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Dear Chairman Nunes, Ranking Member Rangel, and members of the subcommittee:

On behalf of Rio Tinto, I would like to thank you for holding this hearing on U.S.-India Trade Relations. Rio Tinto's business is finding, mining, and processing mineral resources, and our activities span the world. In the United States, Rio Tinto produces aluminum, copper, gold and borates for export worldwide. Rio Tinto's activities in India go back to 1930, when aluminum producer Indal - a former subsidiary of Rio Tinto Alcan - began operating.

### **India's Barriers to Trade**

We strongly share in the belief that the trading relationship between the U.S. and India holds a wealth of potential for both parties, but that much work remains for this potential to be fully realized. In a rapidly developing nation as large and diverse as India, unique business challenges are to be expected. Testimony during the hearing discussed these challenges at the macro-level as well as in specific sectors where protectionism and forced localization are hampering trade and growth.

### **Supporting India's Liberalization Efforts through Rules Based Trade**

We believe that the most important message from this hearing is that the recourse to remedies and rights under international trade agreements between the two countries should not be seen as antagonistic to the bilateral trading relationship. India is the largest democracy in the world, and as such it must accommodate an extraordinary array of diverse and competing interests. This is the reason that India is so often seen to be opening up in one sector while turning inward in another. While India has a responsibility to adhere to the commitments it made when it joined the World Trade Organization, other countries should understand that ensuring India's compliance with these commitments is in everyone's interest, including India's. As Arvind Subramanian noted in his testimony, India has an excellent record of compliance with WTO rulings against it, and we agree wholeheartedly with his urging that the U.S. "not be reticent" in engaging the WTO dispute resolution process. India has ample capacity with regard to its international trade representation, and rulings against trade barriers strengthen the hand of those within India seeking greater liberalization and growth.

### **Rio Tinto's Own Experience – 8 Years of Lost Exports from California to India**

The last seven annual publications of USTR's National Trade Estimate Report on Foreign Trade Barriers have noted India's discriminatory restriction on imports of boric acid. Boric acid, derived from mineral borax, has a wide variety of industrial uses, including glass and glass fiber,

ceramics, enamels, personal care products, adhesives and clean energy. Boric acid may also be used in small quantities as a pesticide and in agriculture as a micronutrient.

Beginning in 2004, India's Customs authority imposed a restriction on tariff line 2810, the global tariff classification for boric acid. The restriction states that imports are subject to an import permit from India's Ministry of Agriculture. The result is that every shipment of boric acid must be accompanied by a permit, and these permits are only issued – if at all – for a given quantity of boric acid measured in metric tons. Conversely, India has imposed no such restriction or limitation within its borders on the manufacturing and sale of boric acid produced in India. The result is the forced localization of boric acid processing. Because India has no natural deposits of mineral borax [the input for manufacturing boric acid], no restriction was imposed on the tariff line for mineral borax, 2840. Thus India's chemical companies freely import the required input and enjoy a protected domestic market for boric acid. Rio Tinto's subsidiary, U.S. borax, can continue to mine mineral borax in California, but demand for Rio Tinto's boric acid manufacturing workers' labor is reduced while those jobs are instead generated in Indian manufacturers' plants. India in turn suffers from less choice and higher prices.

This kind of trade barrier is not sophisticated – the discriminatory restriction on tariff line 2810 violates numerous core WTO obligations, including the central obligation to provide national treatment. U.S. trade officials both here and in India have graciously worked with Rio Tinto representatives for more than half a decade to seek a resolution to this matter. Indian manufacturers which need boric acid have likewise expressed their frustration with the barrier, as have Indian courts. Many in Indian government desire to seek an end to this trade irritant. Despite all this, the restriction persists. We believe that were the U.S. to bring forward a WTO consultation request on the matter, the balance would tip in favor of those within India who support liberalized trade, and that both countries would be richer for it and closer to realizing their relationship's potential.

Sincerely,



Dean Gehring  
Vice President, Operations