market are fast becoming the rule rather than the exception in international trade. The PTPA will allow the United States to compete with Peru's other Latin American trading partners that are currently supplying a large percentage of the Peruvian food and fiber market based on preferential access to the market. Chile has a 28-percent share of the Peruvian food market, and Colombia and Argentina each have an 11-percent share.¹ Our share currently stands at 8 percent and fluctuates widely from year-to-year given our role as a residual supplier.

In addition to addressing tariffs, these agreements also resolve sanitary and phytosanitary barriers to agricultural trade, including in the Peruvian case regarding food safety inspection procedures for beef, pork and poultry. The result for the sector as a whole is that PTPA will have a positive effect on American agriculture.

Agricultural Imports

Taking a longer-term perspective, from 2000-2006, the United States imported an average of \$331 million of agricultural products from Peru. The temperate zone products that were imported from Peru were generally imported in the off-season when American production was not available in bulk. Examples include bananas, mangos, coffee, cocoa and spices. However, the United States also imported commodities (less than a third of the total) that competed directly with American production, including some vegetables (specifically asparagus, peas and lettuce) and sugar. Table 1 shows the U.S.'s top 10 agricultural imports from Peru. Since the agreement was negotiated, exporters in Peru and importers in the U.S. have pushed imports up 15 percent as they anticipate expanded commerce after the agreement is signed.

¹ United States Department of Agriculture. "Peru: 2005 Annual Exporter Guide," *Global Agriculture Information Network Report*. Foreign Agricultural Service, Washington, DC, November 2005.

Table 1
Top Ten U.S. Agricultural Imports from Peru
(Values in \$1,000)

Commodity	2000	2001	2002	2003	2004	2005	2006	Ave.
Fresh Vegetables	50.1	63	78.9	97.3	119.2	140.1	157.2	100.83
Coffee and Prod	86.1	48.1	57.6	61.7	76	79.5	120.1	75.59
Fish	30	29.3	25.7	42.9	69.4	65.9	63.2	46.63
Veg Prep	6.1	9.7	17.6	20.4	34	64.2	96.8	35.54
Fres Fruit and Prod	15.7	20.7	34.1	27.9	25.7	49.6	66.4	34.30
Sugar and Prod	6.9	26.9	17.3	21	17.2	15.8	39.9	20.71
Spices	1.5	2.9	7.6	8.3	17.3	35.7	40.8	16.30
Nuts	2.9	2.9	2.4	4.9	7.4	14.2	11.3	6.57
Pulses	1.2	5.3	3.2	2.1	4.2	5.4	8.9	4.33
Cocoa and Prod	1.2	5.3	3.5	3	4	3.8	8.3	4.16
U.S. Imports from Peru	196.3	206.2	245.8	267.9	348	447.7	601.7	330.51

Agricultural Exports

From 2000 to 2006, the United States exported an average of \$223 million of agricultural products to Peru. Over this period, the top American agricultural exports to Peru were wheat, cotton, corn, soybean oil, soybean meal and rice (Table 2). However, from year-to-year exports of a particular commodity may vary significantly. As an example, Table 2 indicates that our wheat exports jumped from \$29.6 million in 2000 to over \$150 million in 2004. However, they fell to less than \$20 million in 2006 as the U.S. went from being a residual supplier, to the only major supplier with adequate supplies, back to being a residual supplier. You can see the dramatic increase in U.S. exports when the U.S. moves from a residual supplier to preferred supplier position. The PTPA provides U.S. agriculture the opportunity to become the preferred supplier.

Table 2
Top Ten U.S. Agricultural Exports to Peru
(Values in \$1,000)

Commodity	2000	2001	2002	2003	2004	2005	2006	Ave.
Wheat	29.6	76.3	64.7	100.7	151.3	78	18.6	74.17
Cotton	19.1	30.3	35.2	46.5	44.6	39.3	42.8	36.83
Feed Indregients	24.6	23.5	17.7	5.6	25.8	20.2	43.9	23.04
Corn	24.3	22.9	17.3	4.1	25.7	20.1	43.8	22.60
Soybean Oil	20.4	16.3	15	18.6	10.7	7.6	9.7	14.04
Soybean Meal	26.9	9.6	20	1.5	9.4	1.4	14.8	11.94
Horticultural products	6.2	6.4	4.3	5.7	4.7	6.4	10.4	6.30
Rice	4.9	0.1	2.9	4.5	8.4	7.8	0.2	4.11
Tallow	0.1	2.1	6.7	2.9	5.7	4.2	7	4.10
Pulses/Lentiles	4.1	4.8	5.5	4.7	1.8	2.7	4.4	4.00
U.S. Exports to Peru	170.3	212.5	213.9	237	302.6	212.6	208.8	222.53

Looking at Tables 1 and 2, the U.S. has traditionally carried an agricultural trade deficit with Peru. However, in the 12 to 18 months since negotiators arrived at a final draft agreement, U.S. exports to Peru have jumped 65 percent, as U.S. exporters and Peruvian importers anticipate relations under the new accord where the U.S. moves into a preferred supplier position. With continuation of these growth trends, the U.S. should move into an agricultural trade surplus position with Peru by the end of PTPA implementation.

Agricultural Tariff Rates

The PTPA agreement would not be as potentially beneficial to the U.S. but for Peru's restrictions on access to its markets. Peru's high tariff structure is the major impediment to access in many sectors, including agriculture. Peru has historically used restrictive trade policies as an economic development tool designed to maximize self-sufficiency and minimize imports. This has been the case even for products where Peru's climate and resource restraints ruled out production. For example, Peru uses tariffs on meats, some fresh fruits, and vegetables and pulses even though there is little domestic production of these items.

Table 3 shows both the bound and applied tariff rates for some selected agricultural commodities, both in the United States and in Peru.

As the table demonstrates, the average tariff rate is roughly 18 percent compared to a U.S. rate of 0 on many Peruvian products. Consequently, the elimination of Peruvian duties on imports operates as an effective 18-percent discount on U.S. prices, while the prices of Peruvian products entering the U.S. do not change since tariffs are generally 0 already.

Table 3
Tariff Rate Information
(Values in Percent)

Commodity	Peru		United States	
	Bound	Applied	Bound	Applied
Barley	30.0	12.0	0.7	0.0
Beef	30.0	20.0	26.4	5.3
Butter	30.0	20.0	80.9	6.7
Cheese	30.0	20.0	36.4	9.8
Corn	30.0	12.0	0.6	0.0
Cotton	30.0	12.0	25.9	25.9
Milk	30.0	20.0	40.0	0.0
Pork	30.0	20.0	0.2	0.0
Poultry	30.0	20.0	17.4	6.9
Rice	52.0	52.0	6.8	6.8
Sorghum	30.0	12.0	1.4	0.0
Soybeans	30.0	12.0	0.0	0.0
Soybean Meal	30.0	12.0	2.5	2.5
Soybean Oil	30.0	12.0	19.1	19.1
Sugar	68.0	14.5	195.0	195.0
Wheat	30.0	12.0	2.6	0.0
Aggregate Fruits	30.0	25.0	3.7	3.7
Aggregate Vegetables	30.0	12.0	6.8	6.8
Processed Products	16.6	16.6	11.4	11.4

PTPA Provisions

Under the PTPA, more than two-thirds of current U.S. agricultural exports to Peru will become duty-free immediately. Items that receive immediate duty-free treatment include high-quality beef, cotton, wheat, soybeans, soybean meal, apples, pears, cherries, almonds and some processed food products.

The PTPA requires the elimination of *all* tariffs on *all* agricultural products exported by the United States to Peru. Tariffs on U.S. farm products are phased out completely over 17 years. The agreement not only eliminates the lower applied tariffs currently applied to agricultural imports from the United States, but also the higher bound tariffs allowed under the WTO. (See Table 3). This elimination of both applied and bound tariffs ensures the United States open access regardless of market developments that might lead Peru to revert to higher tariff rates.

As much as trade agreements focus on tariffs, non-tariff barriers are also troublesome for U.S. exporters. Peru currently uses sanitary and phytosanitary restrictions to limit or prohibit a broad range of U.S. agricultural products. The PTPA addresses these concerns. The PTPA establishes that U.S. products that meet U.S. domestic standards are sufficient to meet Peruvian standards. Looking at tariff and non-tariff issues in combination, the agreement creates new opportunities

for American farmers and ranchers in this market relative to other suppliers that already have trade agreements with Peru.

Tariff Rate Quotas in the Agreement

In the PTPA, both parties utilize tariff rate quotas (TRQ) as a transition vehicle to open markets for a variety of trade sensitive agricultural products.

The United States will utilize TRQs to open its markets for cheese, condensed and evaporated milk, processed dairy products and sugar. With the exception of sugar, all U.S. TRQs will be eliminated and markets will be fully opened within 17 years. Peru will also utilize TRQs as a means of transition to completely open markets. Like the United States, all Peruvian TRQs will be eliminated and markets will be fully opened within 17 years. Table 4 shows the commodities for which Peru will utilize a TRQ, the average U.S. export of these selected commodities (from 2000 to 2004) and the TRQ values for year one and year ten of the agreement's implementation.

Table 4
Peru's TRQ Commitments
(Values in Metric Tons)

Commodity	Avg US Exports	Year 1 TRQ	Year 10 TRQ	Unlimited In
Standard Quality Beef	73	800	1,352	12 years
Beef Variety Meats	1,174	10,000	Unlimited	10 years
Chicken Leg Quarters	1,090	12,000	23,988	17 years
Yellow Corn	188,759	500,000	844,739	12 years
Rice	16,397	55,500	125,021	17 years
Refined Soybean Oil	987	7,000	Unlimited	10 years
Milk Powder	629	4,630	12,839	17 years
Yogurt	7	70	165	15 years
Butter	137	500	1,179	15 years
Cheese	548	2,500	6,933	17 years
Ice Cream	163	300	707	15 years
Processed Dairy Products	2	2,000	4,716	15 years

Regarding TRQ administration, the agreement provides specific guidelines on how to operate these TRQs. The agreement requires that TRQ administration be transparent, that administration will be done by government authorities, and that TRQ quantities are made in commercially viable amounts.

Safeguard Mechanisms in the Agreement

The PTPA allows both countries to impose safeguard measures on selected agricultural commodities in the event that the domestic market for the commodity could be disrupted and producers could be harmed by a surge in imports. Peru has safeguard measures for standard-quality beef, chicken leg quarters, rice, milk powder, butter and cheese; the United States has safeguard measures for condensed and evaporated milk, and cheese. A trigger level was set for

each commodity in the text of the agreement and an additional duty (that varies by commodity) may be charged *temporarily* if this trigger is reached.

Sugar in the Agreement

The PTPA requires the United States to expand its current sugar quota for Peru. Peru currently has authorization to export 43,175 metric tons of sugar to the United States each year. Under the PTPA, Peru's sugar quota would increase immediately by 9,000 metric tons and by 180 metric tons each year thereafter.

However, the text of the agreement (Article 2.19) provides for a "sugar compensation mechanism." The United States has the right to compensate Peru for increased sugar quotas in lieu of actually importing the sugar. The PTPA explicitly explains how this compensation will occur. The agreement states, "Such compensation shall be equivalent to the estimated economic rents that Peru's exporters would have obtained on exports to the United States of any such amounts of sugar goods and shall be provided within 30 days after the United States exercise this option." In addition, Peru must meet a "net-exporter" provision (or export more sugar than it imports) in order to send any additional product to the United States market.

As demonstrated in Table 5, the PTPA-related increase in Peru's sugar quote (if filled) by the 2025 end of the implementation period would be 12,240 tons and would translate into a \$6.4 million increase in sugar imports. This compares to the \$21.9 million value of Peru's current quota.

Table 5
Impact of PFTA on U.S. Sugar Imports

	<u>Without an Agreement</u>		<u>With an Agreement</u>	
	2005	2025	2005	2025
	In 1,000 MT			
Export Quotas ¹	43.2	43.2	43.2	43.2
Increase in Quota w/ PFTA	0.0	0.0	9.0	12.6
Total Peru Quota	43.2	43.2	52.2	55.8
	In \$1,000,000 ²			
Export Quotas ¹	21.9	21.9	21.9	21.9
Increase in Quota w/ PFTA	0.0	0.0	4.6	6.4
Total Peru Quota	21.9	21.9	26.5	28.3

¹ Assumes import quotas for other countries and allocation to Peru does not change from 2004 levels

² Priced at 2000-2004 average of \$507 per ton

Balance of Changes in Imports and Exports Favor U.S. Agriculture

This increase in sugar imports would be more than offset by export gains in excess of \$470 million per year by 2025 in items such as wheat, rice, corn, cotton, soybean products and livestock products. The increased United States agricultural exports with a PTPA in place could

exceed \$705 million if other agricultural and processed products grow at the same pace. Table 2 shows the value of these increased exports.

Table 6
Summary of PTPA Benefits to U.S. Agriculture
 Year 2025
(Values in 1,000 Dollars)

Commodity	2000-2004 Average Imports from US	2025 Imports from US without FTA	2025 Imports from US with FTA	2025 Difference
Beef	290	12,415	25,845	13,430
Butter	234	870	1,550	680
Cheese	1,707	14,870	23,310	8,440
Corn	17,142	48,095	89,120	41,025
Cotton	32,108	112,205	256,425	144,220
Pork	34	60	165	105
Poultry	983	15,870	46,675	30,805
Rice	4,542	48,630	88,000	39,370
Soybean	200	1,240	1,575	335
Soybean Meal	13,570	64,450	80,600	16,150
Soybean Oil	16,890	55,745	87,055	31,310
Wheat	75,835	106,370	257,210	150,840
Estimated Impact of Selected Commodities	163,535	480,820	957,530	476,710
All Other Commodities	73,367	221,560	450,600	229,040
Total	236,902	702,380	1,408,130	705,750

Looking at some of the specific commodities of export interest to the United States, the agreement would put the United States in a strong position to capitalize on the following commodity opportunities in what will be a fast growing overall market.

- Peru's growth in imports of **grains and oilseed products** related both to growing food demand for wheat and vegetable oils and to growing domestic livestock demand for feed grains and protein meals is likely to be substantial. With no wheat and oilseed production capacity, Peru's dependence on imports is likely to grow steadily. The trade agreement puts the United States in a strong supplier position.
- Expanding import demand for **livestock products** related to growth in population and per capita incomes, combined with rather limited domestic production potential, will also be important. Rapid growth in tourism should also help to stimulate demand for meats in the hotel and restaurant trade, which could be significant on its own. Growth in domestic demand for livestock products is likely to outpace production, despite larger imports of feed grains and protein meals. The PTPA would allow the United States to use its cost advantages and its wide variety of beef, pork and poultry products to fill a growing share of this market.

- Gains in **cotton** import demand are also key, due to both increased domestic demand for cotton and import demand from the United States for finished textiles and apparel. The PTPA would put the United States in a position to price competitively and boost market share.
- Gains in **other agricultural products** could also be substantial. The United States exports a diverse basket of farm products to Peru. The commodities noted specifically above account for two-thirds of the United States total exports. Other commodities or commodity groupings of importance include fruits, vegetables, tallow, and other processed products. Data on production and trade in these products is generally too limited to support detailed analysis. Assuming that the same pattern of growth likely for grains, fiber, oilseeds and livestock products holds for these other commodities, PTPA would allow the United States to capture a larger share of these expanding markets as well.

Conclusion: Positive Impact on the Farm Sector

The agreement is positive for U.S. agriculture. The total increase in U.S. farm exports associated with the PTPA could exceed \$705 million per year after full implementation of the agreement.

Congress's quick passage of this agreement, and the Colombia and Panama TPAs, will demonstrate to U.S. farmers and ranchers that Congress is committed to promoting U.S. agricultural trade.

FINANCE COMMITTEE QUESTIONS FOR THE RECORD

**United States Senate
Committee on Finance**

**Hearing on
“U.S.-Peru Trade Promotion Agreement”
Tuesday, September 11, 2007**

QUESTIONS FOR DAVID WINKLES, JR.

FROM SENATOR STABENOW

Question 1:

Duty free access for Peru has cut the American acreage for asparagus in half—40,000 acres of Asparagus are gone. Unfortunately, these farmers didn't qualify for assistance because of the outdated calculation of TAA.

I am concerned that this could happen to another industry if we don't prioritize TAA over more trade agreements. To me, this is why we must get our priorities right.

Do you believe TAA is important and are there other priorities that we should be reviewing before we pass another FTA?

Response to Question 1:

The American Farm Bureau Federation is an advocate of the Trade Adjustment Assistance (TAA) for agriculture. We believe that the formula used to determine eligibility for agricultural producers should be reviewed and adjusted to adequately address the needs of producers who in the past have not been able to qualify for the program. As the debate continues on TAA extension we would welcome the opportunity to work with you and your staff toward a solution regarding this issue.

Trade is important to the profitability of all farmers and 25 percent of farm cash receipts come from U.S. exports. We must provide strong domestic policies, like TAA, but we must also move to open new markets. We believe Congress should move forward with the trade agenda, including TAA and trade agreements. Trade is important for a healthy and viable U.S. agricultural economy.

Regarding asparagus, challenges the U.S. asparagus industry has faced are not due to an FTA with Peru or Colombia but were brought on by the duty-free preferences allowed under the Andean Trade Promotion Act (ATPA) and changes in consumer food preferences. This year Congress again extended ATPA, passing the Senate by voice vote,

allowing fresh Peruvian and Colombian asparagus, and about 99 percent of their agricultural products, to enter the U.S. market duty free, with nothing in return for U.S. farmers except competition in our own market. The trade agreements with Peru and Colombia are not about an open U.S. market for their agricultural products. They already have that. Instead it is about giving U.S. farmers reciprocal duty-free access to Peru and Colombia. If Congress does not pass the Peru and Colombia FTAs, it is U.S. agriculture that will suffer not the farmers of these two countries.

Question 2:

The state of Michigan is second in the nation for the most diverse crops. To just name a few, we have soybeans, apples, cherries, corn, livestock, asparagus, etc.

While some Michigan farmers will be very happy with a Peru FTA, others may face devastating consequences. In your written testimony, I noticed a chart on Page 2 where Fresh Vegetables is the number one import commodity from Peru. Over the last five years, the chart shows that the US has increased its' imports of Fresh Vegetables by 200%. This is a major concern in my state because we have already experienced the decline in asparagus prices. How have your Fresh Vegetable growers adjusted to this surge in imports? Do you have any suggestions for specialty crop farmers who are concerned about losing their crops due to increased trade and what should Congress do to mitigate the consequences?

Response to Question 2:

The increase in fresh vegetable imports has been driven by U.S. consumer's demand and change in diets. The year-round demand for fresh vegetables has led to an increase-demand for both U.S. and imported vegetables. Michigan asparagus is primarily sold as frozen and canned product although the industry is changing to fresh production as quickly as possible.

Most imports of fresh vegetables are either entering the U.S. market when our vegetables are not in season, or are tropical varieties we do not produce, meaning they are not in direct competition with our products. That is not to say that at times there is no direct competition.

The U.S. vegetable industry has adjusted and continues to adjust to imports and changing consumer demands. The U.S. vegetable industry has moved to increase marketing domestically and internationally, building the demand for U.S. products. They lead the way in product innovation and variety taking advantage of the market for higher priced processed and prepared products. There is also an increase in research and work with foreign countries to develop new overseas markets for these products.

We believe Congress can help ensure a viable U.S. vegetable industry by increasing funding for USDA promotion programs like the Market Access Program (MAP) and Foreign Market Development Program (FMD), domestic research and marketing and

U.S. vegetable programs. Assistance to producers to help them adjust to increased imports is also important.

Once again, it is critical that U.S. farmers be able to export and compete directly with farmers in Peru, Colombia and Panama in their markets. Passage of the FTAs with those countries will allow us to do that.

COMMUNICATIONS



Testimony Before the Senate Finance Committee Hearing on the United States-Peru Trade Promotion Agreement

**By Kevin M. Burke
President & Chief Executive Officer, American Apparel & Footwear Association (AAFA)
September 11, 2007**

Thank you for the opportunity to submit testimony on this important issue. The American Apparel & Footwear Association (AAFA) strongly supports swift approval and implementation of the U.S./Peru Trade Promotion Agreement (TPA).

Why? U.S. apparel imports from and, in turn, U.S. cotton and textile (yarn and fabric) exports to Peru have thrived since Congressional passage in 2002 of the Andean Trade Promotion & Drug Eradication Act (ATPDEA). The United States imported \$844 million worth of apparel from Peru in 2006. To supply this thriving apparel business, U.S. cotton growers and textile manufacturers sold over \$55 million worth of cotton, yarn and fabric to Peru that same year. U.S. cotton exports alone to Peru have doubled over the past year, making Peru the 11th largest customer of U.S. cotton today.

Regrettably, the continued uncertainty over Congressional approval of the U.S./Peru Trade Promotion Agreement (TPA), combined with constant threat of expiration of the ATPDEA program, has caused a number of U.S. apparel firms to pull business from Peru and move that business to Asia. U.S. apparel imports from Peru in the first half of 2007 are already starting to reflect this move.

This decline in U.S. apparel imports from Peru has, in turn, jeopardized U.S. cotton and textile exports to Colombia and Peru. Over 500,000 jobs (100,000 direct workers and another 400,000 indirect workers) in Peru – approximately 20 percent of the entire Peruvian manufacturing workforce – and thousands of jobs in the United States are at risk.

The U.S./Peru TPA would make the current partnership between the United States and Peru: 1) permanent; 2) reciprocal; and 3) comprehensive.

No longer would this important relationship be threatened by the uncertainty caused by last minute renewals of ATPDEA – the last renewal of ATPDEA, which extended ATPDEA for only 8 months to February 29, 2008, was signed into law by President George W. Bush only minutes before the program was set to expire. Further, even though duty-free access for U.S. imports of apparel from Peru under ATPDEA requires the use of U.S. cotton, yarn and fabric, exports of U.S. cotton, yarn and fabric to Peru are today subject to duties averaging 12-16 percent. Those duties would disappear immediately upon implementation of the U.S./Peru TPA. Finally, ATPDEA benefits only extend to U.S. imports of apparel from Peru, while the U.S./Peru TPA would allow duty-free access for all types of textile products from Peru – sheets, towels, draperies and other home furnishings and textile products – as long as they are made from U.S. cotton, yarn and fabric.

In fact, The U.S./Peru TPA contains ALL of the provisions requested by the U.S. textile industry:

1. A strict yarn-forward rule of origin for all apparel and textiles and
2. No exceptions to the yarn-forward rule, except for bras (single transformation).

As a result, the entire U.S. textile and apparel supply chain – from cotton growers and fiber/yarn producers to importers and retailers – sent letters May 11, 2007 to Chairman Baucus and Ranking Member Grassley **STRONGLY SUPPORTING** the U.S./Peru TPA and **NO INTERRUPTION** in benefits between ATPDEA expiring and implementation of the U.S./Peru TPA. Such a letter is unprecedented. Never before have these groups come together on any issue, much less a free trade agreement. A copy of the letter is attached to my testimony.

Therefore, I urge you, on behalf of our members and the entire U.S. textile and apparel supply chain, to approve the U.S./Peru TPA as soon as possible. By approving the U.S./Peru TPA, and guaranteeing its quick implementation, Congress would ensure that the strong partnership that exists today between the textile and apparel industries in the United States and Peru would not only continue, but grow.

Thank you again for the opportunity to provide testimony on this important matter.

Attachment

- May 11, 2007 letter from entire textile and apparel supply chain to Senator Max Baucus



May 11, 2007

The Hon. Max Baucus
Chairman
Committee on Finance
U.S. Senate
Washington, DC 20510

Dear Mr. Chairman:

On behalf of the U.S. textile and apparel supply chain, the undersigned organizations are writing to ask your assistance in ensuring that the U.S./Peru Trade Promotion Agreement and that the U.S./Colombia Trade Promotion Agreement are approved and enacted into law before June 30, 2007. We understand that consideration of these agreements has been delayed pending trade/labor negotiations between the Administration and the Congress. In light of the agreement on those trade policy talks, it is our hope that the Colombia and Peru agreements can be considered and approved before the end of June.

As you know, on December 20, 2006, President Bush signed into law a provision that establishes a two-part extension of the Andean Trade Promotion and Drug Eradication Act (ATPDEA). That provision automatically extended the ATPDEA until June 30, 2007, with a second extension, contingent partly on Congressional passage of the Trade Promotion Agreements, possible until December 31, 2007. To ensure there is no gap in duty free access for garments made in these countries – made primarily with U.S. textiles – we need the Trade Promotion Agreements (TPAs) approved by June 30, 2007 and implemented by December 31, 2007.

As you may know, the textile and apparel sector is one of the largest manufacturing and wholesale employers in the United States - and still employs more than 500,000 U.S. workers.

Increasingly, those jobs are dependent upon exports. About \$16.7 billion worth of textile and apparel products were exported in 2006. About 50 percent of those exports are destined for Mexico, Central America, and the Andean region, where many of these products are incorporated into finished garments and brought back to the United States.

These export markets function primarily because we provide duty free access for their textile and apparel products that incorporate U.S. yarns, fabrics, fibers, and other textile inputs.

The Andean region remains an important and growing market for U.S. textile exports. Unfortunately, the overall prospects of this market remain troubled. Because of recurring threats over the loss of duty free access for that region, many U.S. apparel importers have begun to shift their business elsewhere. Over the last 12 months, U.S. apparel imports from the region have dropped by about 11 percent.

Although U.S. textile exports to this region are still up during the last 12 months, this success cannot be sustained if the overall market is contracting.

The long term solution lies in the U.S./Peru and U.S./Colombia TPAs, which provide a permanent two-way duty free partnership between the U.S. and Andean textile and apparel producers. But this long term stability cannot be realized if the U.S does not quickly approve these agreements. Moreover, we face a short term crisis with the imminent expiration of the existing preference programs, on which much of the current partnership is presently based.

Time is of the essence if we hope to retain a strong and economically vibrant textile and apparel industry in this country by ensuring a strong trade relationship with our partners in Peru and Colombia. Please help us by ensuring approval of the U.S./Peru and the U.S./Colombia Trade Promotion Agreements before the end of June 2007.

We also support extension of the current Andean Trade Promotion and Drug Eradication Act (APTDEA), which is currently set to expire in a little less than 60 days. Such extension is needed to eliminate any potential disruption or actual duty free gap that might occur before full entry into force of the Trade Promotion Agreements.

Thank you for your time and consideration in this matter.

Sincerely,

American Apparel & Footwear Association (AAFA)
American Fiber Manufacturers Association (AFMA)
Carpet and Rug Institute (CRI)
INDA, Association of the Nonwoven Fabrics Industry
National Cotton Council (NCC)
National Council of Textile Organizations (NCTO)
National Retail Federation (NRF)
North Carolina Manufacturers Association (NCMA)
Retail Industry Leaders Association (RILA)
Sewn Products Equipment & Suppliers of the Americas (SPESA)
South Carolina Manufacturers Alliance (SCMA)
Textile Distributors Association (TDA)
The Association of Georgia's Textile, Carpet & Consumer Products Manufacturers (GTMA)



Senate Committee on Finance

**Hearing on
U.S. – Peru Trade Promotion Agreement (PTPA)
Tuesday, September 11, 2007**

Testimony by

ALDO R. DEFILIPPI
CEO
American Chamber of Commerce of Peru
(AmCham Peru)



THE TOP PRIORITY FOR AMERICAN BUSINESSES IN PERU: FREE TRADE *NOW!*

Chairman Baucus, Ranking Member Grassley, distinguished Members of the Committee:

It is our distinct pleasure to provide you with our testimony on behalf of 500 companies, including many large U.S. corporations as well as small and medium sized businesses represented by AmCham Peru. As you know, AmCham Peru has been among the most vocal groups in support of trade between the United States and Peru. Our member companies have enjoyed tremendous success in Peru over the last decade and we have grown into a prominent business organization representing some of the most important investors and employers in Peru.

Thanks to many of you on this Committee who supported the Andean Trade Preferences Act (ATPA) and its subsequent extensions, Peru has been able to develop significant exports to the United States. In 2006, those exports were nearly \$6 billion. This export growth provided hundreds of thousands of Peruvians with jobs and helped lift many of them out of poverty. Fortunately, since you extended the ATPDEA until February 2008, Peruvians can still enjoy this source of market access. Yet, the uncertainty of whether it would be extended again is a great concern for not only the local entrepreneurs and exporters, but also for all their workers. Such uncertainty creates a threat of losing the most important export market for Peru which has direct impact on revenues and jobs.

Clearly, simply to extend the ATPDEA is not an ideal solution. Therefore, both the Peruvian private sector and the American private sector which, by the way, has a significant presence in Peru, want to secure permanent and reciprocal market access between Peru and the United States. And that is what the U.S.-Peru Trade Promotion Agreement is all about – a win-win situation.

Let us not forget that, while Peru exports almost \$6 billion to the United States, the American exports represent only half of that amount. In fact, Peru's exports have more than tripled since 2002, while U.S. exports to that market have grown at a much slower rate. Truth be told, U.S. exporters continue to face tariffs as well as non tariff trade barriers (such as



phytosanitary measures) that prevent them from doing more business with Peru. Unfortunately, since the ATPDEA is only a one-way preferential market access program, it has done very little to help boost U.S. sales to Peru.

For those who argue *against* enactment of the US-Peru Trade Promotion Agreement (PTPA), we would simply ask – how does the status quo help improve Peruvian law on critical issues like transparency, rule of law, protection of labor or environmental rights? For all the criticisms these opponents would level against Peru, and the terms of the agreement before us, there is no realistic and viable alternative that would achieve more in these areas than the PTPA.

In our view, a failure to capture the opportunities provided by the pending PTPA will actually be a setback. Many of our members, who are American companies doing business in Peru are still waiting for critical reforms that would give them more certainty, more transparency, and greater protection as a result of laws that would be enacted under the pending PTPA. Peruvian workers, businesses and farmers are similarly anxious for these reforms to occur.

Over the last several months, we have witnessed the congressional debate about international trade and we have heard some concerns being raised about the PTPA and other trade agreements, in general. However, most of these concerns will not be answered by continuing the status quo or extending the ATPDEA. It is a simple fact that issues like labor rights protections and their appropriate enforcement, various environmental priorities, investment-dispute settlement rules, intellectual property protections, customs reforms, added transparency and rule of law, and tariff reductions will not be achieved by extending the existing preference program.

With specific regard to the protection and enforcement of labor rights practices, it is clear that in order to foster a truly functional labor rights system in Peru, it is necessary to secure greater participation of the Peruvian workforce in the formal economy. Those that operate in the informal economy oblige to no law or ILO convention. In fact, it is precisely by implementing a job-generating trade agreement like PTPA and subsequent investments that the United States can achieve widespread labor rights protections for people in Peru – not



by extending the ATPDEA. Entities that would export under the PTPA would be required to meet certain standards.

Make no mistake – for American companies and farmers doing business in Peru, and the tens of thousands of jobs tied to these companies and farms and ranches in Peru and the United States, our real desire is to implement the PTPA so that we can begin enjoying the tremendous benefits of the agreement in a wide range of areas.

Enactment of the PTPA will help provide investors and employers with the boost of confidence necessary to develop long-term plans for growing their businesses and employing more workers in trade related fields both in Peru and in the United States. As we have seen in 2006, the uncertainty created after the failed expectations of ratifying the PTPA, and only a temporary extension of the ATPDEA, eroded some measure of business confidence and caused job losses in Peru.

For example, a few major U.S. companies operating in the region decided to shut down their operations or reduce them, while shifting production to other regions of the world. Specifically, I am referring to the textile and clothing sectors – industries that have been at the core of ATPDEA's success. It is even more unfortunate that many of these jobs were relocated to Asia, further weakening Peru and the Andean region as a global competitor in these low-margin industries. For American companies doing business in Peru, it has become more difficult to forecast growth in Peru as opposed to other competing markets such as Asia.

What companies operating in Peru need, first and foremost, is a permanent, bilateral trade agreement with the United States, in other words – they need the US - Peru Trade Promotion Agreement, or PTPA.

The PTPA has already been completed, signed by both parties, and ratified by the Peruvian Congress. Moreover, it has since even been amended in some chapters where the U.S. Congress indicated certain concerns related to enforcement of the agreement. Even so, it enjoys widespread support of the Peruvian people and the private sector. However, we are concerned that further delay by the U.S. Congress in approving PTPA will send a terrible message to the people of Peru and to the American private sector that currently operates



there. Peru has done its part of the deal and has even agreed to do more in order to secure its prompt passage. Any further delay to the agreement's ratification by the U.S. Congress will erode confidence among both the Peruvians and American companies operating in Peru.

Equally important, delayed implementation of PTPA emboldens anti-American sentiments preached by nationalists like Hugo Chavez who holds an increasing level of sway in the region. It is important to note within this context that Peru's President Alan Garcia withstood a considerable amount of pressure from President Chavez during the presidential elections. Mr. Chavez openly attacked Mr. Garcia for his openness to the United States and his willingness to support the free trade agreement negotiated by then-President Alejandro Toledo's Administration. Mr. Garcia's main challenger, who was supported by the Venezuelan government, made the same attacks.

Fortunately, Mr. Garcia was still able to win the elections while standing firm as an ally of the United States. However, the anti-American opposition party gained the largest number of seats in Peru's Congress. The Chavez-backed opposition grows more emboldened by the day. Failure to achieve the ratification of PTPA by the end of this year threatens to undo President Garcia's national economic agenda and force his Administration to accept defeat. Surely, that is not within the U.S. economic and foreign policy interests.

Thus, for a "win-win" agreement like PTPA, the more we wait, the more we lose. We believe that a failure to act as soon as possible to approve PTPA will spell out disaster, both geopolitically and economically. Alternatively, congressional approval of the agreement will introduce great new benefits for both countries and cement the successful economic relations that we started to build by installing the ATPDEA.

America's friends in Peru have already seen the benefits of being able to sell their products to the United States, which is Peru's largest export market. The natural next step forward at this point is to "level the playing field" by putting in place a free trade agreement that can turn a one-way street into a two-way street. PTPA can also serve as an opportunity to graduate Peru from a simple preference-based export system, traditionally reserved for the poorest countries, to a reciprocal trade relationship that could attract more foreign investment and strengthen the rule of law. It is worth noting that Peru also stands to gain in



investment grade rating as a result of the PTPA which is certain to build more investor confidence in that country.

With respect to the American private sector, a free trade agreement like PTPA will create immediate tariff relief and opportunities to do more business for American manufacturers, farmers, small businesses and service providers. Beyond any doubt, the opening of the Peruvian market will create more demand for American products, translating into more U.S.-based jobs.

Every day Congress delays approval of the PTPA is another day of missed opportunities for Americans and Peruvians. Every day Congress delays approval of the PTPA provides further ammunition for America's enemies in the region who seek to drive a wedge between Peru and the United States.

We appreciate the Committee's efforts to move the process forward and we look forward to working with you and Members of Congress in the days and weeks ahead.

Thank You.



UNITED STATES-PERU TRADE PROMOTION AGREEMENT

HEARING BEFORE
THE U.S. SENATE COMMITTEE ON FINANCE
Tuesday, September 11, 2007

STATEMENT FOR THE RECORD

Submitted by
Governor Frank A. Keating
President and CEO
American Council of Life Insurers
101 Constitution Avenue, N.W. – Suite 700
Washington, DC 20001-2133

Mr. Chairman, Mr. Ranking Member and distinguished members of the Senate Finance Committee: Thank you for the opportunity to submit a statement on behalf of the American Council of Life Insurers in support of the proposed United States – Peru Trade Promotion Agreement. Our industry looks forward to swift and successful passage of the agreement.

The American Council of Life Insurers (ACLI) is a unified voice for the United States life insurance and reinsurance, pension and retirement security industries that is the focal point of expertise of member companies with 250 years of experience protecting families and businesses in the U.S. and in markets around the world. At home the ACLI shapes public debate by providing expert research to decision makers and educational resources to consumers. Internationally, ACLI provides industry expertise and policy positions to regulators, national trade and fiscal authorities, legislatures and other national leaders, international institutions and academic and economic research institutions.

ACLI applauds the achievement of U.S. trade negotiators in concluding the U.S.- Peru Trade Promotion Agreement because we believe it continues the high standard of commercially meaningful free trade agreements (“FTAs”) which support our bilateral objectives in these markets and facilitates progress in the World Trade Organization’s Doha Development Negotiations. We continue to fully support the ongoing U.S. strategy of bilateral, regional and multilateral trade negotiations as a mechanism for expanding market opportunities for U.S. insurance and retirement security exporters.

ACLI's members are proud of the positive contribution we make to the U.S. financial services export surplus and are committed to further expanding our global market presence through trade negotiation and facilitation to continue creating wealth and jobs at home in towns across America. We are also proud that our industry's products help build individual and national economic stability in markets where they are freely available, and that in turn supports strong and growing global economies throughout the world.

While Peru is a relatively small insurance market by global standards with a population of under thirty million people, it has a growing economy and a relatively young population (25 years on average) who have increasing income and strong incentives to purchase our industry's products to save for their retirement and financial security.

The Peruvian government has demonstrated an understanding of the importance of an innovative and dynamic insurance and pension market and it has endeavored to build one for all companies operating in the market. In addition to a virtually perfect set of commitments on market access and national treatment for our industry, the U.S.-Peru FTA disciplines on transparency and administrative procedures will lock in important pro-competitive regulatory practices that allow U.S. companies to provide new and innovative products. The value of these disciplines can not be overstated in building U.S. market share.

As a highly regulated financial service, transparency and administrative procedures commitments are regionally and globally critical to our success and the regulatory, and by extension, market stability of the nations in which we operate. Vague, inconsistent or capricious regulation and supervision is in many ways worse than outright barriers to market access and expansion. By contrast, in signing this agreement, Peru has committed to provisions based largely on the U.S. Administrative Procedures Act.

Put in a broader context, the transparency and other "rule of law" provisions in this agreement also set a strong foundation for the Peruvian regulatory and legal environment which will create tangible benefits for our companies as foreign stakeholders in the Peruvian economy. This in turn, allows access to competitive insurance and benefits products, which is beneficial for Peruvian workers and their families and represents one of the best elements of U.S. commercial diplomacy.

Described more specifically, through this FTA, Peruvian citizens will have increased access to world standard financial services products to help them protect their families and take individual responsibility for their economic futures. Peruvian workers will also have increased access to world standard life insurance, retirement security and health insurance products, and Peruvian businesses will have increased access to world standard employee benefits and risk management technologies. Our companies therefore look forward to advancing their stake in this marketplace. By any yardstick, this agreement is a major step forward for all involved.

Key elements in the US-Peru FTA for the U.S. life insurance industry include:

- US insurance suppliers will have the right to establish themselves in Peru, as both subsidiaries or branches;
- US insurers are ensured strong regulatory transparency, including license approval within 120 days;
- Peru has agreed to change its laws within eighteen months to provide for advance notice and comment re proposed rules and regulations;
- Peru will allow US-based companies to supply insurance cross-border (including through electronic means) for key markets including reinsurance and reinsurance brokerage within two years; and
- Peru has agreed to allow US-based insurance companies to provide investment advice and other portfolio services management services to mutual funds and pension funds.

In conclusion, we believe the U.S. - Peru FTA builds on all previous FTAs and represents a strong standard for future bilateral and multilateral agreements, while extending traditional American values of transparency, economic empowerment and rule of law to another country in Latin America. ACLI looks forward to Congress' approval of the proposed United States-Peru Trade Promotion Agreement, and would be pleased to provide any further information that the Committee may request.



AMERICAN FOREST & PAPER ASSOCIATION

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**AMERICAN FOREST & PAPER ASSOCIATION
STATEMENT SUBMITTED FOR THE RECORD
UNITED STATES – PERU TRADE PROMOTION AGREEMENT**

SEPTEMBER 11, 2007

The American Forest & Paper Association (AF&PA) is pleased to submit this statement in support of the United States – Peru Trade Promotion Agreement (PTPA). AF&PA is the national trade association of the forest and paper industry and represents more than 200 member companies and related associations that engage in or represent the manufacturers of pulp, paper, paperboard and wood products. The forest products industry accounts for more than 6 percent of total U.S. manufacturing output, employs over one 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.

AF&PA and its member companies have consistently supported trade agreements that provide for expanded access to foreign markets, including the trade agreements with Chile, Singapore and Australia, as well as CAFTA/DR. Our experience in this regard has been very positive. For example, in the case of the Chile FTA, U.S. exports of forest products to that country have almost doubled in 2004-2005 to \$93.7 million, and grew again to more than \$110 million in 2006.

The immediate elimination of tariffs on all paper and wood products – as we achieved in the case of the Chile and Australia FTAs – is a priority objective for the U.S. forest and paper products industry in trade negotiations. In the case of the PTPA, Peru's status as a developing country prevented the immediate elimination of tariffs on forest and paper products (which includes the full range of goods in the lumber and wood products and pulp and paper products sectors). Nonetheless, for paper and paperboard, the largest category of our industry's exports to Peru, 86 percent of exports will receive duty-free treatment immediately upon implementation of the agreement.

We expect that the PTPA will benefit the U.S. forest and paper industry. In 2006, U.S. forest and paper industry exports to Peru amounted to \$53 million, and were up 33 percent in the first half of 2007 when compared to the same period last year. Tariff elimination will put U.S. producers on a more level playing field with suppliers from Chile and Brazil, who already benefit from preferential tariff entry to the Peruvian market. On the other hand, the PTPA has no

downside for our industry since Peruvian exports of wood products to the U.S. – \$72 million in 2006 – already enter duty-free under the U.S. Generalized System of Preferences.

The forest products industry also supports the environmental provisions of this agreement. The PTPA, and its associated Annex on Forest Sector Governance, contained within the Environment Chapter of the Agreement, will improve Peru's forestry practices and make progress towards eliminating illegal logging, associated illegal border trade, and the use of illegally obtained timber in the manufacturing of forest products. The U.S. forest products industry has a strong interest in assuring that international trade in forest products is based on compliance with the laws of all countries. Furthermore, we believe that the importance of this issue to the U.S. forest products industry extends well beyond the lost sales resulting from the presence of low cost, illegal, fiber in the marketplace. To the extent that the public associates logging, in any country, with "illegal activity," there is a danger of a negative impact on the image of our industry and the products that we produce and sell.

Thank you for the opportunity to present the views of the U.S. forest products industry on the United States – Peru Trade Promotion Agreement. AF&PA and our member companies support the agreement and urge the committee's passage of legislation to implement it. The agreement will lower trade barriers for paper and wood products and will promote the sustainable development and management of environmental resources and protected areas. We also urge you to continue to work with your colleagues to ensure the passage of the Colombia, Panama and Korea FTAs in the near term.

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SUBMISSION FOR THE RECORD
BEFORE THE COMMITTEE ON FINANCE
U.S. SENATE
HEARING ON "THE US-PERU TRADE PROMOTION AGREEMENT"
SEPTEMBER 11, 2007

ERIC FARNSWORTH
VICE PRESIDENT

The Council of the Americas appreciates the opportunity to provide written testimony on the US-Peru Trade Promotion Agreement. Since our founding, the Council has been dedicated to the promotion of democracy, open markets, and the rule of law, and we are widely recognized for our policy and commercial leadership throughout the Americas. The Council of the Americas is a policy organization representing approximately 180 member companies invested in and doing business throughout the Western Hemisphere.

Supporting US National Policy Interests

The Council believes that the United States has several priority interests across the Andean region: promoting a model of open market democratic governance based on shared values and common interests; supporting democratic reformers and leaders; ending remaining guerrilla and paramilitary activities while protecting human rights; reducing and ultimately ending the illegal narcotics trade; and supporting economic growth, poverty reduction, and development. Even though these are not normally issues under the purview of the Finance Committee, nonetheless the Council believes the decision on whether to move the trade agreements forward must be seen within a larger context of US national security interests. Building robust economic relationships in the Andean region through open trade is a critical tool which must be utilized as part of an overall strategy to address broader US policy concerns.

This is a critical time in the history of Latin America. A hemispheric divide has opened and is deepening, fueled by Venezuela and others who seek to undermine US standing in the region while promoting an alternative vision contrary to the interests of the United States and our regional partners and friends. To put it bluntly, the model of open market democratic governance that has been the foundation of US regional policy on a bi-partisan basis for the past generation is under siege in the Andes. Unless we take direct, pro-active steps to support it, even our strongest friends in the region will begin to question the true benefits of partnership with the United States, while our regional detractors and opponents will attempt to undermine further the standing of the United States in Latin America.

Six years ago today, in fact, while the eyes of the world were focused on New York, Washington, and rural Pennsylvania, the US Secretary of State was in Lima, Peru, working with the assembled hemispheric community of democracies to sign the OAS Democracy Charter. The Charter was designed to be a key document in the promotion of strong democracies throughout the Western Hemisphere, a core US interest in Latin America, and was heavily promoted by the United States and our regional allies. As an aspirational document, the Charter has been a success. But more, much more, must be done to build regional democracy through concrete, tangible means. And without direct steps to deliver the fruits of economic and social development and justice for the broader population of Latin America, the full promise of democracy will remain unfulfilled, at best limiting regional progress, at worst, opening the door wider to those who would use the instruments of democracy to promote alternative political and economic models against the interests of the United States and our regional friends.

Democracy Must Deliver

While trade promotion agreements cannot in and of themselves guarantee open democratic governance, nonetheless history shows that they continue to be among the most powerful tools we have to promote our broader policy interests. A decision to walk away from such agreements would be a decision to forfeit our most effective tools while embarrassing and even insulting our friends, in effect a virtual unilateral disarmament in the face of the most aggressive economic and political challenge we have faced in the region since the end of the Cold War. It would directly undercut those leaders who have made the politically difficult decision to stand with the United States while opposing alternative regional models. And by undercutting our friends, we would also face the likelihood that other critical areas of bilateral cooperation, including narcotics control, would be directly, negatively affected.

In addition, given current circumstances in Peru in the wake of the mid-August earthquake which killed hundreds of people and caused millions of dollars in damage, a timely and overwhelming vote in support of the agreement would show the people of Peru and also the rest of Latin America that the United States remains a reliable, engaged partner especially when the need is greatest. As this Committee knows, the earthquake did significant damage to the Ica region of Peru, in the middle of the small and non-traditional agro-export and emerging natural gas industries, pillars undergirding Peru's economic success story. Prompt passage and full implementation of the agreement would provide an immediate boost in domestic and foreign investor confidence in Peru, thus drawing new long-term investment to the country's most commercially-viable regions, including Ica, creating jobs, and restoring growth. Coupled with fast-disbursing aid to meet immediate needs, passage would be the most effective economic recovery tool that the people of the United States could provide to Peru. The need is great, and the time is now.

Equal Access for US Producers and Investment Security

Within this context, the US-Peru Trade Promotion Agreement is a rare opportunity to advance fundamental strategic policy interests in the hemisphere while also promoting US economic, labor, and environmental interests at home. Labor and environmental provisions are

part of the body of the agreement, and strong enforcement provisions are included. On the economic and financial merits alone, passage of the agreement is compelling.

Along with Bolivia, Colombia, and Ecuador, Peru has enjoyed 15 years of virtually open access to the United States, the world's largest market, under the ATPA/ATPDEA, a bipartisan success. (Over 90% of Peru's exports to the United States enter duty free.) During that time, and as a direct result, the Peruvian economy has diversified with healthy economic growth and job creation, providing alternatives to the coca production and guerrilla activities that ravaged Peru at the time the original ATPA was passed. The program did exactly what it was designed to do. Nonetheless, ATPA/ATPDEA is a unilateral grant of market access by the United States which must be re-authorized periodically, and the current program is set to expire early in 2008. As expiration dates near, economic insecurity increases in the nations that receive preferential access, because entrepreneurs both large and small cannot guarantee that such access to the US market will continue. Therefore, job creation is reduced or reversed, often hitting those least able to afford it and most susceptible to a return to the illegal or underground economy; investment is delayed; and time horizons shorten, putting a damper on the kind of long-term, domestic and direct foreign investment that all economies need to prosper in the global economy. In the worst cases, businesses simply tire of the uncertainty and move their operations to economies, such as Asia, that are perceived to offer increased market size and stability over the longer term. We have seen this pattern time and time again, whenever a unilateral trade preference program in the Americas is nearing its end date.

The promise of a bilateral trade agreement with Peru would end such uncertainty while also, for the first time, providing equal access for US producers to the Peruvian market thus supporting US economic activity. Fair is fair. Given the text as negotiated and accepted by the Government of Peru, it would also do so in a manner that explicitly recognizes the rights of organized labor and those with jobs in Peru's formal economy, as well as giving the United States access to monitor Peru's internal environmental activities. Finally, both experience and statistics show that, despite the disparity in size between the US and Peruvian economies, the relative production of each tends to be complementary rather than competitive. We would therefore anticipate that costs of the trade agreement once implemented would be minimized, while benefits would exceed expectations, much as we have seen with the US-Chile FTA.

Moving Forward

On the economic and financial merits alone, the trade agreement with Peru—which provides market access for US producers equal to that already enjoyed by Peruvian producers while increasing domestic and foreign investor certainty—should be promptly and overwhelmingly approved. On the broader US national policy interests, passage of the agreement is essential; turning away from the agreement would set back US regional interests for a generation or more. The hemisphere is watching and waiting to see what we do.

The Council urges a prompt, favorable vote.

**STATEMENT FOR THE RECORD OF THE
EMERGENCY COMMITTEE FOR AMERICAN TRADE
FOR HEARING ON U.S.-PERU TRADE
PROMOTION AGREEMENT
BEFORE THE U.S. SENATE COMMITTEE ON FINANCE**

September 11, 2007

This statement is submitted on behalf of the Emergency Committee for American Trade – ECAT – an association of the chief executives of leading U.S. business enterprises with global operations. ECAT was founded more than three decades ago to promote economic growth through expansionary trade and investment policies. Today, ECAT's members represent all the principal sectors of the U.S. economy – agriculture, financial, high technology, manufacturing, merchandising, processing, publishing and services. The combined exports of ECAT companies run into the tens of billions of dollars. The jobs they provide for American men and women – including the jobs accounted for by suppliers, dealers, and subcontractors – are located in every state and cover skills of all levels. Their collective annual worldwide sales total over \$2.5 trillion, and they employ more than six million persons. ECAT companies are strong supporters of negotiations to eliminate tariffs, remove non-tariff barriers and promote trade liberalization and investment worldwide.

ECAT and ECAT members have actively followed the negotiation of the U.S.-Peru Trade Promotion Agreement (Peru TPA). ECAT finds that the Peru TPA is a strong and high-standard agreement that will promote new economic opportunities for both countries and continued economic reform in Peru. Several attributes of the Peru TPA are very important, including its comprehensiveness, its broad and swift market liberalization in all major sectors, and its strong rules promoting transparency, protection of property and non-discrimination. This agreement also represents an important tool to foster improved ties and promote broader U.S. interests in the region. Therefore, ECAT strongly supports swift Congressional approval and implementation of the Peru TPA.

The United States and Peru signed the Peru TPA on April 12, 2006. The TPA was amended on June 25, 2007, to incorporate the provisions of the Administration-Congressional Trade Deal, which the Peruvian legislature has approved. Key benefits from this agreement are enumerated below.

Peru TPA Promotes Comprehensive Market Liberalization

The Peru TPA is a comprehensive agreement, including market opening for all major sectors of the economy, including agriculture, manufactured goods and services. The elimination of tariff and non-tariff barriers and other liberalization measures in both countries will promote new economic opportunities and new relationships that will be beneficial to both the United States and Peru.

Peru TPA Front-Loads Liberalization in Consumer and Industrial Goods

The Peru TPA requires Peru to provide duty-free treatment immediately upon entry-into-force for 80 percent of U.S. exports of consumer and industrial goods, including key U.S. exports of auto parts, construction equipment, forest products, information technology products and medical and scientific equipment. Remaining tariffs will be eliminated on all products within 10 years. Peru has agreed to allow trade in remanufactured products. Peru also agreed to join the WTO Information Technology Agreement, meaning that Peru will eliminate duties on all high-tech products (e.g., servers, personal computers, printers) covered by the TPA and allow worldwide exports to enter their markets duty-free. In addition, Peru committed to non-discrimination and national treatment of e-commerce and digital products, and agreed not to impose customs duties on products delivered electronically.

The elimination of industrial tariffs required by the Peru TPA will promote significant new export opportunities for U.S. manufacturers. Consider the following average Peruvian tariffs on imports from the United States:

- Automobiles and parts: 7.4 percent
- Chemicals: 7.1 percent
- Consumer goods: 11.1 percent
- Information technology: 5.8 percent
- Infrastructure and machinery: 5.9 percent
- Paper and paper products: 9.7 percent
- Transportation equipment: 5.5 percent

Source: U.S. Department of Commerce

The Peru TPA will also eliminate non-tariff barriers, including technical barriers to trade, and facilitate the movement of goods, which will also help facilitate U.S. manufactured exports to Peru.

Given the increase in U.S. manufactured exports to Peru since 2003 (from \$1.4 billion in 2003 to \$2.4 billion in 2006), the front-loaded elimination of tariff and non-tariff barriers by the Peru TPA will promote continued growth and economic opportunities for the United States in the consumer and manufactured goods sectors and provide U.S. products with a strong competitive export advantage over products from many other parts of the world.

As most of Peru's goods already enter the United States duty-free under the Andean Trade Preference Act (which expires at the end of February 2008), the Peru TPA is very important for Peru to provide a more stable and long-term environment for Peru's manufacturers to participate in the U.S. market.

Peru TPA Requires Major Liberalization of Peru's Services Markets

The Peru TPA also requires liberalization of all service sectors on a negative-list basis, with limited exceptions. Key commitments in the agreement include the elimination of many cross-border and investment restrictions in the service sectors, as well as the elimination and/or reduction of many other barriers, such as local-hiring and local-content requirements. Given the importance of

the services sector to the U.S. economy, the elimination and reduction of barriers will produce important new economic opportunities.

Key sectors for which U.S. service providers will see new growth opportunities as a result of the elimination of barriers include audio visual, construction and engineering, energy, financial (including banking and insurance), information technology and telecommunications services.

Peru TPA Requires Major Liberalization of Peru's Agricultural Markets

The Peru TPA will also ensure the liberalization of Peru's agricultural markets in a manner that will strongly benefit U.S. agricultural producers. In particular, the Peru TPA provides immediate duty-free treatment for more than two-thirds of current U.S. agricultural exports to Peru, including such important U.S. exports as high-quality beef, cotton, wheat, soybeans, soybean meal, crude soybean oil, key fruits and vegetables, and many processed food products. Tariffs on most remaining products will be phased out within 15 years, with all tariffs eliminated within 17 years, providing improved access for pork, beef, corn, poultry, rice, fruits and vegetables, processed food and dairy products. The TPA also includes provisions to eliminate sanitary and phytosanitary barriers.

Given that most of Peru's agricultural goods already enter the United States duty-free under the Andean Trade Preference Act which expires at the end of February 2008, the Peru TPA is also very important to Peru to provide a more stable and long-term environment for Peru's agricultural producers to participate in the U.S. market.

Peru TPA Sets in Place Critical Rules to Promote Greater Market Access and Improved Market Functioning

In addition to its many market-opening provisions for consumer and industrial goods, agricultural products and services, the Peru TPA also incorporates rules in areas such as transparency, investment, government procurement, intellectual property and dispute settlement that are critical to enhance and expand U.S. economic benefits under this agreement, as well as benefit Peru's own economic development and enhance its rule of law.

Transparency

The Peru TPA includes important commitments on transparency that will promote major advances in the structure of government accountability and information flows that are critically important to trade and investment liberalization and the economic growth and poverty reduction that it supports. Among the key provisions included in the Peru TPA are the prompt publication of laws, regulations, procedures and rulings; the opportunity for input by interested parties in certain rule-making exercises; prompt review and correction of administrative actions; and strong anti-corruption provisions. The transparency that this agreement promotes, both in the terms of the open flow of information and the accountability of government officials, is a vitally important component in eliminating fully barriers to trade and investment that this agreement seeks to achieve.

Investment

The investment chapter of the Peru TPA is also vital to help promote a secure and predictable legal framework for U.S. investors in Peru, as well as promote Peru's own economic development. The investment chapter contains the key protections needed for U.S. investment abroad and included in the Trade Promotion Authority legislation, enacted as part of the Trade Act of 2002. These provisions seek to ensure that U.S. investors in Peru have the same levels of protection for their investments that are already available for U.S. and Peruvian investors in the United States, including such important protections guaranteed in the United States through the Takings and Due Process clauses of the U.S. Constitution.

The Peru TPA also includes the investor-state dispute settlement mechanism that is critical to provide U.S. investors the opportunity to ensure full protection of their investments before independent and neutral tribunals. The investment chapter also eliminates major investment barriers to U.S. manufacturers and agricultural and service providers, providing new opportunities to expand U.S. investment, which has important benefits for the United States.

Government Procurement

The Peru TPA also includes a government procurement chapter that will provide major new access to Peru's government procurement market by U.S. suppliers. Since Peru is not currently a member of the plurilateral Government Procurement Agreement of the World Trade Organization (WTO), this chapter represents an extremely important commitment to open a key market for U.S. manufacturers and service providers.

In particular, the chapter commits Peru to provide national treatment, non-discriminatory treatment, transparent notice and bidding procedures, non-discriminatory technical specifications, penalties for corrupt procurements, and objective domestic review of procurement decisions. These commitments apply to procurements by Peru's central and sub-central levels of government and certain other government enterprises, with some reservations taken. These commitments are extremely important to many U.S. sectors, including information technology, construction and engineering and others.

These provisions provide U.S. producers new access to Peru's government-procurement market and strong procedural guarantees to ensure greater fairness and objectivity in Peru's procurements. In turn, these provisions will help Peru improve the efficiency of its government procurement system, promoting more cost-effective procurements in support of Peru's own economic and technological development.

Intellectual Property

The Peru TPA includes strong provisions for the protection of trademarks, non-pharmaceutical patents, copyrights, and trade secrets, including through stronger penalty requirements. Such provisions are vital to ensure that the market-access provisions guaranteed in other chapters are not undermined by piracy or by the lack of enforcement of intellectual property rights.

We are disappointed, however, that provisions providing important intellectual property protections for innovative American medicines were weakened in the final agreement, undermining market access for one of America's most globally competitive industries. These provisions would benefit not only American biotech and pharmaceutical companies developing new medicines, but also Peruvian patients, who would have more rapid access to advanced medicines, and the Peruvian economy, which would attract additional foreign investment through its improved business environment. We support the inclusion of strengthened provisions in future free trade agreements.

Dispute Settlement

The Peru TPA also includes a binding and transparent dispute settlement system that is important to promote full implementation of the agreement in a manner that expands economic opportunities.

Opportunities Created for Peru

While most imports from Peru already receive duty-free treatment under the Andean Trade Preference Act, those preferences are scheduled to expire in February 2008. The Peru TPA expands this duty-free treatment and makes it permanent.

Concerns have been expressed that the Peru TPA will undermine economic progress in Peru by allowing more competitive U.S. products, particularly agricultural products, to enter the market. These concerns ignore the very positive impact that free trade agreements, including the North American Free Trade Agreement (NAFTA) have had on economic development. An independent and detailed study by the World Bank published at the end of 2003 – *Lessons from NAFTA for Latin American and Caribbean (LAC) Countries: A Summary of Research Findings*, by Daniel Lederman, William Maloney, and Luis Servén, analyzed the effects of NAFTA on the Mexican economy, separating out the effects of the peso crisis. It found that:

- “NAFTA has brought significant economic and social benefits to the Mexican economy.”
- “Contrary to some predictions, NAFTA has not had a devastating effect on Mexico’s agriculture. In fact, both domestic production and trade in agricultural goods rose during the NAFTA years.” The report goes on to explain why, citing factors such as increased demand and productivity.
- “In spite of popular perception, there is little ground for concerns that NAFTA, or FTAs more generally, are likely to have a detrimental effect on the availability and/or quality of jobs. . . . In fact, Mexican firms, as those of the region, more generally, that are exposed to trade tend to pay higher wages, adjusted for skills, are more formal, and invest more in training.”

In short, for Peru, this TPA is part of its effort to continue the reform of its economy and promote economic development, growth and opportunity.

Conclusion

With the completion of the Peru TPA, the United States now has the opportunity to approve and implement an agreement that will not only make the relationship permanent and more flexible, but will also substantially open markets in Peru for U.S. farm products, U.S. manufactured exports,

and U.S. services, while also supporting Peru's own economic development. It also incorporates key rules on transparency, investment, government procurement and intellectual property that will help ensure that the market liberalization required by the agreement can be achieved. ECAT urges Congressional approval and implementation of the U.S.-Peru TPA as soon as possible.

PUBLIC DOCUMENT

**BEFORE THE
UNITED STATES SENATE COMMITTEE ON FINANCE**

In the Matter of:

U.S. – Peru Trade Promotion Agreement

**WRITTEN STATEMENT ON BEHALF OF
EXPORAMERICA**

September 17, 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. Exporameric presented testimony at the public hearing conducted by the International Trade Commission (ITC) on March 15, 2006 in connection with its investigation regarding the Peru Trade Promotion Agreement (PTPA), and before this Committee on June 29, 2006.

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 I.T.C., 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

Building on the benefits of the ATPDEA (which is set to expire in February of 2008), and its predecessor the ATPA of 1991, the PTPA has been signed by executives of both countries and ratified by the Peruvian Congress, but is still pending approval of the U.S. Congress. The increasing interconnectedness of the U.S. and Peruvian textile and apparel industries, which is a direct outgrowth of the ATPDEA, is also creating 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. The PTPA will allow this already thriving relationship to grow.

The emerging "strategic alliance" between textile and apparel industries in both countries is being replicated in other FTAs between the U.S. and its trade partners in the Western Hemisphere.

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.

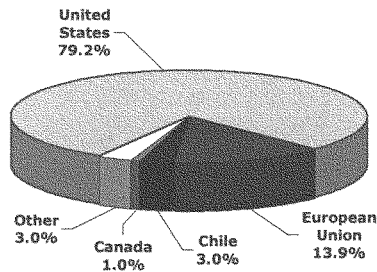
This will help Peru and the U.S. to face the threat presented by Chinese and Asian competition, which in many instances depends on subsidies; artificially low exchange rates to promote exports; and labor that in many cases does not conform with minimum, internationally-recognized, labor standards, none of which occurs in Peru, a country that scrupulously observes the 71 International Labor Organization (I.L.O.) agreements to which it has subscribed.

II. 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 2005, Peru exported approximately US\$ 1,150 billion worth of textiles and apparels, compared to US\$ 664 million in 2001. Approximately 79.2% of Peru's exports were destined to the U.S. market. This industry has become successful in large part thanks to the ATPDEA.

**Target Markets
Clothing and Other Apparel
2004**



Source: Aduanas (Peru Customs)

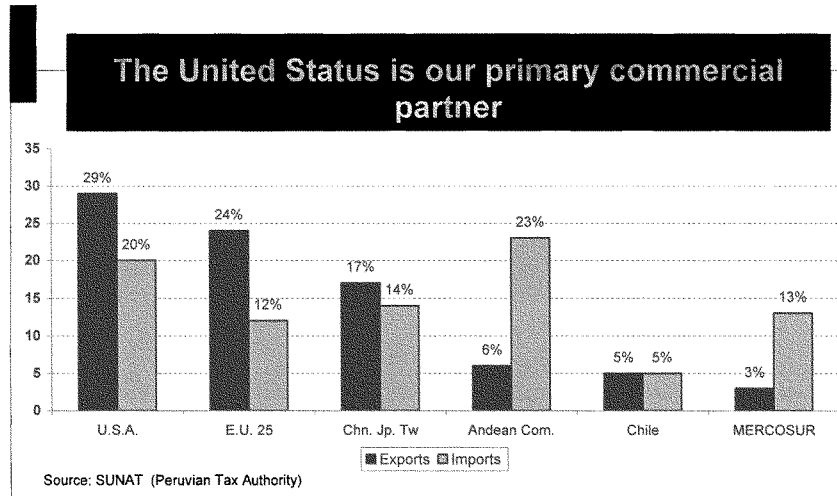
The qualitative importance of apparel exports to Peru becomes evident when considering that 70% of Peru's exports correspond to minerals (gold, copper, lead, silver, zinc, etc.) and fish meal, all of which represent commodities and have little or no value-added. In this regard, it is estimated that an 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.

III. 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.



Recognizing the benefits to the U.S. cotton industry of increasing exports of U.S. cotton to the ATPDEA countries, the Memphis, TN-based, National Cotton Council (NCC) passed a

⁶ ITC May 2006 report, p. 3-8.

resolution supporting the adoption of the PTPA and its strong rule of origin requirements, and informed the U.S.T.R. 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)⁸

YEAR	VOLUME M.T. FIBER	CIF VALUE IN US \$	TOTAL IMPORTS %
2001	23,294,206	31,640,563	58.4
2002	31,359,226	36,722,259	75.7
2003	34,032,917	48,952,961	86.0
2004	23,828,597	43,286,463	71.9
2005	34,764,482	48,665,512	75.0
2006	31,504,338	42,448,355	84.7
2007*	34,327,180	51,241,751	90.8

* January to July 2007.

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 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.⁹ 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.¹⁰

⁷ "Cotton's Week" (NCC Newsletter), February 17, 2006, referring to letter from John Maguire, NCC senior vice president, Washington Operations to Ambassador Portman.

⁸ - Source : Aduanas.

⁹ United States International Trade Commission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects" – USITC Publication 3855, May 2006, p. 3-23.

¹⁰ 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.

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.¹¹

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 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 2004.¹² 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).¹³ 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.

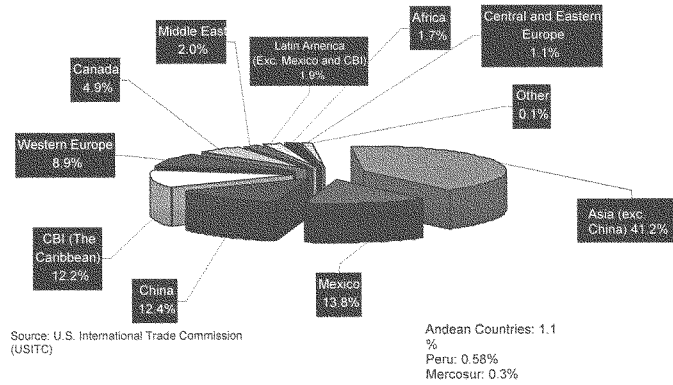
In observing the overall picture, it is also important to note that Andean apparel exports to the U.S. do not even reach 1.1% of total U.S. imports. Therefore, there is no risk of displacement or damage to the U.S. from Peruvian apparel imports.

¹¹ 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.

¹² United States International Trade Commission, "The Impact of the Andean Trade Preference Act" – Eleventh Report 2004, USITC Publication 3803, September 2005, p. 4-14.

¹³ UN Office on Drugs and Crime, "Coca Cultivation in the Andean Region: A Survey of Bolivia, Colombia and Peru," June 2006, Preface.

United States: Regional Textile and Apparel Imports - 2004



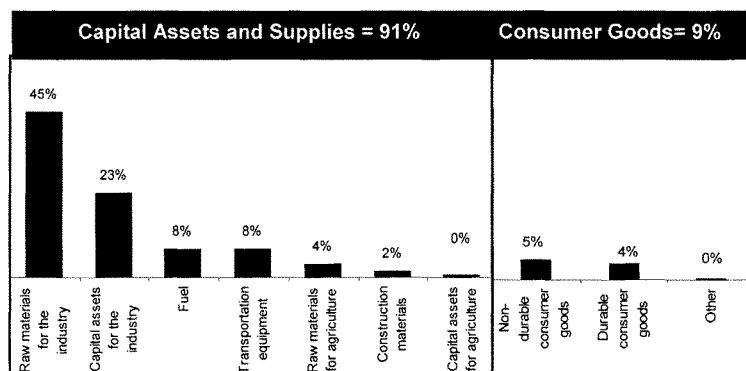
It should be considered that, as shown in the chart below, Peruvian and U.S. economies are complementary in many aspects and barely compete against each other, and therefore, a bilateral agreement generates a win-win situation for both countries.

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.¹⁴

¹⁴ The ATPDEA beneficiary countries are Bolivia, Colombia, Ecuador and Peru.

Peruvian and U.S. industries do not compete against,
but rather complement each other

Peru: U.S. imports for 2004
Millions of US\$ CIF



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. In recent years 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.

In addition, the approval of the PTPA will also be an effective tool for providing support to Peru in light of the recent earthquake which occurred precisely in the areas south of Lima that have benefited from the ATPDEA and will benefit from the PTPA. This seismic event resulted in hundreds of deaths and up to 70% destruction of cities such as Pisco.

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.

Finally, Peru approved the latest changes proposed in a letter signed by bipartisan leaders from the U.S. Congress and Administration on May 10, 2007, the considerable commitments have already been incorporated and ratified by Peru's Congress on July 28, 2007, and will be implemented by Presidential decrees.

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.

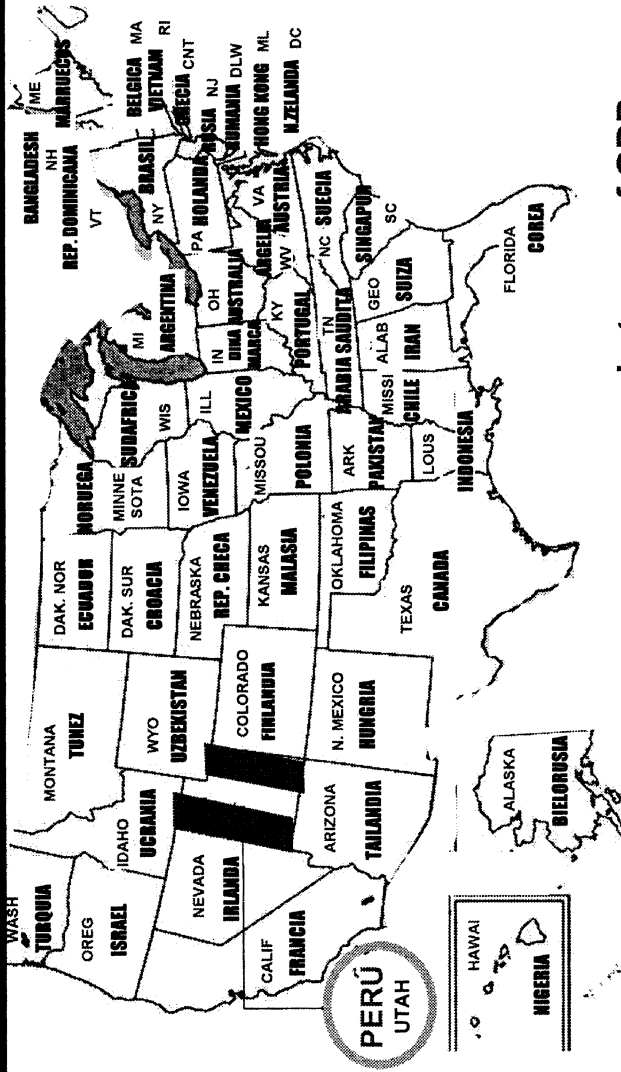
VI. Concluding Remarks

The Peruvian economy, as shown in the chart below, is clearly very small in comparison to U.S. economy. However, an emerging strategic alliance between the textile and apparel industries of both countries, and more broadly between the countries themselves, which has been made possible by the ATPA/ATPDEA, and will be enshrined by the PTPA will provide stability to the hemisphere based on the common principles shared by the U.S. and Peru, such as freedom and democracy, upon which fair and prosperous societies are based.

The ATPA/ATPDEA has brought significant benefits to the United States – progress in the “war on drugs,” benefits to U.S. consumers of imports from Peru and segments of the U.S. economy from distribution and manufacturing – as well as to Peruvian economy in general and to the apparel sector in particular. If the ATPDEA is allowed to lapse after December 31, 2006 with the PTPA in its place, the benefits that currently flow to both the Peruvian and U.S. economies from this program would lapse as well.

Exporamerica is pleased that the United States has negotiated a free trade agreement with Peru that subject to the rules of origin would provide duty-free treatment to imports from Peru. However, it is not at all clear whether this agreement will be fully implemented until January 1, 2007. For this reason, Exporamerica urges prompt consideration and approval by the U.S. Congress of the PTPA, and looks forward to working with this body to achieve this objective.

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.

Statement for the Record
to the
Senate Finance Committee Hearing
on the
“U.S.-Peru Trade Promotion Agreement”
held on September 11, 2007
Submitted: September 25, 2007

Kathleen Jaeger
President and CEO
Generic Pharmaceutical Association
2300 Clarendon Boulevard
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Mr. Chairman, Ranking Member Grassley, Members of the Committee.
The Generic Pharmaceutical Association is pleased to have this opportunity to submit this statement for the record in connection with your September 11 hearing on the U.S.-Peru Trade Promotion Agreement.

The Generic Pharmaceutical Association (GPhA) represents the manufacturers and distributors of finished generic pharmaceutical products, manufacturers and distributors of bulk active pharmaceutical chemicals, and suppliers of other goods and services to the generic pharmaceutical industry.

GPhA members manufacture the vast majority of all affordable pharmaceuticals dispensed in the United States. Our products are used in more than one billion prescriptions every year. Generics accounted for 63% of all prescriptions dispensed in the United States in 2006, but, because generics cost 30% to 80% less, on average, than their brand counterparts, generics account for only 20% of every dollar spent on prescription drugs.

The generic pharmaceutical industry is a source of robust competition in the United States that offers real and growing benefits to American consumers much in need of affordable medicines. The U.S. generic pharmaceutical industry is beginning now to expand beyond the borders of the United States to help provide much more affordable medicines worldwide.

In a statement for the record in conjunction with the Committee’s hearing last February on “Perspectives on the 2007 Trade Agenda” (GPhA, March 8, 2007), GPhA detailed a number of concerns that it had with the intellectual property provisions in U.S. free trade agreements. These provisions diverged from U.S. law and could restrict the public’s timely access to affordable medicine at home and abroad. We are happy to report, Mr. Chairman, that the May 10 bipartisan compromise on trade corrected a number of these flaws for U.S. trade agreements with developing countries, as detailed below. The U.S.-Peru Trade Promotion Agreement fully

incorporates this compromise, making it the first bilateral U.S. trade agreement endorsed by the Generics Pharmaceutical Association.

We believe that the effect of the U.S.-Peru Trade Promotion Agreement will be to provide U.S. exporters of pharmaceutical products with greater market opportunities in Peru; Peruvian consumers with more choices, including lifesaving medicines, and lower-cost pharmaceuticals; and U.S. stakeholders with an strong overall level of intellectual property protection. This is accomplished through a combination of the commercial and intellectual property provisions in the Agreement.

The commercial terms of the U.S.-Peru Trade Promotion Agreement lower cost and expand choice in a number of important ways. For example, Peru's tariff on pharmaceutical imports is 12 percent, more than twice the weighted average for all imports (5.6%). Peru will eliminate tariffs on 72 percent of pharmaceutical imports from the United States upon implementation of the agreement. Tariffs on the remaining 28 percent will be eliminated over five years. Elimination of the 12 percent tariff on U.S. pharmaceuticals will cut the cost of medicine in Peru. Moreover, U.S. suppliers will be able to take advantage of their more competitive situation since the agreement gives them the right to bid on a non-discriminatory basis on contracts procured by Peru's public health insurance agency, a major purchaser of pharmaceuticals. Fair and transparent procurement procedures will help ensure that the Peruvian consumer and taxpayer gets the best value for the money spent on this important segment of the healthcare system.

Most importantly, though, GPhA strongly supports the changes to the intellectual property provisions related to pharmaceuticals and views them as a much improved policy balance between promoting innovation and providing affordable access to medicines. In particular, we welcome the restoration of conformity with U.S. law in some key provisions, so that the chapter now accomplishes the Trade Promotion Authority objectives regarding promotion of adequate and effective protection of IPR while reflecting standards of protection similar to those found in U.S. law. The new provisions correct problems raised by text that over-reached in the more recent FTAs, as well as explicitly recognize the need for U.S. conformity to the WTO Doha Declaration and any successor provisions that the United States agrees to. A discussion of the specific provisions that have been changed follows, based on the five areas identified in the May 10 bipartisan compromise on trade.

A. Data Exclusivity

The WTO TRIPs Agreement (Agreement on Trade-Related Intellectual Property) requires protection against unfair commercial use of data submitted for marketing approval of pharmaceutical products (Art. 39.3) but does not require members to grant originators exclusive rights over data. U.S. law provides for five years of data exclusivity for new chemical entities that meet the strict definition (21 U.S.C. § 355 (j)(5)(d) (2)). The revised provisions relating to data exclusivity remain "WTO-plus" while correcting problems that also made them "U.S. law-plus".

-- Period of data exclusivity: The original text was objectionable in that the *maximum* period of data exclusivity in the United States is five years while five years was established as the *minimum* period of data exclusivity in the agreement. We can think of no justification for making the existing U.S. *ceiling* Peru's *floor*. The new text is consistent with U.S. law, defining five years of data exclusivity as the general rule where a marketing approval application includes undisclosed or other test data.

-- Scope of data exclusivity: The original text was objectionable in that data exclusivity applied to same "*or similar*" products. By introducing a concept unknown in U.S. law ("*similar*"), the original text created confusion about the treatment of drugs in the same therapeutic class, leading to possible conflicts of interpretation with U.S. law and creating pressure for Peru to extend data exclusivity beyond that required in the United States. The new text omits this controversial term while still requiring the level of protection found in U.S. law.

-- Effect of data exclusivity: The original text was objectionable because it had the practical effect of delaying access to generic medicines in Peru for as much as ten years (5 year registration period and 5 years of data exclusivity). This effect did not extend to the United States because the U.S. does not provide for third party reliance in marketing approval applications. The new text specifies the reasonable period of data exclusivity as *five years for all Parties*, regardless of third party reliance, removing an undue burden on Peru.

-- New incentives for granting timely marketing approval: The new text creates *an incentive* for Peru to grant approval of applications that rely on marketing approval granted by the U.S. Food and Drug Administration *within six months*, by providing that in such cases the five year period begins when the drug was first approved in the United States (a so-called "*concurrent period*"); application of this provision is limited to only those instances when the party relies on marketing approval authority of the other. While arguably this would allow Peru to provide for less than the full five years of data exclusivity protection afforded in the United States, it is still "WTO-plus" because it provides for a period of data exclusivity not required by TRIPs. Moreover, innovative pharmaceutical companies can minimize any disparity by promptly seeking marketing approval of new pharmaceutical drugs in Peru. This provision should enhance the availability of life-saving drugs in Peru, and reduce the likelihood that generic versions of life-saving drugs are available in the United States while still legally restricted in Peru.

-- Abbreviated approval procedures: A new provision explicitly states that there shall be no limitation on any Party to implement abbreviated approval procedures for such products on the basis of bioequivalence or bioavailability studies. While previous trade agreements have not addressed this subject, this provision merely states that *after the period of data exclusivity ends*, parties are free to authorize their regulatory authorities to approve drug products subject to an abbreviated application. The specifics of such a system are not defined, other than to recognize bioequivalence and bioavailability studies as its basis. The United States has already implemented an abbreviated approval procedure, with the Drug Price Competition and Patent Term Restoration Act in 1984 and the Medicare Modernization Act in 2003 representing the principal U.S. legislation in this area. Importantly, foreign

pharmaceutical manufacturers would still need to comply with U.S. law and regulation when selling into our market.

B. Patent Extensions

The revised text remains “WTO-plus” while avoiding important inconsistencies with how patent extensions are handled in the United States. TRIPS has no provisions requiring patent extensions. U.S. patent law provides for an extension of a patent term for delays in the issuance of a patent by the U.S. Patent and Trademark Office (35 U.S.C. § 154) and for a portion of the patent term during which the patentee is unable to sell or market a product while awaiting government approval, such as the Food and Administration’s review of a prescription drug (35 U.S.C. § 156).

Permissive vs. mandatory restoration -- The “shall” has been changed to “may” with respect to patent extensions on pharmaceutical products. This flexibility is accompanied by a new provision stipulating that Peru will make best efforts to process patent and marketing approval applications expeditiously, and *accords to patent extension the same treatment* as that given to other features of the U.S. patent and marketing approval system that *facilitate access upon patent expiry*, such as the Bolar provision and disclosure of best mode (which have always been permissive in U.S. trade agreements, to the extent that they have been addressed at all.) Thus, our trade agreement with Peru no longer “cherry-picks” among the provisions of U.S. law that provide our domestic balance between promoting innovation and promoting competition by only requiring the former. The new text places all these features of the U.S. system on an equal footing, and the United States is free to require all of them (as it presently does.)

Even more important, by making the patent extension provisions permissive, Peru can no longer challenge existing U.S. law as failing to conform with the agreement’s obligations. U.S. law contains important limitations to patent extensions that curb the potential for continual ‘ever-greening’ of patent protection by brand products to the detriment of competition from generics. For example, under U.S. law, extensions related to regulatory delays in marketing approval are limited to one extension per new chemical entity, the extension may not exceed five years, and the total remaining patent term may not exceed 14 years from the date of approval. In contrast, the lack of any limitation on eligibility criteria and on the number and duration of patent extensions under the previously mandatory obligation would allow for a broad range of scenarios that would be unacceptable under U.S. law. To those who would argue that the likelihood of Peru challenging U.S. law is minimal, it should be noted that often the best defense is a good offense -- were the U.S. to challenge Peru’s compliance with the agreement, they might decide to do the same.

C. Linking Drug Approval to Patent Status

TRIPS has no obligations with respect to linkage. Indeed there is no patent linkage system in the European Union, for example. “Linkage” refers to the obligations in some U.S. trade agreements that require health authorities to be mindful of brand patents when granting

marketing approval for generics. However, U.S. law provides very significant checks to linkage that protect generics from dubious patent claims and protracted litigation that to date have not existed in our FTAs. Uniquely, linkage in the United States (21 U.S.C. § 355 (j)(2)(A)(vii)) is only triggered when the patent holder sues for infringement within 45 days of receiving notice that another party seeks to market the product and is challenging the validity or applicability of the patent listed for the product -- *linkage is not automatic*. If the brand manufacturer does not sue, FDA can approve the abbreviated drug application immediately. In addition, such linkage is limited to a 30 month period which may be shortened or lengthened by judicial discretion.

Also, the U.S. system includes mechanisms for generic companies to challenge questionable patents and incentives for the early resolution of patent disputes. The new text attempts to introduce the “balance” of the U.S. system into our trade agreements by also requiring these features under certain conditions when the marketing approval authority permits reliance on the safety and efficacy data of another person and is responsible for linking approval of a generic drug to the status of patents on the brand drug.

The U.S. system is quite complex and rather than adopt all of its peculiarities the new text offers more flexibility in terms of the types of procedures and remedies that Peru may implement to prevent the marketing of patent-infringing pharmaceutical products. Key attributes of the U.S. system are still required, such as procedures for the expeditious adjudication of patent disputes, notice to the patent holder, and sufficient time and opportunity for the patent holder to seek available remedies *prior to* the marketing of an allegedly infringing product.

All of these provisions, which are contained in U.S. law, are decidedly “WTO-plus” without introducing the risk that spurious patent claims could indefinitely block generic competition.

D. Side Letter on Public Health

A comfort level has been added by replacing assurances that had previously been contained in a side letter with a simple declarative obligation in the text of the Agreement that a Party may take measures to protect public health in accordance with the Declaration on the TRIPS Agreement and Public Health, and any subsequent waivers or amendments to implement the Declaration that WTO members agree to. This change is consistent with past statements by USTR officials regarding the intent of the side letter.

This change provides a clearer statement that the WTO-plus intellectual property protections afforded pharmaceuticals in bilateral U.S. trade agreements, including those related to data exclusivity, do not conflict with the public health exceptions permitted by the WTO Declaration.

E. Amendments to Chapter Based on Economic Development

A new provision calls for a periodic review of the implementation and operation of the IPR Chapter with the opportunity to undertake further negotiations. The review applies to the entire chapter on intellectual property and is not limited to consideration of an improvement in a Party's level of economic development. In our view, ensuring conformity of the agreement's obligations with U.S. law and regulation would be an important consideration in any such review. This provision should facilitate appropriate adjustments to ensure that the agreement continues to reflect the balance struck in U.S. law.

CONCLUSION

In sum, Mr. Chairman, for more than 20 years, the U.S. health care system has proven that bringing competition into the pharmaceutical marketplace results in lower consumer costs without stifling innovation. The pharmaceutical provisions of the May 10 bipartisan compromise on trade recognizes that this balance can also be achieved abroad. It modifies some key provisions that would unduly block generic competition and delay timely access to affordable medicines in Peru. At the same time, it does nothing to hinder innovation and, in fact, brings Peru more in line with the research and development incentives pharmaceutical companies currently enjoy here in the United States.

Comments to the U.S. Senate Committee on Finance***United States - Peru Trade Promotion Agreement*****From the Montana Grain Growers Association****September 11, 2007**

To Chairman Baucus, Senator Grassley and Members of the Committee,

The Montana Grain Growers Association, a grassroots producer organization with over 1,600 members across Montana, primarily represents the interests of wheat and barley producers. Of the six recognized classes of wheat grown in the U.S., Montana produces the highest quality available of five of these classes. Our dry, cool climate also facilitates production of some of the highest quality malting barley in the world.

Coupled with a small Montana consumer base, international markets and export opportunities are a necessity for our producers. As the nation's third largest wheat exporter, Montana producers will benefit from this agreement. In 2006 the state raised over 150 million bushels of wheat, with 75 percent of that production exported overseas, primarily to Pacific Rim countries. This translates to over \$500 million in sales for our producers. We know the opportunities that free, fair trade with our international partners can bring, and that's why we strongly support the passage of the U.S. – Peru Trade Promotion Agreement.

There are two points that wheat producers in the United States take into account when looking at export trade opportunities. First, 96 percent of the world's consumers live beyond our borders. The four percent within the United States do not consume enough wheat to sustain a viable wheat industry.

Second, we consistently export nearly 50 percent of our total U.S. wheat production. As you can imagine, our success or failure hinges on our ability to export U.S. wheat around the world. Trade is a vital component for ensuring the financial viability of U.S. wheat farmers. All trade agreements, such as the U.S. – Peru Trade Promotion Authority, must offer unique potential for expanding market opportunities for American growers. The way we see it, every market, regardless of size, is an important market.

We list here some of the key advantages for agriculture that we see from this agreement. They reinforce why the agricultural community is uniformly supportive.

- Market Access – No products are excluded
- Elimination of Tariffs – Currently, less than 2% of U.S. agricultural exports enjoy duty-free access to the Peruvian market. Upon implementation of the PTPA, tariffs on 90 percent of agricultural trade between the two countries will be eliminated immediately with a longer-term phase out for the remaining products.

- Sanitary and Phytosanitary Measures – An SPS joint committee will be established to expedite resolution of technical issues.

Peru's largest agricultural import is wheat, amounting to about 90% of its annual needs. The U.S. wheat market share to Peru has been as high as 62%, but in recent years that market share has declined dramatically due to preferential trading relationships with Argentina and Canada. Argentina receives preferential tariff treatment under the Mercosur arrangement and the Canadian Wheat Board uses its monopoly export power to compete with questionable trade and pricing practices.

Canada is currently working to establish a trade agreement similar to the U.S.-Peru TPA, so they can maintain their competitive position in Peru. According to the U.S. Wheat Associates, if Canada obtains duty free access to these markets, the combination of their pricing practices and Argentina's market access will devastate the remaining U.S. market share and possibly shut U.S. wheat growers out of these markets in the near term. Industry projections suggest that ratification of the Peru TPA will increase sales of U.S. wheat to Peru by more than 37 percent.

We are even more optimistic about the malt barley market potential in Peru. The country currently imports approximately 100,000 tons of malt barley per year, but these sales have been dominated by Australia, Canada, Argentina and the EU. Like wheat, the current applied tariff rate for both malt and feed barley is 17 percent. Both malt and feed barley tariff rates will go to zero upon the signing of this agreement.

Great Falls, Montana, recently became home to the newest and most efficient malting facility in the United States, utilizing 13 million bushels of barley per year. This plant, built by International Malting Company and currently owned by Archer-Daniels Midland, is a textbook example of a value-added agricultural enterprise ripe for new export opportunities under a U.S. – Peru Trade Promotion Agreement.

Additional export opportunities exist for Montana barley produced for human food use. Barley food products are increasingly appearing in Peru's urban supermarkets. A new, beta-glucan food barley variety has been recently developed by Montana barley breeders and will see increased production as this market continues to grow.

Because the U.S.-Peru TPA eliminates high tariffs and other barriers on Montana's most important agricultural exports, the Montana Grain Growers Association strongly supports and urges Congress to pass it.

Thank you the opportunity to submit comments in support of this very important trade agreement.



NATIONAL CATTLEMEN'S BEEF ASSOCIATION

1301 Pennsylvania Ave., NW, Suite #300 • Washington, DC 20004 • 202-347-0228 • Fax: 202-638-0607

United States – Peru
Trade Promotion Agreement
Statement
of the
National Cattlemen's Beef Association
to the
United States Senate
Committee on Finance

September 11, 2007

AMERICA'S CATTLE INDUSTRY

Denver

Washington D.C.

Chicago

The National Cattlemen's Beef Association (NCBA) appreciates the opportunity to offer our support to the U.S. – Peru Trade Promotion Agreement (PTPA). We are the largest and oldest organization representing America's cattle industry. Initiated in 1898, NCBA is the industry leader in education and influencing public policy to improve producer profitability, and in preserving the cattle industry's heritage and future.

Our members recognize that international trade creates opportunities for U.S. cattle producers to grow demand for our product and to enhance our long-term profitability. We support international trade policies that aggressively pursue expanded market access for U.S. beef. Additionally, we support the enforcement of trade agreements that are based on internationally recognized standards and guidelines, and we strongly believe we must hold our trading partners accountable for their international trade commitments. Provisions contained within the PTPA are precisely the type of market access provisions that allows U.S. beef to compete on a level playing field.

However, the elimination of tariffs on our exports is only part of the process. If we do not have legitimate market access because of sanitary and phyto-sanitary (SPS) barriers to our product, it is an empty win. Producers will never see the fruits of those efforts if we do not hold our trading partners to their international trade commitments.

Following the discovery of BSE in the United States in 2003, Peru closed its market to U.S. beef and beef products. At the time, more than half of the value of U.S. exports to Peru was variety meats – primarily hearts and livers. In the original SPS side letter, "Peru confirm[ed] that, based on OIE guidelines, it shall permit, no later than March 1, 2006, the importation of U.S. beef and beef products. . . ." This did not take place. After further discussions, Peru finally announced, on May 9, 2006, a partial reopening of its market to U.S. fresh and frozen boneless beef, stomachs, kidneys and livers.

On May 31, 2006, all U.S. beef and beef products became eligible for export to Peru, and all federally inspected U.S. establishments are eligible to export. But until this agreement is passed and enters into force, U.S. beef exports face tariffs as high as 25 percent. These tariffs make it nearly impossible for the United States to compete with Argentinean and Brazilian beef, as preferential trade agreements currently provide those countries with a competitive advantage in the Peruvian market.

In recent years, prior to negotiations, U.S. beef exports to Peru declined from roughly 1,400 metric tons (mt) to less than 300 mt, which was less than ten percent market share, due to increased competition from Brazil and Argentina. Preferential access via the MERCOSUR trade accord is currently allowing Argentina and Brazil to capture 73 percent of the Peruvian beef market. With the PTPA, duties on U.S. beef are eliminated thus leveling the playing field with countries like Brazil.

The PTPA is one of the best negotiated free trade agreements for U.S. beef to date. In addition to immediate duty-free access for U.S. prime and choice beef, other beef products within the TRQs have duty-free access on day one of this agreement, and all TRQs are eliminated within 12 years. Before the discovery of bovine spongiform encephalopathy (BSE) in the United States in 2003,

Peru was a \$6 million export market for U.S. beef, beef variety meats and beef products. This improved access could amount to roughly \$15 million a year – about half the value of Peru's current total beef imports.

The PTPA also includes an SPS side letter signed by both parties, putting in writing the SPS terms agreed to as part of the negotiations. In addition to fully reopening the Peruvian market to U.S. beef, Peru committed to continue to recognize the U.S. food safety inspection system as “equivalent” and thus allow U.S. exports from USDA-inspected facilities. NCBA considers this System-Wide Plant Inspection Equivalency component critical to this and any other free trade agreement.

Regarding imports from Peruvian cattle production, the United States has not historically imported beef or beef products from Peru, which does not have a substantial domestic beef production system. The main agriculture industry in Peru is poultry, which comprises around 20 percent of its total agriculture GDP, while beef is only 7.83 percent.

Summary

NCBA members have been leaders in the promotion of reliable, free and fair trade across the globe. We supported these negotiations because the Peruvian market holds opportunities to expand our U.S. beef and beef product exports. It was our strong expectation that Peru would commit to full beef trade normalization before ratification of this agreement by the U.S. Congress. Now that this has been accomplished, U.S. cattlemen will strongly support this agreement.

This is arguably the best negotiated free trade agreement for U.S. beef to date, as it eliminates duties immediately on high quality beef and reduces tariffs on all other products faster than ever before. Each of these agreements becomes a precedent for the next.

Given a fair chance, we are able to compete with the highest quality and safest beef anywhere in the world. Our ability to compete is limited by numerous SPS issues, non-tariff barriers, high tariffs, and in some cases, egregious subsidies. Yet, we continue to believe, now more than ever, that the international marketplace is where the future success of this industry will be decided. With ninety-six percent of the world's population living outside our borders, we must look abroad to generate new markets and expand existing ones with meaningful market access.

With the reopening of the Peruvian market to U.S. beef and beef products, NCBA is now in full support of the PTPA, and we strongly urge that the Senate ratify this agreement.



**Statement of the National Corn Growers Association
United States Senate Committee on Finance
Hearing on the U.S.-Peru Trade Promotion Agreement
September 11, 2007**

The National Corn Growers Association (NCGA) is a national organization founded in 1957 and represents more than 32,000 members in 48 states, 47 affiliated state organizations and more than 300,000 corn farmers who contribute to state checkoff programs for the purpose of creating new opportunities and markets for corn growers.

NCGA commends the Administration for negotiating a Free Trade Agreement (FTA) with Peru. In a letter to Congress dated July 18, 2007, NCGA joined many other agriculture groups urging for swift consideration and passage of the Peru FTA.

During the 2005-06 marketing year, the U.S. exported 250,000 metric tons of corn to Peru. This export market provides an additional \$0.01 per bushel for our corn farmers.

Table 1. Peru Corn Imports

Peru Oct-Sep	Total Imports (KMT)	US Exports
2000/01	861	402.664
2001/02	858	188.946
2002/03	917	235.384
2003/04	1041	42.287
2004/05	1301	156.506
2005/06	1467	250.997
2006/07	1300	393.53

Table 2. Estimated Value of Current Exports to Peru

Peru	Total Imports (mil bu)	US Exports	% from US	US Total Use	US Ending Stocks	Existing Stocks:Use Ratio	Stocks:Use Ratio w/o Peru Trade	Existing Model Price	Model Price w/o Peru	Difference
2000/01	33.9	15.9	46.8%	9,815.40	1,596.43	0.163	0.165	2.303	2.296	\$0.01
2001/02	33.8	7.4	22.0%	9,490.99	1,086.67	0.114	0.115	2.542	2.537	\$0.01
2002/03	36.1	9.3	25.7%	10,231.88	958.09	0.094	0.095	2.690	2.683	\$0.01
2003/04	41.0	1.7	4.1%	10,662.04	2,113.97	0.198	0.198	2.178	2.178	\$0.00
2004/05	51.2	6.2	12.0%	11,269.84	1,967.16	0.175	0.175	2.258	2.255	\$0.00
2005/06	57.8	9.9	17.1%	11,525.00	987.03	0.086	0.087	2.759	2.751	\$0.01
2006/07	51.2	15.5	30.3%	12,465.00	997.03	0.080	0.081	2.812	2.799	\$0.01
Average	43.6	9.4	22.6%							\$0.01

Currently, Peruvian import duties on corn are bound at 30%, with an applied rate of 12%. Upon implementation, the FTA provides for immediate tariff elimination under a 500,000 metric ton (19.7 million bushels) corn tariff rate quota (TRQ); in year 10, the TRQ would be increased to 844,739 (33.2 million bushels); in year 12, the TRQ would be eliminated. These changes would allow a clear competitive advantage over regional competition such as Argentina. Table 3 below illustrates the value of a 2/3 U.S. market share in Peru for corn.

Table 3. Estimated Value if FTA results in 2/3 US Market Share

Peru	Total Imports (mil bu)	US Exports	% from US	US Total Use	US Ending Stocks	Existing Stocks:Use Ratio	Stocks:Use Ratio w/o Peru Trade	Existing Model price	Model Price w/o Peru	Difference
2000/01	33.9	22.4	66.0%	9,815.40	1,596.43	0.163	0.163	2.303	2.300	\$0.00
2001/02	33.8	22.3	66.0%	9,490.99	1,086.67	0.114	0.116	2.542	2.532	\$0.01
2002/03	36.1	23.8	66.0%	10,231.88	958.09	0.094	0.095	2.690	2.678	\$0.01
2003/04	41.0	27.0	66.0%	10,662.04	2,113.97	0.198	0.201	2.178	2.170	\$0.01
2004/05	51.2	33.8	66.0%	11,269.84	1,967.16	0.175	0.177	2.258	2.247	\$0.01
2005/06	57.8	38.1	66.0%	11,525.00	987.03	0.086	0.088	2.759	2.735	\$0.02
2006/07	51.2	33.8	66.0%	12,465.00	997.03	0.080	0.082	2.812	2.797	\$0.02
Average	43.6	28.7	66.0%							\$0.01

Under the agreement, DDGS are bound at zero percent. Peru is an important potential market for corn's value-added products, such as distiller's dried grains (DDGS). NCGA estimates that U.S. DDGS production will reach over 30 million tons by marketing year 2010-11. NCGA is hopeful that Peru would someday require up to 170,000 metric tons per year of DDGS.

In addition, the agreement fulfills other long-standing objectives of the U.S. feed grains industry. Under this FTA, U.S. feed grains will no longer be subject to the Peruvian Price Band System. Under the Peruvian price band system, a base rate of duty, here 12%, is applied and a variable levy acts to set an effective floor on domestic prices. Peru has agreed not to impose any domestic content requirement (absorption of local crop) as a precondition to import. There is also no provision for a special safeguard mechanism on corn.

This agreement also provides significant access for our meat producers. Table 4 converts assumed exports in pork, poultry and beef into increased domestic demand for bushels of corn. Table 5 converts that aggregate into an additional \$0.005 per bushel for U.S. corn producers.

Table 4. Meat Exports to Peru under the FTA

Pork	Export Product	25,000 MT
	# Pork	55,115,000
	# Corn/ # Pork Conversion Ratio	3.6
	Bu corn to meet pork exports	3,543,107
		\$25,000,000
Poultry	Export Product	Leg Quarters
	Current Price	0.45
	Pounds of Product	55,555,556
	# Corn/ # Chicken Conversion Ratio	2
	Bu corn to meet chicken exports	1,984,127
Beef	Export Product	1010 MT
	# Beef	2226646
	# Corn/ # Beef Conversion Ratio	2.6
	Bu corn to meet beef exports	103,380

Table 5. Corn Price Equivalent from Meat Trade under FTA

		US Total Use	US Ending Stocks	Existing Stocks:Use Ratio	Stocks:Use with Peru Meat Trade	Existing Model price	Model Price w/ Peru Meat Trade	Difference
5,630,614	2006/07	12,465.00	997.03	0.080	0.079	2.812	2.817	\$0.005

Removing trade barriers between the U.S. and Peru will create important new export opportunities for corn growers by allowing the U.S. to compete on a level playing field with Peru's other trading partners. It also provides reciprocal access for American farmers and ranchers, as many of Peru's agricultural products enjoy little or no tariffs upon entry into the U.S. through the Andean Trade Preference Act. We urge Congress to expeditiously consider and pass the Peru FTA.



**Statement of the
National Pork Producers Council
Before the
Senate Finance Committee
On the
Peru Trade Promotion Agreement
September 11, 2007**

The Global Voice for the U.S. Pork Industry

122 C Street N.W., Suite 875 Washington, D.C. 20001 202.347.3600 Fax: 202.347.5265

Mr. Chairman, Mr. Ranking Member and Members of the Committee:

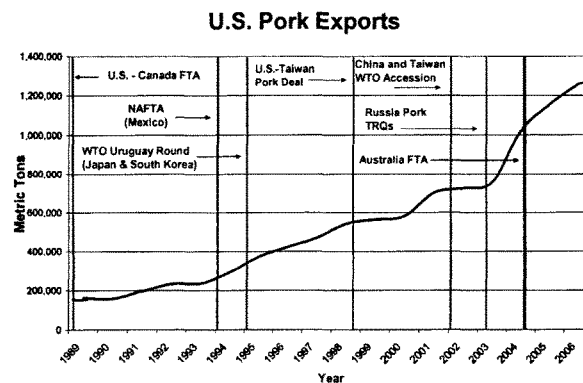
The National Pork Producers Council is a national association representing 44 affiliated states that annually generate approximately \$15 billion in farm gate sales. The U.S. pork industry supports an estimated 550,200 domestic jobs and generates more than \$97.4 billion annually in total U.S. economic activity and contributes \$34.5 billion to the U.S. gross national product.

Increasing U.S. pork exports means increasing U.S. jobs. In 2006, the United States exported 15 percent of domestic pork production. By percentage, international trade attributed to approximately 82,500 U.S. jobs in the pork industry alone. A majority of these jobs are located in rural America.

Pork is the world's meat of choice. Pork represents 40 percent of total world meat consumption. (Beef and poultry each represent less than 30 percent of global meat protein intake.) As the world moves from grain-based diets to meat-based diets, U.S. exports of safe, high-quality and affordable pork will increase. Economic and environmental factors dictate that pork be produced largely in grain surplus areas and, for the most part, imported into grain deficit areas. However, the extent of the increase in global pork trade, lowering consumer prices in importing nations and the higher quality products associated with such trade - will substantially depend on continued agricultural trade liberalization.

PORK PRODUCERS ARE BENEFITING FROM PAST TRADE AGREEMENTS

In 2006, U.S. pork exports totaled 1,262,499 metric tons valued at \$2.9 billion, an increase of 9 percent by volume and 9 percent by value over 2005 exports¹. U.S. exports of pork and pork products have increased by more than 433 percent in volume terms and 401 percent in value terms since the implementation of the NAFTA in 1994 and the Uruguay Round Agreement in 1995.



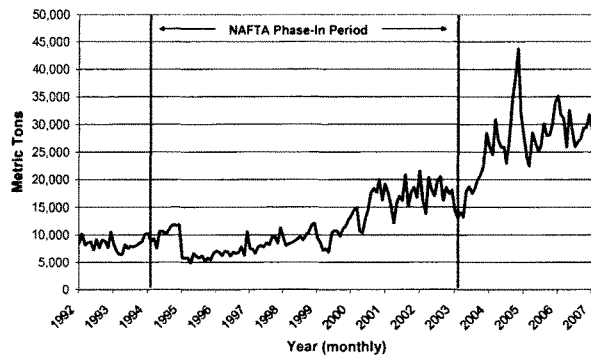
The following eight export markets in 2006 are all markets in which pork exports have soared because of recent trade agreements.

¹ All export data is from Foreign Agricultural Service's U.S. Trade Internet System.
<http://www.fas.usda.gov/ustrade/USTHome.asp?QI=>

Mexico

In 2006 U.S. pork exports to Mexico totaled 356,418 metric tons valued at \$558 million. Export figures for 2006 indicate U.S. pork exports to Mexico increased eight percent by volume and nine percent by value over 2005 exports. Exports in 2005 were 331,488 metric tons valued at \$514 million. Without the NAFTA, there is no way that U.S. exports of pork and pork products to Mexico could have reached such heights. In 2006, Mexico was the number one volume market and number two value market for U.S. pork exports. U.S. pork exports have increased by 274 percent in volume terms and 398 percent in value terms since the implementation of the NAFTA, growing from 1993 (the last year before the NAFTA was implemented) when exports to Mexico totaled 95,345 metric tons valued at \$112 million.

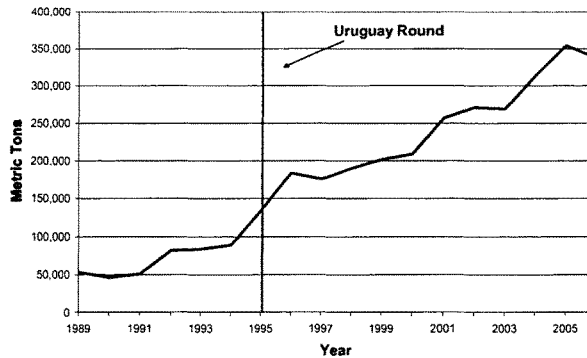
U.S. Pork Exports to Mexico



Japan

Thanks to a bilateral agreement with Japan on pork that became part of the Uruguay Round, U.S. pork exports to Japan have soared. In 2006, U.S. pork exports to Japan reached 337,373 metric tons, valued at just over \$1 billion. Japan remains the top value foreign market for U.S. pork. U.S. pork exports to Japan have increased by 279 percent in volume terms and by 178 percent in value terms since the implementation of the Uruguay Round.

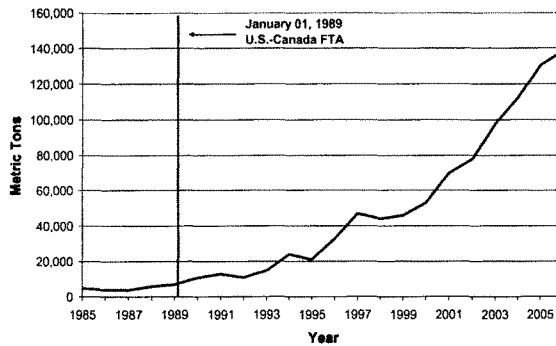
U.S. Pork Exports to Japan



Canada

U.S. pork exports to Canada have increased by 1,933 percent in volume terms and by 2,689 percent in value terms since the implementation of the U.S. – Canada Free Trade Agreement in 1989. In 2006, U.S. pork exports to Canada increased to 138,564 metric tons valued at \$437 million—a six percent increase by volume and an 11 percent increase by value over 2005 exports.

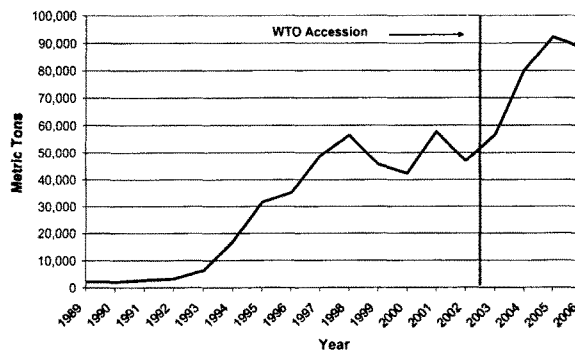
U.S. Pork Exports to Canada



China

From 2005 to 2006, U.S. exports of pork and pork products to China increased 13 percent in volume terms, totaling 88,439 metric tons valued at \$126 million. U.S. pork exports have exploded because of the increased access resulting from China's accession to the World Trade Organization. Since China implemented its WTO commitments on pork in December 2001, U.S. pork exports have increased 53 percent in volume terms and 90 percent in value terms.

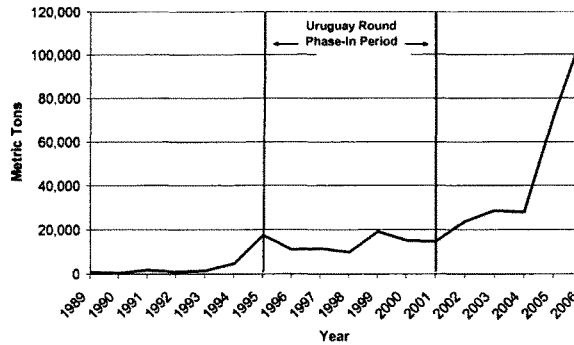
U.S. Pork Exports to China



Republic of Korea

U.S. pork exports to Korea have increased as a result of concessions made by Korea in the WTO Uruguay Round. In 2006, exports climbed to 109,198 metric tons valued at \$232 million, an increase of 2,217 percent by volume and 2,606 percent by value since implementation of the Uruguay Round in 1995. In 2006, pork exports to South Korea increased 52 percent in volume terms and a 50 percent increase in value terms over exports in 2005.

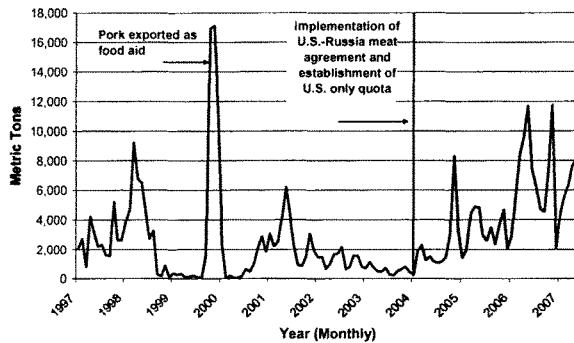
U.S. Pork Exports to South Korea



Russia

In 2006 U.S. exports of pork and pork products to Russia totaled 82,677 metric tons valued at \$164 million—a 105 percent increase in volume terms and 127 percent increase in value terms over 2005. U.S. pork exports to Russia have increased largely due to the establishment of U.S.-only pork quotas established by Russia as part of its preparation to join the World Trade Organization. The spike in U.S. pork export to Russia in the late 1990s was due to pork shipped as food aid.

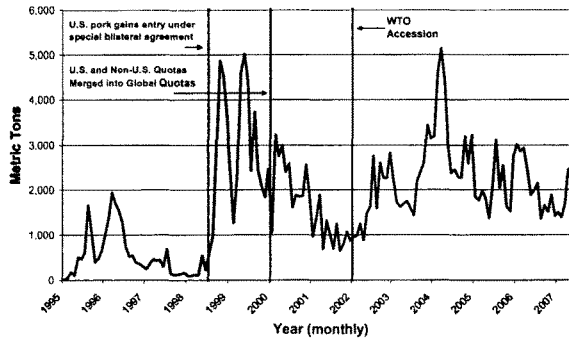
U.S. Pork Exports to Russia



Taiwan

In 2006, U.S. exports of pork and pork products to Taiwan increased to 25,198 metric tons valued at \$38 million. U.S. pork exports to Taiwan have grown sharply because of the increased access resulting from Taiwan’s accession to the World Trade Organization. Since Taiwan implemented its WTO commitments on pork, U.S. pork exports have increased 99 percent in volume terms and 103 percent in value terms.

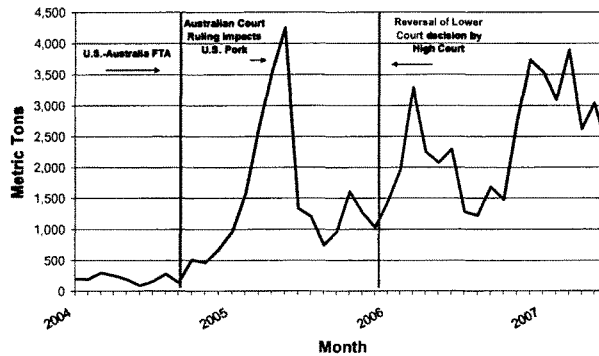
U.S. Pork Exports to Taiwan



Australia

The U.S. pork industry did not gain access to Australia until recently, thanks to the U.S. – Australia FTA. U.S. pork exports to Australia exploded in 2005 despite a legal case over Australia’s risk assessment of pork imports. Australia is currently one of the top export destinations for U.S. pork U.S. pork exports, and in 2006 pork exports totaled 25,486 metric tons valued at \$62 million.

U.S. Pork Exports to Australia



Benefits of Expanding U.S. Pork Exports

Prices – The Center for Agriculture and Rural Development (CARD) at Iowa State University has calculated that in 2004, U.S. pork prices were \$33.60 per head higher than they would have been in the absence of exports.

Jobs – The USDA has reported that U.S. meat exports have generated 200,000 additional jobs and that this number has increased by 20,000 to 30,000 jobs per year as exports have grown.

Income Multiplier – The USDA has reported that the income multiplier from meat exports is 54 percent greater than the income multiplier from bulk grain exports.

Feed Grain and Soybean Industries — Each hog that is marketed in the United States consumes 12.82 bushels of corn and 183 pounds of soybean meal. With an annual commercial slaughter of 105.3 million animals in 2006, this corresponds to 1.34 billion bushels of corn and 9.63 million tons of soybean meal. Since approximately 15 percent of pork production is exported, pork exports account for approximately 201 million bushels of corn and 1.44 million tons of soybean meal.

However, as the benefits from the Uruguay Round and NAFTA begin to diminish because the agreements are now fully phased-in, the creation of new export opportunities becomes increasingly important.

CONGRESS NEEDS TO PASS PTPA

The Peru Trade Promotion Agreement, when implemented, will create important new opportunities for U.S. pork producers. U.S. pork exports to Peru currently are restricted by duties as high as 25 percent. However, PTPA, if implemented, will establish immediate tariff reductions on all pork products. Some pork products will receive unlimited duty free access upon implementation of the agreement. Tariffs on most pork items will be phased out within five years. All pork tariffs will be completely phased out in ten years.

In addition to the favorable market access provisions, significant sanitary and technical issues have been resolved. By a letter dated January 5, 2006 the Peruvian government confirmed that it shall recognize the meat inspection system of the United States as equivalent to its own meat inspection system. The aggressive market access provisions coupled with the agreement on equivalence make the Peru agreement a state of the art agreement for pork producers to which all future FTAs will be compared.

Live hog prices are positively impacted by the introduction of new export markets. Recent price strength in U.S. pork markets is directly related to increased U.S. pork exports. Mexico continues to be a strong and growing export market for U.S. pork. The same competitive advantage that has resulted in expanded U.S. pork exports to Mexico will also facilitate an expansion of U.S. pork exports to 28 million new consumers in Peru.

The most important impact of this agreement is the income growth that accompanies free trade. Most consumers in Peru currently are at an income level that does not allow them to consume meat on a regular basis. Prosperity created by a free trade agreement will create millions of new customers for U.S. meat and other agricultural products.

According to Iowa State University economist Dermot Hayes, the Peru agreement, when fully implemented, will cause hog prices to be 83 cents higher than would otherwise have been the case. That means that the profits of the average U.S. pork producer will expand by 7 percent. U.S. pork exports to Peru will be worth \$30 million annually. USDA estimates for every million dollars of agricultural exports 13.4 jobs are created. Therefore, once fully implemented the Peru agreement will provide over 400 new jobs due to increased pork exports.

In May 2007, Congress extended the Andean Trade Preferences Act (ATPA) which provides duty free access into the United States for most products from Bolivia, Colombia, Ecuador, and Peru. The special tariff benefits extended by the Congress to these four Andean nations have allowed

these countries to ship most products duty free to the United States. For Peru, 98 percent of its products exported to the United States were shipped duty free in 2006.

The overwhelming level of support in Congress since the ATPA's inception in 1991 underscores that the United States benefits, both economically and politically, from this tariff preference program. In the Senate, the bill passed by *unanimous consent*. Furthermore, and certainly worthy of note, the business and labor communities joined in support of the extension.

The value to the United States of the ATPA pales in comparison with the value of the Peru Trade Promotion Agreement. The FTA provides important new market access benefits that will stimulate U.S. exports, create U.S. jobs, and strengthen rural economies. Moreover, the Peru Trade Promotion Agreement goes far beyond the DR-CAFTA and other trade agreements in addressing labor and environmental issues. The Peru agreement incorporates the May 10 bipartisan trade agreement which addresses longstanding congressional concerns regarding labor, the environment, and other issues.

If the one way trade flows associated with the ATPA are good for America, the two way trade flows resulting from implementation of the free trade agreement with Peru will be much better. In July 2007, NPPC signed a letter along with forty one other food and agricultural organizations urging congress to give U.S. farmers, ranchers and agribusiness reciprocal access to the Peru and Colombia markets. That letter is attached at the end of this testimony.

Growth in U.S. pork exports is directly attributable to new and expanded market access. The Peru Trade Promotion Agreement is an important opportunity to increase pork market access and will bring real benefits to U.S. pork producers.

Contact:

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International Trade Policy
National Pork Producers Council
122 C Street N.W., Suite 875
Washington D.C. 20001
Phone: 202-347-3600
Fax: 202-347-5265
E-mail: giordann@nppc.org

July 18, 2007

Dear Member of Congress:

The 42 undersigned food and agricultural organizations are writing with regard to the recent action by the Congress to extend the Andean Trade Preferences Act (ATPA) which provides duty free access into the United States for most products from Bolivia, Colombia, Ecuador, and Peru. We urge the Congress to expeditiously pass the Colombia and Peru Trade Promotion Agreements so that our members may benefit from duty free treatment of our exports to these nations.

The special tariff benefits extended by the Congress to these four Andean nations have allowed these countries to ship most products duty free to the United States. For Peru, 98 percent of its products exported to the United States were shipped duty free in 2006. For Colombia, 92 percent of its products were shipped duty free; for Bolivia 91 percent; and, for Ecuador 93 percent. The concessions made by Congress will create and maintain jobs in Bolivia, Colombia, Ecuador, and Peru, helping millions of workers and families in these countries.

The overwhelming level of support in Congress since the ATPA's inception in 1991 underscores that the United States benefits, both economically and politically, from this tariff preference program. The recent vote in the House of Representatives to extend the program was 365 to 59, with every member of the Ways and Means Committee and with the entire House leadership, both Democratic and Republican, voting in support of this duty free program. In the Senate, the bill passed by *unanimous consent*. Furthermore, and certainly worthy of note, the business and labor communities joined in support of the extension.

We urge Members to consider the additional benefits that would convey, even more visibly and directly, to U.S. farmers, ranchers, workers and businesses by the implementation of the free trade agreements (FTAs) with Colombia and Peru. The value to the United States of the ATPA pales in comparison with the value of these FTAs. The ATPA offers U.S. exporters no reciprocal market access in the beneficiary countries, whereas both FTAs provide important new market access benefits that will stimulate U.S. exports, create U.S. jobs, and strengthen rural economies. Moreover, the Colombia and Peru FTAs go far beyond the DR-CAFTA and other trade agreements in addressing labor and environmental issues. The Colombia and Peru FTAs incorporate the May 10 bipartisan trade agreement which address longstanding congressional concerns regarding labor, the environment, and other issues.

The Peru and Colombia FTAs also go well beyond the DR-CAFTA and other trade agreements in providing immediate benefits to U.S. farmers, ranchers, and agribusinesses that will create thousands of new U.S. jobs. Many U.S. food and agricultural products will become eligible for duty free treatment in Colombia and Peru immediately upon entry into force of the FTAs, and virtually all U.S. products will receive duty free treatment over specified phase-in periods. According to the American Farm Bureau the Peru and Colombia Trade Promotion Agreements will increase U.S. farm exports by \$1.39 billion. USDA estimates for every million dollars of agricultural exports 13.4 jobs are created. Therefore, once fully implemented the Peru and Colombia agreements will provide over 18,000 new jobs due to increased agricultural exports.

If the one way trade flows associated with the ATPA are good for America, the two way trade flows resulting from implementation of the free trade agreements with Peru and Colombia will be much better. We urge you to expeditiously consider and pass the Peru and Colombia Trade Promotion Agreements.

Sincerely,

American Cotton Shippers Association
American Feed Industry Association
American Frozen Food Institute
American Meat Institute
American Seed Trade Association
American Soybean Association
California Table Grape Commission
Commodity Markets Council
Corn Refiners Association
Distilled Spirits Council of the United States
Grocery Manufacturers/Food Products Association
International Dairy Foods Association
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen's Beef Association
National Chicken Council
National Corn Growers Association
National Cotton Council
National Cottonseed Products Association
National Grain and Feed Association
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Potato Council
National Sorghum Producers
National Sunflower Association
National Turkey Federation
North American Equipment Dealers Association
North American Export Grain Association
North American Millers' Association
Northwest Horticultural Council
Sweetener Users Association
The Fertilizer Institute
U.S. Apple Association
U.S. Canola Association
U.S. Dairy Export Council
U.S. Hide, Skin and Leather Association
United Egg Association
United Egg Producers
USA Dry Peas and Lentil Council
USA Poultry & Egg Export Council
USA Rice Federation

*Peruvian Asparagus Importers Association***STATEMENT OF THE PERUVIAN ASPARAGUS IMPORTER'S ASSOCIATION****BEFORE THE****SENATE COMMITTEE ON FINANCE****Washington, D.C.****September 19, 2007****Introduction**

This statement is submitted on behalf of the Peruvian Asparagus Importers Association (PAIA). PAIA is a not-for-profit association of 29 U.S. companies and 3 Peruvian Companies that earn a living by importing fresh asparagus from Peru.¹ PAIA presented testimony at the public hearing conducted by the International Trade Commission (ITC) on March 15, 2006 in connection with its investigation regarding the Peru Trade Promotion Agreement (PTPA), and also presented a previous version of this statement at this Committee's hearing on June 29, 2006.

I. The Peru TPA would continue favorable economic trends begun under the ATPA for both the United States and Peru

PAIA's particular area of interest in the context of trade between the U.S. and Peru is imports of fresh asparagus from Peru. Under the 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 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 PTPA. The duty-free treatment accorded to imports of fresh asparagus from Peru since 1992 has resulted in pronounced economic benefits to U.S. consumers, U.S. importing companies, U.S. distributors, U.S. transportation companies, the many other companies in the domestic commercial chain, the Peruvian economy, and the thousands of people in Peru whose livelihood is dependent on trade with the United States. However, if the PTPA is not approved by Congress, or is implemented sometime after March 1st, 2008, and the ATPDEA is not

¹ The U.S. member-companies of PAIA are: Altar Produce Inc.; Alpine Fresh; AYCO Farms Inc.; CarbAmericas Inc.; Chestnut Hills Farms – Bounty Fresh; Central American Produce Inc.; CH Robinson; Consolidated Growers International; Contel Fresh Inc.; Crystal Valley Foods; Dole Fresh Vegetables Inc.; Fru-Veg Marketing Inc.; Globalx Inc.; Gourmet Trading Company; Jacobs Malcolm & Burt; Keystone Fruit Marketing; Mission Produce Inc.; North Bay Produce; Pro-Act LLC; Progressive Marketing Group; Rosemont Farms Corporation; Southern Specialties; Team Produce International; Triton International; YesFresh, LLC; AL-FLEX Exterminators; APL Limited; Customized Brokers; The Perishable Specialist, Inc.; and the Peruvian are Kuehne & Nagel S.A., UPS-SCS Peru Srl and Hellmann Worldwide Logistics.

² The ATPDEA is currently scheduled to expire as on February 29, 2008. Imports of fresh or chilled asparagus from Peru are not currently subject to duty-free treatment under the Generalized System of Preferences.

renewed in the interim, this will surely result in discernible economic harm to both the United States and Peruvian economies. Moreover, approval of the PTPA would also be an effective tool for providing support to Peru in light of the seismic events that resulted in hundreds of deaths and up to 70% destruction of cities such as Pisco in the country's main agroexport production area of Ica.

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 ITC has noted in prior reports, 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 "Peru is one of only a few countries whose favorable climate enables it to produce asparagus year round."⁶ Recently in a measure that will significantly improve logistics, IPEH – Instituto Peruano de Espárragos y Hortalizas, the association for the asparagus producers in Peru, signed a Pre Clearance Pilot program with the USDA's Animal and Plant Health Service (APHIS). The program is starting on October 2007 and is an extraordinary example of U.S. and Peruvian cooperation. Through the program, U.S. inspectors will inspect and certify in Peru the quality and standards of the asparagus being exported. This is a complimentary operation to the fumigation done in the U.S. and it will significantly reduce the chain breaks, improving quality and delivering a much fresher and safer product to U.S. consumers.

In Peru, the asparagus-growing industry is estimated to employ nearly 60,000 people,⁷ and has enabled regions of the country – such as Ica and La Libertad – to become models of economic development and engines of job creation. The Asociación de Gremios Productores y Agroexportadores del Perú (AGAP) (the umbrella organization for Peru's agricultural producers and exporters) estimates that the Peruvian agroexport chain as a whole has generated 600,000 jobs, three times more than were generated in traditional agriculture sectors.⁸

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.")

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.*

⁷ *Id.* at 3-14.

⁸ *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.

According to U.S. Customs, in the past two years, U.S. imports of fresh asparagus from Peru had a value of between \$100 and \$110 million. That is a significant amount of foreign exchange earnings for a country with a gross domestic product of only \$67.1 billion, and with a per capita GDP of only \$2,777 per year.⁹ The success of Peru's agroexport industry in general, and the asparagus industry specifically, over the past decade is one of the signal achievements of the ATPA in that it has effected the creation of high-value marketable agricultural businesses at the expense of illegal coca cultivation. In its most recent report on the impact of the ATPA, the ITC noted that net coca cultivation decreased dramatically, from 115,300 hectares in 1995 to 27,500 hectares in 2004.¹⁰

II. Economic Benefits of the US – Peru Trade in Asparagus

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, in 2003, the value chain for imports of fresh asparagus from Peru was worth approximately \$300 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. Moreover, even of the 30 percent that reverts back to the country-of-origin, a substantial portion is spent on U.S. inputs such as seeds and fertilizers.¹¹

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

⁹ See *Background Note: Peru*, U.S. Department of State (December 2005), <http://www.state.gov/r/pa/ei/bgn/35762.htm> (last visited March 22, 2006). Peru's asparagus exports are forecast to increase by an additional 3 percent in 2006. *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook*, Foreign Agricultural Service, U.S. Department of Agriculture (August 2005) at 3.

¹⁰ *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 4-14.

¹¹ 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 (testimony of John-Campbell Bammer).

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 Superintendency of Peru); U.S. International Trade Commission Trade DataWeb; estimates by APOYO Consultoría, and the Instituto Peruano del Espárrago y Hortalizas (IPEH).

indirectly in the creation of at least 5,000 U.S. jobs in companies throughout the commercial chain.

III. Peruvian Asparagus Imports are Counterseasonal to U.S. Asparagus Production

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 countries entered during July through the following January when overall U.S. production is low.¹²

According to official U.S. import statistics for 2005, 85 percent of total fresh asparagus imports from Peru entered the United States during the months of July through January; only 15 percent entered during the remainder of the year (February through June). In contrast, the peak production period for U.S.-grown fresh asparagus is February through June; therefore, all or nearly all U.S. production occurs during a period when the level of imports from Peru is minimal.

This is not to say that there are no imports of fresh asparagus from Peru present in 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 annual imports from that country, or approximately 9,794 net tons (2005 data). However, even 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 through the Port of Miami,¹³ and are sold predominantly in East Coast markets. Because of the distances involved, the high costs for transportation – exacerbated by recent increases in gasoline prices – and the perishable nature of the product, most of the fresh asparagus 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 the U.S. production period and imports from Peru, direct competition between these sources is minimal. *Aside from Peruvian asparagus being counterseasonal to asparagus produced in the U.S., it is also marketed to regions dissimilar to those regions targeted by U.S. growers.* Most of the imports from Peru that enter the United States during the February through June period are marketed in the East Coast and southeast United States regions which would not otherwise be served by domestic sources. Indeed, the advent of year-round availability of fresh asparagus from Peru has allowed U.S. consumers in large geographic portions of the country to gain access to this product at times when supply would simply not exist from U.S. growers. This is one reason why per capita consumption of asparagus in the United States has doubled in the last decade alone, exceeding the rate of growth exhibited by nearly all other fruits and vegetables.

¹² *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12.

¹³ In 2005, 89 percent of imports of fresh asparagus from Peru entered the U.S. through the Port of Miami. Source: U.S. International Trade Commission Trade DataWeb (subheadings 0709.20.1000 and 0709.20.9000, HTSUS), by quantity.

As the ITC recently stated, the impact of ATPA on U.S. consumers has been significant in that imports of Peruvian fresh-market asparagus, together with Mexican exports and U.S. production, have resulted in greater availability of fresh asparagus throughout the year. This extended availability of fresh-market asparagus, together with the overall consumer awareness of, and preference for, healthy foods, may be partly responsible for higher per capita annual consumption of fresh asparagus in recent years.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.¹⁵ 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,¹⁶ 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 connections between drug trafficking and terrorism are well-established worldwide. The intention of the Andean Trade Preference Act (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. Thanks to the ATPA and the vision of US policymakers, the Peruvian asparagus industry was able to blossom in the early 1990’s. Having become Peru’s most important agricultural export, about 40% of the asparagus industry’s 60,000 workers come from mountainous areas where coca production has traditionally taken place.

Coinciding with the rise in asparagus production, as noted earlier, from 1995 to 2004, the ITC reported that coca cultivation has decreased dramatically, from 115,300 hectares to 27,500 ha in 2004. This helps to reduce the presence of drugs in US communities. In a related event, Peru successfully confronted and nearly eliminated the terrorist threat constituted by the radical Shining Path narcoterrorist organization during the 1990’s, a group largely funded by illegal coca production.

¹⁴ *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12-14.

¹⁵ 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.

¹⁶ 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.

V. Peru TPA and Labor Standards: Real Protection

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.

Finally, Peru approved the latest changes proposed in a letter signed by bipartisan leaders from the U.S. Congress and Administration on May 10, 2007. These considerable commitments have already been incorporated and ratified by Peru’s Congress on July 28, 2007 and are being implemented by Presidential decree.

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:

The duty-free treatment for imports of asparagus from Peru provided for in the proposed PTPA will serve 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.

Asparagus has been a model for other industries in Peru whose growth is having a multiplier effect in terms of their impact on trade, job creation in both countries, and reduction of poverty 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. The Peruvian artichoke industry has increased exports by 100% from 2004 to 2005, and also employs about 15,000 workers. The peppers industry employs 1,500.

These great changes could not have been possible without the duty-free access afforded to Peruvian industries in the ATPA and ATPDEA. PTPA is now an excellent opportunity to ensure the continued prosperity of these industries, and by extension raising the living standards in Peru. It is for this and all of the above reasons we urge the Senate Committee on Finance, the Senate, and Congress as a whole to expedite the passage of the PTPA.



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**Written Comments for the Record by the
Retail Industry Leaders Association (RILA)
For the
Senate Finance Committee
Hearing on the
U.S.-Peru Trade Promotion Agreement (PTPA)**

September 25, 2007

The Retail Industry Leaders Association (RILA) appreciates the opportunity to provide written comments to the Senate Finance Committee for its hearing on the U.S.-Peru Trade Promotion Agreement (PTPA). RILA supports the PTPA and urges Congress to expeditiously approve the agreement. The PTPA is a comprehensive, state-of-the-art trade agreement, which upon enactment will provide meaningful benefits to consumers and businesses in both the United States and Peru. This hearing is an important first step to move the trade agenda forward, and Congress' positive consideration of the agreement will demonstrate the United States' continued commitment to liberalizing trade. RILA also encourages the Congress to act with dispatch to approve the other pending FTAs with Colombia, Panama, and South Korea.

By way of background, 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.

Benefits of the U.S-Peru Trade Promotion Agreement

FTAs benefit retailers by reducing or eliminating tariffs in the United States and our trading partners, promoting transparency in customs procedures, dismantling services and investment barriers in foreign markets, establishing a secure, predictable legal framework for U.S. retailers operating overseas, and facilitating trade through capacity building and increased regulatory transparency. Enactment of PTPA will open up Peru's market for American farmers, businesses, and service providers, and will provide an important sourcing alternative for retailers to better service their consumers in both the United States and Peru. RILA also encourages Congress and the Administration to swiftly implement the cumulation provisions for apparel in the PTPA so that the full benefits of the agreement can be realized.

Two-way trade between the United States and Peru reached \$8.8 billion in 2006, with U.S. exports to Peru reaching \$2.9 billion. But much of this trade has been unbalanced because most products from Peru already enter the U.S. duty free under the Andean Trade Preference Act (ATPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). In contrast, U.S. exports to Peru currently face an average tariff of 10 percent. The PTPA will remedy this inequity and on the first day the agreement enters into force, tariffs on 80 percent of U.S. exports of consumer and industrial products, and a majority of the most competitive U.S. farm exports, would immediately be eliminated.

Strengthening Freedom and Security Throughout the Hemisphere

Peru has been a stalwart ally and trading partner in South America, a region struggling in a war of ideologies between authoritarian dictatorship and economic freedom and democracy. The PTPA will solidify our bilateral economic and political partnership, and will provide a successful example to other countries in the region currently considering their economic and

political futures. Peru's legislature overwhelmingly ratified the PTPA on June 28, 2006 and has now waited over a year for the United States to ratify the agreement.

Within recent memory, conditions in South America have featured civil war, chaos, dictators, and Communist insurgencies. Today, the region consists of fragile democracies that want and need U.S. support. Elected leaders are embracing freedom and economic reform, fighting corruption, and supporting U.S. anti-narcotics and anti-terrorism efforts.

The PTPA, as well as the pending Colombian and Panamanian TPAs, will provide the continued positive momentum that is so critical to U.S. foreign policy interests in the region. By approving and implementing these agreements, the U.S. will demonstrate its continued support for freedom, democracy, the rule of law, and economic reform in Latin America.

PTPA Incorporates Strengthened and Enforceable Labor Standards

On May 10, 2007, an important agreement was reached between the Democratic and Republican leadership in Congress and the Administration on the inclusion of strengthened labor and environmental standards in trade agreements, paving the way for broad, bipartisan Congressional consideration of trade agreements with Peru, Panama, Colombia and South Korea. Peru accepted the new obligations and has undertaken several reforms to conform its labor laws. RILA is encouraged that this new framework for labor protections will allow for broad bipartisan support for continued efforts to liberalize trade through FTAs.

ILO Principles: As part of the bipartisan May 10 trade deal, the Peruvian Government will enshrine into law enforceable labor standards under the *International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work*, including: (1) the freedom of association; (2) the effective recognition of the right to collective bargaining; (3) the elimination of all forms of compulsory or forced labor; (4) the effective abolition of child labor and a prohibition on the worst forms of child labor; and (5) the elimination of discrimination in respect of employment and occupation.

These labor obligations will be subject to the same dispute settlement procedures and remedies as commercial obligations in the PTPA.

Conclusion

RILA supports the U.S.-Peru Trade Promotion Agreement and urges Congress to expeditiously approve the agreement. RILA also encourages the Congress to act with dispatch to approve the other pending FTAs with Colombia, Panama, and South Korea. For more information, please contact Stephanie Lester, Vice President, International Trade by email at stephanie.lester@rila.org or Andrew Szente, Director, Government Affairs at andrew.szente@rila.org.



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Advancing Global Communications

September 25, 2007

Senate Committee on Finance
Attn. Editorial and Document Section
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Washington, DC 20510-6200b

RE: The U.S.-Peru Trade Promotion Agreement

On behalf of the Telecommunications Industry Association (TIA), I would like to express our support for the U.S.-Peru Trade Promotion Agreement (TPA). TIA is a leading trade association for the information and communications technology (ICT) industry, with approximately 600 member companies that manufacture or supply the products and services used in global communications. TIA represents its members on the full range of public policy issues affecting the industry, forges consensus on industry standards, and helps its members develop new business in foreign markets.

In its entirety, the U.S. telecommunications market was valued at \$923 billion in 2006 with annual growth of 9.3%. By comparison, the telecom market value of all other world regions is \$2.1 trillion and growing annually at 11.2%. The difference in annual growth clearly indicates that more opportunities for U.S. firms exist outside the United States. Accordingly, TIA members are developing comprehensive business strategies that target foreign markets, including Peru.

We believe that a successfully implemented TPA with Peru would benefit ICT manufacturers, suppliers and service providers by establishing greater market access, assuring a rules-based and predictable business climate, and encouraging further bilateral investment. In the past decade, Peru's ICT market has developed rapidly as international calling prices have declined, infrastructure investment has increased, and cellular subscribers have grown. Since 2001, Peru has added 1 million landlines with an average annual growth rate of 5.6 percent projected through 2010. Similarly, wireless subscribers in Peru grew by 36 percent in 2005 with 5.5 million total subscribers. Wireless subscribers will increase at an average annual rate of 12 percent, reaching 11 million subscribers or nearly 40 percent of the population by 2010.

Because there is little domestic production of telecommunications equipment in Peru, a liberal trade environment with little or no tariffs and non-tariff barriers, and an open and transparent regulatory process is important for ensuring continued growth in the country's ICT sector. The U.S.-Peru TPA achieves this by reducing or eliminating tariffs for ICT products, ensuring regulatory transparency, and reducing customs impediments. The agreement creates greater regulatory certainty for ICT service providers by guaranteeing access to and use of the public network, including leased circuits. In addition, the agreement guarantees the independence of the regulator, which is critical to ensuring fairness, impartiality and regulatory integrity in each participating country's communications industry.

With respect to specific provisions of the agreement, the TPA includes language in the telecommunications chapter on technology neutrality. The principle of technology neutrality ("technology choice") is one of the most critical issues for regulated sectors like telecommunications. Markets and innovation benefit most when ICT manufacturers and suppliers engage in demand-driven competition, standards are competitively and openly developed, and governments do not interfere to either curb market failures or enhance market champions.



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Advancing Global Communications

Finally, as part of their commitments, Peru has agreed to join the World Trade Organization's Information Technology Agreement (ITA) that eliminates duties on a wide variety of information technology products, including most telecom equipment. ITA products accounted for 16.6 percent of total U.S. Industrial exports to Peru in 2006, totaling over \$376 million. Tariffs on these products range from zero to 12 percent with a majority of such duties eliminated upon implementation of the agreement.

As stated above, TIA strongly supports the U.S.-Peru TPA. The implementation of the agreement will provide important benefits to TIA's members, facilitating investment in Peru telecommunications sector and guaranteeing market access for ICT goods and services. On behalf of TIA and our member companies, I look forward to the successful passage and implementation of the agreement. If you have any questions about this letter, or if there are other ways we can assist you, please feel free to contact James Maday at jmaday@tiaonline.org, or 703.907.7724.

Sincerely,

A handwritten signature in black ink that reads "Grant E. Seiffert".

Grant Seiffert
President

**STATEMENT FOR THE RECORD OF
WAL-MART STORES, INC.
FOR HEARING ON U.S.-PERU TRADE
PROMOTION AGREEMENT
BEFORE THE U.S. SENATE COMMITTEE ON FINANCE**

September 11, 2007

Wal-Mart Stores, Inc. operates Wal-Mart discount stores, Supercenters, Neighborhood Markets and Sam's Club locations in the United States. The Company also operates in Argentina, Brazil, Canada, China, Costa Rica, El Salvador, Guatemala, Honduras, Japan, Mexico, Nicaragua, Puerto Rico and the United Kingdom. Wal-Mart employs 1.8 million associates worldwide and more than 1.3 million in the United States, making the company not only the largest private employer in the U.S., but the largest in Mexico and one of the largest private employers in Canada as well.

Wal-Mart Stores, Inc. is proud to serve as one of the corporate co-chairs of the Latin America Trade Coalition. The coalition represents nearly 600 U.S. companies, businesses, associations and chambers of commerce. We believe that the pending trade promotion agreement with Peru is a strong commercial agreement with the potential to significantly enhance retail operations in the years to come, and bring consumers more choices at lower prices. We urge swift passage of this key agreement.

In order to provide our customers products at an every day low price, we rely on open markets to source the right products for our stores. We believe that the pending Agreement will enhance our global procurement operations by making permanent many of the existing preference programs that are in place in Peru.

Wal-Mart Stores, Inc. imports fruits, vegetables, flowers and apparel duty-free under the Andean Trade Promotion and Drug Eradication Act, the Caribbean Basin Initiative and the Generalized System of Preferences. While these programs are beneficial both to the exporting nations and consumers in the United States, a history of short-term renewals of the preference programs have diminished their value. Creating a permanent, two-way trade agreement for all exports from Peru will create the necessary certainty for U.S. investment to thrive and enhance the predictability of sourcing for retailers. At the same time, this ensures that U.S. consumers will enjoy greater choices in shopping for products at lower costs.

These agreements will also remove many of the barriers to retail investment and distribution in Peru. This enhances our ability to open stores in the country, should conditions merit, without burdensome government restrictions on foreign direct investment.

Under the terms of the trade promotion agreement, there will be substantial new market access for U.S. services, including retail, distribution and wholesale services. Retailers will benefit from the removal of barriers in other markets that currently inhibit the movement of products among manufacturers, wholesalers, retailers, and consumers. Intellectual property rights provisions will ensure the concept brands of the franchise companies are protected. Retailers working with transportation, telecommunications, financial, computer and other service providers may be able to improve and streamline the supply chain to better serve consumers in the United States and throughout the hemisphere. In certain markets, barriers to foreign direct investment in retail will be gradually lifted, enabling retailers to enter previously closed markets. This will enable U.S. retailers to expand our service as an export platform for U.S. goods.

At Wal-Mart, we save people money so they can live better, and completion of the Peru TPA will greatly aid in offering our customers greater choices worldwide. For these reasons, we strongly urge the approval of the Peru Trade Promotion Agreement.

