April 21, 2015

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| The Honorable Orrin Hatch<br>Chairman<br>Committee on Finance<br>U.S. Senate<br>219 Dirksen SOB<br>Washington, DC 20510 | The Honorable Paul Ryan<br>Chairman<br>Committee on Ways & Means<br>U.S. House of Representatives<br>1101 Longworth HOB<br>Washington, DC 20515 |
| The Honorable Ron Wyden<br>Ranking Member<br>Committee on Finance<br>U.S. Senate<br>219 Dirksen SOB<br>Washington, DC 20510 | The Honorable Sander M. Levin<br>Ranking Member<br>Committee on Ways & Means<br>U.S. House of Representatives<br>1106 Longworth HOB<br>Washington, DC 20515 |

Dear Chairmen Hatch and Ryan and Ranking Members Wyden and Levin:

We write in strong support of the Bipartisan Congressional Trade Priorities Act of 2015 (BCTPA). America's film and television industry is one of the few that runs a persistent trade surplus – over $13 billion in 2013. More broadly, America's core copyright industries (film, TV, music, publishing, and software) are among America's biggest trade success stories. Total foreign sales (exports + licensing and royalty revenue) of these industries exceeded $156 billion in 2013 – which is larger than total foreign sales of many other major U.S. industries, including aerospace, chemicals, and all of agriculture.

As these numbers show, international markets are already critically important to the U.S. movie and television industry and the two million men and women whose jobs depend on it. On average, over 60% of film revenue comes from overseas markets. Foreign market sales also provide an important source of revenue supporting U.S. television productions. Overseas markets will be increasingly important in the future.

For the U.S. movie and television industry, the intellectual property (IP) chapters of U.S. free trade agreements (FTAs) are critical. All over the world, a lack of adequate IP protection is an effective market access barrier for the U.S. creative and innovative industries. Many of our trading partners do not provide nearly the level of copyright or other IP protections as the United States. The IP chapters help raise standards to a basic level of protection for America's creative and innovative industries -- still significantly lower than the level provided by U.S. law, but usually major improvements from the standards in the absence of the FTA.

Other provisions of FTAs are also important. The Services chapters help break down barriers to U.S. audio-visual productions such as screen quotas, primetime limits, investment restrictions, and distribution limits. The e-commerce and digital trade provisions are also increasingly critical. The U.S. movie and television industry is already one of America's biggest Internet industries and will increasingly rely on digital distribution channels in the future.

BCTPA's objectives provide the right foundation for USTR to negotiate strong agreements for the U.S. creative industries and the millions of workers they employ. We urge you to move swiftly to approve the legislation and look forward to working with you to help.

Sincerely,
21st Century Fox
NBCUniversal
Sony Pictures Entertainment Inc.
Time Warner Inc.
Viacom Inc.
The Walt Disney Company

ALLIANCE
FOR HEALTHCARE
COMPETITIVENESS, LLC

The Alliance for Healthcare Competitiveness
*Improving lives, creating jobs and meeting the healthcare needs of a growing global population*

WRITTEN STATEMENT OF DOMINIC CARUSO

CHIEF FINANCIAL OFFICER, JOHNSON & JOHNSON

ON BEHALF OF ALLIANCE FOR HEALTHCARE COMPETITIVENESS

HEARING ON

EXPANDING AMERICAN TRADE WITH ACCOUNTABILITY AND TRANSPARENCY

HOUSE WAYS AND MEANS COMMITTEE

APRIL 22, 2015

3:00 p.m.

I would like to thank the Committee, Chairman Ryan, and Ranking Member Levin for the opportunity to provide our viewpoints in support of trade and Trade Promotion Authority today. Johnson & Johnson is a member of the Alliance for Healthcare Competitiveness (AHC), a group of 27 leading firms and non-profits involved in American health, including healthcare providers, medical device and pharmaceutical manufacturers, insurers, health IT, hospitals, global health advocates, health-specialized architects, express carriers, and other participants in America's $2.9 trillion health sector.

**About Johnson & Johnson**

Johnson & Johnson has approximately 126,500 employees worldwide engaged in the research and development, manufacture and sale of a broad range of products in the healthcare field. The Company conducts business in virtually all countries of the world with the primary focus on products related to human health and well-being. Research and development activities represent a significant part of our business, and last year we spent over $8.5 billion worldwide, $4 billion of that amount in the United States. Those research dollars help support, among other things, numerous clinical trials on new and life-improving pharmaceuticals.

The Company is organized into three business segments: Consumer, Pharmaceutical, and Medical Devices and Diagnostics. The Consumer segment includes a wide range of well-known brands for health and healing, and beauty and well-being, including well-known brands such as JOHNSON's Baby, BAND-AID, LISTERINE, TYLENOL, ZYRTEC, AVEENO, and NEUTROGENA. The Pharmaceutical segment includes products in therapeutic areas including: anti-infective, antipsychotic, contraceptive, gastrointestinal, immunology, infectious diseases, neurology, oncology, pain management, thrombosis, and vaccines. The Medical Device and Diagnostics segment includes a broad range of products to treat cardiovascular disease; trauma, orthopedic and neurological products; blood glucose monitoring and insulin delivery products; general surgery, biosurgical and energy products; professional diagnostic products; infection prevention products; and disposable contact lenses.

Johnson & Johnson makes an important contribution to the U.S. economy. We have 39,000 direct jobs in the U.S. which in turn help support 206,700 indirect jobs, which means for every one direct job in the U.S., we support 5.3 additional jobs in the U.S. economy. For every dollar of Johnson & Johnson output, we add $1.4 in additional indirect output to the U.S. economy. We have employees in every state of the U.S., but if I look at the states represented by Members on this Committee, I note we have over 1,000 employees in each of the following states: California, Florida, Georgia, Indiana, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and Texas.

Johnson & Johnson is a leading corporate supporter of trade, and a member of pro-trade organizations including the Alliance for Healthcare Competitiveness, the U.S. Chamber of Commerce, the Business Roundtable, the Trade Benefits America coalition, AdvaMed, PhRMA, and the Personal Care Products Council. All support trade, and all support the Trade Promotion Authority legislation that is under consideration by this Committee.

**The Importance of Trade to the United States**

With more than 95 percent of the world's population living outside of the United States, U.S. economic growth and job creation depend on expanded trade and investment opportunities so U.S. companies and workers can sell more American products and services to foreign customers. For example, in 2014, nearly 40 million U.S. jobs – more than one in five – depended on U.S. exports and imports. This represents 25.8 million more trade-related U.S. jobs than two decades ago, before the U.S. implemented a series of bilateral, regional, and multilateral trade agreements.

High-level trade agreements have been critical to global economic growth, and directly benefit the U.S. economy. Our free trade agreements have significantly helped contributed to export growth, and in part to recovering from the 2008 global recession. U.S. goods exports to our free trade partners have grown by 57 percent since 2009. Nearly 30 percent of gross domestic product (GDP) growth over the last five years has been the result of export growth. This is particularly impressive given that exports of late have accounted for nearly 14 percent of GDP, according to the Department of Commerce.

Some of these benefits have been the result of the U.S. pressing countries to make free-market and democratic reforms to their systems. Improving the rule of law, imposing codes of ethical conduct, respecting and strengthening protection of intellectual property rights, and improving transparency and administrative procedures have enhanced the ability of American businesses to grow overseas. At the same time, reforms initiated in the pursuit of free and fair trade have improved the lives and economic freedoms of the citizens of our trading partners, which has a value in its own right, and a factor in promoting stability and regional security. In short, free trade agreements help U.S. business, expand wealth and economic freedom, and promote U.S. foreign policy objectives – a win-win-win scenario.

**Understanding the Healthcare Eco-system**

I have been speaking generally about the benefits of trade to the whole U.S. economy. I would like to focus on healthcare now. Health is one of the largest and fastest-growing sectors of the world economy. Valued at $7.2 trillion in 2012, it is likely to surpass $9.3 trillion – over a tenth of the world's likely economic output– by 2018.

There are logical, predictable, and well-understood reasons for this surge in growth. One is that the world's population is aging. The global over-60 population is expected to double in the next 20 years while the youth population remains stable. In developing regions everywhere, the world's population is urbanizing, with global city populations likely to rise by 1.4 billion in the next 20 years while rural populations remain stable. And the world is growing more affluent, with the global middle class expanding from 1.7 billion to four billion over the next 20 years.

All these factors mean a rapidly growing demand for healthcare. Older people need more preventive care and more treatment. City residents, living closer to hospitals and clinics, are more likely to seek care when they need it, and also more likely to use preventive care. And a middle-class population, no longer struggling with deep material deprivation, is more likely to seek and demand regular high-quality care.

Thus, the world's medical industries will need to provide regular preventive care and treatment for two billion more people; provide the additional medicines needed for an additional 600 million elderly people; build the clinics and hospitals needed for these patients; and finance treatment through some mix of out-of-pocket payments, public financing, and private insurance.

As the leader in all these aspects of healthcare innovation, the U.S. is uniquely positioned to take advantage of these developments. Over the next two decades, the U.S. healthcare sector will be a powerful stimulus for global growth and investment, a driver of technological progress, a key factor in stimulating productivity, a means of channeling young people into highly paid, technically demanding careers, and an important contributor to social stability and therefore regional and national security. The U.S. government is to be applauded for advancing trade policy affecting many of the components of the healthcare eco-system, but what is critically needed now is a more comprehensive strategy for the sector as a whole. That is why one of our key recommendations has been for the U.S. Trade Representative (USTR) to create a dedicated healthcare trade position to bring together this wide range of interests and issues when negotiating trade agreements.

The health eco-system represents a range of expertise that extends beyond pharmaceuticals and medical devices; it touches logistics, infrastructure, intellectual property, research, services, and more. The depth and breadth of the sector and its unique considerations require a look at the sector holistically.

**Trade Promotion Authority**

Trade agreements will help that occur, and the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA) is critical to capitalizing on the benefits of trade I have laid out. This legislation: (1) helps shape the principal goals the United States wants to accomplish in international trade negotiations with other countries; (2) establishes a framework for Congress and the Executive Branch to partner in pursuing trade agreements and enacting bills implementing the agreements into law; and (3) strengthens the hands of U.S. trade officials when negotiating with other countries.

TPA presents a critical framework for ensuring that the U.S. trade agenda is robust and ambitious. In many ways, this law provides both a floor for negotiating objectives – minimum standards that the U.S. should seek – and also urges the U.S. and its trading partners to strive for the strongest rules-based trading regime possible, greater cross-border integration, and commitments to reforms that spur economic growth. These principal negotiating objectives have never been more important in protecting innovation, opening markets for U.S. goods, and ensuring that U.S. industries – particularly those like the innovative biopharmaceutical industry, which delivers cutting edge treatments for patients, high-paying jobs, and significant economic output – continue to thrive.

The healthcare industry's priorities for trade agreements, and therefore for TPA legislation, include many features that are in current agreements and related to other U.S. industries.

We seek better access for patients around the globe through the reduction or elimination of measures that impede trade and investment in healthcare-related industries, like tariffs and non-tariff barriers. We want to ensure that obligations under agreements apply to healthcare-related products and services and are properly enforced. There should be investment protections and the ability to deliver life-saving products and services across borders efficiently with no discriminatory or undue barriers, including those created by state owned entities. The U.S. government should promote competitiveness within the healthcare sector through the provision of strong intellectual property protections for new and emerging technologies and innovative products. We also want other countries to provide increased transparency to their regulatory activities and provide regulatory due process in the healthcare sector. Moreover, the interrelated and multi-sectoral nature of the healthcare eco-system requires that trade officials take a holistic view of the health industry.

In other words, the U.S. healthcare industry wants the opportunity to share its remarkable life-saving products and services with patients around the world. I am happy to say that the legislation prepared by Chairman Ryan and the leaders of the Senate Finance Committee incorporates all of these important goals.

**Conclusion**

Chairman Ryan, I want you to know that the business community very much appreciates your leadership in preparing legislation to provide the President with trade negotiating authority.

You and your staff obviously worked very hard to include the viewpoints of a wide range of stakeholders, and I think you have struck a good balance. It is especially heartening to see this example of bipartisanship and how you worked with the leadership of the Senate Finance Committee to put this legislation together.

We wholeheartedly support your effort and want to work with you and all Congressional offices to have this law enacted.

american apparel & footwear association

**we wear® jobs**

**Statement by Juanita D. Duggan,**
**President & CEO**
**American Apparel & Footwear Association**
**Submitted to the House Ways and Means Committee**
**and the**
**Senate Finance Committee**
**Congress and U.S. Tariff Policy**

**April 23, 2015**

On behalf of the members of the American Apparel & Footwear Association, and the four million trade-dependent U.S. workers we employ, we thank the Committee for its leadership in considering key trade legislation.

In a global economy where 95 percent of our customers live outside the U.S., our members and their employees depend on trade. Reducing trade barriers means we can better access markets and materials. It also helps ensure our products and inputs can easily move across borders. Simply put, trade liberalization is critical to the health of U.S. clothing and shoe companies.

We were pleased to see passage of The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (HR 1890/S. 995) in the House Ways and Means and Senate Finance Committees this week.

Early enactment of this legislation will facilitate completion of negotiations for the Trans Pacific Partnership (TPP) with 11 Pacific Rim countries and the Trans-Atlantic Trade and Investment Partnership (T-TIP) with the European Union. When completed, those agreements have the potential to eliminate long-standing tariff barriers, harmonize regulatory regimes, and expand trade and investment opportunities for the U.S. apparel and footwear industry.

Equally important, Congressional consideration of TPA paves the way for renewing expired and expiring trade measures such as the African Growth and Opportunity Act (AGOA), the Generalized System of Preferences (GSP), and the Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE)/Haiti Economic Lift Program

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(HELP) programs. We were particularly pleased to see the committees pass bills that:

- Retroactively renew the GSP program through December 2017;
- Extend the HELP/HOPE program until September 2025;
- Extend the AGOA until September 2025; and
- Update and modernize Customs facilitation and intellectual property rights enforcement provisions.

In addition, we thank the Senate Finance Committee for approving:

- Provisions patterned after the GSP Update Act (HR. 681/S. 340) – to extend travel goods to the GSP program;
- The “athletic footwear initiative” – to update tariff classification for certain shoes;
- Provisions patterned after the U.S. Outdoor Act; and
- Miscellaneous Tariff Bill (MTB) reform

We urge Congress to approve these measures, which are vital for our members in reducing costs, promoting investment, and supporting trade-based jobs, both in the United States and abroad.

Thank you.

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MICHAEL P. WALLS
VICE PRESIDENT
REGULATORY & TECHNICAL AFFAIRS

April 22, 2015

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|---|---|
| The Honorable Paul Ryan<br>Chairman<br>Committee on Ways and Means<br>U.S. House of Representatives<br>1102 Longworth House Office Building<br>Washington, D.C. 20515 | The Honorable Sander Levin<br>Ranking Member<br>Committee on Ways and Means<br>U.S. House of Representatives<br>1102 Longworth House Office Building<br>Washington, D.C. 20515 |

Dear Chairman Ryan and Ranking Member Levin:

The American Chemistry Council (ACC) strongly supports current initiatives to expand access for U.S. exports to key international markets. We particularly support the Trans-Pacific Partnership (TPP) and Trans-Atlantic Trade and Investment Partnership (TTIP) negotiations as a means to achieve these export objectives. Trade Promotion Authority (TPA) renewal is among the most critical trade votes Congress must undertake to realize America's ambitious trade agenda and support expanded growth in exports. We urge Congress to renew TPA as soon as possible.

The business of chemistry in the United States is enjoying an unprecedented boom in competitiveness and growth, largely due to the increased supply of low-cost natural gas, a feedstock and a power source for chemical manufacturing. As a result of shale gas, more than 229 separate chemical manufacturing investments have been announced since 2010, representing a cumulative capital investment of $140 billion in new chemical capacity. This new capacity will exceed U.S. domestic demand, and will necessarily serve important export markets. Even with the recent drop in oil prices, gross exports of chemical products linked directly to natural gas are projected to double in the next fifteen years, from $60 billion in 2014 to $123 billion by 2030, according to a recent report from Nexant, Inc. However, enhanced U.S. chemical export performance will depend on many factors, including the U.S. pursuing the right trade policies that further strengthen the competitive position of the U.S. industry.

TPA is critical to completing the trade agreements now being negotiated. TPA will therefore help open markets and help ensure the U.S. chemical industry can capitalize on its massive export potential.

The Congressional trade agenda should also include the reauthorization of the Miscellaneous Tariff Bill (MTB). U.S. manufacturers large and small use the MTB's tariff suspension provisions to obtain raw materials, proprietary inputs and other products that are not available in our nation without incurring unnecessary tariff barriers. Each day that passes without an MTB process hurts American manufacturers' ability to do business. In fact, the failure to pass the MTB has essentially imposed a tax on manufacturers of $748 million and economic losses of $1.857 billion over three years. The impacts extend to the people and businesses that depend on manufacturing. Ramifications are experienced throughout the supply chain, from the suppliers, to the millions of people who are employed in manufacturing, to the local governments that depend on the spending and tax revenue generated by the industry. Any action to reduce barriers to domestic production and increase the competitiveness of U.S. companies must include the reauthorization of MTB.

For U.S. chemical manufacturers to succeed in today's global economy, we must be able to compete effectively in international markets. For this reason, we support an ambitious trade agenda, including TPA and MTB, that deliver enhanced access to overseas markets and support the competitive position of U.S manufacturers. ACC looks forward to working with you to ensure that an ambitious trade agenda delivers on its promise.

Sincerely

Michael P. Walls
Vice President
Regulatory & Technical Affairs

Cc: Members of the Committee on Ways and Means

**Public Health Comments**

**Regarding Fast Track /Trade Promotion Authority**

**Hearing of the House Committee on Ways and Means**

***"Expanding American Trade with Accountability and Transparency"***

**April 22, 2015**

**Concerning the:**

**Bipartisan Congressional Trade Priorities and Accountability Act of 2015**

*Working Title*:

"Bargaining to Concentrate the Power and Wealth of Global Corporations

Including Finance, Drugs, Tobacco, Fossil Fuel, Agribusiness, Media and

Information Technology; to

Entrench and Deepen Income Inequality; and to

Progressively Reduce the Rights and Policy Space of People and

Democratically Elected Public Officials and Governments"

**Joseph E. Brenner MA and Ellen R. Shaffer PhD MPH**
**Co-Directors**
**Center for Policy Analysis on Trade and Health (CPATH)**

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**Overview**

On behalf of the Center for Policy Analysis on Trade and Health (CPATH), we appreciate the opportunity to comment on the proposed Congressional Trade Priorities and Accountability Act of 2015. CPATH is an independent organization that has been involved for many years in bringing a public health voice to debates on trade and sustainable development through research, policy analysis, and advocacy.

A raft of complex trade agreements with sweeping implications for the public's health are being negotiated by the U.S. Trade Representative (USTR) in secrecy, shielded from the light of public scrutiny. These include the Trans-Pacific Partnership Agreement (TPP) with 11 Pacific Rim nations, the Transatlantic Trade and Investment Partnership (TTIP) with the European Union, and the Trade in Services Agreement (TISA). Unfortunately the USTR has relied on Trade Advisors representing the pharmaceutical, tobacco, alcohol, health insurance, and processed food industries in shaping the Administration's trade objectives and negotiating positions relating to public health and health care.

These deals confer new and expanded rights to transnational corporations to protect their profits over the rights of democratically elected governments and the public. These include the right to challenge the implementation of domestic laws and regulations in international trade tribunals.

**This bill would create a Fast-Track process to allow trade agreements to leapfrog customary legislative protocol, and be put to a rapid "up or down" vote in Congress without public hearings or amendments, including those in the interest of protecting the health and safety of the American people.**

The Fast Track bill also aims to set out Congress' policy objectives for trade agreements, as well as an undemocratic and abbreviated process for reviewing them. As an illustration of this fatally flawed legislation, not one objective would safeguard or improve the economic well-being of the American middle class. Rather, they prioritize commercial gain at the expense of people's health, including access to affordable medicine, protection from deadly tobacco products, and democratic sovereignty to make decisions to safeguard and improve our health.

**A more appropriate title would be: Bargaining to Concentrate the Power and Wealth of Global Corporations Including Finance, Drugs, Tobacco, Fossil Fuel, Agribusiness, Media and Information Technology; to Entrench and Deepen Income Inequality; and to Progressively Reduce the Rights and Policy Space of People and Democratically Elected Public Officials and Governments.**

**Promote Democratic, Transparent, and Accountable Trade Negotiations**

In order to create trade agreements that advance the promises of the 21st century for sustainable technological and economic development that protect and promote health, CPATH recommends that Congress adopt and enforce robust objectives for the TPP Trade Agreement negotiations that will safeguard the health of Americans and our trading partners, and promote economically and socially just, democratically controlled, and environmentally sustainable outcomes, specifically the following Public Health Objectives for Global Trade Agreements:

**<u>Public Health Objectives for U.S. Global Trade Agreements</u>**

1. **Assure democratic participation by public health and transparency in trade policy**:
   a. Open all proceedings and documents of trade negotiations and trade advisory committees to the public; and
   b. Appoint to all three tiers of trade advisory committees representatives of organizations that work to assure equitable access to affordable health-related services and products, and promote the health of individuals, communities and populations, who can provide formal advice to USTR from the public health and health care community to USTR; and
   c. USTR to consult with all relevant committees of the House and Senate in the development, negotiation, implementation, and administration of trade and negotiating objectives.
2. **Develop mutually beneficial trade relationships with trade partners that create sustainable economic development** in an increasingly interdependent world.
3. **Recognize the legitimate exercise of national, regional and local government sovereignty to protect population health,** and ensure that countries do not weaken or reduce, as an encouragement for trade, sound policies that contribute to health and well-being and democracy, including laws on public health, the environment, labor, food safety, human rights and internet freedom.
4. **Exclude tariff and nontariff provisions that address vital human services** such as health care, water supply and sanitation, food safety and supply, and education, including licensing and cross-border movement of personnel in these fields.
5. **Exclude tobacco and tobacco products**, which are lethal, and for which the public health goal is to reduce consumption, from tariff and nontariff provisions of the TPP, including advertising, labeling, product regulation and distribution.
6. **Exclude alcohol products**, which present serious hazards to public health. Policies designed to reduce the harm caused by alcohol products should not be subject to compromise in exchange for other trade benefits.
7. **Eliminate intellectual property provisions related to pharmaceuticals from the TPP and TTIP negotiations,** as these are more appropriately addressed in multilateral fora, **and promote trade provisions which enable countries to exercise all flexibilities provided by the Doha Declaration on Public Health**, including issuing compulsory licenses for patented pharmaceuticals, parallel importation, and other measures that address high prices and promote access to affordable medicines.

The outline of the following comments is as follows:
1. Economic globalization and health – Overview
2. The track record: trade and health
3. Transparency and democracy
4. Intellectual property rules limit access to affordable medicines
5. Tobacco corporation challenges to tobacco controls
6. Investor-state dispute resolution

Conclusion: Oppose the Bipartisan Congressional Trade Priorities and Accountability Act of 2015

## 1. Economic globalization and health - Overview

Economic globalization is characterized by the accelerated number and pace of cross-border transactions starting in the 1980s, including the production and consumption of goods and services, facilitated by changes in communication, technology, and transportation. Services from finance to health care are major economic drivers in developed countries. Ownership of transnational corporations has become more concentrated. Millions in poor countries have emerged from poverty, at the same time that economic inequality is increasing among and within nations.

At issue are the roles that democratically elected public officials, civil society, unregulated trade as well as rules related to trade, will and should play in determining outcomes of economic activity that benefit population health, and how the imperatives of human social and economic development can be integrated.

Public health principles prioritize achieving and protecting the health and wellbeing of individuals, communities and populations, which in turn requires economic and social equity and justice, democracy, and equitable access to health-related services.

Trade agreements establish countries' mutual rights and obligations with regard to trade. Once focused on setting tariffs on goods, they now address rules that govern critical areas that are a matter of public debate at the national and international levels: intellectual property rules on access to affordable medicines and to information, copyrights, and advertising; services ranging from banking to health care and water supply; government procurement for grants and contracts; agriculture; and internet access and information privacy. They can provide a basis for altering the implementation of domestic U.S. laws and policies, as well as those of our trading partners. Trade rules that protect corporations' ability to operate within uniform and predictable rules can foster sustainable economic development, democracy, and peace, consistent with public health principles that prioritize achieving and protecting the health and wellbeing of individuals, communities and populations.[1] [2] They can also conflict with or subordinate policies that prioritize people's health, and equitable access to health-related services.

## 2. The Track Record: Trade and Health

Health is a universal aspiration of all peoples and governments. People's health must be the highest priority in determining trade policies. Public health measures have been responsible for creating and monitoring the conditions that maintain a healthy population. The safety of our living spaces, work places, prescription drugs, food and water, and consumer products, and protection from biohazards and the burden of tobacco-related diseases, are all products of government action, legislation and regulation, not the result of unregulated market forces.

Previous trade agreements negotiated under "fast track" rules, without Congressional ability to discuss, debate, and revise provisions in the public interest, have prohibited parallel importation

[1]Institute of Medicine. The future of public health in the 21st century. National Academies Press, Washington, DC. November, 2002. http://www.iom.edu/Object.File/Master/4/165/0.pdf
[2]World Health Organization. Constitution of the World Health Organization.

(reimportation of pharmaceuticals to increase their affordability)[3], and weakened the ability of local, state and national governments' procurement contracts to specify standards for medical and financial privacy, quality and performance, local economic development, and environmental protection.

Other public health concerns at issue include the ability of local, state and national governments to regulate clean and safe air, water, food, consumer products; workplace environments, transportation systems; whether government procurement contracts can specify standards for medical and financial privacy, quality and performance, local economic development, and environmental protection; and the distribution of alcohol beverages.

**3. Transparency and democracy: U.S. trade policy is set in secret by corporate trade "advisors." Trade agreement negotiations are kept secret from the public in the U.S.**

An extensive group of advisory committees provide formal recommendations to the Office of the U.S. Trade Representative (USTR).

**Confidentiality of Trade Proposals Prevents Democratic Debate**

The USTR can authorize advisory committees to operate in a transparent, public manner. For a number of years, however, the USTR has chosen impose a blanket closure rule, requiring that advisory committee members maintain complete confidentiality regarding proposed trade agreement provisions until after each agreement is signed. This restriction limits debate by Committee members' own constituencies, by the public, and by policy-makers, on public health matters of significant domestic concern. A transparent mechanism is imperative.

**Trade Advisory Committees Shut Out Public Health**

In 2002, the United States Government Accountability Office (then the General Accounting Office) examined the role, structure, and system of the trade advisory committee system. **The GAO Report found that "new stake holders in the trade process, such as public health…have limited or no participation in the formal committee system**, even though topics such as intellectual property are of interest to them."[4]

CPATH's analysis has found that health-related industries are robustly represented on US trade advisory committees, which include pharmaceuticals, tobacco, health insurance, processed foods, and alcohol beverages. [5] A public health presence on all three tiers of U.S. trade advisory committees is required for a legitimate balance of interests. However, the extent of representation from the public health community in 2015 persists: Zero.

In November, 2003, U.S. health leaders called for caution in negotiating international trade

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[3] Australia-U.S. Free Trade Agreement, Article 17.9.4. http://www.ustr.gov/sites/default/files/uploads/agreements/fta/australia/asset_upload_file469_5141.pdf.
[4] GAO-02-876, p. 60; P.L. No. 96-39, 93 Stat. 308-10, p.40.
[5] Brenner, Joseph and Shaffer, Ellen. Advice and No Dissent, *Public Health and the Rigged U.S. Trade Advisory System*, Multinational Monitor, November 2004 - VOLUME 25 - NUMBER 11.

agreements. Former U.S. Surgeon General Dr. David Satcher, joining representatives from the American Medical Association, American Nurses Association, the American Public Health Association, and the Center for Policy Analysis on Trade and Health (CPATH), to issue an historic "Call for Public Health Accountability in International Trade Agreements."

During the 2004 Congressional deliberations on the US-Australia Free Trade Agreement (FTA), Bipartisan members of the House and Senate expressed concerns about the extreme imbalance on trade advisory committees and lack of representation from public health. Congress raised objections to provisions in the agreement related to pharmaceuticals and intellectual property that they had been unaware of that could have an impact on Congressional efforts to authorize re-importation of drugs. They also expressed concern about the potential impact on current U.S. health care programs, including on Veterans Affairs, Medicare and Medicaid, and urged that such provisions should not serve as precedent for future trade agreements.

In March, 2014, USTR announced a call for nominations to a Public Interest Trade Advisory Committee. However, no action has been taken to establish this committee.

**4. Intellectual Property Rules limit access to affordable medicines**

High prices restrict access to prescription drugs in lower income countries and also in developed countries which lack regulatory mechanisms to address drug pricing, such as the United States. Few useful innovative drugs are being developed, despite substantial revenue from drug sales. There is insufficient research into therapies for conditions prevalent in low-income countries.

Trade agreements negotiated by the United States have enforced, extended, and progressively strengthened intellectual property (IP) rights internationally, such as patents, data exclusivity and linkage, that offer monopoly marketing rights to pharmaceutical companies which therefore exert tremendous influence over prices. The World Trade Organization's (WTO) Doha Declaration on Public Health states that IP rules "should not prevent [countries] from taking measures to protect public health." It reaffirms the right of WTO countries to use the flexibilities in TRIPS (Agreement on Trade Related Aspects of Intellectual Property Rights), including their right to issue compulsory licenses to produce brand name or generic equivalents of originator companies' drugs, and parallel importation. Respect for the Doha Declaration, and a fair balance of rights, was also stated as a Congressional objective in the Trade Act of 2002.

These rights were eroded in U.S. bilateral and regional agreements with Jordan, Chile, Singapore, Morocco, Australia and Central America. Civil society organizations in the U.S. and in partner nations raised concerns, which frequently delayed negotiations. In May, 2007, with leadership by the Trade Subcommittee of the Ways and Means Committee, Congress took action to limit negotiations with lower income countries on "TRIPS-Plus" IP rules.

**"Fast-track" negotiating objectives in the current proposed legislation however reverse course and call for "accelerated" implementation of drug patent rules in developing nations.**

- **CAFTA Raises Prices, Limits Availability of Life Saving Drugs for U.S. Trade Partners**

CPATH's report published in the peer-reviewed journal *Health Affairs* demonstrated how intellectual property rules in the U.S. - Central America Free Trade Agreement (CAFTA) keeps lower-priced generic versions of life-saving drugs off the shelves and out of the hands of some of the poorest people in our hemisphere. Guatemala is increasingly unable to produce or import affordable medicines because of intellectual property provisions in the trade deal that were demanded by the U.S. pharmaceutical industry and have been aggressively enforced by the U.S. Trade Representative (USTR). As a result, **the cash-strapped Guatemalan public sector faces higher prices – up to 846 percent higher – for important drugs to fight diseases such as diabetes** and HIV/AIDS.[6] People with HIV/AIDS have reported cutbacks in access to needed drugs

The report focused on **data exclusivity rules** and **patents** that are among the intellectual property provisions of CAFTA and other free trade agreements. Particularly alarming is that the rules not only keep affordable new generics from entering the market; they also function retroactively to remove existing medicines from the shelves. While patents already allow brand name drug manufacturers like Novartis and Merck to suppress competition from generic drug makers in the U.S. and abroad, data exclusivity is an additional bonus for this multi-billion dollar industry. Securing data exclusivity is a simple process for these companies, but it places insurmountable bureaucratic burdens on generics manufacturers. Generic drug makers typically rely on the clinical trial data already generated by brand-name manufacturers to demonstrate the safety and efficacy of their products. But CAFTA prohibits generic drug manufacturers from using the brand-name clinical trial data for a fixed period of years, sometimes even after the brand-name drug is no longer under patent. Without these data, generic versions cannot be approved for market.

The report examined a total of 77 data-protected drugs. Detailed tables in the article illustrate the ways in which both patent and data exclusivity protections influence Guatemalan health officials to purchase brand name pharmaceuticals, often at hundreds of times the cost of their generic counterparts. They also provide examples of generic drugs that were blocked from being marketed in Guatemala in the first place.

## 5. Tobacco Control and Protection of Public Health

Tobacco use continues to be the leading preventable cause of death in the United States and worldwide, and is the only legal substance that, when used as intended, kills people, causing 6.3 million deaths a year.[7] Cigarette smoking is responsible for about one in five deaths annually[8] and a major contributor to the global pandemic of tobacco-related non-communicable diseases.

Countries continue to tackle this public health crisis with sound policies designed to curb smoking and combat deceptive industry practices. Such regulations include bans on flavored cigarettes,

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[6] Shaffer, Ellen R. and Brenner, Joseph E., A Trade Agreement's Impact On Access To Generic Drugs, *Health Affairs*, 28, no. 5 (2009): w957-w968 (published online 25 August 2009; 10.1377/hlthaff.28.5.w957)

[7] Centers for Disease Control and Prevention. Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 2000–2004. Morbidity and Mortality Weekly Report 2008.

[8] U.S. Department of Health and Human Services. How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010.

increases in tobacco taxation, restrictions on tobacco advertisements, and placement of graphic warning labels on cigarette packages. Although all of these policies are supported by a robust body of scientific evidence, each has been contested in recent trade agreements and by trade-related challenges. Tobacco companies have accelerated their use of trade rules to attempt to delay and reverse tobacco control measures in the U.S., Australia, Uruguay, and Norway.[9] For example:

> "In 2006, the Uruguayan government—led by then-President and oncologist Tabare Vasquez, MD—passed a series of regulations to: (1) increase warning labels from 50% to 80% of the package; (2) place health images on packages; and (3) prohibit the use of "brand families" in which the same brand name is used across multiple product lines (eg, Marlboro Red, Marlboro Green, etc). In the years after enactment of these anti-smoking laws, 30-day prevalence rates of tobacco use among adolescents decreased by 8% annually, and per person cigarette consumption decreased by 4.3% annually. In 2010, however, the Swiss operational hub of Phillip Morris filed suit at the World Bank, claiming that government's regulations violate a 1991 bilateral investment treaty between Uruguay and Switzerland. The Swiss-based PM contends that Uruguayan policies intrude upon PM's intellectual property and exceed that which is reasonable to protect the public's health. Per the terms of the 1991 trade agreement, the dispute is being arbitrated by a tribunal of international trade experts housed at the World Bank, who ruled in July 2013 that it had jurisdiction to hear the case; each side is currently submitting testimony to support their claims."

U.S. bilateral agreements with Singapore and Peru also eliminated tariffs on tobacco and tobacco products.

The Doggett Amendment to the Foreign Service Act, passed by Congress in 1997, banned the use of government monies from the Commerce, Justice, and State Departments to promote the sale or export of tobacco overseas or to seek the removal of any nondiscriminatory foreign-country restrictions on tobacco marketing. However, it is subject to annual renewal, and compliance is up to the USTR and other Agencies. Unfortunately, the Doggett Amendment has not been honored since 2001. The U.S. has negotiated eliminating tariffs on tobacco products as well as leaf in bilateral and regional agreements, including the U.S. Singapore Agreement and CAFTA. It is perhaps time for a change.

According to the Pan American Health Organization: "Transnational tobacco companies…have been among the strongest proponents of tariff reduction and open markets. Trade openness is linked to tobacco consumption."[10]

The extent to which the TPP will further destabilize existing tobacco control policies is unknown, largely because negotiation of trade rules and tobacco industry activity in the trade arena occur in secret, outside of public scrutiny. Analysis of the Intellectual Property Chapter draft of the TPP that

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[9] Sud S, Brenner JB, Shaffer ER. Commentary: Trading Away Health: The Influence of Trade Policy on Youth Tobacco Control. Journal of Pediatrics. Online: Feb. 10, 2015. DOI: http://dx.doi.org/10.1016/j.jpeds.2015.01.016
[10] D. Woodward, N. Drager, R. Beaglehole, D. Lipson. Trade in Health Services: Global, Regional and Country Perspectives.

was made public in 2014 found multiple potential threats to tobacco-control measures, and the sovereign ability of nations to protect public health from tobacco-related disease and death.[11]

Only through appropriate public and Congressional oversight will we ensure that the TPP does not undermine the right and ability of the U.S. or participating countries from exercising their domestic sovereignty in order to adopt or maintain measures to protect public health, including reducing tobacco use and to prevent the harm it causes to public health.

**6. Investor-State Dispute Resolution**

WTO agreements are enforced by financial fines and trade sanctions in the case of violations. For this reason, they have proven to be the most effectively enforced international agreements. The WTO is set as the unequivocal arbiter of trade rules for its 160 member countries. Countries that believe their companies are being barred from trade by another country for reasons that violate WTO rules can file a dispute with the WTO. Disputes among nations are resolved by panels appointed by the WTO. The panels are not accountable to national governments or courts. The panels can authorize countries to impose trade sanctions, financial penalties and the boycott of products against other countries, as compensation for violations or for failure to comply with trade panel decisions.

Nations have successfully brought challenges before trade tribunals claiming that public health measures violate trade rules. Health and quality standards and labeling requirements have sometimes been construed by the World Trade Organization as barriers to trade. From a public health perspective, standards for labeling genetically modified foods or protecting dolphins from becoming snared in commercial fishing nets are important protections for human and animal health, and the environment. But businesses have found these standards cumbersome, and therefore barriers to trade.

Chapter 11 of NAFTA provides an "investor's rights" provision that allows individual foreign corporations (referred to as investors) to directly sue any of the three participating national governments. Companies can sue for the loss of current or future profits, even if the loss is caused by a government agency's prohibiting the use of a toxic substance. Prior to NAFTA, regional trade agreements only permitted country-to-country enforcement by governments. This was a major elevation of the rights of corporations, and an important blow to national sovereignty. Subsequent regional and bilateral agreements negotiated by the US include the investor's rights provision. Objections by the Intergovernmental Policy Advisory Committee to the USTR, composed of state and local public officials, contributed to keeping this provision out of the U.S.-Australia Free Trade Agreement.

The tobacco industry has used both WTO country-to-country dispute procedures, and investor-state mechanisms, to protest and delay tobacco control measures including graphic warning labels and plain packaging, as described above.

[11] Center for Policy Analysis on Trade and Health. Intellectual Property Chapter of Trans-Pacific Partnership Trade Agreement, Tobacco, and Public Health, November 25, 2013.
http://www.cpath.org/sitebuildercontent/sitebuilderfiles/TPP_IP_TobaccoNov25_2013.pdf

The following investor-state trade dispute cases illustrate the negative implications for health. As is typical of such cases, the health argument did not substantially prevail. The Methanex case, an exception, nevertheless extended exposure to a known health hazard:

- **Closure of a Toxic Waste Disposal Site**

In a landmark environmental case filed under NAFTA Chapter 11, a NAFTA tribunal awarded the U.S.-based Metalclad Company $16.7 million in its suit against Mexico. The state of San Luis Potosí had refused permission for Metalclad to re-open a waste disposal facility, in the face of a geological audit showing the facility would contaminate the local water supply and resulting opposition by the local community. Metalclad claimed that this local decision constituted an expropriation of its future potential profits and successfully sued Mexico.

- **Eliminating Toxic Gasoline Additive**

The Methanex Corporation of Canada sued the United States for approximately $1 billion, because the state of California banned the use of methyl tertiary butyl ether (MTBE), a gasoline additive. Though introduced to reduce air pollution, MTBE was found to be carcinogenic when it leaked into the water supply. Methanex produces methanol, a component of MTBE. Methanex ultimately lost its case, because the trade panel cast doubt on whether the state intended to discriminate against Methanex as a foreign corporation. However, due in part to the possible sanctions resulting from this case, MTBE remained in use within California for years as the case proceeded, The U.S. Dept. of Justice spent millions defending the case.

These cases suggest two policy remedies for public health:

1. Eliminate the investor-state mechanism that permits foreign corporations to file trade charges against sovereign governments.

2. Trade agreements should exclude health-related laws and regulations from trade challenges at both the country-to-country level, through the WTO, and from challenges by corporations through bilateral and regional agreements.

## Conclusions

CPATH recommends that Congress:

- Incorporate the Public Health Objectives for U.S. Global Trade Agreements as U.S. negotiating objectives.
- Conduct hearings, solicit public comment, and take other appropriate investigatory and oversight actions in all relevant Committees in Congress to assess the impact of past, pending and current trade agreements on population health, and assure based on such assessment that these agreements do not have an adverse impact on health.
- Mandate the appointment to all relevant trade advisory committees representatives of organizations that work to assure equitable access to affordable health-related services and products, and promote the health of individuals, communities and populations.

- Promote transparency and democratic accountability at all levels of the trade negotiation process, including enabling public access to all trade advisory committee meetings, proceedings and submissions related to multilateral and bilateral trade negotiations.
- Exercise its power and authority concerning trade agreements negotiated by the U.S.; retain its rightful authority for review, discussion and revision of the TPP and all future trade agreements in the interest of protecting the health and safety of the American people; and oppose the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

DISTILLED
SPIRITS
COUNCIL
OF THE
UNITED
STATES

**UNITED STATES HOUSE OF REPRESENTATIVES**

**COMMITTEE ON WAYS AND MEANS**

**HEARING ON EXPANDING AMERICAN TRADE WITH ACCOUNTABILITY AND TRANSPARENCY**

**APRIL 22, 2015**

**STATEMENT OF THE DISTILLED SPIRITS COUNCIL OF THE UNITED STATES, INC.**

Dr. Peter H. Cressy
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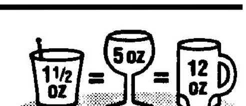


**UNITED STATES HOUSE OF REPRESENTATIVES**
**COMMITTEE ON WAYS AND MEANS**

**"Expanding American Trade with Accountability and Transparency"**

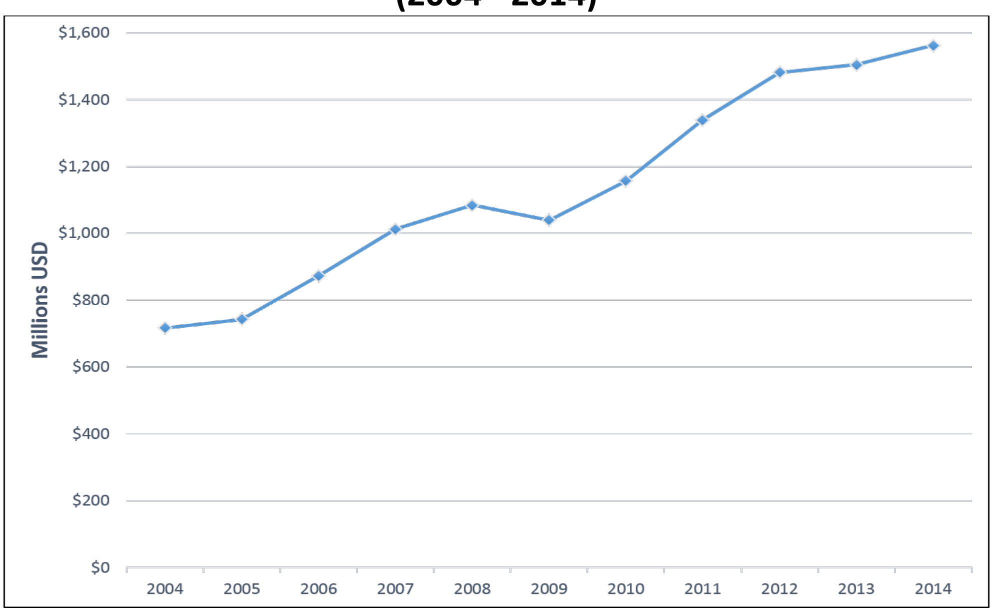
**April 22, 2015**

The following statement is submitted on behalf of the Distilled Spirits Council of the United States, Inc. (Distilled Spirits Council) for inclusion in the printed record of the Committee's hearing on Expanding American Trade with Accountability and Transparency. The Distilled Spirits Council is a national trade association representing U.S. producers, marketers and exporters of distilled spirits products. Its member companies export spirits products to more than 130 countries worldwide.

## THE IMPORTANCE OF TRADE TO THE U.S. SPIRITS INDUSTRY

The Distilled Spirits Council and its members have a strong and growing interest in trade, from a commercial perspective and from a policy perspective. As a commercial matter, our members have become increasingly reliant on exports to fuel growth. Indeed, global U.S. spirits exports have more than doubled over the past decade, reaching over $1.5 billion in 2014. This was the eighth consecutive year that exports of American-made spirits exceeded $1 billion. The majority of U.S. spirits exports are comprised of Bourbon and Tennessee Whiskey, which are recognized in several trade agreements as distinctive products of the United States. Exports of rum and other spirits also make a significant contribution to the U.S. economy. As of 2012, the distilled spirits industry supported 717,000 direct employees. Continuing to expand exports supports current and future employment in the industry.

**GLOBAL U.S. SPIRITS EXPORTS[1]**
**(2004 - 2014)**




[1] Source: U.S. International Trade Commission TradeDataweb

Given the growing importance of export markets to the industry's long term growth, the Distilled Spirits Council has a strong interest in a wide range of trade policy matters and has long been a very active supporter of market-liberalizing trade initiatives. For example, the Distilled Spirits Council has strongly supported multilateral, regional and bilateral trade agreements. We are active participants in the business coalitions supporting the negotiations toward a Trans-Pacific Partnership Agreement (TPP) and Transatlantic Trade and Investment Partnership (TTIP), have supported Congressional approval of free trade agreements (FTAs) the United States has concluded with various trading partners, as well as the granting of Permanent Normal Trade Relations (PNTR) status to China, Vietnam and Russia.

**THE IMPORTANCE OF RENEWING TRADE PROMOTION AUTHORITY**

There is no doubt that past efforts by the United States to open foreign markets have contributed to the impressive gains the U.S. industry has made, and continues to make, in expanding U.S. spirits exports. Certainly, past grants of trade promotion authority provided previous administrations with the necessary leverage to secure significant market access commitments from trading partners.

For example, during the Uruguay Round of GATT negotiations, distilled spirits were included in the "zero-for-zero" negotiations, in which the United States and European Union agreed to eliminate their respective tariffs on substantially all spirits. The value of U.S. exports to the European Union have more than tripled since the Uruguay Round agreements entered into force in 1995, from $184 million to $744.5 million in 2014. In addition, the implementation of FTAs has improved access for U.S. spirits exports to several important overseas markets, such as Australia, Canada, Mexico, Chile, Peru, Singapore, Korea, Colombia, Panama and Central America. Since the tariffs were eliminated under the U.S.-Australia FTA in 2005, for example, U.S. spirits exports to Australia have grown by 70% to $131 million. Australia now ranks as the industry's fourth largest export market worldwide. Such trade liberalizing efforts are critical to ensure that U.S. spirits exports are on a level playing field with domestically-produced spirits and other imported spirits.

Despite these impressive gains, the U.S. spirits industry continues to confront formidable trade barriers, particularly in key emerging markets. India, for example, assesses an import tariff of 150% *ad valorem* on spirits and, as a result, U.S. spirits exports to India remain disappointingly low. In 2014, U.S. direct spirits exports to India were valued at $3.9 million, accounting for less than 0.3% of all U.S. spirits exports. Indeed, U.S. spirits exports to India remain far below U.S. exports to comparable markets, particularly in light of the fact that India ranks as <u>*the largest whiskey market in the world*</u>, both in terms of volume (1.5 billion liters in 2013) and value ($21.6 billion in retail sales in 2013).[2] Other emerging markets with strong potential for U.S. spirits sales also maintain high tariffs on imports, including Vietnam (45%), which is participating in the TPP negotiations, Thailand (54-60%), and Brazil (20%).

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[2] Source: Euromonitor International Database.

Moreover, international regulatory activities affecting product standards, labeling and certification requirements, among other non-tariff measures, have become increasingly problematic for the U.S. spirits industry. As a consequence, our organization devotes considerable resources to monitoring regulatory developments, principally through the notification procedures established under the WTO Agreements on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS). In that connection, the Distilled Spirits Council has submitted numerous detailed comments with respect to proposed TBT and SPS measures that could impact trade in distilled spirits.

Current and future trade negotiations offer an important vehicle to address tariff and non-tariff barriers that impede the ability of U.S. spirits exporters to gain a foothold in foreign markets. Specifically, negotiations towards a TPP agreement afford an important opportunity to open up key emerging markets, including Vietnam and Malaysia, to U.S. spirits exports. However, TPA is essential in order to bring these important negotiations to a successful conclusion. Failure to do so will provide trading partners with whom the U.S. is negotiating little incentive to make the key decisions needed to conclude strong, market-opening agreements, thus leaving U.S. companies, including spirits exporters, at a serious competitive disadvantage vis-à-vis our overseas competitors.

**CONCLUSION**

In sum, international trade has become increasingly important to the U.S. spirits industry, and the ability of the United States to conclude high standard, comprehensive and trade liberalizing agreements with key partners will help to ensure the long term viability of the industry. TPA is absolutely vital to ensure that U.S. negotiators are empowered to conclude the strongest possible trade agreements to address the types of trade barriers that impede U.S. exports of distilled spirits. The Distilled Spirits Council, therefore, strongly supports swift congressional approval of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and we stand ready to cooperate closely with Congress in seeking the prompt approval of this legislation.

Thank you very much for your consideration.

Written Statement of:

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Distilled Spirits Council of the United States, Inc.
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April 21, 2015

The Honorable Paul D. Ryan, Chair
The Honorable Sander M. Levin, Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Ryan and Ranking Member Levin:

On behalf of LeadingAge, I am writing about our concern over proposed trade legislation that would offset the cost of extending trade readjustment assistance benefits with another extension of Medicare sequestration. This offset is simply wrong, and we urge you to remove it from the legislation.

Over the last few years, Medicare payments to post-acute care providers have taken a number of hits. The Affordable Care Act applies a productivity adjustment factor to the annual Medicare payment update, directly affecting resources necessary for good-quality care. Payments to skilled nursing facilities were cut by 11% across-the-board in 2011. Home health care payments are being rebased, which will substantially reduce reimbursement to providers. Last year, Congress enacted value-based purchasing for skilled nursing facilities, due to take effect within a few months. And the IMPACT Act enacted last year will lead to major revisions in post-acute care payment systems over the next few years.

In 2015, the 2% Medicare sequestration resulted in no payment update for most post-acute care providers, since it essentially negated the 2% increase in provider costs that the Centers for Medicare and Medicaid Services (CMS) had calculated. Medicare sequestration is already scheduled to last a year longer than originally enacted because it was used to offset the cost of restoring cost-of-living increases in military pensions. Again, we do not argue with military pension policy, but the offset should not have come from a program providing essential health care coverage to seniors.

As the large baby boom cohort ages, Medicare will face growing cost pressures. We also anticipate potential budget legislation later this year that could have an impact on the program. If savings have to be achieved in Medicare, they should be directed back into keeping it financially stable for the population it is intended to serve.

Medicare must not be a piggy bank to offset the costs of legislation unrelated to the program. Please find other means of offsetting the costs of the trade measure soon to come before your committee.

Sincerely,

William L. Minnix, Jr.
President and CEO

**About LeadingAge**
The mission of LeadingAge is to expand the world of possibilities for aging. Our membership has a service footprint of 4.5 million and includes a community of 6,000 members representing the entire field of aging services, including not-for-profit organizations, state partners, and hundreds of businesses, consumer groups, foundations, and research partners. LeadingAge is a tax-exempt charitable organization focused on education, advocacy, and applied research.

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Expanding the world of possibilities for aging.

**TESTIMONY OF ROGER JOHNSON**
**PRESIDENT**
**NATIONAL FARMERS UNION**

**SUBMITTED TO THE U.S. HOUSE OF REPRESENTATIVES**
**COMMITTEE ON WAYS AND MEANS**

**REGARDING EXPANDING AMERICAN TRADE WITH ACCOUNTABILITY AND TRANSPARENCY**

**APRIL 22, 2015**
**WASHINGTON, DC**

## Introduction

On behalf of family farmers, ranchers, and rural members of National Farmers Union (NFU), thank you for the opportunity to submit testimony regarding U.S. trade policy and Trade Promotion Authority. NFU was organized in Point, Texas in 1902 with the mission of improving the wellbeing and economic opportunity for family farmers, ranchers, and rural communities through grassroots-driven advocacy. That mission still drives NFU's work today. As a general farm organization, NFU represents agricultural producers across the country and in all segments of agriculture.

NFU, as directed by its policy adopted by delegates to its annual convention, advocates for fair trade. NFU recognizes that international trade is an important part of successful family farming in the U.S., but increasing trade is not an end unto itself. NFU policy states, "Every future trade agreement must address differences in labor standards, environmental standards, health standards, and the trade-distorting effect of currency manipulation and cartelization of agriculture markets."[1]

The original intent of Trade Promotion Authority (TPA) was to lay out the procedures for notification between the executive and legislative branch and the expedited legislative process for approval. Beyond the procedural components of Trade Promotion Authority, and most importantly, the legislation sets forth the objectives for any president for negotiating trade agreements. The Trans-Pacific Partnership negotiations are largely completed, so there is no need for Congressionally-assigned, unenforceable objectives. Objective-setting should occur prior to the start of negotiations, not near the end.

## Balancing trade

For years, trade agreements have been touted for their ability to open up markets for agricultural exports. Agriculture has had the good fortune to fair relatively well in trade. Since 1960, U.S. agricultural exports have been larger than agricultural imports, creating a surplus in agricultural trade.[2] This surplus is important for the overall economy because it helps offset the massive overall trade deficit, which totaled over $505 billion in 2014, a six percent increase from 2013. The overall trade deficit represents roughly three percent of the U.S. Gross Domestic Product (GDP). The trade deficit causes a drag on overall growth of the economy. With a strengthening U.S. dollar, the deficit is likely to grow in 2015, as a strong U.S. dollar will encourage imports and reduce exports.

In the first three years of the Korea-U.S. Free Trade Agreement, remarkably and unfortunately, U.S. agricultural exports have stagnated at zero percent, and the overall trade deficit with Korea has increased to $12.7 billion, an estimated 84 percent increase. After implementation of the free trade

[1] Nat'l Farmers Union, 2015 Policy of the National Farmers Union (2015) available at http://www.nfu.org/nfu-2015-policy/2066.
[2] USDA Economic Research Service available at http://www.ers.usda.gov/topics/international-markets-trade/us-agricultural-trade.aspx.

agreement, agricultural exports have failed to increase to Korea, despite increasing six percent overall. When even agriculture fails to grow as a result of trade agreements, the overall trade policy must be reevaluated. The U.S. reduced tariffs with Korea, and as a result, more Korean products are in the U.S. than the U.S. has shipped to Korea. The deficit has negative impacts on jobs and rural communities.

The massive overall trade deficit exists despite the U.S. having free trade agreements with 20 countries, including major trading partners like Canada and Mexico. Because of the significant impact the trade deficit has on the U.S. economy, all future trade agreements, such as TPP and the Transatlantic Trade and Investment Partnership (T-TIP), must have the explicit objective of balancing trade. NFU is disappointed this objective was not included in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

**Currency manipulation**

One of the major contributing factors to the massive trade deficit is currency manipulation. Currency manipulation occurs when other countries deliberately lower the value of their currencies relative to the U.S. dollar to gain an unfair advantage. This uniquely American issue, due to the role of the U.S. dollar in the global economy, effectively acts as a subsidy on that country's exports and a tax on U.S. exports.

One of the members of the TPP negotiations, Japan, is a major currency manipulator. In a report by the Economic Policy Institute (EPI) evaluating the impact of trade with Japan, EPI found that 896,600 U.S. jobs have been lost due to the U.S. –Japan trade deficit.[3] Currency manipulation is the single most significant cause of the trade deficit with Japan, which totaled $78.3 billion in 2013 for goods.

The issue of currency manipulation is not exclusive to countries with which the U.S. does not have trade agreements. In fact, the latest free trade agreement the U.S. entered into with South Korea suffers the same issues with currency manipulation as Japan. Earlier this month, the U.S. Treasury Department issued its semiannual report on international economic and exchange rate policies. In its report, its harshest criticism of currency manipulation was reserved for South Korea, not China. The report stated, "Korean authorities appear to intervene on both sides of the market but, on net, they have intervened more aggressively to resist won appreciation."[4] The U.S. entered into a free trade agreement with Korea in March of 2012. The U.S.-Korea Free Trade Agreement (KORUS) used the same failed blueprints of previous trade agreements and failed to include provisions to address currency manipulation. South Korea has, and continues to be, one of the world's major currency manipulators. Currency manipulation has the capacity to eliminate any gains in tariff reductions that may be made in free trade agreements. Without measures to enforce restrictions on currency manipulation, free trade agreements fail to live up to the promises made by their supporters.

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[3] Economic Policy Institute, Currency Manipulation and the 896,600 U.S. Jobs Lost Due to the U.S.-Japan Trade Deficit (2015) available at http://www.epi.org/publication/currency-manipulation-and-the-896600-u-s-jobs-lost-due-to-the-u-s-japan-trade-deficit/

[4] U.S. Department of the Treasury, Report to Congress on International Economic and Exchange Rate Policies (2015) available at http://www.treasury.gov/resource-center/international/exchange-rate-policies/Documents/2014-4-15_FX%20REPORT%20FINAL.pdf

Currency manipulation remains a top concern of NFU, particularly in the context of TPP. Members of the TPP negotiations are well known currency manipulators, including Malaysia, Singapore, and Japan. With passage of Trade Promotion Authority, Congress eliminates its capacity to ensure that this significant trade agreement contains enforceable measures to address currency manipulation.

**Conclusion**

NFU's policy book states, "The measure of the success of a trade agreement has to be its benefit to U.S. agriculture and specifically of its producers' net income. Vague promises of 'market access' to foreign markets do not offset opening our border for even larger amounts of foreign-produced goods to enter our markets. Market access does not equal market share."

Since TPP almost certainly contains no measures to address the trade deficit or currency manipulation and TPA fails to address these major concerns, NFU opposes TPA. Congress should maintain its Constitutional authority and review the trade agreements in a transparent manner.

RGIT REPRESENTATIVE of German Industry + Trade

1776 I Street NW | Suite 1000
Washington DC 20006 | USA
(001) 202 659 4777

**To:** United States House of Representatives Committee on Ways and Means

**From:** Dr. Thomas Zielke, CEO & President, Representative of German Industry and Trade

**Date:** May 6, 2015

**Re:** Statement for the Record on H.R. 1890, a Bill to establish Congressional Trade Negotiating Objectives and enhanced consultation requirements for trade negotiations, to provide for consideration of trade agreements, discussed at a hearing on April 22, 2015.

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The Representative of German Industry and Trade appreciates this opportunity to submit comments to the Members of the House Committee on Ways and Means on H.R. 1890, the "Bipartisan Congressional Trade Priorities and Accountability Act of 2015," commonly referred to as "TPA."

The Representative of German Industry and Trade (RGIT) is the liaison office of the Association of German Chambers of Commerce and Industry (DIHK) and the Federation of German Industries (BDI) in Washington, DC. [1] RGIT represents the interests of the German business community in the US, comprising of over 4,700 German subsidiaries that employ over 620,000 American workers, mainly in various manufacturing sectors.[2]

RGIT supports H.R. 1890 because Trade Promotion Authority laws have played an essential role in guiding both Democratic and Republican Administrations as they pursue trade agreements that eliminate barriers to trade in foreign markets, and establish rules to prevent discrimination, while also supporting American jobs.

***<u>The US needs trade:</u>***

- One in five US jobs already depend on trade and the successful negotiation of future trade agreements could create further job opportunities.[3]
- One in four US manufacturing jobs depends on exports, and these workers' wages are 18% higher on average than those of other factory workers.[4]
- The United States actually has a trade surplus with its 20 FTA partners.[5]

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[1] RGIT does not represent individual companies as clients, but rather represents its principals DIHK and BDI.
[2] Source: US Department of Commerce.
[3] "Trade and American Jobs," The Trade Partnership: http://www.tradepartnership.com/pdf_files/Trade_and_American_Jobs7.2010.pdf.
[4] US Department of Commerce: http://trade.gov/publications/ita-newsletter/0510/exports-play-vital-role-in-supporting-us-employment-0510.asp and http://trade.gov/mas/ian/build/groups/public/@tg_ian/documents/webcontent/tg_ian_003208.pdf.

With Trade Promotion Authority, the United States will be better positioned to negotiate 21st century trade agreements that support high standards and help American companies compete in the global economy. Thus, H.R. 1890 is also an important strategic instrument.

***<u>H.R. 1890 Supports Increased Trade with Germany and the European Union:</u>***

The transatlantic trade and investment relationship is particularly strong:[6]

- The EU is the most important destination for US exports after Canada, accounting for 17% of all US exports.
- Germany is the fifth largest export market for the US.
- 50% of all US foreign direct investment (FDI) is invested in the EU.
- 60% of FDI in the US comes from the EU.

TTIP would foster the strong trade and investment ties between our two markets, and it would spur job creation on both sides of the Atlantic.

RGIT represents large companies and SMEs in the US and Germany. The main barriers to trade and investment cited by these companies are:

- Diverging standards and regulations
- Duplicative testing and inspection requirements
- Tariffs that put a strain on high trade volume
- Burdensome custom procedures

In particular, most SMEs do not have the resources to overcome significant market barriers on their own and must instead rely largely on US government initiatives to increase their access foreign markets. In 2012, SMEs accounted for 98% of US exporters with nearly 300,000 companies shipping goods overseas. When one considers that only 5% of America's 6 million SMEs are exporting, the potential benefits of expanded market access through TTIP are staggering.

A survey by the US Trade Representative (USTR) and the European Commission provides several examples of how American SMEs, across a wide variety of sectors, suffer due to trade restrictions, tariffs, and burdensome regulations.[7] Section 2 of H.R. 1890 highlights that regulatory cooperation, in light of globalized supply chains, is a vital negotiation objective.

Larger American companies who rely on German goods and components in their global supply chains also suffer significant losses as a result of regulatory divergence. In an increasingly globalized world, companies strive to streamline their supply chain logistics and often choose to invest in countries which not only have a substantial supplier network for intermediate components, but also preferred tariffs for

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[5] US Chamber of Commerce: https://www.uschamber.com/blog/one-weird-fact-about-trade-deficit-no-one-has-noticed.

[6] Source for statistics below: US Department of Commerce.

[7] http://trade.ec.europa.eu/doclib/docs/2014/march/tradoc_152266.pdf

the shipment of their end products. With the ratification of the European Union's Comprehensive Trade and Economic Agreement (CETA) with Canada, the EU will have free trade agreements with both Canada and Mexico. The inability to successfully conclude an ambitious TTIP agreement could have negative implications for future German investment in the United States.

Further, American companies are disadvantaged in the European marketplace because the US has no trade agreement in place. USTR estimates that US manufacturers exported more than $253 billion worth of industrial products to the EU in 2012. However, US products face higher tariffs than products from Chile, Mexico, and South Korea, often putting them at a competitive disadvantage. If Congress acts to reverse this harmful imbalance, US manufacturers, and the German companies who are part of their supply chains, will benefit greatly.

We ask Congress to act now to pass H.R. 1890, and help trade flourish.

***Clear Objectives in Negotiating TTIP:***

On May 4, 2015, at the conclusion of the most recent TTIP negotiation round, EU Trade Commissioner, Dr. Anna Cecilia Malmström, suggested that the protracted TPA debate in Congress is slowing TTIP negotiations. RGIT agrees that Bipartisan Congressional Trade Priorities and Accountability Act which sets forth clear objectives and guidelines for trade negotiations would facilitate more efficient TTIP talks. Specifically, H.R. 1890 highlights important objectives in trade in goods, services, and agriculture, and cross-border data flows. If enacted, these objectives would give US negotiators a stronger mandate, as well as send an important signal to negotiating partners in Europe that the US government and Congress are committed to seeing a successful conclusion of the TTIP.

RGIT believes that passing H.R. 1890 is not only integral to ratification of the TTIP, but also instrumental in determining the breadth and depth of the final agreement. The complex nature of the issues at stake requires significant input and support from Congress. The successful passage of H.R. 1890 is a crucial step in this direction - a step which would encourage negotiators to craft an agreement that sets standards for the global economy with trading partners who also value high standards for consumer protection, the environment, and labor.

***Conclusion***

RGIT urges this Committee to do all it can to promote H.R. 1890 among its colleagues in the House of Representatives. German and American companies have suffered too long under cumbersome trade restrictions. Unless decisive action is taken now, both economies will be at a disadvantage in the global marketplace. RGIT and its staff offer their assistance to this Committee and its staff in furtherance of this goal. Not passing H.R. 1890 would be a missed opportunity to set trade policy in the years to come.