



UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

July 31, 2015

The Honorable Paul Ryan
Chairman, Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter submitting questions for the record following my testimony before the Committee on Ways and Means on April 22, 2015.

Enclosed please find the responses to the questions provided by the Committee. If you have any further questions, please contact Jim Stowers, Acting Assistant Secretary for Legislative and Intergovernmental Affairs, at (202) 482-3663.

Sincerely,

A handwritten signature in black ink, appearing to read "Penny Pritzker".

Penny Pritzker

Enclosure

Response to Question for the Record
U.S. House of Representatives
Ways and Means Committee
April 22, 2015

Questions from Rep. Reichert

1) India

I am pleased to see that the United States and India have agreed to expand and elevate the U.S.-India Strategic and Commercial Dialogue. Leadership from the Department of Commerce and the United States Trade Representative will be crucial to achieving solid deliverables to the benefit of U.S. and Indian businesses, workers, and consumers alike. In particular, one such win-win would be to eliminate the restriction that India imposes on foreign direct investment (FDI) in e-commerce. Will this issue be on the agenda as part of the dialogue? Can you describe what else Commerce is doing to encourage the Indian government to liberalize FDI in e-commerce? Additionally, is this issue on the agenda of the Trade Policy Forum?

Response:

The Department of Commerce routinely engages with the Government of India (GOI) to discuss the benefits in liberalizing foreign direct investment in India's e-commerce sector for the business to consumer model. This includes helping India create jobs in various sectors, integrating Indian small- and medium-sized enterprises into the global supply chain of multibrand retailers, obtaining access to cheaper goods, and increasing competition in the marketplace. Simultaneously, market access for U.S. companies will mean greater access to India's large and growing economy, an increase of U.S. exports, and job creation in the United States. Additionally, the GOI is working on guidelines for e-commerce and we will continue engaging with them while the guidelines are being developed.

The Department of Commerce is in the early planning stages for the U.S.-India Strategic and Commercial Dialogue (S&CD) and we have not yet come to agreement with the Indian Government regarding what topics will be on the agenda.

E-commerce liberalization is also discussed under the services work stream of the Trade Policy Forum (TPF) agenda. The Office of the United States Trade Representative (USTR) specifically raised the issue of India liberalizing business to consumer e-commerce at the Minister level during the TPF in November 2014, and has had technical discussions in 2015 emphasizing the spill over benefits of e-commerce liberalization to logistics, warehousing, and transportation services. USTR will continue to discuss this issue with India in the context of the TPF.

2) Chile

Is the Administration aware the Chilean government is considering educational reforms that could potentially violate existing agreements between U.S. businesses and Chilean institutions? If so, does the Administration have a position?

Response:

Yes, the Administration is aware of the education reforms in Chile and their potential to impact U.S. business interests in the sector. The Administration continues to monitor the ongoing reform process.

Questions from Rep. Boustany

1) Trade Promotion Authority

Madam Secretary, as you know, trade plays a crucial role in the economic growth and stability of my home state of Louisiana. In fact, exports last year totaled \$65.1 billion, marking an increase of almost three percent from 2013, and also the sixth consecutive year of growth, according to a new report by the World Trade Center of New Orleans. The results mirror a national trend: Exports for all 50 states in 2014 set a national record totaling \$1.62 trillion, an increase of 2.78 percent from 2013.

In recent years, countries across the Asia-Pacific have concluded more than 200 trade deals, while American workers and businesses have largely missed out. I do not believe the United States can afford to sit on the sidelines as others complete trade agreements that put our economy, businesses, and workers at an international competitive disadvantage and encourage a race to the bottom. Mrs. Secretary, in your opinion, do you believe the United States will be able to complete current trade agreements and continue to see growth and development opportunities without the passage of the Trade Promotion Authority?

Response:

As he noted when signing the Trade Promotion Authority legislation on June 29, the President welcomed the strong bipartisan congressional action leading to the passage of this legislation. In the past several months, Administration officials have traveled throughout the country highlighting the important benefits of trade for firms and workers and the disadvantage they currently face by virtue of the fact that other countries, including China, have already secured trade preferences for their goods and services through their own trade agreements. The Administration, therefore, shares your perspective that trade promotion legislation is critical to help strengthen the competitiveness of U.S. firms and workers by allowing the government to conclude negotiations on trade agreements that open markets and create significant new commercial opportunities for U.S. goods and services. Securing this legislation now helps ensure that we get the best deal possible in our trade negotiations and allows us to bring those benefits home to the American people.

2) Investment Protection

The United States protects foreign investments through systems of jurisprudence, rights to equitable treatment, and fair and impartial hearings of disputes. Madam Secretary, do you support an investment chapter in trade agreements containing strong investment protections that ensure fair and equitable treatment of investors; full protection and security of investments; a prohibition on expropriation of investments; prompt compensation when expropriation occurs; free transfers of capital; and access to reliable, independent, international third-party dispute resolution mechanisms (*e.g.*, investor state arbitration)?

Response:

The Department of Commerce is a strong proponent of trade agreements that ensure that U.S. investors and investment are protected abroad. That includes investor protections like those you cite. For example, the U.S. Government advocates for a minimum standard of treatment obligation that includes guarantees of fair and equitable treatment and full protection and security. Although a sovereign nation has the right to expropriate property, we call for clear, appropriate limits on the expropriation of investments and a standard that requires the payment of prompt, adequate and effective compensation when expropriation takes place. We stress the importance of the requirement that investors be able to move capital relating to their investments into and out of the host country without delay. We also seek to secure for our investors the right to bring an investment dispute against a host country's government in a neutral international forum. It is through securing strong, enforceable rights in U.S. international agreements that we help protect U.S. foreign direct investment abroad, as well as promote the U.S. exports that follow such investment.

3) Energy

Crude oil exports are an important aspect of the benefits of global trade both domestically and throughout the globe. I was pleased to see the PEMEX application this winter regarding swaps of crude oil. I hope this positive development with Mexico continues.

Are you working toward further collaborations, and do you believe that we should allow exports to Mexico in the same way that exports are allowed to Canada? And would you support Congressional efforts to codify North American crude exports as a first step toward ultimately achieving free trade of oil?

Response:

The Department of Commerce's regulations have long implemented the provisions in relevant laws allowing the exchange of crude oil with adjacent foreign states. It is not clear that allowing U.S. crude oil exports to Mexico without reciprocity is warranted.

4) Energy

The shale development boom across the United States is changing our country's energy landscape as U.S. crude oil output soars to a 31-year high and oil imports continue to steadily decline. Lifting the 1970s era crude oil export ban would allow this boom to continue while lowering energy costs for consumers and increasing tax revenues for local governments. In Louisiana, lifting the ban would grow the industry that so many Louisianans care deeply about.

According to HIS Energy, lifting the export ban would increase U.S. production from 8.2 million barrels per day to 11.2 million barrels per day and increase investment in the American economy by nearly \$750 billion. A high crude oil export scenario would lead to 63,000 jobs added at peak in 2019, according to an Aspen Institute report, and lifting the ban would put downward pressure on domestic gasoline prices.

During the recent CERA Week conference, Senator Murkowski stated that "it is time to lift the ban" on crude oil exports. Do you agree?

Response:

I understand as you do the vital role that the energy sector plays in our economy. The increase in domestic oil production is a positive development and is an important part of the President's all of the above energy strategy. We are closely monitoring the implications of growing domestic energy supplies, including the economic, environmental, and security opportunities and challenges that they present. Given the numerous stakeholders in this issue, we are also following the Congressional legislative efforts related to the crude oil export ban.

5) TPP/Chile

Chile is one of the 12 nations currently negotiating the TPP trade agreement with the United States. Under current Chilean law, a non-profit university may receive services from for-profit organizations. It has been brought to my attention by Laureate, a Baltimore, Maryland-based company, that the current Chilean President, Michelle Bachelet, has been pushing wide-ranging education reforms that would jeopardize ongoing investments in higher and professional education by companies. Over the past 15 years, Laureate has invested nearly \$1 billion in Chile and provided academic, technical, and management services that currently support 150,000 students through three leading non-profit universities and several professional training institutes in Chile, including Universidad Andres Bello (36,000 students in 7 campuses), Universidad de Las Americas (26,000 students in 4 campuses), and Universidad Vina del Mar (6,000 students in 2 campuses). Although Laureate has been and currently is fully compliant with Chilean law and agreements in place, it is concerned that planned education reforms by the Chilean Government run counter to existing contracts, such as those Laureate has signed with the government for its three universities a decade ago, as well as international agreements, such as the U.S.-Chile Free Trade Agreement, which came into force in 2004.

Has the Administration expressed its concerns over Chile's proposed education reform and the impact it would have on American investors? If so, how and when? What impact does it have in our TPP negotiations?

Chile's proposed educational reforms appear to be a de-facto nationalization of private education in Chile. Given there is \$1 billion of U.S. investment in Chile's higher education system, how is the U.S. prepared to respond?

Response:

Yes, the Administration has expressed concerns about the potential impact of education reforms on U.S. investments in Chile. The Administration has raised its concerns on a number of occasions in meetings with Chilean Government officials since becoming aware of the issue in early 2014.

TPP negotiations include negotiations relating to the protection of investor interests in partner countries. This includes the right to compensation in the case of a partner government's expropriation of a U.S. investor's assets. The U.S.-Chile Free Trade Agreement includes similar protections. The Administration will continue to advocate on behalf of U.S. interests abroad, including those of education-related investments, and take appropriate action to promote compliance with international treaty obligations.

Rep. Marchant

1) GSP/AGOA

I understand that the Administration is currently reviewing a longstanding investment dispute between the Republic of Congo and the company COMMISIMPEX. I understand that your review is centered on whether the Republic of Congo has taken steps that are inconsistent with the eligibility criteria found in the GSP statute and the AGOA legislation—both of which the Committee moved to renew and extend recently. Please provide an update on your review.

Response:

As you note, both GSP and AGOA have eligibility criteria related to investment and we are committed to ensuring that all eligible countries continue to meet the criteria. To date, no petition has been filed under GSP regarding the COMMISIMPEX case and this dispute came to our attention subsequent to the completion of our last AGOA eligibility review. We are monitoring this ongoing dispute closely.