

Hearing on Advancing the U.S. Trade Agenda: The World Trade Organization

HEARING
BEFORE THE
SUBCOMMITTEE ON TRADE
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRTEENTH CONGRESS
SECOND SESSION

July 16, 2014

SERIAL 113-TR06

Printed for the use of the Committee on Ways and Means

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Michael Punke Ambassador

Deputy United States Trade Representative and U.S. Ambassador and Permanent Representative to the World Trade Organization, Office of the United States Trade Representative

Testimony [[PDF](#)]

Hearing on the 2013 Medicare Trustees Report

U.S. House of Representatives,
Committee on Ways and Means,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:00 a.m., in Room 1100, Longworth House Office Building, Hon. Devin Nunes, [chairman of the subcommittee] presiding. [Advisory](#)

*Mr. Nunes. Good morning and welcome to today's hearing on advancing our trade agenda and the World Trade Organization. Before hearing from Ambassador Punke, I would like to make three points.

First, after years of inaction, we now have an active agenda at the WTO which can create new opportunities for U.S. exports and support American jobs. Our first order of business is ensuring that last year's trade facilitation agreement is fully adopted and implemented. We have an important deadline later this month, and I am closely watching to see if the WTO can still function as an institution for negotiating - and implementing - new trade liberalization agreements. Implementing the trade facilitation agreement helps developing countries become more attractive for trade and investment.

We are also trying to conclude negotiations to expand the Information Technology Agreement, but I am frustrated by China's intransigence. Any final agreement must include key U.S. products. Failure to reach an ambitious agreement would reflect a serious failure in China's leadership as it hosts APEC this year.

The Environmental Goods Agreement negotiations formally launched last week could cover nearly ninety percent of trade in environmental goods and provide an enormous boost to U.S. high tech exports. And of course, we must continue our crucial enforcement and compliance work.

Second, beyond our current agenda, we must strengthen and improve the WTO, particularly by eliminating behind the border barriers. The WTO has been successful in reducing tariff barriers. For the organization to be relevant in the 21st Century, however, it must address non-tariff barriers more effectively. These include, among others, government-induced border delays, unjustified regulatory rules, domestic content requirements, and sanitary and phytosanitary measures that impede U.S. agricultural exports.

Continued work is also needed to ensure that countries meet their WTO obligations and to improve the WTO's dispute settlement system. At the same time, we cannot take up where we left off on the Doha round. Emerging market nations must take on meaningful obligations befitting their level of development. I look forward to hearing from Ambassador Punke about the Administration's efforts to strengthen the WTO in each of these areas.

Third, we must pass Trade Promotion Authority without delay to ensure that our negotiators have the strongest negotiating hand possible. The Bipartisan Congressional Trade Priorities Act I co-sponsored earlier this year with Chairman Camp includes robust provisions on the WTO as well as multilateral, plurilateral and bilateral negotiations, providing clear guidance to the Administration about the type of agreements Congress will accept. I call on the Administration to focus on passing Trade Promotion Authority as soon as possible - and to immediately work to lay the groundwork with their Democratic colleagues.

We are going to wait on Mr. Rangel. He is on his way, to give his opening statement, and I think we will go right to you, Ambassador Punke.

Before recognizing you, you know that you are limited to five minutes. Your written statement will be made part of the record, and you are now recognized.

*Ambassador Punke. Thank you very much, Mr. Chairman. Chairman Nunes, Ranking Member Rangel -- I am anticipating his arrival -- and members of the Trade Subcommittee, thank you for the opportunity to testify on the Obama Administration's priorities and recent developments at the World Trade Organization.

The core of the Obama Administration's economic strategy is to create jobs, to promote growth, and to strengthen the middle class. The WTO is a critical part of that strategy. It sets the rules that govern the global trading system, and we believe it has the potential to do much more.

That is why the United States led the charge at the WTO's Ninth Ministerial Conference last December in Bali to complete the Trade Facilitation Agreement, or TFA. The first successful conclusion of a multilateral trade negotiation in the two decade history of the WTO. It is why we are working on other major initiatives in Geneva, including a group of key plurilateral agreements which have the potential to reinvigorate the multilateral trading system and to help the WTO meet its potential.

In Bali, WTO members concluded a package of significant results that include the TFA and important outcomes on agriculture and development. We are now actively engaged in implementing all of the Bali outcomes in keeping with the very specific timelines and procedures agreed to unanimously by all WTO members.

The TFA is a huge accomplishment for the WTO, reestablishing that its members can reach significant multilateral outcomes. The rest of the Doha round remains a challenge. We are working to develop a post Bali work program by the end of this year. This will help to determine whether conclusion of the Doha Round is possible.

The worst case scenario for the WTO after the Bali success would be renewed drift. The time has come for the WTO to conclude Doha, move forward, and take up new areas of trade. A final Doha agreement must address key U.S. priorities, including an agriculture, industrial market access and services. There will be no Doha result without balance across all of these areas and across all of the major trading countries. For Doha to succeed, as we have emphasized consistently, the emerging developing countries must carry their weight as well.

In parallel with the Bali results and post Bali work, we have created other opportunities by leading regional and plurilateral negotiations with like-minded trade partners. The Trade in Services Agreement, or TiSA, represents a unique opportunity among 23 participants representing 50 WTO members to build a new agreement that incorporates the best of what the United States has been achieving in this sector in our free trade agreements.

We have high expectations for TiSA to provide increased market access and potential rules to support expansion of services trade into the future.

Just last week we launched negotiations on the new Environmental Goods Agreement with 13 other WTO members representing 86 percent of global trade in environmental goods. Elimination of tariffs on environmental technologies will make these goods more available and boost U.S. jobs.

ITA expansion holds out similar promise for boosting simultaneously the WTO's credibility and exports of high quality American technology. If we are successful, and there is more work to do with our Chinese colleagues as you noted, Mr. Chairman, the ITA will be the first tariff cutting agreement at the WTO in 17 years.

From day one, the Obama Administration has made enforcement a key priority to ensure that American stakeholders get the full benefits of the market opportunities we have negotiated. When direct engagement with the trading partner is not successful, we do not hesitate to use WTO dispute settlement. The United States has brought 18 WTO complaints since 2009. We have brought disputes in areas such as trade distorting subsidies, export restraints, import licensing barriers, local content requirements, retaliatory use of trade remedies, and non-science based SPS measures. Those disputes involve major trading partners, such as China, India, Indonesia and Argentina, and we have had significant successes.

We will continue to prosecute and defend these disputes, launch new disputes as appropriate, and insist that WTO members live up to their obligations.

To conclude, certainly we see challenges ahead, but also great potential for using WTO in other negotiations to promote opportunities for American workers, farmers, ranchers, businesses of all sizes, and most importantly, American families.

In this regard, let me say something about trade promotion authority. To actively and effectively pursue these initiatives and bring benefits home to Americans, we will need TPA. TPA is the mechanism by which Congress has worked with Presidents since 1974 to give the Executive its marching orders about what to negotiate, how to work with Congress before and during negotiations, and how Congress will take up and approve or disapprove the final agreement.

We agree with those that say that TPA needs to be updated, and we look forward to working with this Committee and Congress as a whole to secure a TPA that has as broad bipartisan support as possible.

Thank you, and I look forward to your questions.

*Mr. Nunes. Thank you, Ambassador.

I will now recognize the Ranking Member, Mr. Rangel, for the purpose of offering an opening statement.

*Mr. Rangel. I will be brief and I thank you, Mr. Chairman, and I congratulate you for assuming this great responsibility, Ambassador. I congratulate the work that the World Trade Organization is doing and you guiding America for fairness and equity.

I know that your job is to enforce the cases or to study the cases that are brought to you, but there are certain challenges that we have with cyber, with Internet theft, with intellectual property, and perhaps the WTO can issue guidelines so that countries will know that they should not have to wait until the offended country brings an action.

Another problem that we face with the trade agreements as well as the President's authority is that it is hard to give the President authority to do or not to do when you have no clue as to what is going to be in the agreement. You know, it would be great if you had a TPA telling the President to do the right thing, but

recognizing that there is a need for the negotiations not to be public and at the same time not know what authority to restrict or expand of the President legislatively is a very, very difficult job.

But we value and welcome advice that you can give us as legislators so that we can be supportive of the Executive Branch, recognizing that trade does not involve 535 of us in order to reach a conclusion.

But thanks for the work that you do, and I am very concerned about China's violation of the principles of fair trade, which she agreed to do and seemingly it is up to the United States to bring the allegations to the WTO instead of having some way of making certain that countries fulfill their obligations to the organization without a country having to come forward and make the accusation.

Thank you, Mr. Chairman.

*Mr. Nunes. Thank you, Mr. Rangel.

I am now going to yield to the former chairman of the Trade Committee and our current chairman of the Health Committee on Ways and Means, Mr. Brady.

*Mr. Brady. Chairman Nunes, first, thanks for your leadership and all the new energy you bring to the trade agenda in Congress.

Ambassador Punke, you are doing a terrific job, not merely in representing U.S. negotiating agreements so critical to our economy, but the time you take in consulting with both parties in the House and Senate on the nuances, the politics, the dynamics, the details of these agreements, and I am not complimenting you merely because your wife and daughter are in the audience today, but they do need to hear that you have very broad support in the House, and we appreciate your work.

Let me ask a broader question. You know, the Doha Round has lapsed now for nearly six years. There is real progress on 21st Century issues from trade facilitation, moving these goods quicker, faster, cheaper across the borders for the benefit of consumers around the world. We are seeing progress in information technology, in services agreement, and environmental goods area.

There are some who, because of the Bali Round, seem to believe the focus now should really go back to Doha, and this is not a good analogy, but it seems to me that after a dozen years, the Doha garden for various reasons simply is not producing.

But in services and facilitation and information technology and others, I think we are seeing real growth, real results in those areas.

I would like to see you and us as a country continue to focus on the garden that is growing, the results that are producing for the economy we have today. I would like to hear your thoughts on whether you agree on that approach or whether we ought to shift focus back to the Doha round.

*Ambassador Punke. Well, thanks very much, Congressman Brady, and I very much appreciated the opportunity I have had to consult with you and your colleagues in the time that I am back in Washington. It has very much informed our positions across a whole range of issues.

But to answer your question directly about sort of the interplay between some of these plurilateral discussions in Geneva, like the ITA, TiSA, and environmental goods and the broader Doha agenda, I very much agree that the place where we have vitality and energy in the room and a sense of like-mindedness among negotiating partners has been in the plurilateral discussions, and quite honestly, it is very refreshing after a long day in deadlocked discussions to step into some of these plurilateral negotiations and recognize

that even if you are negotiating with people who might have a slightly different perspective, all of you are working towards the ultimate goal of a result in liberalizing trade.

And so those plurilateral discussions are on their own track, and they will continue, and we will push them and lead in those discussions as we move forward.

I do think that there is the potential for us to make progress on Doha despite the fact that we are now 14 years into that negotiation. But I think one of the points that you made is really critical there, and I think Chairman Nunes made a similar point. We cannot simply keep going back to things that have not worked in the past. I think about the Einstein maxim that, you know, the definition of insanity is to do the same thing over and over and expect a different result. There has been too much of that in Geneva.

So Bali has given us a puff of wind in our sails, the first one in a long time in terms of a broad, multilateral discussion. We have an opportunity this year if we are willing, all of the members of the WTO, to wrestle with difficult questions like the appropriate role of emerging economies to make progress on Doha, but we can only make progress if we address those issues very directly.

*Mr. Brady. And I am not trying to downplay Doha. In fact, having broader agreements obviously, I think, would be better for the global economy. It just seems to me the work that is being done in the other areas actually builds confidence, creates a better environment and provides some time where we can go back with more agreement on trying to grow that garden that is Doha.

But right now I guess my point is I think the progress we are seeing is important in those agreements. I think they help build the type of dynamics that allow us to tackle Doha in the future. I do not want to shift focus at this point where we are seeing that growth.

*Ambassador Punke. Well, we agree with you that premise, and the worst case scenario from our standpoint is for Doha to continue to drift. We think there needs to be resolution with Doha, and we are pushing for that pointed discussion now.

And I agree with you on another point, which I think that the plurilateral discussions have actually had a very virtuous impact on Doha because they have demonstrated very clearly to the small number of countries that do not want anything to happen in Geneva that there are options there for those that are seeking to use the institution in a productive way.

*Mr. Brady. Right. Thanks, Ambassador.

Thank you, Chairman.

*Mr. Nunes. Thank you, Chairman Brady.

I now recognize the gentleman from Massachusetts, Mr. Neal for five minutes.

*Mr. Neal. Thank you, Mr. Chairman.

Just a quick thought on Mr. Brady's comments. The committee has been pretty bipartisan on trade, but just to pick up on something that Kevin said, I do think that the collapse of Doha aided the bilaterals and moved them up on the agenda. So I think there was that sort of benefit. If we cannot do the big, then let us proceed with the smaller bilaterals where we actually have had some success.

But let me talk a little bit about the suggestion I made to President Obama at the White House about a month ago. I suggested that we really focus the European trade proposal, T-TIP, and suggested that I thought that was easier for all of us to do, and I thought that the Pacific proposal is a longer climb, to be

very candid, and I thought that an effort to build some confidence, Mr. Ambassador, that we might be able to focus on what is now almost 30 percent of the world's trade and investment.

And it strikes me that the relationship that we have with Europe, given the difficulty it would be that we would make the argument that we were somehow trading down with countries that have a very similar quality of life and enjoy similar economic success, that we might embrace with more vigor that whole notion.

I had a chance the other night at the Italian Embassy to once again make the case for moving T-TIP along, but there are some non-tariff barriers that remain important to U.S. exports to European Union, and the EU regulatory and legislative processes also do not typically provide essential and meaningful opportunities for WTO members and their stakeholders to comment on regulatory proposals.

Could you speak to what could be done in T-TIP or at WTO to otherwise help coax our European counterparts to provide more meaningful opportunities to comment on regulatory proposals so that Americans, American small and medium size businesses are not at an economic disadvantage?

*Ambassador Punke. Thank you very much, Congressman Neal. That is one of the central goals for us in the T-TIP negotiations.

But I want to step back for just one minute. I do think, you know, USTR is a small agency as the people on this Committee know very well, but I do think we very much have the capacity to pursue multiple discussions at the same time.

I work more on WTO and T-TIP issues. My colleagues back in the Winder Building work on TPP, but I do see us as having the capacity to pursue all of these things simultaneously.

But with regard to T-TIP specifically and especially with regard to the regulatory issue that you have mentioned, one of our biggest goals has been to pursue the so-called horizontal regulatory issues, which is to say exactly the types of issues that you are raising.

In the U.S. system, through our notice and comment process, all interested parties, foreign and domestic, have the opportunity to see draft regulations and to comment on them and to have those comments taken into account by regulators in making decisions about the final shape that regulations should take.

We do not have those same opportunities in the European system, and that is something that we think is enormously important for our stakeholders to have. Transparency in terms of making regulations, access in terms of an opportunity to provide input at critical junctures, and then accountability on the part of European regulators to respond to those comments that they hear.

Now, we are not seeking a guaranteed outcome, but we believe that that process in and of itself results in much better regulatory outcomes, and in a transatlantic context, it creates the opportunity for there being fewer impediments to trade as a result of unnecessary regulatory differences.

So that is an issue that I appreciate your support on because it is something where we are working very hard.

*Mr. Neal. Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

*Mr. Nunes. Thank you, Mr. Neal.

Mr. Reichert is recognized for five minutes.

*Mr. Reichert. Thank you, Mr. Chairman.

Welcome, Ambassador. So your wife and your daughter are in the audience. Is your brother here, too?

*Ambassador Punke. You know, he is in town, and he did not come today. So I guess I should be very offended.

*Mr. Reichert. Yes, he is off the Christmas list.

First of all, I just want to thank you for recognizing in your opening comments the importance of TPA. I think most members here recognize TPA is critical to any agreement associated with TPP, and we made it very clear on our side of the aisle that if an agreement comes to this Congress without TPA, it is dead on arrival.

So I look forward to working with you and other members of our USTR, Ambassador Froman, et cetera, and the Administration on moving Mr. Camp's initiative forward for Trade Promotion Authority. It is bipartisan. It is bicameral. A lot of work has been done on it, and we need some help to move that forward here.

I would also like to just thank you and your colleagues for the work at WTO in challenging Indonesia's import restrictions on agricultural products. Indonesia, as you know, is a top market for Washington's high quality apples, and it was very critical for them, and we appreciate your fighting for our growers in Washington State.

I have got a couple of questions. I am happy to see that you have launched negotiations for a plurilateral agreement on environmental goods. This is a significant opportunity, I think, to increase our exports in environmental goods and lower prices for consumers.

Are there major global traders in environmental goods that are not currently a part or a party to the negotiation?

And what is your plan to bring them into the process?

*Ambassador Punke. Well, let me address that very specifically. We have faced this question in other plurilateral discussions about whether or not to sort of actively seek countries' participation in plurilateral negotiations, and I think the viewpoint that we have landed upon is that what makes the plurilaterals work is the fact that the countries that are there are like-minded and want to get a result.

And as I mentioned earlier, that does not mean we do not have disagreements within the group. It does not mean we do not argue with each other and negotiate very hard for national interests, but there is a common desire to reach an agreement and to be ambitious.

And so we have not done work; we have deliberately not done work to solicit members to come into the various plurilateral discussions, whether it is TiSA or the Environmental Goods Agreement, because our experience, and this is a metaphor that only works in Washington so I am very happy to be able to use it here; this does not work in Geneva. It is Tom Sawyer and the picket fence. We want people who want to paint the picket fence on their own. We do not want people negotiating before they come into the negotiation about whether they should be there.

And we have had good success with that dynamic in the context of TiSA. We started the TiSA negotiation, for example, with 15 members, and we have had eight join that discussion without doing any

recruiting. You asked if there are countries outside of the Environmental Goods Agreement that we would like to see in. There certainly are, and I would expect that we will have more that will see it as being in their own interest to be a part of that discussion.

We are already hearing inquiries in Geneva, and so I think you will see that grow over time, but frankly, we already have a good set that. I think currently about 86 percent of global environmental goods trade.

*Mr. Reichert. All right. Thank you.

I am sure you have a timeline for negotiations, but could you elaborate on your plan to avoid a free rider problem?

*Ambassador Punke. There is a free rider problem that is built into plurilaterals that are based on goods trade because of the MFN principle in the WTO. In TiSA we have a very unique situation where the existing WTO rules explicitly allow us to have a plurilateral negotiation whose benefits are not provided on a MFN basis to the rest of the organization.

Unfortunately, we do not have that same benefit when it comes to goods trade. And so whether it is ITA or environmental goods, whatever benefits the members decide among themselves, they have to share with the rest of the membership, and as you point out, that creates a free rider problem.

What that means is that we really will not be in a position to conclude a deal if key players are not a part of it because there are certain players, for example, China, that we would never allow to be a free rider on something like the Information Technology Agreement or the Environmental Goods Agreement.

Fortunately, China is a part of both of those discussions, although in the context of ITA, with mixed results to date, but that is the challenge of having key players inside of the negotiation so that they take on obligations and are not able to free ride.

*Mr. Reichert. Thank you, Mr. Chairman.

*Mr. Nunes. The time of the gentleman has expired.

I will now recognize the gentleman from Florida, Mr. Buchanan, for five minutes.

*Mr. Buchanan. Thank you, Mr. Chairman.

I also want to thank the Ambassador for your service.

Let me just start out on a general question. I get asked quite a bit about the effectiveness of WTO. I know it is the rulemaking body. It is the body, and you are the main interface. What is your general feeling about how effective it is in general as it impacts the world and then as it relates to the U.S.?

*Ambassador Punke. Well, it is something I spend a lot of time thinking about, and I have had the privilege of being in this job for about four and a half years now, and so I have seen this unfold over a little bit of a time frame here now.

I guess to me there are a couple of lessons that I have drawn out of that, and the starting point, I think, is that a very frank acknowledgement that especially when it comes to its negotiating arm, the institution needs to do a lot better because the notion that we are 14 years into a negotiation is not a good way of advertising the WTO as a place for doing serious business.

But I think in terms of lessons learned that one of the most important ones is the importance of creative approaches, and that is something that I think the U.S. has pushed very hard in the WTO context, is not falling into this trap of trying the same thing over and over again and expecting a different result.

That is one of the reasons why we have pushed plurilaterals, for example, so aggressively over the course of the last four years. I think it is critical that we make the WTO relevant for our stakeholders today, and that goes back in some ways to, for example, addressing the issue of emerging economies. It is impossible to have a meaningful discussion about an issue like agricultural subsidies, for example, if two of the four largest agricultural subsidizers in the world, namely, India and China, are not a part of that discussion.

*Mr. Buchanan. Let me get a couple more questions here.

*Ambassador Punke. Sorry.

*Mr. Buchanan. Let me just jump to just in terms of the TF agreement. What I have read is there is a trillion dollars in benefit to the global economy, 21 million jobs. It could impact not only a lot of U.S. companies, but others.

It seems like the countries that would benefit the most are the ones that are in terms of India and Africa, I guess, half of the benefit would ideally go to them. What is the holdup? Why are they not supportive, and what are we doing about it?

*Ambassador Punke. Well, that is a very important question. You know, we had a very important agreement at Bali with trade facilitation, as you mentioned, and the agreement is very explicit about the timelines for implementing trade facilitation and for implementing other parts of our work plan in Geneva.

We have been concerned about statements by a handful of WTO members indicating that they intend somehow to link these already agreed implementation deadlines to issues that are not a part of trade facilitation and that have different deadlines.

There has been a lot of mixed signals on that front over the course of the last several weeks, including with regard specifically to India, and so we are hoping that by the time that we have this meeting in Geneva next week in the General Council that we will be able to move forward and all of us do what we committed to do, which is implement, adopt the protocol of accession on the timeline that we agreed.

*Mr. Buchanan. Yes. And let me just close with this one point. Many of us were in Tokyo a month or so ago, and as relates, you touched on TPA. You know, a lot of at least the comments that I got back, everybody was concerned that we should put that in place. The Administration should have. The TPA should get passed.

People are concerned as it related to our ongoing relationships. They are afraid that they would get something negotiated and it would not get done. What is your sense of where we are at and what we have got to do to get it done?

*Ambassador Punke. Well, Congressman, we are very committed to getting TPA. I think Ambassador Froman has practically camped up here over the course of the last six weeks in terms of the outreach that he has done personally.

Other members of the cabinet have been involved in this, whether it is Secretary Kerry, Secretary Lew, Secretary of Commerce, Secretary of Agriculture. The President has indicated, including in the State of the Union Address, his commitment to seeking and achieving a trade promotion authority agreement.

We are looking for an agreement that has the broadest bipartisan support possible. At the same time, as you mentioned, we are committed to ambitious outcomes in all of the negotiations that we are working on, and I think it is possible and it has been possible based on our experience at the table for those two tracks to proceed at the same time.

*Mr. Buchanan. Thank you.

*Mr. Nunes. The time of the gentleman has expired.

I now recognize Mr. Smith for five minutes.

*Mr. Smith. Thank you, Mr. Chairman.

I thank you, Ambassador, for your presence here today and your service. I think obviously you have got an important job, and we appreciate your service.

We know that the WTO rules-based talked about enforcement and dispute settlement and the ways to truly level the playing field on international trade, and we know that tariff elimination is a high priority, but it seems that the non-tariff trade barriers are becoming more and more of an issue, and obviously that creates increases in costs and uncertainty, and they are often at the borders of countries which can least afford it.

Last year the subcommittee held a hearing on India, as you know. At the time I provided an example of a Nebraska company faced with inconsistent tariff rates and unreasonable regulatory requirements in India. Even though the market does exist for the product, and this was a common theme throughout the hearing.

While India is not the only WTO partner unfairly blocking imports through non-tariff barriers, this does reflect on the overarching fact that a number of our global trading partners, even those with the large markets and a huge trading presence continue to unfairly block U.S. goods and most notably in agriculture.

So for this reason and many others, we here on the panel were encouraged by the WTO Trade Facilitation Agreement announced last year in Bali, and while the goal is to have non-tariff barriers addressed completely, this agreement is designed to address the cost and time associated with clearing customs, and customs facilitation would be a very positive step, especially the perishable goods such as agricultural products.

And now we are hearing reports certain countries, like I said India, for example, are backing out of commitments to meet the agreement. The one thing I hear again and again in the trade arena is the importance of this accountability, and I am just wondering if you could reflect a bit on the time line.

We know that the interim deadline is quickly approaching, and can you discuss the timeline that is involved here?

*Ambassador Punke. Well, with regard to trade facilitation specifically, the Bali agreement is crystal clear on the time line. By July 31st, which is to say in two weeks, the members of the WTO are to have concluded this so-called protocol of accession, which is a very short agreement that essentially is the launching document for everyone to go seek domestic ratification.

Also by the 31st of July developing countries are to submit their first report about the time lines that they anticipate with regard to the implementation of some of the specific obligations in the trade facilitation agreement. So that deadline is crystal clear.

Now, you mentioned as did others that there have been some inconsistent signals from India, and we are extremely concerned about that. We are working very hard in the Obama Administration to get off to a good start with the new Indian government. At Bali when we concluded the Trade Facilitation Agreement, we worked very closely; we negotiated very hard with India. They negotiated very hard with us, but we reached an agreement, and obviously we have an expectation, as you pointed out that our trading partners will live up to their commitments.

It also is critical to the WTO and the credibility of the WTO that this one agreement that we have been able to achieve in its 20-year history not evaporate six months after it was concluded.

So for all of those reasons, this is a source of an awful lot of work on our part in trying to make sure that everyone sticks to what was agreed and implements the agreement starting with July 31st.

*Mr. Smith. Would you agree that perhaps failure of reaching an agreement here actually negatively impacts consumers not only here at home but abroad?

*Ambassador Punke. There is no question in my mind that the Trade Facilitation Agreement has enormous benefits for every member of the WTO, and there is overwhelming academic evidence that the biggest benefits of trade facilitation accrue in developing economies that are less integrated into the global economy.

So I believe that the single most important development outcome that we achieved in Bali was the Trade Facilitation Agreement, despite the fact that we did not call it a development agreement.

*Mr. Smith. Right. Okay. Switching gears just a bit before I run out of time, we know that Mexico and Hong Kong have lifted their remaining age-based restrictions on U.S. beef, and I was just wondering. You know, there are several other countries that have not lifted those age-based restrictions even though scientific evidence abounds relating to that.

Is the Administration considering pursuing some WTO action on that topic?

Well, congressman, my home town is in Torrington, Wyoming, which is about eight miles from the Nebraska border, and right on the border is a feedlot. So this is an issue that I understand perhaps from a similar perspective of you, despite being slightly across the border.

We are dedicated in this Administration and at USTR that international rules on trade be based on science, and we are pursuing that principle across numerous issues, including our efforts to promote beef exports, and we will very much continue to do that.

*Mr. Smith. Okay. Very well. Thank you very much.

*Mr. Nunes. I thank the gentleman.

The gentlelady from Kansas, Ms. Jenkins, is recognized for five minutes.

*Ms. Jenkins. Thank you, Mr. Chairman. Thank you for holding this important hearing, and we thank you, Ambassador, for being here and for your good work.

My home State of Kansas is a major producer of beef and pork, and as was shown in this Committee's last hearing, the U.S. livestock industry is very frustrated with difficulties of opening the Japanese market, and I can assure you that my constituents share that frustration.

But the truth is the European Union has never come into compliance with the WTO findings in the beef hormones and biotech cases, sanitary and phytosanitary cases in which the U.S. has prevailed. Do you have any suggestions on how the U.S. should manage the EU's failure to respect its obligations under the WTO SPS agreement? Do you believe that ultimately a Transatlantic Trade Investment Partnership offers a better opportunity to get the EU into compliance?

*Ambassador Punke. Well, I think what is critical with regard to all of these difficult issues, and certainly the issues that you cited are among some of the more difficult issues that we have bilaterally, whether it is Japan or the European Union, is that we use all of the tools in our toolbox to promote our interests.

And so you mentioned WTO rules and WTO litigation, and as you pointed out, those are tools that we are applying and have applied in the context of Europe. Europe, in fact, is paying compensation having lost a case on beef hormones.

Now, that being said, as you point out, we are not yet satisfied in terms of our efforts to ensure that our bilateral trade is conducted on the basis of science, and so I think that T-TIP does provide an opportunity, another opportunity, for us to pursue this conversation with Europe, and we are doing that.

In fact, as we speak USTR has a team of negotiators in Brussels who are engaged in the sixth round of T-TIP negotiations. There is a specific interaction over the course of this week on SPS issues, and part of that discussion includes issues like beef hormones. Part of that discussion includes issues by biotech.

And so we are not where we need to be yet in terms of results, but we are at the table literally today and using every one of the tools that we have at our capacity to try and achieve a science-based result.

*Ms. Jenkins. Okay. Thank you, Mr. Ambassador.

I yield back.

*Mr. Nunes. I thank the gentlelady for yielding.

The gentleman from Louisiana, Mr. Boustany, is recognized for five minutes.

*Mr. Boustany. Thank you, Mr. Chairman.

And, Ambassador Punke, congratulations on Bali, and thank you for the outstanding work you are doing along with your team.

I want to revisit the Trade Facilitation Agreement because of the recent hurdles that have emerged, and given the importance of this, first multilateral since the formation of the WTO in 1994. This is really important, and all the nations will benefit, especially the African countries, India, Brazil and so forth.

And yet everything seemed to be a go. We were just two weeks away from the deadline for the protocol of accession, and now India has created this difficulty by trying to merge some food security issues which should be dealt with in 2017, and I am trying to understand what exactly is going on with that because we have a new Indian government under Prime Minister Modi who has touted themselves as a pro business individual, somebody who wants to engage more not only in opening up the business atmosphere within India, but also internationally. This is baffling to me, and so I was hoping you might shed a little more light on that.

Second, the members of the African Union who have also raised a separate issue, I think it is with funding or to help build capacity for the facilitation agreement. Are the Indians and Africans collaborating on this or are these two separate developments?

*Ambassador Punke. Well, I do not know the degree to which there is interplay between the Indians and Africans in terms of their discussions. They are raising in some cases slightly different issues, and so maybe I will address them separately.

With regard to India, as you pointed out, there have been conflicting signals even in the last 24 hours as to where India intends to come down on fulfilling its obligation under the Trade Facilitation Agreement, and we are certainly hopeful that the more positive signals that we have heard are the ones that will prevail in Geneva at the General Counsel meeting next week.

Ambassador Froman left Washington yesterday for a meeting of G-20 ministers in Sydney. I will be joining him there on Saturday, and this is an issue that we will be raising along with other G-20 members very directly with India in an effort to get clarity on exactly where the Indians stand.

I do remain hopeful that the positive signals will be the ones that prevail.

With regard to Africa, you point out I think one of the most perplexing aspects of this, which is that what every African country is doing domestically is seeking to improve its trade facilitation systems. What the Africans are doing regionally is regional cooperative efforts to improve trade facilitation.

And so the notion that we would not also cooperate on this issue multilaterally in the WTO is perplexing, and that being said, we were able to reach an agreement, and the more recent signals from most of the Africans have been positive in terms of following through on their obligations.

There are a couple of outlier signals from a very small handful of African countries, but obviously we're hopeful that they will also respect their obligations by the time we get to the key moment next week.

*Mr. Boustany. Yes, I hope so. I know the Administration put forth this Power Africa initiative. Mike Froman has been very much involved in it. That ought to be a clear signal that the United States is committed, but given the fact that trade facilitation will help these countries immensely, it is truly perplexing that they have taken this initial step. I hope we can get through it because earlier, as you said, this Trade Facilitation Agreement has basically the impact of creating a virtual cycle with regard to Doha, and the actions of India and Africa, these African countries threaten to take us back to where we were with the impasse on Doha, and that is a big concern I have.

Finally, I just want to quickly ask you about China and the ITA. I was in China in March, as you know, and we pushed them really hard. I think the whole of government we are pushing. Do you think we will get a breakthrough at APEC with President Xi?

*Ambassador Punke. Well, I am extremely hopeful we will have an agreement, but we are not there yet. As you pointed out, China is hosting APEC this year, and we had been without even dialogue with China for almost six months prior to the APEC meeting in Chengdu.

There was incremental but positive progress on ITA on the margins of the Chengdu meeting in May. I was in Beijing last week with Ambassador Froman and with a number of members of the President's cabinet in the context of the S&ED discussions. We pushed this issue very hard, not just Ambassador Froman, but also Secretary Kerry, also Secretary Lew, and we made more incremental progress.

But we still are not where we need to be in, I think, achieving what the chairman referred to as a sufficiently long list where China is making an appropriate contribution to the overall agreement.

We are going to keep pushing, and I think we can get there, but we are not there yet.

*Mr. Boustany. Mr. Chairman, I think we need to send a strong signal to the Chinese to reach that level of ambition on ITA. I mean, they are one of the world's largest exporters of technology products, and for them to really in effect wreck this deal is not good.

This is an opportunity for the new leadership in China to step up internationally and to provide leadership and do the right thing for the international community.

Thank you. I yield back.

*Mr. Nunes. I thank the gentleman.

The gentleman from Illinois, Mr. Roskam, is recognized for five minutes.

*Mr. Roskam. Thank you, Mr. Chairman.

Ambassador, I want to shift gears if I could and move from the details and on the ground sort of insights that you have been able to provide, and I have learned a great deal from this morning and I thank you for that, to a little bit more of a philosophical question, and so let me lay a premise out, and I would be interested if you think my premise is right, and what your observations are as somebody that is driving U.S. trade policy and really having an impact all around the globe.

And here is what I have observed. I think that there is a palpable ambiguity in the United States on what the U.S. role should be in the world today. On the political left, and I do not want to over-characterize it, but you will get my drift; on the political left there is this feeling, and it kind of a hangover from Vietnam, a hangover from the debate about Iraq and weapons of mass destruction, and so forth, and there is this natural reluctance to assert American power around the world.

On my side of the aisle, in my party, there is a growing isolationism that is now becoming manifest in our debates and so forth, and it is shrouded in budget talk. You know, we cannot afford this, and so forth.

And so here is my question. So what have you observed as somebody who is really uniquely on the global scene and interacting all around the world literally? How does trade fit into the assertion of American influence?

And I am not talking sharp elbowed "have it our way," but I am of the view that the United States and our presence around the world is a good thing.

An Asian Ambassador yesterday put it very elegantly to me in my office, and he said, "We miss you more than ever," meaning the United States.

Can you give me your observations about how trade fits into this overall influence that we are trying to have, you know, as the Navy puts it, as a global force for good? It sounds like a bumper sticker, but it is a very apt way of trying to describe this.

How does trade fit into this whole milieu?

*Ambassador Punke. Well, I think it is a very interesting question and a very interesting premise. I would disagree with the Asian Ambassador who would indicate in any way that the U.S. has been missing, and I think in listening to your question what I thought of was actually just the opposite in the following sense.

One of the things that I think is unique about this moment historically in terms of U.S. leadership is the degree to which we have put ourselves really at the center pivot of critical discussions. We are at the center pivot of a discussion about Asian trade through TPP. We are at the center pivot of a discussion about Atlantic Trade in T-TIP. We are at the center pivot of an effort to make the WTO a more productive place through leadership in TSA and ITA and environmental goods.

So I really see us as being very well positioned right now if we can consummate those agreements, and that is the question that I think from a philosophical standpoint is the challenging one, is how do we build a bipartisan coalition that is supportive of trade and those agreements that I just described because the key thing from my perspective is that those agreements are the way that we have an opportunity to not only create economic opportunities for U.S. stakeholders, but also to promote our values globally.

And the thing that is frustrating to me sometimes is I think that sometimes opponents of these agreements forget that this is not happening in the abstract. Our rivals are out there very actively seeking to put their own systems in place, and for example, in the context of TPP, we can be very certain that if TPP did not succeed that the Chinese would be quite happy to fill that vacuum with their RCEP agreement, and I can guarantee you that values and concerns that we have about things like environmental protection, consumer protection, labor rights will be far better served under TPP than they would be under Chinese leadership.

*Mr. Roskam. It seems that one of the areas where we can all work together, the Administration and this Committee, in particular, and you sense a strong bipartisan commitment to free trade is to articulate at home how this is a winner for us, how this is a winner for our consumers, how this is a winner for our producers, and we need to shun the sort of thinking that says, "No, this is a zero sum game, and the only way somebody else benefits is at our expense."

And so to the extent that we can be actively participating with you in that debate, I would be honored to play that role.

*Mr. Nunes. The gentleman yields back.

And I recognize the gentleman from Connecticut, Mr. Larson for five minutes.

*Mr. Larson. Thank you, Mr. Chairman, and thank you, Ambassador for your service.

Following along with a number of the concerns that my colleagues have addressed, I always like to try to take it back to my district and to a place called Augie & Ray's. I do not know that you have been there, Ambassador, but if you ever get the chance, I highly recommend it. Larson's special is not bad.

But it is at Augie & Ray's that you hear the unfiltered opinion of the community, and I am talking about everybody from the Chamber of Commerce to the insurance industry to the machinists at Pratt & Whitney, and it is there that we see this growing skepticism and divide about trade, and it is a great irony coming from a State that is primarily an export State that relies on trade.

I think a lot of the angst comes from both the implementation of trade agreements with unenforceable provisions, aka such as the labor provisions in NAFTA, and also the enforceable provisions that while useful, often require years of deliberation and considerable amounts of money before the enforcement actually takes place.

While the Administration clearly has been aggressive in utilizing the enforcement mechanisms available in the WTO, it is clear that more must be done to ensure that nations are living up to the standards that they agreed on, Mr. Roskam's point, I think, that that would better have the public have a stronger feeling about it.

So I have three questions that I want to pose to you, short ones, but what more is the Administration doing to ensure that American businesses, manufacturers and laborers are playing on a level playing field?

And that is the whole gist at Augie & Ray's, is that they are not. They feel that we write tax policies that make it easier for people to go overseas, and then we end up in trade agreements that further hurt labor here at home.

So what are we doing further to level the playing field with their competitors?

Also, and again, this is something that Mr. Boustany raised as well, and I think it is generally held on the committee, our overarching concerns with China who consistently retaliates when the United States brings an issue to the WTO for enforcement. It seems that these types of retaliatory actions have in many ways stalled the United States' ability to move forward on issues like addressing currency manipulation, which again has broad bipartisan support here in Congress and would have a real beneficial impact on the American workforce and send a clear message that, yes, we are staunchly persistent in wanting to enforce this.

And last, because it is at that same place and because it is, again, an export State and a lot of small businesses and major manufacturers, they rely heavily on the Import-Export Bank.

Has the USTR taken a position on the Import-Export Bank? It faces expiration this fall, and yet it is a vital tool, again, in terms of leveling that playing field.

*Ambassador Punke. Well, thank you, Congressman. Let me try and work my way through those starting with the initial observation you made about the importance of labor and environment provisions being fully enforceable.

We agree with that, and one of the things that we have made a hallmark of our efforts to negotiate in TPP and T-TIP is to seek labor and environment provisions that are not only fully enforceable but also subject to dispute resolution the same as any other obligation in the agreement, including in the instance where a party prevails in dispute resolution and the losing party does not come into compliance, that there would even be the potential of trade sanctions to enforce those obligations.

So we agree with you that that needs to be a central part of the way that trade agreements are negotiated in the 21st Century.

To touch briefly on the other specific issues that you raised, what are we doing about leveling the playing field? Part of that, I think, is a very aggressive and constant effort with all of our major trading partners to open up new opportunities so that there is not the ongoing situation where the U.S. market is more open than the market of our most important competitors.

You know, the truth of the matter, and this is something that I think is relevant to the philosophical question that was raised by Congressman Roskam, is that the U.S. market is largely already open. We made that decision beginning 60 years ago at the end of World War II.

So we are more open than a lot of the countries that we are most worried about, and the only way that I know of to bring that into better alignment is to negotiate trade agreements where we lower the barriers that our competitors still maintain. But that requires us to engage and specifically to engage in trade negotiations and bring back trade agreements.

The other aspect of that, I think is enforcement and demonstrating that we do not just negotiate the agreements and then they go away, but rather that there is vigilance there and that we will ensure that other countries live up to their obligations.

I think enforcement has been a hallmark of this Administration just in the WTO context alone. We have brought 18 WTO enforcement cases.

One of the things you mentioned is concern about the Chinese using inappropriate retaliatory litigation when we brought legitimate cases. That is something we have pushed back against explicitly, and I might add also successfully in terms of their misuse of their domestic anti-dumping laws. So that is a place where we are very focused.

The last point you raised, which I will just touch on very briefly because my position will not surprise you is our position with regard to Export-Import Bank. Of course USTR is strongly in line with the position of the Administration about the importance of extending the Ex-Im Bank and maybe the additional perspective that we bring to that is to see what our competitors are doing.

And we know what we are up against, and I think the Ex-Im Bank is one of the things that helps to level the playing field in exactly the way that you were talking about.

*Mr. Larson. Thank you.

Thanks for the latitude, Mr. Chairman, also.

*Mr. Nunes. No problem. The time of the gentleman has expired.

I now recognize the gentleman from Wisconsin, Mr. Kind, for five minutes.

*Mr. Kind. Thank you, Mr. Chairman. Thanks for holding this very important hearing.

Ambassador Punke, it is very good to see you again, and thanks for your service to our country.

Let me ask you, Ambassador Punke, while I have got you here a resources issue. I mean, right now we are engaged in TPP negotiations, T-TIP negotiations going on, trying to figure out a way to salvage and resurrect the Doha Round, the potential for plurilateral negotiations to help spur Doha. You have directly been involved in the ITA negotiations, especially with China. We have got the Environmental Goods Agreement that is pending, Trade in Services Agreement, Trade Facilitation Agreement coming out of the Bali Ministerial Round.

Is our team in Geneva and is our USTR team being stretched to the limit right now in regards to our negotiating capacity, given all of these different items, which are tremendously important in their own right, but how are we doing as a Congress in making sure that you and the entire USTR team have the resources that you need in order to do an adequate job of representing this country with so many balls up in the air at the same time?

*Ambassador Punke. Well, Congressman, thank you very much for that. We certainly are very grateful for the support that we have had from you specifically, but from the committee more broadly in terms of resources for the Office of the U.S. Trade Representative.

Look. We pride ourselves on being lean and mean at USTR, and we will always make do with whatever resources we are given and live off the land or do whatever else is necessary to make sure that we are fulfilling our mission.

I think Ambassador Froman was asked this question a couple of months ago and noted the fact that there had been recent months particularly during the sequester when we were perhaps a little bit leaner than we wanted to be. I think we are in a slightly better position as of the last couple of months, and it has been

gratifying, I think, to have the ability to field the teams in the places that we need to field them in order to engage robustly in all of the negotiations that you described.

So we appreciate your support. We will make the most of the resources that we are given, and we know that in the type of budget environment that we are in, that all of us have to be very accountable in terms of how we spend scarce resources, but we will continue the conversation with you about resources and USTR.

*Mr. Kind. All right. I gave you a softball. I gave you a chance to ask for more, but I am not hearing a specific list of concerns right now.

What about retention? Obviously you have been in place for about four and a half years, a little over four years. Obviously a lot of this requires a lot of experience, background, relationship building, too. How are we doing in keeping the team constitutes?

*Ambassador Punke. We are doing pretty well, given the fact that USTR's very talented staff has lots of opportunities. I think one of the things that I love about the agency that I work at is that people are very dedicated to their mission. They genuinely love their work, and so people tend to stick around.

That is not true across the board, and there are areas where, you know, we always would hope for a longer retention, but I think as a general matter we are doing okay.

*Mr. Kind. What is your assessment of where Doha is at the current state? Obviously we have a new General-Director Azevedo, who has tried to resurrect and breathe new life into it and that, but to say it has been disappointing as far as lack of progress would be an understatement. Here I think you appreciate that, too.

But this was the opportunity of being able to bring those developing and emerging economies into the global trading system, and it just seems to be a disappointment so far.

*Ambassador Punke. Well, we are at a critical juncture just over the next two weeks because Bali gave us a chance, but over the next two weeks we will find out whether or not WTO members are sticking to their Bali commitments. If they stick to their Bali commitments and we can continue to point to trade facilitation and the other Bali agreements as areas where it worked, that gives us a chance of grappling with the bigger issues like the one that you pointed out of the appropriate role of the emerging economies.

If Bali falls apart, it is very difficult to imagine that we are going to be able to have that conversation about post Bali in any kind of a credible way.

*Mr. Kind. Geographic indicators at EU, is this insurmountable or do we have tools with WTO to help?

*Ambassador Punke. Well, it is a huge issue with the EU, as I know you know well coming from where you come from, and I will say very clearly in the context of T-TIP that we will not be bringing the European system of geographic indications to the United States.

At the same time, we will be pressing very hard for access for our agricultural products in the geographic indication domain into the European market, and that is a conversation that is difficult and very significantly different viewpoints obviously between us and the European.

But I have discovered something quite interesting in my time in Europe over the last four and a half years that we are injecting into that conversation, and this will be of interest to you, I think, Congressman, and that is I have discovered the phenomena of something called German feta cheese, and I have also discovered the phenomena of something called French gruyere, and I am not an expert on cheese the way that people from your State might be, but I do know that gruyere is not in France, and so that is the type of

anomaly that we are pointing out to our European colleagues in trying to address this issue of geographic indications in the context of T-TIP.

*Mr. Kind. All right. Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

*Mr. Nunes. Thank the gentleman.

The gentleman from Minnesota is recognized for five minutes.

*Mr. Paulsen. Thank you, Mr. Chairman.

And, Ambassador, just I want to reiterate just a thank you for your daunting and continued efforts in leadership in advancing the trade agenda.

A couple of things I want to just touch on real quick. As you well know, health care is playing a very increasing role in the U.S. and global economies, and there is no doubt it is the largest private sector employer in the United States. It is one of the largest and fastest growing sectors in the world economy. It is also one of America's key economic drivers of innovation and cutting edge research.

And it is not just pharmaceuticals or medical devices that a lot of folks just think of. We are actually talking about opportunities in our health care service delivery now in terms of express delivery, hospital design, doctors, nurses, insurance companies, health IT systems, as well as logistics.

You know, my colleague on the committee, Ron Kind, who was just speaking a minute ago, and I have even gone so far as to ask Ambassador Froman to consider adding a position that would have USTR dedicate a position on health care trade. Can you just comment or add some thoughts about the role or the importance that you see right now that this sector has in your work in Geneva or in trade negotiations?

*Ambassador Punke. Well, thank you for that question, Congressman Paulsen.

There is no question that we see health care as being an enormously important sector in all of the manifestations that you described. You know, just last week in Beijing we were pressing the Chinese specifically on the information technology agreement with regard to tariffs on things like MRI machines, CAT scans, implantable medical devices.

But we are also very aware, as you point out that health care is not just goods. It is also significantly services, and one of the, I think, most helpful or most hopeful fora for seeking to promote those type of opportunities in terms of U.S. services is through TiSA.

You mentioned insurance. You mentioned health IT logistics. You mentioned, you know, the provision of health care services themselves. All of those are issues that are under discussion in the TiSA context right now, and we see enormous potential.

Obviously those are also part of the various bilateral and regional agreements. So we are very focused on that issue set.

*Mr. Paulsen. Good. And let me follow up with sort of a different topic here. When the TRIPS agreement was negotiated 20 years ago, there was some disagreement whether intellectual property was truly a trade issue, and developments since then have certainly answered the question. The answer is yes, and IPR is now actively traded whether it is in the form of cross-border licensing agreements or sales of

IPR portfolios or a cloud computing services and other services that allow foreign clients to have access to U.S. companies' intellectual property rights.

In fact, IPR now accounts for the major portion of the value of many of U.S. exports. If you take the iPod, for example, the value of Apple's IPR accounts now are far more than the value of the final product in terms of shipping and distribution and assembly.

Yet there are a lot of countries within the WTO that continue to question intellectual property rights, especially copyrights and patents for innovative medicines.

What are you doing to ensure that WTO members comply with those TRIPS obligations to help build greater understanding within the WTO of the importance of IPR?

*Ambassador Punke. Well, it is an ongoing focal point for us in terms of enforcement. And I talked earlier about the premium that this Administration has placed on enforcement and specifically on intellectual property enforcement, whether it is with regard to the TRIPS agreement and our opportunities in the WTO to pursue this multilaterally; whether it is with regard to a new negotiation like T-TIP where we have another country in the form of the European Union that actually has quite high standards with regard to intellectual property, and we see the potential to work together to create a standard that can be pointed to in future negotiations with other parties, whether it is with regard to a country like China or India, which was mentioned, as places where we have significant concerns about intellectual property compliance and we are pursuing enforcement; whether it is through bilateral discussions or litigation.

We are using the whole toolbox across the whole range of issues precisely because I think we recognize that what intellectual property is about is innovation and protecting innovators, and we obviously want to continue to be an innovation society.

*Mr. Paulsen. Thank you, Mr. Chairman. I yield back.

*Mr. Nunes. I thank the gentleman.

Ambassador, I would like to thank you for your testimony today. Our record will remain open until July 30th, and I urge interested parties to submit statements to inform the committee's consideration of the issues discussed today.

This hearing is now adjourned.

[Whereupon, at 11:17 a.m., the subcommittee was adjourned.]

Member Questions for the Record

Public Submissions for the Record

[Alexan International](#)

[Amb. Glassman](#)

[American Farm Bureau Federation](#)

[Institute for Liberty](#)

[Stewart and Stewart](#)