EMERGENCY COMMITTEE FOR AMERICAN TRADE (ECAT) URGES CONGRESSIONAL APPROVAL OF COLOMBIA, KOREA AND PANAMA TRADE AGREEMENTS

Written Submission in Connection with the House Committee on Ways and Means Hearing on the Pending Free Trade Agreements with Colombia, Panama, and South Korea and the Creation of U.S. Jobs

February 10, 2011

ECAT strongly urges Congressional approval and entry-into-force of the pending trade agreements with Colombia, Korea and Panama as soon as possible this year so that they will provide important benefits to the U.S. economy, U.S. enterprises and their workers and broader U.S. national interests the Western Hemisphere and the Asia Pacific.

This submission is provided on behalf of the Emergency Committee for American Trade – ECAT. ECAT is 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 annual worldwide sales exceed $1.6 trillion, and they employ more than 6.2 million persons. ECAT companies are strong supporters of agreements to eliminate tariffs, remove non-tariff barriers and promote trade liberalization and investment worldwide.

ECAT strongly supports Congressional approval as soon as possible this year of the U.S.-Colombia Trade Promotion Agreement, the Korea-U.S. Free Trade Agreement and the U.S.-Panama Trade Promotion Agreement. The high-level market-access, intellectual property (IP), investment, and other provisions included in each agreement will produce strong economic benefits for the United States and U.S. enterprises and workers. This paper provides an overview of the important role that trade agreements play in the U.S. economy, a discussion of each of the three pending trade agreements and finally a discussion of the key provisions included in each of those agreements.

Trade Agreements and the U.S. Economy

Since the U.S. market is largely open, the main effect of trade and investment agreements is to eliminate foreign trade barriers, thereby opening other countries' markets to our goods and services, and provide a more stable, transparent and fair legal environment for the protection of U.S. property and interests. According to the *Global Trade Enabling Report* (2009) of the World Economic Forum, America ranks 114th out of 121 economies in terms of "tariffs faced" by our exports overseas. As a result American exporters pay on average higher tariffs than nearly all our trade competitors, leaving the United States at a competitive disadvantage in foreign markets. The most effective way to eliminate these and non-tariff barriers is through new agreements and negotiations.

Bilateral, sub-regional and regional agreements also act to give an advantage to the United States by establishing preferential terms for U.S. manufactures, farm products and services, compared to competing

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products and services from foreign countries. At the same, the United States also faces a global marketplace where other countries, particularly in Asia, are entering into trade and investment agreements that exclude the United States. When the United States is left on the outside without the preferential access those agreements provide, our products and services, our workers and our interests, are disadvantaged through higher taxes and other barriers.

The importance of trade agreements to the United States is demonstrated by the fact that U.S. trade with the 17 countries with which the United States had a free trade agreement in effect by the end of 2009 accounted for approximately $882 billion or nearly 29 percent of total U.S. trade and 28 percent of U.S. exports in that year. **Source:** U.S. Department of Commerce, Trade Stats Express. At the same time, these countries represent only seven percent of the world economy.

The United States has done very well with each of these FTAs. Indeed, U.S. exports to the 17 countries with which the United States had an FTA in force before 2010 increased 63 percent between 2001 and 2008 and, despite the economic downturn, were still 30 percent over 2001 exports in 2009. U.S. exports to new FTA countries (excluding Canada, Mexico and Israel) increased even faster, by over 100 percent between 2001 and 2008 and were 68 percent higher in 2009 than in 2001. **Source:** U.S. Department of Commerce, Trade Stats Express. It is also noteworthy that U.S. exports to each of its major FTA partners have increased significantly after each FTA has entered into force. Even with the economic downturn, which lowered U.S. exports in 2009, U.S. exports to each FTA partner have increased significantly.

- U.S. goods exports to the NAFTA countries almost tripled between 1993 and 2008, from $142 billion to $412 billion. In 2009, U.S. goods exports to the NAFTA countries were $334 billion, still more than double U.S. exports in 1993 despite the economic downturn.

- U.S. goods exports to Chile increased by 348 percent between 2003 and 2008, increasing from $2.7 billion to $12.1 billion. In 2009, U.S. goods exports to Chile equaled $9.4 billion, still more than three times higher than the pre-FTA level.

- U.S. goods exports to Singapore increased by 73 percent, from $16.6 billion in 2003 to $28.8 billion in 2008. In 2009, U.S. goods exports to Singapore equaled $22.3 billion, 34 percent higher than pre-FTA levels.

- U.S. goods exports to Australia increased 57 percent, from $14.3 billion in 2004 to $22.5 billion in 2008. In 2009, U.S. goods exports to Australia equaled $19.6 billion, 37 percent higher than pre-FTA levels.

- U.S. goods exports to the seven CAFTA-DR countries grew nearly 30 percent between 2006 and 2008 to approximately $25.4 billion, before dropping to $20 billion in 2009.

Source: U.S. Department of Commerce, Trade Stats Express.

U.S. services exports and U.S. investment also have increased following previous FTAs, supporting greater economic growth, better paying jobs and greater productivity here in the United States. In particular, U.S. services exports to the NAFTA countries more than doubled between 1993 and 2009, from $27.4 billion to $69.8 billion. **Source:** Bureau of Economic Analysis, Trade in Services. As well, U.S. investment has typically expanded following the entry-into-force of FTAs with other major trading partners, supporting greater economic growth, better paying jobs and greater productivity here in the United States.

Imports from U.S. FTA partners have also increased significantly, expanding the variety and choice of products available to U.S. consumers at competitive prices, lowering costs to U.S. manufacturers and dampening inflationary pressures.

U.S.-Colombia Trade Promotion Agreement

ECAT strongly supports Congressional approval and implementation of the U.S.-Colombia TPA as early as possible in 2011, so that American farmers, manufacturers and service providers can more effectively access Colombia's growing market.

The United States and Colombia negotiated over several years on the U.S.-Colombia Trade Promotion Agreement (TPA), an important accord that will eliminate major barriers in Colombia's market, promote important new economic opportunities, foster improved ties and promote broader U.S. interests in Latin America. The U.S.-Colombia TPA was signed on November 22, 2006 and then amended on June 28, 2007 to incorporate the provisions of the Administration-Congressional trade deal.

Colombia is the United States' 26th-largest trading partner, importing \$9.5 billion in goods from the United States in 2009, with significant imports of U.S. machinery, fuel, electronics and chemicals. Colombia is currently America's largest agricultural market in South America. U.S. imports from Colombia totaled \$11.3 billion in 2009, with major imports of fuel, precious stones and coffee.

While the United States has been the largest foreign supplier of goods to Colombia's market, U.S. exports to Colombia are now losing out to exports from Argentina and Brazil and will soon lose out to those of other countries, including Canada and the European Union, that have negotiated their own trade agreements with Colombia. For example, U.S. agricultural exports to Colombia declined throughout 2009 as Argentine and Brazilian farmers gained duty-free access for their corn, wheat, soybeans and soybean oil and substantially grew their exports at the expense of American farmers. The longer America delays in approving and implementing this agreement, the more sales American farmers, manufacturers and service providers will lose to other foreign suppliers in the Colombian market.

The United States and Colombia are neighbors and longstanding allies in a region that is vitally important to the United States given its strategic proximity and both are concerned about increasing threats to the rule of law within the region. Colombia has worked side-by-side with the United States to help fight illegal narcotics trade, while also working to tackle a violent insurgency that has been shown in recent years to be actively supported in part by Venezuela and others. Colombia's efforts to restore peace, reduce violence, maintain strong human rights protections and provide a better future for its citizens have been recognized and commended throughout the world. The U.S.-Colombia TPA will help expand that relationship and bolster democracy and the rule of law in Colombia. It will help promote economic growth and development within Colombia, which will make it easier for the government to maintain its progress on restoring peace and reducing violence. By promoting closer relationships and strengthened cooperative activities, as well as economic alternatives, the U.S.-Colombia TPA will also function as a key tool in the United States' and Colombia's efforts to combat the movement of illegal narcotics through the region.

With regard to labor practices, it is important to note that Colombia has in its Constitution and its laws a strong labor-rights regime. Colombia has ratified and implemented 60 ILO Conventions, including all eight core ILO labor conventions (of which the United States has only ratified two). As summarized in the 2009 ILO Report of the Committee of Experts, the Colombian government is actively engaged with the ILO and union representatives on a wide range of issues regarding each of these conventions, with detailed discussions on the many measures that Colombia has taken to improve the enforcement of fundamental labor rights, including protection of unionists against intimidation or violence and efforts to prosecute perpetrators of violence or intimidation against unionists. **Source:** *International Labour Conference, 98th Session, 2009, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part IA) at 74-79 (1st Ed.). 2009.*

As documented by *Back from the Brink: Evaluating Progress in Colombia, 1999-2007*, Colombia's progress in improving the rule of law and restoring stability broadly since 1999 has been "impressive." *Back from the Brink: Evaluating Progress in Colombia, 1999-2007* by Peter DeShazo, Tanya Primiani and Philip McLean (2007).

Areas of improvement reviewed and identified by this study include:

- Extending legitimate state authority and the rule of law.
- Reducing levels of violence sharply.
- Improving the observance of human rights.
- Advancing the peace process.
- Checking the reach of drug trafficking.
- Enhancing governance.
- Growing the economy.
- Providing social services.

While tackling these very broad and systemic issues, the Colombian government has also taken concrete and substantial steps to improve its labor laws, protect trade unionists and prosecute perpetrators of violence against unionists. Colombia is working actively and constructively with the leading international body on labor issues, the International Labor Organization (ILO), and both domestic and international trade-union groups on a wide range of issues. As a result of these efforts, there has been an unprecedented decrease in violence overall in Colombia and violence against trade unionists in particular has also declined substantially. As well, prosecutions against perpetrators of labor-union intimidation and violence have also increased dramatically.

To promote continued improvement on labor issues, ECAT strongly recommends that the United States, as a member of the ILO, work more intensively and collaboratively with the ILO to promote labor rights and labor-rights enforcement in Colombia, rather than pursuing a unilateralist agenda. As well, ECAT urges the approval by the U.S. Congress and the entry-into-force of the U.S.-Colombia TPA to spur the increased economic growth and opportunity in Colombia that are vital to continued progress by Colombia in restoring peace and general stability, and more specifically, improving labor rights and the protection of trade unionists.

Continuing to delay the TPA will also further undermine and possibly erode the strong U.S.-Colombian relationship that has been forged through successive Administrations. Given the pressures in the region for Colombia to move away from a democratic and peaceful model, the erosion of the U.S.-Colombian relationship represents a severe risk every month that the United States fails to move forward on this agreement.

Some who advocate delay seem to take Colombia's progress over the past seven years for granted and seem to believe that further delay has no cost. As explained in *Back from the Brink*, however, Colombia's accomplishments could in fact be "reversed if forward momentum is not sustained." Given the importance of economic growth and a positive relationship with the United States to Colombia's progress thus far, further delay of the TPA is just the type of loss of momentum that will undermine, rather than foster, progress.

Over the past years, the Obama Administration has indicated that it wants to address these issues and is consulting with Congress and interested stakeholders. ECAT urges that this work be completed quickly so that the broad benefits of the U.S.-Colombia TPA can be realized as early as possible this year. Given the competition that the United States already faces in Colombia as discussed above, U.S. action is needed quickly.

U.S.-Korea Free Trade Agreement

The U.S.-Korea FTA offers U.S. manufacturers, farmers, and service providers important opportunities in Korea's large and vibrant marketplace. ECAT strongly supports Congressional approval and implementation of the U.S.-Korea FTA as early as possible in 2011, so that U.S. enterprises remain competitive in the region and have access to key markets in Korea's economy.

The United States and South Korea negotiated over many years on the U.S.-Korea Free Trade Agreement (FTA), a landmark agreement that will eliminate major barriers in Korea's market, promote important new economic opportunities and foster broader U.S. interests in the Asia-Pacific region. The U.S.-Korea FTA was signed on June 30, 2007. In 2010, the United States and Korea reached further agreement in order to address key issues for the United States.

Korea is the United States' 7th-largest trading partner, importing \$28.6 billion in goods and \$12.6 billion in services from the United States in 2009. Yet, the United States is only the 4th-largest supplier of imports into Korea's market. The U.S.-Korea FTA will give the United States an advantage over other foreign exporters only after Congress approves the agreement and it enters into force.

The U.S.-Korea FTA will provide a significant opportunity to open Korea's market for U.S. manufacturing and agricultural exports. Upon approval and entry-into-force, U.S. companies will have strengthened opportunity to export manufactured products to Korea, including chemicals and pharmaceuticals, electronics, machinery, medical devices, transportation equipment and autos and processed foods. Additionally, the FTA will reduce Korea's 40-percent tariff on beef, creating even stronger opportunities for U.S. companies in Korea's marketplace.

When approved and enforced, this agreement will eliminate tariffs and non-tariff barriers for farm and manufactured goods, as well as services and investment going into Korea, enabling the U.S. to expand its commercial presence in South Korea's large and growing marketplace. Further, the FTA will help support and expand U.S. companies and workforce at home and abroad, while supporting U.S. competitiveness in the international economy. Through passage and entry-into-force of the U.S.-Korea FTA, the U.S. will position itself as a strong competitor throughout the vibrant Asia-Pacific region, helping to create new economic opportunities for U.S. companies in the region.

U.S. Panama Trade Promotion Agreement

ECAT strongly supports Congressional approval and implementation of the U.S.-Panama TPA as early as possible in 2011, so that American farmers, manufacturers and service providers can more effectively access Panama's growing market.

The United States and Panama negotiated intensively on the U.S.-Panama Trade Promotion Agreement (TPA), an important accord that will eliminate major barriers in Panama's market, promote important new economic opportunities, foster improved ties and promote broader U.S. interests in Latin America. The U.S.-Panama TPA was signed on June 28, 2007. Panama's legislature approved the final trade agreement on July 11, 2007 by an overwhelming 58-to-3 margin.

Panama is the United States' 56th-largest trading partner, importing $4.3 billion in goods from the United States in 2009, with significant imports of U.S. fuel, machinery, aircraft and parts, vehicles, food, and consumer products. The United States has long been the largest foreign supplier of goods to Panama's market.

The U.S.-Panama trade agreement is a comprehensive and high-standard agreement that will eliminate tariffs on U.S. farm and manufactured goods exports, eliminate barriers to access by U.S. service suppliers and set in place important rules from transparency to the protection of property and investment. As a result, this agreement will expand economic opportunities for U.S. businesses in all sectors of the economy and of all sizes. Panama has long enjoyed duty-free access to the United States; this agreement will make that relationship reciprocal for U.S. farmers, manufacturers and service providers.

This agreement is particularly important for expanding the U.S.-Panamanian commercial relationship as Panama has embarked on an over-$5-billion expansion of the Panama Canal. The Panama Canal expansion will build a new lane of traffic, thereby doubling the Canal's capacity and allow the passage of longer and wider ships. Implementation of the Panama agreement will lower the cost of U.S. goods, require non-discriminatory treatment of U.S. services and guarantee non-discriminatory access to government procurement opportunities that will make U.S. firms much more competitive for Canal expansion work compared to other foreign competitors in Panama's market. But if approval and implementation of the agreement is delayed much longer, such potential advantage to the United States on this major construction effort will be lost.

Key Trade Agreement Provisions

U.S. trade agreements with Colombia, Korea and Panama each include important market-opening provisions that expand access to key markets in each country, including agriculture and manufactured goods and services. The agreements also set in place strong rules to advance and protect the interests of U.S. enterprises abroad, in areas including intellectual property (IP) and investments. These provisions serve as a strong foundation to facilitate commercially-meaningful opportunities for U.S. companies and workforce, and ECAT strongly supports the inclusion of these critical provisions in each agreement.

- *Market Access*. Each trade agreement reduces and/or eliminates tariffs in important sectors and sub-sectors in Colombia, Korea and Panama, which will strongly promote U.S. exports of agricultural, consumer and industrial goods. The agreements also liberalize services trade and investment in these countries, a negative-list approach with few exceptions. As a result, these countries will dismantle barriers to financial, broadcasting and audiovisual, express delivery, information technology and other services to the benefit of the U.S. industries and workers. The agreements further eliminate or reduce prohibitive non-tariff barriers in each country by eliminating technical and other barriers to trade, while at the same time including provisions to facilitate the movement of goods across borders.
- *Investment:* Each of the trade agreements expand opportunities for U.S. investors and incorporate expropriation and other strong investment protections relating to non-discrimination, expropriation,

fair and equitable treatment, performance requirements, transfer of capital and fair and objective investor-state and state-to-state enforcement mechanisms.

- *Competition Policy*: The trade agreements include strong competition policy chapters that will promote greater transparency and due process in each of these countries.
- *Intellectual Property Rights:* The trade agreements also contain strong protections for trademarks, patents, copyrights and trade secrets, including stronger penalties. The Korea trade agreement includes even strong provisions on anti-camcording, and patent-term restoration, patent linkage and data exclusivity for pharmaceutical products.
- *Government Procurement*: The trade agreements provide non-discriminatory access to Colombian and Panamian government procurement and expand access to Korean government procurement beyond Korea's existing commitments in the Government Procurement Agreement of the World Trade Organization (WTO).
- *Transparency:* The trade agreements include strong transparency standards, in such areas as customs and regulatory rulemaking, including with respect to pharmaceutical reimbursement, financial services, telecommunications and technical regulations.
- *Customs Procedures and Rules of Origin:* The trade agreements include strong commitments on customs administration, including use of automation and electronic-clearance procedures and streamlined customs procedures.
- *Labor and Environment:* Each of the Parties committed to adopt and maintain provisions in law consistent with the core principles identified in the International Labor Organization (ILO) Declaration, to honor obligations in a number of key multilateral environmental agreements (MEAs), to enforce effectively their domestic labor and environmental laws, and to not derogate from the ILO or MEA commitments in a manner affecting trade.
- *Dispute Settlement:* All trade agreement obligations will be enforced through strong, transparent and objective dispute settlement.

Conclusion

The U.S. trade agreements with Colombia, Korea and Panama are important accords that will promote new market opportunities for U.S. producers, enterprises and workers across the wide spectrum of the U.S. economy, while advancing U.S. interests and competitiveness more broadly in the international economy. These agreements incorporate critical rules on investment, intellectual property, transparency, competition policy and market access that will help ensure each agreement is commercially-meaningful and advantageous to U.S. companies and workforce. Congressional approval and entry-into-force of each agreement should be pursued immediately by the United States. Delaying approval will risk undermining the progress already achieved, as well as the important relationships the United States maintains with each country.