



**we wear® jobs**

**Statement by Juanita D. Duggan  
President and CEO  
American Apparel & Footwear Association  
Before the House Ways and Means Committee  
On The  
2015 U.S. Trade Policy Agenda**

**January 27, 2015**

On behalf of the members of the American Apparel & Footwear Association (AAFA), and the four million U.S. workers our industry employs, we welcome this hearing and the opportunity to secure quick action on a number of pending trade measures.

Our members make and sell clothes and shoes around the world and in the United States. In order to reach our customers and do business, our products and inputs need to be able to cross those borders easily and seamlessly.

Earlier this month, we submitted a letter to House Ways & Means Committee Chairman Paul Ryan (R-WI) and Senate Finance Committee Chairman Orrin Hatch (R-UT), urging immediate enactment of legislation to renew expired and expiring trade programs. The letter is attached for reference.

A robust trade agenda eliminates barriers that separate our members from their customers and from their suppliers. When we knock down these barriers, we create jobs, reduce costs, and generate consumer opportunities.

Below are some key statistics that highlight the importance of free and open trade for the U.S. apparel and footwear industry:

- 98 percent of U.S. footwear is made offshore;
- 97 percent of U.S. apparel is made offshore; and
- 95 percent of the people on the planet who wear clothes and shoes live offshore.

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In 2015, we urge Congress to take immediate action on a number of pending measures, including:

- Renewal and update of the Generalized System of Preferences (GSP) program;
- Renewal of the African Growth and Opportunity Act (AGOA);
- Renewal of the Nicaraguan Tariff Preference Level (TPL) program;
- Renewal of Trade Promotion Authority (TPA) to pave the way for conclusion of trade agreements being negotiated with trading partners in Europe and the Pacific Rim; and
- Renewal and restart of the expired Miscellaneous Tariff Bill (MTB) process.

Early, bipartisan action on these measures will support trade-based U.S. jobs, benefit U.S. consumers, and signal immediate re-engagement to our trading partners.

We thank you for the opportunity to submit our comments, and look forward to working with the Committee toward quick Congressional approval of these critical programs.



Statement for the Record  
U.S. House Ways and Means Committee  
Hearing titled "U.S. Trade Policy Agenda"

January 27, 2015

The American Council of Life Insurers (ACLI) is pleased to submit this statement for the hearing record expressing support of the life insurance industry for a robust US international trade agenda.

The American Council of Life Insurers (ACLI) is a Washington, D.C.-based trade association with approximately 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Our public website can be accessed at [www.acli.com](http://www.acli.com).

ACLI is a strong supporter of international trade liberalization, open markets and regional global efforts to remove unnecessary barriers for the efficient provision of insurance, reinsurance, and retirement security products. We thank the Chairman and Ranking member of the House Ways and Means Committee for holding this important hearing, and we support the Administration's robust trade agenda, which includes the Trans-Pacific Partnership (TPP), the Trade in Services Agreement (TISA) and the Trans-Atlantic Trade and Investment Partnership (TTIP) initiatives.

ACLI also supports passage of a modernized Trade Promotion Authority (TPA) for purposes of providing Congressional, and thus stakeholder, input into the negotiating process and to support conclusion and Congressional consideration of the aforementioned trade initiatives. TPA is critical to a seriously dedicated and effective trade agenda.

Trade issues presently of concern to the insurance industry include:

- Foreign equity caps - A threshold issue is the need for elimination of unjustifiable and anticompetitive foreign equity caps, which are particularly prevalent in Asia (China, India, Malaysia, Myanmar, Philippines, Thailand, Indonesia, etc.) and truly alter and restrict ACLI's member companies' ability to operate effectively and holistically overseas. We are optimistic that the cap will be raised in India from 26% to 49% as an incremental but important improvement.
- Limitations on the conduct of cross border reinsurance – reinsurance is a global risk transfer mechanism designed to diversify risk, reduce risk concentrations in local markets and provide additional capacity and coverage to local markets often against the occurrence of low frequency high intensity events. Therefore, the changes in Brazil and Argentina in 2012, India in 2013 and now Indonesia not only place constraints on reinsurers' business operations, but also risk pushing up prices, limiting capacity for local consumers and increasing local risk concentrations, and global fragmentation and stagnation.

- Restrictions on cross border data flows (forced localization) - ACLI believes that requirements that all data be maintained in a given jurisdiction should be prohibited. Foreign companies doing business in a foreign country should be permitted to transfer electronic information out of that country for processing offshore. Companies should be free to manage and maintain data from headquarters, through affiliates, through regional centers, and through third party vendors as long as the data protection requirements of the local jurisdiction are satisfied. Forced domestication of data processing in Korea is already the subject of dispute with several of its trade partners, and proposals in other countries would put many global companies in a conflict of laws predicament between their home country supervisor's requirement for comprehensive group risk management and reporting.
- Reversals of Private Account Pensions – ACLI supports the maintenance and expansion of the World Bank model of individually funded defined contribution pensions, managed by the private sector. We believe now more than ever that the twin pressures of increased longevity and lower fertility rates will only increase funding gaps for national governments in both developed and developing markets. While still relatively new in some markets (India 2013), these systems have substantially reduced underfunding of government liabilities and created deep and sustained markets for long term investment instruments.
- Other issues of strong interest include provisions supporting regulatory predictability and transparency, provisions addressing unfair competition from State-Owned Enterprises and clearly articulated and transparent investment protections.

We appreciate the Administration's dedicated work on the TPP, TISA and TTIP initiatives, as well as on issues of implementation and enforcement of a bilateral nature – such as the cross border data flows issues currently under review in KORUS, and stopping the implementation of mandatory reinsurance cessions to a new state owned reinsurer in Indonesia. We look forward to Congressional passage of TPA as soon as is practicable. ACLI believes that such efforts will result in an open, strong and sustainable global marketplace.

The insurance industry is not only a provider of financial security by indemnifying risks faced by individuals and business – such as sickness, loss of life, liability, and property damage, to name a few, but also one of the world's largest institutional investors. A strong global marketplace with clear, transparent and dependable trade rules is critical to the health of our industry and to global security.

We appreciate the opportunity to submit this statement for the record. If there are any questions please feel free to contact Maurice Perkins, Senior Vice President – Federal Relations (202.624.2137, [mauriceperkins@accli.com](mailto:mauriceperkins@accli.com)) or Dianne Sullivan, Vice President - Trade (202.624.2106, [diannesullivan@accli.com](mailto:diannesullivan@accli.com)).

The Honorable James K Glassman  
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Ways and Means Committee  
1102 Longworth House Office Building  
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February 9, 2015

Dear Members of the Committee:

As the Committee on Ways and Means examines key issues within the U.S. trade policy agenda during the 114<sup>th</sup> Congress, I would like to share the attached op-ed that I wrote for *Roll Call* recently. The piece outlines the importance of resolving the problem of Sovereign Patent Funds (SPFs) via the Transatlantic Trade and Investment Partnership (TTIP) and the Trans-Pacific Partnership (TPP) – trade agreements that present historic opportunities to open up new markets and strengthen economic ties with important trading partners.

Already established in France, Korea, and China, SPFs are an increasingly important – and troubling – trade policy issue. SPFs are government-controlled entities that operate with the full authority and resources of national and local governments and distort markets by propping up home enterprises by threatening or pursuing intellectual property (IP) infringement litigation against foreign industrial rivals. Examples of these offenders include Intellectual Discovery (Korea), France Brevets (France), and the Chinese Government's Ruichuan IPR Funds, which was established in the spring of 2014.

As my op-ed argues, the United States must be a leader in preventing foreign governments from channeling their financial and diplomatic clout into SPFs, thus risking harm to free and fair trade, innovation, and the well-being of consumers both here and abroad. In his remarks from January of this year, Committee Chairman Paul Ryan admirably outlined the mutual benefits of a strong free trade agenda for America and its economic partners. SPFs threaten this mission by degrading established trade relationships through *de facto* subsidization of private home companies and through threatened or realized retribution against competitive foreign companies. In this environment, U.S. businesses face an unnecessary threat, especially since the U.S. Government has prudently chosen not to go down the path of creating an SPF of its own.

For this reason, Congress must ensure that both TTIP and TPP prevent SPFs from becoming viable instruments of 21<sup>st</sup> Century international trade policy. In addition, the G20, with Congressional support, should urge the World Trade Organization (WTO) to prevent member nations from hosting SPFs, on the grounds that these funds' existence and operations undermine the global economic growth and stability that the G20 advocates. SPFs also violate the spirit, and perhaps the letter, of the Agreement on Subsidies and Countervailing Measures, which prevents members of the WTO from using government power to secure advantages against foreign competitors.

Ways and Means is committed to supporting free trade, fair competition and innovation. SPFs are on the rise and should be addressed as part of the Committee's agenda to prevent more serious problems from arising in the future.

Thank you for your work on this important issue and for considering my views.

Sincerely,

Ambassador James K. Glassman  
Visiting Fellow, American Enterprise Institute  
Member, Investment Advisory Committee, Securities and Exchange Commission  
Former U.S. Under Secretary of State for Public Diplomacy and Public Affairs

*The views in this letter are my own and do not represent those of any organization with which I am affiliated.*

# ROLL CALL

## Will Patent Reform Tackle Government Trolls? | Commentary

*Roll Call*, James K. Glassman, November 30, 2015

With the election victory by the Republicans, Congress at last seems ready to tackle two issues on which the parties' differences are narrow: trade and intellectual property.

There's already a broad consensus that the U.S. must do more to open markets in Europe and Asia and that our patent system is badly broken.

These two issues are linked. The goal of reform for each is economic growth, driven in large measure by technological innovation, America's comparative advantage. But Europeans and Asians are well aware of the U.S. edge, and they are working hard to blunt it. One effective means affects both trade and IP policy. It's the sovereign patent fund, or SPF.

SPFs have become tools to deter foreign competition in countries where such practices exist, such as China, Japan, Korea and France. They are, in effect, government-sponsored patent trolls. Like private-sector trolls, or patent-assertion entities, they exist not to produce anything themselves but to own patents, license them and threaten or file litigation against what they consider to be infringers.

Certainly, there's a good case to be made for private patent-assertion firms, such as Intellectual Ventures, founded in 2000 by Nathan Myhrvold. He argues persuasively that "our goal is to grow a more efficient invention economy that will energize technological progress, potentially changing the world for the better."

But SPFs are different. They are owned, or co-owned, by governments, and the unabashed goal of these funds is to protect and promote home-grown industries, not improve the global economy. "Some SPFs, like France Brevets, even admit to being retaliatory or discriminatory instruments against foreign actors regardless of whether the original claim is legitimate or not," concludes a recent report by the European Centre for International Political Economy.

France Brevets is a €100 million SPF owned jointly by the French government and Caisse des Depots, a private firm "under Parliament's supervision and guarantee." It's been aggressive in defending national interests, filing lawsuits last year against HTC America and LG Electronics. As a state-owned enterprise, SPFs can marshal government resources — including not just money but regulatory power, or the threat of it — against foreign firms.

Such behavior appears to be a violation of the spirit, and perhaps the letter, of the Agreement on Subsidies and Countervailing Measures, which prevents members of the World Trade Organization from using government power to secure advantages against foreign competitors. By marshaling state authority against innovators, they deter economic growth.

France Brevets, however, pales in comparison to China. Local and federal authorities are establishing patent pools "to defend domestic companies," the ECIPE report states. SPFs are becoming an important element of China's announced strategy of promoting "indigenous innovation." The ECIPE authors worry that SPFs "legitimize similar behavior by bigger economies like China that are actively pursuing industrial policy through . . . the establishment of their own SPFs."

Japan, an innovator in industrial policy if not necessarily in technology, established the Innovation Network of Japan in 2009 as a public-private partnership to promote home-grown industries. In July, the Network set up its own pool with plans to acquire and defend 5,000 patents to start.

These SPFs — still growing in Asia and Europe — are exercises in mercantilism in nations where growth and innovation is slowing. IP rights are valuable assets, and with the weight of government behind them, they can be mobilized into battle against foreign competition.

In the long run, protectionism is futile. Only innovation itself can bring economic rewards. But SPFs can do enormous damage, igniting retaliation, raising the costs of innovation and reducing the value that flows to consumers from new technology. The ECIPE study says it's a "lose-lose scenario."

Patent reform in the United States must address the SPF phenomenon, placing restrictions on the ability of funds sponsored by foreign governments to litigate unfairly against U.S. firms. Also, the Transatlantic Trade and Investment Partnership and the Trans-Pacific Partnership, both under negotiation, must prevent SPFs from becoming protectionist instruments with the power to corrupt the free-trade objectives of those agreements. And last, the G20 should assert its opposition to the very concept of SPFs with a consensus declaration that they should be outlawed by the WTO. The G20's goal is to promote global economic growth and stability. SPFs do the opposite.

*Ambassador James K. Glassman, a visiting fellow at the American Enterprise Institute, served as undersecretary of State for public diplomacy and public affairs from 2008 through 2009. From 1987 to 1993, Glassman was part owner and editor of Roll Call.*

*Richard Chriss*

*Executive Director*

*The American Institute for International Steel*

*Submission for the Record*

*House Committee on Ways and Means*

*Hearing on the United States Trade Policy Agenda*

*January 27, 2015*

Chairman Ryan, Ranking member Levin, Members of the House Committee on Ways and Means, I greatly appreciate this opportunity to submit these comments on the United States trade policy agenda on behalf of the 100-plus member companies of the American Institute for International Steel (AIIS), a 65-year-old, non-profit organization whose member companies—including a number of leading American ports, such as the great ports of Milwaukee, Houston, New Orleans, Tampa, and others—employ tens of thousands of Americans who work in virtually every element of the steel supply chain.

These hard-working men and women load steel on and off ships, handle and store it on our docks, transport it across oceans and waterways and in trucks and rail cars, manufacture it, sell it, trade it, and provide specialized logistics and customs-related services in support of these efforts.

***The AIIS Trade Policy Priorities for 2015***

The AIIS's trade policy priorities—full implementation of the WTO's Trade Facilitation Agreement (TFA), a successful conclusion of the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership negotiations (T-TIP), and a renewal of the President's Trade Promotion Authority—are all very much related to the AIIS's mission of support for free and responsible trade in steel, and the challenges and opportunities we face.

In 1950, the year the AIIS was created, the United States helped launch the third global round of trade negotiations conducted under the auspices of the newly created General Agreement on Tariffs and Trade (GATT), the so-called Torquay Round, which was concluded eight months later. The success of the Torquay Round, under which 1948 tariff levels were cut by 25%, meant that the GATT, although organized only as a temporary secretariat, was well on its way toward establishing the global economic architecture aimed at breaking down the destructive trade barriers and short-sighted, trade-restrictive policies that, in the view of the late New York Senator Daniel Patrick Moynihan, lengthened and deepened the Great Depression, and were among the leading causes of World War II.

Today, just as we did in 1950, the AIIS fully supports constructive, robust United States leadership on trade policy. We know it is necessary to achieving a more open global economy. And we deeply appreciate this Committee's indispensable role in advancing American leadership on trade.

### ***The WTO Trade Facilitation Agreement***

The December 2013 Trade Facilitation Agreement (TFA), the first successfully concluded agreement in the WTO's 20-year history, is a tremendously important achievement. The TFA is aimed at reducing trade transaction costs--moving goods around the world faster, with less cost, and with fewer administrative barriers--which saves real money. The Peterson Institute for International Economics notes (2013) that there is a substantial payoff as a result of reducing trade transaction costs: developed countries may see close to a \$1 trillion increase in two-way trade. As a result of the TFA, we will likely see significant efficiencies in integrated global steel supply chains that move intermediate inputs like steel.

According to a 2012 analysis reported by the Peterson Institute, intermediate goods account for about 60 percent of global commerce. Similarly, recent analytic work by the Organization for Economic Cooperation and Development (OECD) finds that generally, between 30 percent and 60 percent of G 20 country exports are comprised of imported inputs. Foreign inputs of steel are increasingly important to United States manufacturers, including U.S. domestic steel producers.

The Peterson Institute cites additional empirical analysis supporting the finding of a parallel correlation between improvements in trade facilitation and increased trade volumes. Increased trade translates directly into economic growth.

If reaching final agreement on a Trade Facilitation Agreement in the consensus-driven WTO was a major accomplishment, so too was overcoming subsequent unrelated objections to moving forward with the necessary technical work to insert the TFA into the WTO Agreement. While the most difficult part of this story is over, two-thirds of WTO members have not yet completed their domestic ratification process, so the TFA has not yet entered into force. We strongly urge the Committee to continue to monitor this work, and to closely monitor implementation once the Agreement finally does enter into force.

***The Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership negotiations (T-TIP)***

While preferential trade agreements have been in existence for decades, their number has rapidly increased in the last 25 years. In 1990, there were only 16 such agreements in force worldwide. Today, there are more than 200 such agreements in force, covering a substantial amount of global commerce. For the most part, the United States has played a relatively modest role in this rapid growth.

This imbalance is about to turn more in our favor if we see a successful conclusion to and implementation of the 12-member nation Trans-Pacific Partnership negotiations and the U.S.-EU Transatlantic Trade and Investment Partnership negotiations.

With their particular focus on regulatory matters and non-tariff trade barriers, these trade negotiations recognize that economic opportunity is not predestined.

A group of new rising economic powers (REPs), such as China, Brazil, India, Indonesia, Russia, and Turkey are becoming major economic actors in the global economy. As the Congressional Research Service has recently pointed out, these large economies have an increasingly bigger share of global trade flows, and are more vigorous United States trading partners. Their increasing role in trade means we have to be even more engaged than in the past.

We urge that the United States continue to press for the negotiations to retain their comprehensive focus and ambition. In particular, we believe it is essential that the T-TIP negotiations provide for the elimination of tariffs and non-tariff trade barriers impairing the efficiency and effectiveness of international steel supply chains and trade.

### ***Renewing the President's Trade Promotion Authority***

If we believe that American leadership in shaping international economic and trade policy is important--a proposition that legislative leaders and senior trade officials of both political parties have strongly supported for decades--then no Congressional initiative is more important this year than approving legislation to renew the President's Trade Promotion Authority (TPA).

I believe that one mistake that is often made in discussing TPA is in tending to see it primarily in terms of modifying the mechanics of Congressional procedure. Yes, TPA temporarily alters the Congressional procedure that is used in the consideration of trade agreements, and there is certainly a legitimate and important discussion to be had about the role of Congress in considering trade agreements. However, TPA is about much more than that.

I would like to suggest that TPA is about three things concerning the development of United States trade policy: cooperation, alliances, and opportunity.

With regard to cooperation, TPA is vital because it signals to the rest of the world a unity of purpose between the executive and legislative branches with respect to United States trade policy.

Historically, the President is the voice of the American people with respect to foreign policy, including international economic matters. But Constitutional authority to regulate commerce with foreign nations resides with Congress. This is why formalized Congressional--Presidential cooperation on trade that conveys a unity of purpose between these two separate but equal branches of government matters so much.

What does this mean in practical terms?

Many of our trading partners have a unitary form of government. Politicians from the majority party in parliament control and run the executive part of the government. Thus, in a parliamentary system, the legislative and executive elements of government all speak with one voice. In trade negotiations, parliamentary-based governments have an advantage--when they put a deal on the table, negotiators from other countries can have confidence that the deal they agreed to will be implemented as it is written.

This is not necessarily the case in the United States. Because we do not have a parliamentary system, Congress and the President often do not speak with one voice on trade issues. If the President fails to lead, or Congress demurs, the United States is at a major disadvantage when trade deals are being negotiated. Because the American economy is so dependent on two-way trade, ultimately it is the American people who would suffer the most, in terms of lost jobs, lower wages, or higher consumer prices if our negotiators were not able to achieve the best terms and market access at the negotiating table. And because it publicly unites Congress and the President in pursuit of a common set of negotiating objectives--negotiating objectives that are drafted by Congress--TPA cuts through all the confusion and speculation among our negotiating partners and provides clarity about Presidential intentions and Congressional support for trade negotiations.

Regarding alliances, I recall a story by former USTR Robert Zoellick a few months after he became America's chief trade negotiator. Ambassador Zoellick related a comment made to him by then-Congressman John Tanner (D-TN), a former Member of this Committee, and a former Chairman of its Subcommittee on Trade.

According to Ambassador Zoellick, Congressman Tanner told him that "America's place in the world is going to be determined by trade alliances in the next ten years in the way military alliances determined our place in the past."

I believe this is as true now, and perhaps more so, than when Congressman Tanner said it fourteen years ago.

Take a look at the current Trans-Pacific Partnership trade negotiations. A parallel set of negotiations, the Regional Comprehensive Economic Partnership (RCEP) negotiations, is

taking place in the exact same area, the dynamic Asian region. The United States is not a participant in the 16-nation RCEP talks, but China is, along with India, Japan, and South Korea.

If Congressman Tanner is correct, as I believe he is, and the economic alliances we are attempting to forge through the TPP negotiations will have a highly significant strategic value, why wouldn't we want United States negotiators to have all the leverage and support they may require to successfully conclude an ambitious, comprehensive regional trade agreement that will contribute to the efficient, effective operation of our global supply chains?

My final point with respect to TPA, about opportunity, is related to the first two.

We have to recognize that like much of life, opportunity at the negotiating table is not predictable or predetermined. As a trade negotiator, you never know when, or even if, the opportunity to achieve a significant beneficial outcome may occur. When it does, TPA gives us the leverage to convert an opportunity into a meaningful outcome.

As a former senior United States trade official, I had the privilege of representing the United States at the negotiating table. In one major negotiation, I made almost daily use of statutory TPA provisions. This first-hand experience taught me how valuable TPA is as a practical resource for our trade negotiators. When I was at the negotiating table, as a consequence of TPA's instructions, I knew in specific detail exactly what negotiating priorities Congress expected us to try to achieve, and how these priorities related to overall United States trade policy objectives. And I knew all of this before a single word of a completed deal was sent to Congress for its consideration.

I am confident that these three priorities--full implementation of the WTO's Trade Facilitation Agreement, a successful conclusion of the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership negotiations, and renewal of the President's Trade Promotion Authority--will help set the United States on a strong economic path. These are priorities that can and should gain support from both sides of the aisle. Senator Moynihan once said, in another context, "We have nothing to fear from world trade. We have gained from it." Senator Moynihan was right.

On behalf of the tens of thousands of men and women working for AIS companies whose livelihoods depend on trade and a vibrant steel supply chain, I deeply appreciate this Committee's long-standing commitment to United States leadership on trade.

**WRITTEN STATEMENT OF THE  
AMERICAN WIRE PRODUCERS ASSOCIATION (AWPA)**

**HOUSE WAYS AND MEANS COMMITTEE**

**HEARING on the “U.S. Trade Policy Agenda”**

**January 27, 2015**

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## **INTRODUCTION**

The American Wire Producers Association (AWPA) appreciates the opportunity to submit this written statement in connection with the Committee's hearing on the "U.S. Trade Policy Agenda." Specifically, our members would like to highlight the need to enact legislation, including the general provisions of the "Enforcing Orders and Reducing Customs Evasion (ENFORCE) Act of 2012" (as approved by the Senate Finance Committee in July 2012), as an essential trade enforcement tool. We remain firm in our view that the U.S. Government needs to be more proactive in ensuring that foreign producers and exporters and U.S. importers cease the illegal evasion of antidumping and countervailing duties by transshipping goods through third countries and illegally declaring the goods as a product of that third country; falsifying documents to misrepresent country of origin or misclassify the goods; and other "creative" means of evading the duties imposed on the goods by the U.S. Government.

American wire and wire products manufacturers have been seriously and adversely impacted by these trade-distorting practices, making it almost impossible for our industry to compete with unfairly-traded imports. The ENFORCE Act's provisions included in S. 662 will increase the transparency, responsiveness and effectiveness of Customs and Border Protection's (CBP) enforcement activities and thus, greatly improve the effectiveness of our trade laws and the relief that they are intended to provide to U.S. industries and American workers injured by unfairly-traded imports.

## **BACKGROUND**

The AWPA is a trade association which represents companies that collectively produce more than 80% of all carbon, alloy and stainless steel wire and wire products in the United States. The AWPA's 82 member companies employ more than 20,000 workers in over 215 plants and facilities located in 35 states and 139 Congressional Districts.

American wire and wire products manufacturers are entrepreneurial and work hard to maintain their competitive market position despite heavy import pressure on their products. They pride themselves on their high productivity and constant reinvestment in the latest technology and equipment, keeping the American wire industry one of the most globally competitive segments of the steel industry. At the same time, they provide good-paying jobs to thousands of American workers.

## **CIRCUMVENTION AND EVASION OF DUTIES**

Domestic producers and industries may petition the U.S. Commerce Department and the U.S. International Trade Commission (ITC) to investigate imports that are believed to be sold at less than fair value or "dumped" in antidumping duty (AD) investigations or which benefit from proscribed government subsidies in countervailing duty (CVD) investigations. AD/CVD investigations and orders are the primary means by which U.S. industries combat unfairly-traded imports. However, these remedies are only effective to the extent the orders are enforced and attempts to illegally evade the orders are stopped.

### *The Situation Today:*

Foreign exporters and U.S. importers are increasingly using various schemes to evade payment of AD/CVD duties when goods are imported into the United States. Evasion often involves transshipping products through a third country, sometimes by repacking or

relabeling the product, and then using false documentation to declare that the third country is the country of origin. Importers also may deliberately misclassify imports, claiming that they are a different product or that they are excluded from the scope of the order. Other common tactics to avoid AD/CVD duties include subjecting the products to minor alterations or sending parts to a third country where insignificant completion or assembly operations are performed. Such products are then improperly identified as a product of the third country in blatant circumvention of the order.

These actions not only violate U.S. law and deprive American companies of the relief which the AD/CVD laws are intended to provide, **they also result in hundreds of millions of dollars that are lost annually to the U.S. Treasury in the form of uncollected duties from wire and wire products alone.** In addition, there are a host of other industries being impacted, including for example glycine, honey, diamond saw blades and tissue paper products. In these lean economic times, failure to collect these duties is unconscionable and unacceptable.

AWPA Position:

A number of AWPA member companies have successfully obtained AD and CVD orders against imported wire products that were found to be sold at dumped prices or unfairly subsidized by foreign governments. These companies have experienced firsthand the effects of the illegal evasion schemes used by foreign producers and U.S. importers to evade the payment of lawfully-owed duties. These illegal schemes have caused further injury to these companies and caused the loss of more American jobs.

The AWPA fully supports the enactment of the process included within the ENFORCE Act. This legislation establishes a process for CBP to investigate claims that AD/CVD orders are being evaded:

- Domestic producers can formally petition CBP to investigate suspected evasion.
- Once an investigation is initiated, CBP must make both a preliminary and a final determination as to whether an import should have been correctly entered as subject to the AD or CVD order.

CBP is directed to focus on the correct application of duties, regardless of intent.

(However, nothing within the bill hinders CBP's ability or discretion to use its full authority and enforcement tools, including collaboration with Immigration and Customs Enforcement (ICE), to pursue additional criminal charges when an importer's intent is involved.)

- CBP is required to act and publicly report on its findings within set timeframes.
- The bill prescribes enforcement and remedial measures for each determination, and specifically instructs CBP to use all its existing tools to enforce the U.S. customs and trade remedy laws.

The legislation does NOT give CBP the authority to expand the existing scope of covered merchandise or expand CBP's existing authority to investigate goods subject to AD/CVD orders.

We look forward to working with the Members and staff of the Ways and Means Committee to move this critical bill forward. In these challenging economic times, we are not asking for special treatment, just for the effective enforcement of our trade laws (including AD and CVD orders) and the opportunity to compete fairly with our international trading partners.

Sincerely,

A handwritten signature in blue ink that reads "Milton Magnus". The signature is written in a cursive, flowing style.

Milton Magnus  
President  
American Wire Producers Association (AWPA)

Brandon Baum  
UC Hastings  
200 McAllister Street  
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February 9, 2015

Ways and Means Committee Office  
1102 Longworth House Office Building  
Washington D.C. 20515

To the House Ways and Means Committee:

I'm pleased to see the House Ways and Means Committee taking steps forward to approve Trade Promotion Authority (TPA). This is the first real action supporting free trade agreements in years. I want to make sure the Members of Congress who are voting on TPA understand the importance of international trade to the high technology industry.

As an academic focused on intellectual property, I understand the value that a strong IPR policy provides for U.S. companies. To ensure that the U.S. continues its success as we move forward with the Trans-Pacific Partnership Agreement and the Transatlantic Trade and Investment Partnership Agreement, it is vital that we promote strong foreign protection for American IPR. We need to be at the negotiating table to exert our influence in that regard. If we aren't, we are leaving IPR in the hands of others.

I hope you and your committee will support TPA and international trade agreements that protect American IPR.

Thank you for your consideration.

A handwritten signature in blue ink that reads 'Brandon Baum'. The signature is fluid and cursive, with the first name 'Brandon' and the last name 'Baum' clearly distinguishable.

Brandon Baum  
Adjunct Professor of Law

U.S. Trade Policy Agenda  
U.S. House Committee on Ways and Means  
Tuesday, January 27, 2015

Statement for the record on behalf of:

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Washington, DC 20036  
202-347-1085

The Coalition for GSP welcomes the opportunity to submit the following statement for the “U.S. Trade Policy Agenda” hearing record. We are particularly happy to echo the testimony of U.S. Trade Representative Michael Froman, who stated “the Administration urges Congress to expeditiously renew authorization of the GSP program.” Like Ambassador Froman, the Coalition for GSP “stands ready to work with you to that end.”

The Coalition for GSP is a group of American companies and trade associations organized to educate policy makers and others about the important benefits to American companies, workers, and consumers of the Generalized System of Preferences (GSP) program. Its members range from small, family-owned businesses to Fortune 500 corporations and operate in all 50 states, the District of Columbia, and Puerto Rico.

Implemented in 1976, the Generalized System of Preferences (GSP) is a special trade program that eliminates U.S. import duties on certain products from about 125 developing countries. Over time, American companies have come to rely on the GSP program to lower costs for inputs needed to produce goods in the United States and finished products for American families. Lower costs spur demand and allow companies to create good-paying American jobs.

However, GSP expired on July 31, 2013 and Congress has not yet passed legislation to renew it. As a result, American companies have paid nearly \$2 million a day – and more than \$1 billion to date – in higher taxes while awaiting congressional reauthorization of the GSP program. The mounting costs and uncertainty surrounding when GSP might be renewed have had a chilling effect on companies’ ability to grow and compete in the competitive global marketplace.

American companies are impacted in a number of ways – sales fall if companies try to raise prices to compensate for the higher taxes, while margins are squeezed if they do not. Some companies with locked-in, long-term contracts actually lost money on every sale because of the imposition of new import taxes. All aspects of GSP importers’ operations feel the effects of this negative business environment.

The Coalition for GSP surveyed hundreds of U.S. GSP program users in 2014 and found that:

- **44% of companies have delayed planned hires.** For example, Kona Bicycle in Washington has been unable to hire new R&D and product development personnel, while Varaluz in Nevada and McGuire Manufacturing in Connecticut cannot afford to replace workers that have left voluntarily because of higher costs resulting from GSP expiration.
- **40% of companies have delayed or canceled job-creating investments.** B&C Technologies bought a facility to begin manufacturing in Florida by April 2015, but it cannot afford the necessary building upgrades to create those American manufacturing jobs as planned because of higher costs imposed by GSP expiration.
- **22% of companies have cut employee wages and benefits.** The cost of import duties has cut into the monies available to Stackhouse Athletic in Oregon to pay for health care, forcing the company to cut health care benefits for its nine workers.
- **13% of companies have laid off workers.** Matrix Metals laid off 75 workers at facilities in Iowa and Texas, while Vispak LLC in Minnesota is going out of business completely because higher production costs resulting from GSP expiration have made the companies uncompetitive.

The full report, which includes many other company-specific examples, can be downloaded at <http://bit.ly/GSP1Year>.

Congress can stop this bleeding, and quickly, by passing legislation that provides for an immediate, retroactive GSP reauthorization. Renewal has bipartisan support in both the House and the Senate. Renewing the GSP program is “low-hanging fruit” for the 2015 trade agenda. It should be a priority because it would have an immediate positive impact on U.S. jobs and competitiveness.

More than 660 American companies and associations have joined the Coalition for GSP’s call for Congress to do just that. The ever-growing list of organizations can be viewed at <http://bit.ly/GSPsupporters>. Nearly three dozen of them have provided brief statements (below, grouped by state and congressional district) for this submission on the negative job impacts of GSP expiration and/or the potential jobs benefits of a retroactive renewal.

If you have further questions about the impacts of GSP expiration on American companies, or would like to speak with any of the companies that provided statements below, please contact Daniel Anthony at the Coalition for GSP at [Anthony@tradepartnership.com](mailto:Anthony@tradepartnership.com) or 202-347-1085.

The Coalition for GSP looks forward to working with the Ways and Means Committee leadership on a bipartisan basis to pass an immediate, retroactive GSP renewal.

**Peggy Altfater, Owner of Peggy V Designs in Petaluma, California's 2<sup>nd</sup> District:** My business is a sole proprietorship. My sales have declined because I have needed to raise my prices on my product that no longer has GSP status. My job is in dire straits at this time because of price increases so I am asking you to please renew the GSP.

**William Rebich, Owner of Pegasus Imports in Santa Rosa, California's 5<sup>th</sup> District:** Failure to renew GSP has resulted in us being unable to hire a new shipping and receiving person and has created mounting debt with declining sales. It is creating a condition where business expansion is almost impossible.

**Zack Stenger, Owner of Blackbeam LLC in San Francisco, California's 11<sup>th</sup> District:** The GSP renewal would allow us to hire three sales and office-related employees for our growing small business.

**Bruce Marlin, Purchasing Manager at Circa Corporation in San Francisco, California's 12<sup>th</sup> District:** As a rare, surviving U.S. manufacturer of leather goods, it is essential to us that GSP be renewed. Our competitors manufacture primarily in China and India, and we need as level a playing field as possible to remain viable as a U.S. domestic manufacturer.

**Shaun Shroff, Vice President of DuraBrake Co. in Santa Clara, California's 17<sup>th</sup> District:** We would be able to reduce dependence on production in China and would be able to increase business on the East Coast. We would be able to hire two sales people on the East Coast as pricing would be competitive.

**Jeni Tjoeng, Import Manager at Shamrock Manufacturing Co. in Chino, California's 35<sup>th</sup> District:** With the delayed renewal of GSP, we have seen the reduction of our sales in the past year because we have become uncompetitive. Instead of expanding our business, we are struggling to stay afloat.

**Jeffrey Tunstall, Vice President at Port Plastics in Chino Hills, California's 39<sup>th</sup> District:** Our company imports a substantial amount of materials from qualified GSP countries. Our total sales were down 7% in 2014 while the economy grew an estimated 2.4%. We believe the downturn in our business is solely due to the higher costs of our products as a result of the GSP program not being renewed. This downturn in our business has resulted in our being forced to reduce a number of employees.

**William Dull, President of Triad Magnetics in Perris, California's 41<sup>st</sup> District:** Much of our industry produces in China. [With a GSP renewal], we could easily double our business - hire more workers and have the financial strength to invest in higher technology manufacturing here in California.

**Fred Cohen, Owner of Omicron Granite & Supplies in Pompano Beach, Florida's 21<sup>st</sup> District:**

The failure to renew the GSP has cost my company over \$100,000 per year in additional taxes, which has kept me from hiring at least two more workers. Please renew the GSP and make it retroactive.

**Peter Allen, President of Royal Tropics, Inc. in McCall, Idaho's 1<sup>st</sup> District:** The GSP expiration and the uncertain return has caused my small company a hardship in the sense that the extra funds we have paid in duties has caused us to hold back on some planned expansion of our business. With the needed expansion we would be able to hire additional employees as well as fund some additional equipment. The GSP program is very important for small business in the U.S.

**Kelly Weinberger, Owner at WorldFinds Fair Trade in Westmont, Illinois's 6<sup>th</sup> District:** Our fair trade organization has been badly hurt by the non-renewal of GSP. A retroactive renewal would help create jobs in our US office, as well as to provide more work to our low-income women artisan groups in the developing world.

**Brendan Naulty, Senior Vice President at Ajinomoto North America Inc in Itasca, Illinois' 8<sup>th</sup> District:** The impact of non-renewal of GSP impact for 2014 on Ajinomoto North America has been \$690,678. This has put this business segment into a red figure for 2014. Therefore we could not expand our workforce or reinvest profits into other businesses. We would greatly welcome retroactive renewal, which would enable us to initiate capital projects that have been postponed due to availability of funds and uncertainty about the stability of this business segment.

**Jim Angers, Partner at K2 Coolers LLC in New Iberia, Louisiana's 3<sup>rd</sup> District:** We paid \$79,000 in duties in 2014. We need to hire an additional warehouse worker and the duties are impacting our margins to the point of causing us to delay hiring.

**Lisa Johnson, Vice President at COLE-TUVE, Inc. in White Marsh, Maryland's 2<sup>nd</sup> District:** We sorely need renewal of the GSP so that our company has the chance to get back on track. Among other penalizing set-backs (such as limiting labor), we have not been able to raise our prices to account for this increase as we could not do that and stay competitive. Our capital is just about gone, and getting the GSP retroactively approved will allow us to reinvest resources back in to the business, to get beyond playing catch up and grow along with the prospects of a growing manufacturing sector.

**Damian Jones, Designer & Founder at Aid Through Trade in Annapolis, Maryland's 3<sup>rd</sup> District:** Our 22 year old fair trade company has depended on GSP since our inception. The current lapse and uncertainty makes it hard for me to have the confidence I need to invest and hire. Retroactive GSP renewal would give me cash and confidence to hire and invest.

**Richard Harris, President of Accessories Unlimited in North Harwich, Massachusetts' 9<sup>th</sup>**

**District:** Since the cancellation of GSP we have had our fixed margins reduced between 5 and 6 %. We cannot raise our prices as they are set by our suppliers. We can cut corners where we can. We need employees on a full time basis, but have had to hire them on a part time basis and not hire the type of personnel we need to improve our business.

**Steve Hill, Vice President at Polysource in Pleasant Hill, Missouri's 4<sup>th</sup>** **District:** The most damaging result of nonrenewal is the impact it has on U.S. manufacturers of global consumer goods. GSP allows U.S. manufacturers to take advantage of certain raw materials throughout the world that allows them to sell worldwide resulting in jobs and tax revenue. The impact on Polysource has limited our ability to compete and hire. We could easily justify the inability to hire for two new professional positions with full benefits if we had not experienced a loss of over \$500k in the last 18 months.

**Janis P. Rich-Gutierrez, Compliance Officer at Kalustyan Corporation in Union, New Jersey's 7<sup>th</sup>** **District:** We import materials from various countries around the world and have approximately 80 hard-working employees that further finish the product here. We value our employees and wish to keep them employed. However, due to GSP cancelation and the uncertainty of it being reinstated retroactively, we can purchase finished product for less money overall.

**Robert J. Murray, Operations Manager at General Carbon Corporation in Paterson, New Jersey's 9<sup>th</sup>** **District:** The lack of renewal of the GSP has caused General Carbon to limit its search for new hires. If the GSP was renewed and the duties refunded we would be in a much better position concerning new hires and improving the overall future of General Carbon. It may also lead us to make capital improvements to our facilities that we have been delaying to make pending the GSP renewal.

**Gert van Manen, President of iTi Tropicals Inc. in Lawrenceville, New Jersey's 12<sup>th</sup>** **District:** We have paid \$800,000 in duties since GSP expired and we are not charging our customers for this for various reasons, mainly we believe that it will be reinstated retroactively as it always has been. If this is not the case it will have serious consequences for our company. We are a small business with 25 people on payroll in business for 26 years.

**Benny Nabavian, President of EORC in Farmingdale, New York's 2<sup>nd</sup>** **District:** We are a very small company and the GSP expiration is really hurting our cash flow and income. Every penny counts in our business, especially in the current economic conditions. It is a question of survival for us.

**Joseph Kay, CEO of Biltmore Corporation in Manhasset, New York's 3<sup>rd</sup>** **District:** We have lost business to foreign companies because we are unable to manufacture goods in the U.S.

**Gabriel Khezrie, President of Fremada Gold Inc. in New York, New York's 12<sup>th</sup> District:** Due to the softness of the jewelry business in general, there has been tremendous pushback by our customers. They will not accept the additional price increases to accommodate the 5.71% tariffs that were never part of our pricing equation. This has led to less billings at our company. Accordingly we have had to let some staff go.

**Benjamin Justman, Royal Chain in New York, New York's 12<sup>th</sup> District:** Restoration of GSP will have a huge positive effect on our company. We will be able to reinstate some of the business lost to competition. Some customers have stuck with us based on our promise that we will refund the duty paid if GSP is renewed retroactively. Going forward, we will be able to rehire personnel that were laid off, as well as expand our business.

**Nenad Milinkovic, Vice President at Vail International Corp. in New York, New York's 12<sup>th</sup> District:** Lack of GSP Renewal has precluded our company from hiring additional personnel, and we are now at a point facing layoffs for some of our workforce. We have been trying to hang in there in anticipation of the renewal, but this prolonged expiration has now placed a very serious financial strain on our business.

**Donna O'Sullivan, U.S. Sales and Customer Service Manager at Janice Girardi Designs in Stone Ridge, New York's 19<sup>th</sup> District:** The non-renewal of the GSP has cost our company over \$90,000. Unfortunately, we're not able to raise our prices to compensate for the duties we're now paying because it's already challenging to stay competitive in this economy. We've had to lay off a few people because of this and it's vital for us to have the GSP renewed.

**Scott Ferguson, President of CCS USA, Inc. in Hickory, North Carolina's 5<sup>th</sup> District:** To date, the expiration of GSP has cost my company over \$125,000. It has cost jobs, investment and has crippled us competitively with lost business. Please retroactively renew this critical trade program!

**Fred Starr, President of Thompson Traders in Greensboro, North Carolina's 6<sup>th</sup> District:** Thompson Traders is a start-up company, and after seven years of trial and tribulation, made it to a break-even in 2013. Then the GSP was allowed to expire, and due to our financial position and our inability to pass this charge onto our customers, we had to slow down growth, including hiring. We would be a different company today without this totally unanticipated tariff.

We've reduced our payroll by eight people, a 40% reduction and will not be adding people, until we have a better government environment, including the renewing of GSP. The renewal of GSP will allow us to grow, creating new job opportunities. Moreover, since we share profits with our employees, each job will become a better paying job whether salaried or hourly.

Most important, the return of our tariff payments, paid out since August 2013, will help Thompson Traders enter new domestic and foreign markets and build a much larger company, including domestic manufacturing investment - more jobs and better-paying jobs.

**Greg H. Kirkland, President of Kirkland Associates, Ltd. in McMinnville, Oregon's 1<sup>st</sup> District:** In 2014 our small import company paid over \$50,000 in import duty charges on products imported from India. We currently desperately need to hire two additional employees. However, we simply can't afford to do that as the company profits will not support two new employees and continued import duty charges. If we were to see GSP passed, especially retroactively, we would immediately move toward the new employee additions. I know we are not a big deal to Washington, D.C. but this move would really help our company now and in the future.

**Burak Cezik, Account Manager at Kervan USA LLC in Bethlehem, Pennsylvania's 15<sup>th</sup> District:** We ended up with a net loss in fiscal year 2014 due to GSP expiration. Accordingly, we are working on ways to cut jobs and holding off on our strategy of hiring regional sales managers. We would definitely hire new positions in the case of retroactive GSP renewal.

**Allan Zadik, Owner of FAZ Marketing in Houston, Texas' 7<sup>th</sup> District:** I had to close the import business as my selling price became uncompetitive. I did have to let go of two people as there was no way to keep sales up. I'm currently not importing products where GSP has affected my business.

**Cathy Korndorffer, Chief Operating Officer at Chantal Cookware Corp in Houston, Texas' 18<sup>th</sup> District:** We are a small, privately owned company in the housewares industry. We struggle every year to compete on a global scale with huge conglomerates and every penny that our product cost increases counts. We have not laid anyone off because of GSP non-renewal, but we cannot pass this along to our retailers. What happens? Our employees do not get raises. There is no money going into their 401K plan. There is no Christmas bonus. There is a reduction in our medical insurance contribution from Chantal. Is it painful? YES!

**Amy Campbell, Founder of Brilliant Imports in Austin, Texas' 21<sup>st</sup> District:** Brilliant Imports has experienced, what is significant to a budding business, cash outflow due to GSP expiration...for a company that is less than three years old, this has been a hard blow to handle. In addition, there is extreme uncertainty on GSP renewal going forward therefore I'm keeping 'predictable' cash outflows as tight as possible.

As the Founder and Owner, I've let go of my PR firm, my Virtual Assistant (VA) as well as cut back on advertising (these are a few examples). There is no projection to hire any help going forward. Retroactive GSP renewal would be a nice boost to keep a relatively new business like Brilliant Imports afloat as well as lead to a hire of a VA and placement of Brilliant Imports in a fulfillment center...both of these are detrimental to my company's success.

**Wajih Rekik, President of CHO America in Baytown, Texas' 36<sup>th</sup> District:** Importing olive oil from Tunisia and bringing a Tunisian olive oil to the U.S. consumer is a big challenge that was supported by the GSP advantage. Since GSP expiration, we froze hiring, gave up a plan to expand into a new warehouse. A retroactive renewal will be vital to us and will be translated into expansion of warehouse and at least three new hires.

**Abe Shaheen, Owner of Shaheen Import Export Co. in Virginia Beach, Virginia's 2<sup>nd</sup> District:**

The GSP expiration and uncertainty about renewal has resulted in laying off three of workers at our company, and not being able to hire new employees. Retroactive GSP renewal would lead to more jobs at our company, and will enable us to expand our business.

**Daniel Hamilton, President of Vortex Optics in Middleton, Wisconsin's 2<sup>nd</sup> District:** If GSP is renewed with tariffs refunded, we could purchase new equipment needed for our US manufacturing plans, move forward on building plans for expansion, and hire additional employees. All of the money would go right back into the local economy.



February 9, 2015

Ways and Means Committee Office  
1102 Longworth House Office Building  
Washington D.C. 20515

To the House Ways and Means Committee:

I'm pleased to see the House Ways and Means Committee taking steps to approve Trade Promotion Authority (TPA) legislation. I am encouraged that Congress is taking up this important legislative action in support of fair and equitable free trade agreements.

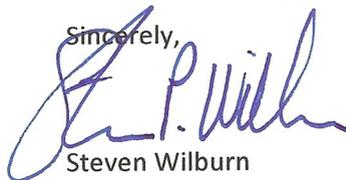
My letter to the Committee and Members of Congress, who are voting on TPA, is intended to convey the importance of effective international trade policy to my small business's bottom line.

As a 100% Disabled Marine Corps Veteran of the Vietnam Conflict and owner of a small business currently exporting products and services to Brazil, the Philippines, and India, I depend heavily on the adequacy of sound and effective U.S. Trade Policy. I export Renewable Energy technology and sustainable environmental solutions to emerging markets. The continuing expansion of my international sales base is vital for the survival of my business.

By growing my export business through the help of the Department of Commerce, USTDA and ExIm Bank, I have been able to create or sustain hundreds of good paying American manufacturing jobs over the past 4 years.

I hope your Committee and all Members of Congress will support the critical need for new, fair and equitable international trade agreements.

Thank you for your consideration.

Sincerely,  
  
Steven Wilburn

CEO, FirmGreen Inc.

*Printed on recycled paper*

Statement of Peter K. Tompa  
On Behalf of the International Association of Professional Numismatists<sup>1</sup>  
January 27, 2015

Thank you for the opportunity to discuss this topic of great importance to the 7-10 million coin collectors residing in the United States and the thousands of small businesses that trade in historical coins both here and abroad. We respectfully request Congress amend the Convention on Cultural Property Implementation Act (CPIA) (19 U.S.C. §§ 2601 *et seq.*) to ensure coin collectors can continue to import historical coins of a sort widely and legally collected and sold abroad. During the last Congress, our efforts gained bipartisan support. Coin collecting brings people of diverse backgrounds together and fosters the appreciation of other cultures. It is something that should be promoted, not hampered, by overzealous regulators with an equally over-expansive view of their own statutory authority.

**Background:** The CPIA contains significant procedural and substantive constraints on the executive authority to impose import restrictions on cultural goods. Restrictions may only be applied to archaeological artifacts of “cultural significance” “first discovered within” and “subject to the export control” of a specific 1970 UNESCO Convention State Party. They must be part of a “concerted international response” of other market nations, and can only be applied after less onerous “self-help” measures are tried. The Cultural Property Advisory Committee (CPAC) is to provide the executive with useful guidance about this process.

The CPIA’s legislative history indicates that Mark Feldman, the State Department’s Deputy Legal Adviser, represented to this Committee that “this legislation [what became the CPIA] and the ratification of the [1970 UNESCO] convention would have no immediate effect on coins and it is hard for me to imagine a case where we would need to deal with coins except in the most unusual circumstances.”<sup>2</sup> That statement is not surprising. Coins are items of commerce making it difficult for modern nation states to justifiably claim them as their “cultural property.” They are probably the most common of historical artifacts and are not of “cultural significance.” They are avidly collected and traded worldwide—including in places like China, Cyprus, Greece, Bulgaria and Italy for which restrictions have been granted. It simply makes no sense to preclude Americans from importing coins where there is no “concerted international response.” To the extent foreign countries are concerned about looting of coins from archaeological sites, the “self-help” measure of regulating metal detectors should be tried first. Unfortunately, our State Department does not take the self-help requirement (or any of the other limitations on their authority) seriously.

**Why is a legislative solution necessary?** For almost a quarter of a century after the CPIA became law, there were no restrictions on historical coins. Then, in 2007 CPAC voted against extending import

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<sup>1</sup> The IAPN is a nonprofit organization of the leading international numismatic firms founded in 1951. It was formed in the aftermath of WW II to help reestablish relationships amongst professional numismatists that had been badly frayed during years of conflict. The objectives of IAPN are the development of a healthy and prosperous numismatic trade conducted according to the highest standards of business ethics and commercial practice, the encouragement of scientific research and the propagation of numismatics, and the creation of lasting and friendly relations amongst professional numismatists around the world. The IAPN has one hundred eighteen (118) member firms in twenty (20) countries, including thirty-one (32) in the U.S.

<sup>2</sup> *Cultural Property Treaty Legislation: Hearing on H.R. 3403 Before the H. Subcomm. on Trade of the Comm. on Ways and Means*, 96<sup>th</sup> Congress 8 (1979).

restrictions to Cypriot coins but the State Department imposed restrictions anyway, and in so doing misled the Congress and the public about the decision by suggesting in an official report and press release the decision was made with CPAC's assent. This change in precedent (State had earlier adopted CPAC's recommendations against import restrictions on Cypriot and Italian coins) was then used as a justification to change precedent on Italian coins and place new restrictions on Chinese, Bulgarian and Greek ones.

Chairman Ryan and others have requested the State Department to ensure that MOUs and their implementing regulations promulgated by Customs and Border Protection (CBP) comply with governing law.<sup>3</sup> Moreover, Robert Korver, a CPAC member appointed by President Bush, resigned in protest when State changed precedent on Italian coins, other former CPAC members have publically expressed severe qualms about how the State Department administers the CPIA,<sup>4</sup> and learned academics have characterized State's and CBP's actions as "extralegal."<sup>5</sup> Yet, despite these heartfelt criticisms, the State Department and CBP have only accelerated the process of imposing the broadest possible import restrictions on artifacts, including coins, often with little regard for even whether the modern nation state has any cultural affinity to the ancient people who produced the material.

Such import restrictions make it impossible for Americans to legally import collectors' coins widely and legally available worldwide. Foreign sellers are typically unwilling or unable to certify the coin in question (which can retail as little as \$1) left a specific 1970 UNESCO Convention State Party before restrictions were imposed as required by the CPIA and CBP rules. CBP does accept auction listings with pictures as evidence, but less than 1% of collectors' coins on the international market are valuable enough to appear at auction. These restrictions have drastically limited Americans' abilities to purchase historical coins from abroad and have negatively impacted the cultural understanding and people to people contacts collecting fosters. They have also gravely damaged the small businesses of the numismatic trade. IAPN estimates that US small businesses dealing in ancient coins have lost \$25-\$50 million yearly since import restrictions on popular Greek and Italian coins were first imposed. American small businesses can no longer legally import many coins for resale. In addition, European consigners no longer auction off their coins here because they fear CBP will seize their collections. They instead consign their holdings to American competitors in Europe where there are no similar restrictions.

**Proposed Solution:** IAPN proposes to harmonize our import controls for historical coins and other common artifacts with the export controls of our major trading partners. IAPN and other legitimate small businesses trading in historical coins and collectors only seek to retain the ability to import such items lawfully sold abroad. We look forward to working again on a bipartisan basis with the House Ways and Means Committee and its staff on the precise language and legislative vehicle to achieve such a goal.

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<sup>3</sup> See e.g., Letter from the Hon. Paul Ryan to Secretary of State Hillary Clinton, dated Sept. 27, 2010 (bipartisan correspondence joined by eleven (11) other House members expressing concerns about MOUs with China, Cyprus and Italy).

<sup>4</sup> See Transcript of Seminar, The Cultural Property Implementation Act: Is it Working? (Mar. 21, 2011), available at <http://www.cprinst.org/Home/issues/transcript---cultural-property-implementation-act-is-it-working> (last visited Jan. 26, 2015).

<sup>5</sup> Stephen K. Urice & Andrew Adler, *Resolving the Disjunction Between Cultural Property Policy and the Law: A Call for Reform*, 64 Rutgers L. Rev. 117 (Fall 2011).



February 5, 2015

The Honorable Paul Ryan  
Chairman  
Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

The Honorable Sander M. Levin  
Ranking Member  
Committee on Ways and Means  
1106 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Ryan and Ranking Member Levin:

Thank you for this opportunity to submit a statement for the record of the House Ways and Means Committee's January 27<sup>th</sup> hearing on the U.S. Trade Policy Agenda.

IWPA is the leading international trade association for the North American imported wood products industry, representing 200 companies and trade organizations engaged in the import of hardwoods and softwoods from sustainably managed forests in more than 30 nations across the globe. Association members consist of three key groups involved in the import process: U.S. importers and consuming industries, offshore manufacturers and the service providers that facilitate trade. The vast majority of these companies are small- to medium-sized family-owned businesses.

We are hopeful that the Committee will move forward at the earliest possible date with retroactive renewal of the Generalize System of Preferences (GSP) trade program. As you know, GSP was enacted in 1974 in order to eliminate import taxes on certain products from approximately 130 developing countries. The current GSP expiration, now in its 19<sup>th</sup> month, is the longest in GSP's 40-year history. Since GSP expired on July 31, 2013, American companies like our members have paid more than \$1 billion in higher taxes.

The program's ongoing lapse is having a severe impact on these U.S. businesses. To compensate for higher taxes, some have been forced to lay off workers, delay new hires, cut worker benefits, and cancel job-creating investments while awaiting congressional action. Retroactive renewal of GSP will allow for the refund of hundreds of millions of dollars in taxes paid by companies throughout the United States. Instead of struggling to stay in business, these companies could hire new workers, increase benefits for existing employees, and invest in future growth.

We look forward to continued opportunities to work with House Ways and Means Committee Members and staff to renew GSP at the earliest opportunity. Please have your staff contact Joe O'Donnell, IWPA's Manager of Government Public Affairs, by e-mail at [joe@iwpawood.org](mailto:joe@iwpawood.org) or by phone at (703) 820-6696 if you have any questions or need additional information.

Sincerely,

Cindy L. Squires, Esq.  
Executive Director

Rose Sager  
Trade Representative, Kingdom of Bahrain  
866 Second Ave.  
New York, NY, 10017

February 9, 2015

Ways and Means Committee Office  
1102 Longworth House Office Building  
Washington D.C. 20515

To the House Ways and Means Committee:

I'm pleased to see the House Ways and Means Committee taking steps forward to approve Trade Promotion Authority (TPA). This is the first real action supporting free trade agreements in years. I want to make sure that the Members of Congress, who are voting on TPA, understand the importance of international trade. This benefits both the US and other countries' markets; it increases U.S. exports which in turn generates economic growth and creates new jobs.

As the Trade Representative for the Kingdom of Bahrain, I have seen how the US-Bahrain FTA has benefited the economic and bilateral relationship. I appreciate the cooperation we share and I look forward to seeing this relationship grow as a result of our mutually-beneficial Trade Agreement.

I hope the Committee will support international trade agreements.

Thank you for your consideration.

Sincerely,

Rose Sager,  
Trade Representative, Kingdom of Bahrain



*Leading Innovation. Creating Opportunity. Pursuing Progress.*

## **Statement for the Record**

**National Association of Manufacturers**

733 10<sup>th</sup> Street, NW, Suite 700

Washington, DC 20001

House Committee on Ways and Means  
on "U.S. Trade Policy Agenda"

January 27, 2015



## **Statement for the Record**

### **House Committee on Ways and Means “U.S. Trade Policy Agenda”**

**January 27, 2015**

The National Association of Manufacturers (NAM) is pleased to provide the following statement to the House Committee on Ways and Means on the “U.S. Trade Policy Agenda.”

The NAM is the largest manufacturing association in the United States, representing more than 14,000 manufacturers small and large in every industrial sector and in all 50 states. Manufacturing employs nearly 12 million women and men across the country, contributing more than \$2.08 trillion to the U.S. economy in 2013 alone.

Manufacturers in the United States increasingly participate and compete in a global economy that has become highly challenging, with slower-than-hoped-for growth in many parts of the world and increased competition from overseas. Not only do 95 percent of the world’s consumers live outside our borders but world trade in manufactured goods has expanded to more than \$11 trillion, of which U.S. manufactured goods exports only represent nine percent. As well, economic activities overseas, from infrastructure and foreign government procurement to resource production and distribution, are providing fresh new opportunities for our manufacturers to invest and engage in growth-producing activities around the world that support a strong U.S. manufacturing base.

The NAM has long championed a robust trade and investment policy to grow manufacturing in the United States. At its core, a robust and pro-manufacturing U.S. trade policy should seek to open markets and level the playing field overseas, improve the competitiveness of manufacturers in the United States and ensure the strong enforcement of the rules of the trading system at home and by our trading partners.

### **Opening Markets Overseas Requires Trade Promotion Authority and Strong New Agreements**

Trade and investment agreements play an outsized role in providing businesses of all sizes across all 50 states better access to the global economy. By setting the rules of the global trading system, multilateral, plurilateral and bilateral agreements level the playing field and enable manufacturers in the United States to compete more successfully.

Most of the world’s countries have agreed to a basic set of trade rules as part of several agreements under the auspices of the World Trade Organization (WTO). Efforts to strengthen and expand these rules for all WTO members and eliminate tariffs and other barriers in the “Doha” negotiations have unfortunately stalled as a few major countries have refused to pursue an ambitious agenda moving forward.

The NAM is very pleased to see the WTO Trade Facilitation Agreement (TFA) move forward and is urging conclusion of an expansion of the Information Technology Agreement (ITA). The TFA is the first multilateral trade agreement to be concluded in the history of the WTO, and it has the potential to reduce significantly the barriers that countries – particularly developing countries – face in moving goods by increasing port efficiency, improving customs and regulatory processes, and upgrading infrastructure to increase trade exports. Now that the WTO agreement is on its way to ratification, countries will have to begin the work of assessing and implementing the commitments to realize the full benefit of the TFA. The United States is currently the largest single-country provider of trade-related assistance, and the U.S. Trade Representative has already committed to working with other donors and with WTO Members to help developing countries fully implement the TFA. The financial and technical assistance provided by the United

States and others must be provided in a coordinated, strategic and efficient way to countries that are committed to implementation. We encourage Congress to work with USTR and other agencies to ensure that funds and other forms of assistance are being delivered in the most effective way.

An expanded ITA, which is expected to eliminate tariffs on about 200 additional technology products – or roughly \$1 trillion in global sales each year – would create an estimated 60,000 new American jobs, enhancing innovation in the United States and increasing global GDP by roughly \$190 billion. Manufacturers have strongly supported this expansion given the benefits of this tariff-cutting agreement not just to producers of new high-tech equipment, but to all manufacturers that, as consumers, will be able to benefit from lower costs and greater innovation. U.S. leadership on the ITA expansion has been critical and we continue to urge action by America's trading partners to agree to a broad ITA expansion package.

Manufacturers also strongly support the negotiation of a broad Environmental Goods Agreement (EGA) as soon as possible. Global tariffs on environmental products are as high as 35 percent in some nations; eliminating these tariffs would have a substantial and positive impact on manufacturers who are working to develop new and improved goods aimed at solving environmental challenges. Achieving an EGA will unlock significant opportunities for manufacturers to decrease the cost of these products to consumers inside and outside the United States, drive innovation, and expand sales and manufacturing jobs. Negotiations are taking place this week on this important negotiation on which manufacturers are seeking quick action.

The WTO is also seeking move forward on a long stalled global liberalization trade negotiations that began in Doha, Qatar, in November 2001. Manufacturers continue to seek an ambitious outcome that will open new markets, not lock in longstanding barriers to trade in manufactured goods.

In addition to the WTO, the United States has negotiated free trade agreements on a bilateral or plurilateral basis. These agreements – referred to as either free trade agreements (FTAs) or trade promotion agreements – eliminate barriers more comprehensively than the WTO agreements and set in place stronger and clearer rules to improve the competitiveness of manufacturers in the United States, including rules on the protection of intellectual property and investment and ensuring greater transparency and fair competition.

The United States' experience under our FTAs demonstrates that where manufacturers from the United States can compete on a level playing field abroad, they can boost sales and grow their share of foreign markets. America's 20 existing free trade agreement partners account for less than 10 percent of the global economy but purchase nearly half of all U.S. manufactured goods exports.<sup>1</sup> For many states, including Ohio and Texas, that figure is closer to 60 percent.<sup>2</sup> The United States enjoys a nearly \$60 billion manufacturing trade surplus with its trade agreement partners, compared with a \$508 billion deficit with other countries.

#### Renewing and Modernizing Trade Promotion Authority is Essential to a Robust U.S. Trade Policy

To negotiate the type of comprehensive, high-standard and market-opening trade agreements that have driven export growth and jobs across the country, trade promotion authority (TPA) is essential.<sup>3</sup> TPA legislation has been in place and was utilized during the negotiation and

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<sup>1</sup> U.S. Department of Commerce, International Trade Administration, **TradeStats Express**, accessed at <http://tse.export.gov/TSE/TSEhome.aspx>.

<sup>2</sup> NAM, **U.S. Manufacturing Statistics – Manufacturing and Trade Data by State**, accessed at <http://www.nam.org/Statistics-And-Data/State-Manufacturing-Data/Manufacturing-by-State.aspx>.

<sup>3</sup> It is sometimes argued that hundreds of trade agreements have been negotiated without TPA. Those agreements are not the type that open markets overseas or include binding and state-of-

implementation of the Uruguay Round Agreements creating the WTO and for 13 FTAs negotiated since 1974.<sup>4</sup>

Since TPA was put in place most recently in 2002, U.S. manufactured goods exports more than doubled from \$623 billion to \$1.38 trillion.<sup>5</sup> Those exports support millions of American jobs, including, for example, 212,000 in Michigan, 189,000 in Pennsylvania, 185,000 in New York and 107,000 in New Jersey.<sup>6</sup> In Oregon, Delaware and Maryland, manufacturing accounts for more than 80 percent of all state exports. Full state fact sheets are available at the NAM's website.<sup>7</sup>

Manufacturers welcomed the Bipartisan Congressional Trade Priorities Act of 2014, introduced at the beginning of last year by Senate Finance Committee Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT) in the Senate and by House Ways & Means Committee Chairman Dave Camp (R-MI) in the House.<sup>8</sup> This legislation sets forth the much-needed Executive-Congressional framework to ensure that both branches of government work to achieve the strongest possible outcomes in our trade agreements. This legislation also provided important updates to the traditional TPA framework, including with respect to priority negotiating issues.

Action on TPA is vital to ensure that U.S. negotiators can bring home the strongest possible outcomes in both the ongoing Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (T-TIP) talks that will set in place new and stronger rules to level the global playing field and to engage in major new negotiations. Such legislation is also need for the EGA, the Trade in Services Agreement talks and future negotiations.

Time is of the essence. Other major economies are already negotiating dozens of agreements without the United States that could put manufacturers and workers in the United States at a significant competitive disadvantage. If Congress does not move expeditiously to pass TPA and ensure the United States continues to lead in striking trade deals that drive manufacturing growth and job creation, we will be forced to sit on the sidelines while other countries negotiate deals that exclude us.

Failure to move forward would deal a damaging blow to a recovering U.S. manufacturing sector facing significant competitive challenges. The United States is one of the most open economies in the world. According to the World Trade Organization, America has the lowest applied tariff of any G20 country. But the World Economic Forum found that U.S. exporters face far higher tariffs abroad than their competitors in major markets like China, Russia, India and Brazil. Without TPA, the United States is unarmed in ability to eliminate those duties and other impediments to open and fair competition.

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the art dispute settlement. For example, Trade and Investment Framework Agreements provide a useful opportunity for the United States to engage in economic discussions with foreign governments but do not obligate either country to open its market or address barriers.

<sup>4</sup>Of all U.S. market-opening FTAs, only the U.S.-Jordan FTA was implemented without TPA.

Notably, the Jordan FTA is much less comprehensive and less developed than our other FTAs, and most prominently lacks the state-of-the-art time-limited dispute settlement provisions that are found in the North American Free Trade Agreement and all subsequent FTAs.

<sup>5</sup> U.S. Department of Commerce, International Trade Administration, **TradeStats Express**, accessed at <http://tse.export.gov/TSE/TSEhome.aspx>.

<sup>6</sup> NAM, **U.S. Manufacturing Statistics – Manufacturing and Trade Data by State**, accessed at <http://www.nam.org/Statistics-And-Data/State-Manufacturing-Data/Manufacturing-by-State.aspx>.

<sup>7</sup> *Id.*

<sup>8</sup> NAM, **Statement for the Record for Senate Finance Committee Hearing on “Advancing Congress’ Trade Agenda, the Role of Trade Negotiating Authority,”** (Jan. 16, 2014, accessed at <http://www.nam.org/Issues/Trade/Trade-Promotion-Authority/NAM-Statement-Supporting-the-Bipartisan-Congressional-Trade-Priorities-Act/>).

The Bipartisan Congressional Trade Priorities Act of 2014 provides a very strong model to move forward on TPA as soon as possible. Not only does this legislation set forth clear and ambitious goals to eliminate tariffs and open overseas markets to U.S. goods, services and investment, it also establishes powerful new trade negotiating objectives that address existing and emerging commercial challenges to manufacturing growth and exports in markets around the world.

For the first time in a TPA bill, the Bipartisan Congressional Trade Priorities Act confronts the serious and growing problem of forced localization barriers to trade. It seeks to eliminate trade distortions and unfair competition from state-owned enterprises and to promote regulatory transparency, procedural fairness and rule-making based on risk assessments and sound scientific evidence. It includes critical new provisions addressing cyber theft and protecting trade secrets and confidential business information.

The legislation would foster manufacturing growth and innovation here in the United States. It includes highly important negotiating objectives to establish more open and fair trade in goods, improved transparency and protections and enforcement for intellectual property, and provisions that will ensure that U.S. property overseas is treated fairly and in accordance with core U.S. due process principles.

Just as importantly, the legislation would restore the vital partnership between Congress and the President that facilitates the negotiation and approval of trade agreements. It enhances congressional oversight over trade negotiations and, for the first time, explicitly confirms and provides that any Member of Congress can access negotiating text, submit views and attend trade agreement negotiating rounds. Separate House and Senate advisory groups would oversee ongoing trade talks, including through regular, scheduled meetings.

At the same time, the Bipartisan Congressional Trade Priorities Act provides the appropriate structure to empower U.S. negotiators to bring back the strongest possible trade agreements to open markets and level the playing field. Without this authority, our trading partners have little incentive to make tough decisions or put their best offer on the table.

From the NAM's perspective, this legislation provided the type of framework needed to secure new, market-opening trade agreements. The NAM looks for new TPA legislation to be introduced shortly in the 114<sup>th</sup> Congress and urges Congress and the Administration to move forward on strong TPA legislation as quickly as possible.

#### Strong, High-Standard and Market Opening Outcomes Are Required in Ongoing Negotiations

The ongoing TPP and T-TIP negotiations hold enormous potential to expand U.S. exports and international sales and to promote jobs and economic growth if they are concluded successfully. Taken together, these agreements would open markets with nearly one billion consumers covering nearly two-thirds of global GDP and 65 percent of world trade.

Yet, not just any agreement will suffice. The outcomes obtained in both the TPP and the T-TIP must be bold and concrete, particularly on market access, intellectual property and investment rules, the new 21<sup>st</sup> century issues and the agreement's overall enforceability. Weak and insufficient outcomes in these areas will put at risk broad-based manufacturing support for ultimate agreements which are made even more important given the number of countries at the negotiating table.

In particular, the NAM has identified the following issues as critical:

- *Market access:* New and concrete market access, especially in the major countries with which the United States does not already have free trade agreements – Japan, Malaysia, Vietnam and each of the EU member states. Each of these markets poses substantial, but different, challenges to manufacturers, from deeply embedded non-tariff barriers to tariffs and beyond. As we have seen with the implementation difficulties in the Korea-United States Free Trade Agreement (KORUS FTA), strong and detailed market-opening commitments matter deeply, particularly in countries that have resisted more open competition and trade liberalization. It is, therefore, critical that manufacturers across our most vital industry sectors see outcomes on core market access issues and related disciplines that will ensure fairness and effective and substantial new market access. Even with the EU, where tariffs are relatively low, the elimination of tariffs would result in over \$10 billion in duty savings, and an even modest alignment of U.S. and EU regulatory standards and nontariff barriers could increase combined GDP by an estimated \$106 billion.
- *Strong and High-Standard Rules.* The core rules of our modern free trade agreements must actually achieve the “model of ambition” that the TPP leaders promised in 2011. In particular, intellectual property protections, from patents and copyrights to trademarks and trade secrets, must be state-of-the-art, fully enforceable and applicable to all products. Manufacturers strongly oppose any outcome that would provide lengthy or indeterminate transition periods for some countries on some types of intellectual property, whether or not based on development or other indicators. Strong protections consistent with U.S. law for duration of protection, as well as rigorous enforcement provisions for intellectual property are a vital jobs and manufacturing issue.

Similarly, the outcomes on investment market access, protections and enforceability must also provide full protection to American investments in the TPP and T-TIP markets, including access to the neutral investor-state dispute settlement procedures that are contained in thousands of agreements worldwide. All products and sectors must be accorded the same basic neutral enforceability guarantees as should breaches of major investment contracts in infrastructure, natural resources and other domains that help drive U.S. exports into foreign markets. Moving backwards on these rules as some countries have proposed will undermine investment which is the biggest driver of U.S. exports and commerce overseas.

- *New Rules on Digital Trade and Fair Competition.* New trade agreements must also reflect the globally connected economy, where digital trade and the use of cloud computing is increasingly critical to manufacturers, particularly small companies, as a means to access overseas markets. Strong trade agreement commitments that ensure the ability to move data across borders and that prohibit domestic localization requirements for information technology infrastructure are sought by industries across the manufacturing spectrum. As well, fair competition in overseas markets, including with respect to state-owned enterprises, is important to ensure manufacturers can compete successfully in the global market. Allowing strong standards in each of these areas to be riddled with exceptions will not advance America’s pro-manufacturing agenda.
- *Enforceability.* Final agreements must also be fully enforceable and comprehensive. The value of our trade agreements in helping to grow manufacturers’ opportunities and competitiveness overseas is dependent on the fact that they are binding and enforceable.

Strong and ambitious outcomes on market access, intellectual property, investment, cross-border data, fair competition and full enforcement are vital components of successful outcomes not only in the TPP and T-TIP negotiations but also other negotiations on which the United States may and should embark.

## **Improving Manufacturers' Global Competitiveness Requires New and Improved Trade Legislation and Policies**

Manufacturers in the United States face stiff competition from competitors around the world both in global markets and here in the United States. To improve opportunities for our manufacturers, it will be important for Congress to pass and the President to sign key trade legislation, including the following legislation in this Committee's jurisdiction:

- **Miscellaneous Tariff Bill (MTB).** The MTB is a pro-competitive piece of legislation that allows manufacturers in the U.S. to import certain manufacturing inputs and other products duty free when those products are not produced or available in the United States. This decades old program has been critical to support and grow manufacturing jobs in the United States by cutting costs and strengthening our manufacturers' competitiveness in the global economy. The MTB expired over two years ago, resulting in a major \$748 million tax on manufacturing in the United States. Manufacturers are urging Congress to move forward quickly on MTB legislation that will ensure a predictable, transparent and timely process.
- **Customs reauthorization.** Customs reauthorization legislation is needed to cut red tape and expedite legitimate trade at our borders, while strengthening and requiring time-limited enforcement activities to prevent transshipment and illegitimate trade.
- **Preference legislation.** The NAM has long supported well-crafted preference legislation, such as the Generalized System of Preferences (GSP) that expired on July 31, 2013. Such legislation helps developing countries expand their economic growth opportunities, while also helping manufacturers reduce costs on important inputs.

Movement on this legislation is an important part of a robust trade policy that will advance our manufacturers' global competitiveness.

## **Enforcement of Trade Agreements and Trade Rules Is Also Critical**

Enforcement of trade rules, both domestic and those contained in international agreements, is also an important feature of a robust trade strategy.

### **Trade Agreement Enforcement Ensures that America Gets the Bargain it Negotiated**

For our trade and investment agreements to be successful, it is vital to ensure effective enforcement of the commitments contained in those agreements by our trading partners and the United States to create a more level playing field.

On the international side, the United States has worked actively through successive administrations to address market access barriers and other unfair treatment of U.S. exports and products. Before agreements first enter into force, the Office of the United States Trade Representative (USTR) works vigorously to ensure the full implementation of commitments. In most cases, commitments are implemented fully. In cases where they are not, USTR works through the consultation and ultimately the dispute settlement provisions provided in trade agreements to ensure full implementation. Indeed, since the WTO was established nearly two decades ago in 1995, the United States has brought and successfully resolved 70 of the 74 cases that have been concluded.<sup>9</sup> Notably, the United States has brought more than 20 percent of the

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<sup>9</sup> Office of the United States Trade Representative, **Snapshot of WTO Cases Involving the United States** (May 22, 2014), accessed at <http://www.ustr.gov/sites/default/files/Snapshot%20May.pdf>.

over 480 requests for consultation made overall in the WTO.<sup>10</sup> These cases have an important impact on growing manufacturing in the United States. For example, in March the United States won a very important WTO case that addresses manufacturers' concerns over China's export restrictions on rare earths that impeded access to such inputs.<sup>11</sup> Most recently, the WTO Appellate Body sided with the United States in its complaint over Argentina's onerous and discriminatory import licensing regime.<sup>12</sup> The United States has pursued cases with regard to actions by many of our major trading partners, from the European Union, Canada and Mexico to Brazil and India. Without the underlying agreements, such strong dispute settlement outcomes that open markets and ensure fair treatment would not be possible.

Sustained attention is needed to address other governments' failure to implement their trade and investment commitments fully, including where appropriate through the use of WTO and FTA dispute settlement mechanisms. Whether it is a newer agreement, such as the Korea-U.S. Free Trade Agreement or one that has been in force for decades, the United States should not hesitate to ensure that all trade agreement obligations are enforcement.

#### Upholding the United States' International Obligations at Home

Similarly, the United States should uphold its obligations under international agreements and honor remedies imposed when U.S. actions are found to be out of compliance with those obligations. Just as we expect our trading partners to meet the letter of their international obligations, so should the United States.

Most recently, the WTO has found again that the U.S. Country-of-Origin Labeling (COOL) regulations for meat products is discriminatory and therefore out of compliance with the United States' WTO obligations. The NAM believes it is critical that the United States bring this law into compliance with its international commitments as soon as possible to avoid the trade retaliation that may be imposed on exports to our two largest markets (Canada and Mexico), which would cause serious economic harm to many manufacturers in the United States. To prevent such negative impacts on manufacturers in the United States, the NAM is calling upon Congress to ensure that the Administration has the authority to act quickly to suspend indefinitely the COOL regulations in regard to meat products if the WTO rules against those regulations.

#### Enforcement through Investor-State Dispute Settlement (ISDS)

With regard to the enforcement of trade and investment agreements, the NAM also strongly supports the continued inclusion and use as appropriate of ISDS contained in U.S. FTAs and investment treaties. ISDS is a vital enforcement tool that allows individual investors (whether business or non-profit) to seek enforcement of basic principles – such as non-discrimination, compensation for expropriatory action (*i.e.*, takings) and fair treatment – before a neutral arbitration panel. ISDS is in essence an enforcement mechanism and those seeking a more level playing field for manufacturers in the global economy should support the inclusion of this mechanism in existing and future agreements, including the TPP and T-TIP agreements, as well as bilateral investment treaties (BITs), such as currently being negotiated with China. Such provisions should be broadly available both for the core investment rules of the underlying

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<sup>10</sup> *Id.*; World Trade Organization, **Chronological List of Dispute Cases**, accessed at [http://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_status\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm) As USTR's snapshot explains, the United States has filed 103 requests for consultation.

<sup>11</sup> USTR, **USTR Helps Win Case Against China, Helps Manufacturers Compete** (March 2014), accessed at <http://www.ustr.gov/about-us/press-office/press-releases/2014/March/US-wins-victory-in-rare-earths-dispute-with-China>.

<sup>12</sup> USTR, **WTO Appellate Body Affirms U.S. Victory in Trade Enforcement Dispute Against Argentina's Import Licensing Restrictions** (January 2015), accessed at <http://www.ustr.gov/about-us/press-office/press-releases/2015/January/WTO-US-Victory-Trade-Enforcement-Dispute%20Against-Argentina-Import-Licensing>.

agreements, but also with respect to contracts and other investment agreements signed by investors with the foreign government. Proposals to eliminate or modify these core enforcement rules should be rejected as such outcomes undermine rather than strengthen a strong enforcement agenda.

### **Full and Timely Enforcement of Domestic Trade Rules Is Essential**

Domestically, the NAM continues to be a strong supporter of the full and fair enforcement of our trade remedy laws that help manufacturers address government-subsidized and other unfair competition. These rules too are an essential part of a robust pro-growth and pro-manufacturing trade policy. U.S. trade remedy laws have long been part of the U.S. legal system and are internationally respected mechanisms, authorized by the WTO.

It is vital that both the Department of Commerce and U.S. International Trade Commission exercise their authority to counteract unfair practices overseas. Full, effective, timely and consistent enforcement by the U.S. government of these globally recognized rules is essential to ensure manufacturers get a fair shake in the global economy.

Enforcement of U.S. trade rules must occur during the investigatory and review stages, but these trade rules must also be enforced fully at our border. Too often, we hear stories of manufacturers that have spent significant time and money to utilize the trade remedy rules only to find importers that are evading these orders. When manufacturers request that Customs and Border Protection (CBP) investigate these cases of evasion, years often pass with no resolution. The Senate Trade Facilitation and Trade Enforcement Act of 2013 (S. 662) includes an important fix to this problem, and manufacturers continue to urge Congress to move this legislation forward. In particular, the provisions in Title III of S. 662 would help strengthen CBP's authority to enforce antidumping and countervailing duty orders and to investigate effectively alleged evasion of those orders in a time-limited manner.

### **Other Key Trade Issues**

The global competitiveness of manufacturers and other industries in the United States to expand exports and promote growth and jobs also requires movement on other key issues, which are outside this Committee's jurisdiction. In particular, the NAM is strongly supportive of:

- The long-term reauthorization the Export-Import (Ex-Im) Bank. The Ex-Im Bank is a vital tool to help grow U.S. exports and increase American jobs. As the official export credit agency of the United States, Ex-Im Bank assists in financing U.S. exports from thousands of American companies and bolsters our global competitiveness. In fact, nearly 90 percent of Export-Import Bank's transactions directly support U.S. small business. While Congress passed a short-term extension of Ex-Im's charter to June 2015, this short-term reauthorization is insufficient to provide U.S. exporters and their customers the certainty they need to operate effectively in the global economy where just nine of our major trading partners are providing more than 18 times the level of Ex-Im financing to our competitors overseas.<sup>13</sup> Manufacturers are, therefore, urging action on a long-term reauthorization of the Ex-Im Bank as soon as possible.
- Continued reform of our export control system. In 2009, the Administration embarked on a major export control reform agenda to address longstanding features of that system that undermine the competitiveness of U.S. manufacturers operating in the global economy. The NAM strongly supports the objectives of the President's Export Control Reform Initiative: to focus federal resources on the threats that matter most, to bring

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<sup>13</sup> National Association of Manufacturers, **The Export Credit Dimension** (July 2014), accessed at [http://www.nam.org/uploadedFiles/NAM/Site\\_Content/Issues/Global%20Export%20Credit%20Dimension%20Web.pdf](http://www.nam.org/uploadedFiles/NAM/Site_Content/Issues/Global%20Export%20Credit%20Dimension%20Web.pdf).

transparency and coherence to these regulations, and to enhance the competitiveness of manufacturing and technology sectors in the United States. While the Administration is making great strides in reconciling the separate control lists, the NAM urges continued efforts to prioritize key policy reforms that would further streamline licensing and system administration, such as establishing an effective program license framework, deploying a truly connected information technology system across licensing agencies, instituting periodic reviews of current license exceptions, renewing the attempt to create an efficient intra-company transfer license for trusted companies and simplifying encryption controls. Accelerating implementation of multilateral regime changes and addressing the barriers to civil nuclear exports would also benefit U.S. security and competitiveness.

## **Conclusion**

In manufacturing communities across America, the gains from trade can and should be increased. The United States achieved a record level of \$1.38 trillion in manufactured exports last year, but we can do better so that America can expand manufacturing and jobs here at home. To improve the global competitiveness of manufacturers in the United States and grow our manufacturing economy, the NAM urges prompt action on TPA and on new market-opening trade and investment agreements to level the playing field globally, action on key legislation and policy reforms that will advance our global competitiveness and the full enforcement of our trade agreements and existing domestic trade rules.

**-NAM-**



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**U.S. House of Representatives  
Committee on Ways and Means  
Hearing on U.S. Trade Policy Agenda  
January 27, 2015**

**National Cotton Council of America  
Statement for the Record**

Thank you Chairman Ryan, for the opportunity to share the concerns and priorities of the National Cotton Council of America (NCC) within the U.S. trade agenda. This hearing occurs during a crucial moment for the cotton industry, where we face twin threats on the international front from Chinese cotton policy and Turkey's unfounded antidumping investigation of U.S. cotton. Impacts of these trade actions will be felt throughout the chain of production and distribution. A loss of markets in China and Turkey means a loss of thousands of American jobs and economic productivity.

The NCC membership includes producers, ginners, cottonseed processors and merchandizers, merchants, cooperatives, warehousemen and textile manufacturers, in seventeen states, stretching from California to Virginia. Farms and businesses directly involved in the production, distribution and processing of cotton employ almost 200,000 workers and produce direct business revenue of more than \$27 billion.

Turkey

Turkey is a major export market for U.S. cotton, in recent years ranking as the 2nd or 3rd largest export customer with exports valued at \$850 million. By erecting damaging trade barriers that reduce U.S. exports, U.S. cotton farmers will suffer due to lower prices. An adverse finding by Turkey would compound the already critical price situation facing U.S. cotton farmers, which is being driven by distortive agricultural policies administered by the Chinese government, discussed in detail below. For these reasons, the NCC and its member companies were surprised and concerned when the Turkish government self-initiated an anti-dumping investigation of U.S. cotton on October 18, 2014.

The case appears to have been filed as political retaliation against the United States on matters unrelated to U.S. cotton exports. Shortly after the U.S. imposed anti-dumping and countervailing duties on Turkish steel during the fall of 2014, Turkey's Minister of Economy publicly warned they would retaliate against the U.S. by imposing three obstacles against U.S. exports for every one imposed on Turkish exports. The Turkish authority then self-initiated the anti-dumping investigation of U.S. cotton despite no Turkish cotton producers being on record alleging any kind of injury due to U.S. cotton imports. Although it is within Turkey's rights under the WTO to self-initiate, they must present "special circumstances" justifying the investigation. Turkey's

initial report does not provide a description of such circumstances, and in fact is heavily redacted. It is entirely unclear as to what data they relied upon or where the data originated from to present a threshold case for conducting an investigation.

Turkey's self-initiation filing included a number of other "red flags" that are worrisome, such as blatantly disregarding actual U.S. data and ignoring lower import prices and increasing market shares from other countries. Turkey also ignores price data from the U.S. cotton market based on an erroneous claim that U.S. price subsidies cause U.S. market prices to be an unreliable indicator of market conditions. The U.S. cotton futures market is widely used by international cotton traders and international textile mills for price discovery and risk management.

Contacts in Turkey have said that the Turkish government is considering a "provisional" antidumping duty, even though they have not yet finished processing the initial industry questionnaires. Again, this raises WTO concerns: the WTO only permits a provisional duty upon a preliminary determination, which must rest on an assessment of adequate evidence of dumping and injury – but Turkey's fact-finding effort is still at a very early stage.

The U.S. cotton industry will show that the antidumping investigation has no merit. The NCC has been accepted as an "interested party" to the investigation and has already submitted a preliminary injury analysis in efforts to forestall a provisional duty. A detailed injury argument will be submitted to the Turkish authority in coming weeks. U.S. companies have responded in good faith to the Turkish government's detailed questionnaires, and will continue to cooperate by providing additional information and even hosting site visits, if requested. We are confident that the data will clearly demonstrate that no dumping is occurring, if analyzed in an objective manner. When comparing like qualities of cotton, cotton offered to Turkish mills is priced in the same manner as cotton offered to U.S. mills or mills in other countries.

We appreciate the efforts of the office of the U.S. Trade Representative, the Department of Commerce, the Department of Agriculture, and the Department of State. To date, all of these agencies have met with the NCC and its member companies and provided helpful guidance to the industry's efforts. The State Department delivered a demarche to the Turkish government and USDA submitted comments for the record, both documents emphasizing the importance of transparency and following the WTO process for antidumping investigations, and the mutual importance of the Turkey-U.S. trading relationship. We encourage the U.S. government to remain firmly engaged and to discourage the continuation of this retaliatory investigation.

Members of Congress have also provided valuable support to the industry by raising the profile of this investigation through letters to the Administration and the Turkish Ambassador.

We value the vibrant and growing economic ties between Turkey and the United States, but it can only continue to develop and flourish in accordance with the existing WTO rules governing international trade. USTR is key to impressing this message upon the Turkish government.

### China

As the world's largest cotton producer (27% of global production in 2013) and also the largest processor of raw cotton (32% of global mill use), China's cotton policy has an enormous

influence on the global cotton markets. China has been U.S. cotton's largest export market, with approximately 35% of total U.S. production delivered to its mills. However, recent changes to China's cotton policy are likely to disrupt this relationship.

Over the past four years, China has significantly increased its domestic support levels well above its WTO commitments. In 2011, China began a stockpiling reserve program through government purchases of domestic cotton at rates well above global prices. These support prices translated to product-specific support worth between 19 – 31% of the value of China's production, while China's WTO commitments only allow product-specific support at no more than 8.5% of the value of production. China now holds an estimated 63 million bales in stocks with more than 50 million bales sitting in government-owned reserves. In contrast, all other countries hold just 39 million bales, combined. Under WTO rules, China is required to provide notification of domestic support levels but has not done so since the 2008 crop.

China controls imports of raw cotton through policies that are restrictive, opaque and unpredictable. China's WTO minimum TRQ requirement is set at 4.1 million bales, but it supplements imports variously throughout the year. The process for determining additional quota is unknown and non-transparent. China's imports under the additional quota are also generally subject to a variable level duty ranging between 5% and 40%.

China recently revised its cotton support programs and will drastically reduce its imports of U.S. cotton. The support price for the largest cotton-producing province is set at a level more than twice the world price of cotton. Other provinces benefit from market support offered by the existing import policies, as well as a direct subsidy of \$0.15 per pound. Together, these programs translate to product-specific support worth at least 25% of China's value of production; and as much as 44% if calculated at current market conditions. Moreover, the allocation of the import TRQ and import licensing scheme for 2014 – as well as the disposition of the 50 million bale government reserve – remains uncertain.

The NCC strongly encourages the Administration to challenge China's cotton policies in all avenues offered within the WTO. Its current policies raise serious concerns regarding China's WTO obligations under the GATT, the Agreement on Agriculture, the Subsidies Agreement, and China's WTO Accession Protocol. It is important to our industry that the U.S. government utilize all available legal tools to enforce against countries that unfairly support their domestic products to the serious detriment of U.S. farmers.

### Trans Pacific Partnership

As the Administration continues the ongoing negotiations in an effort to conclude to the Trans Pacific Partnership (TPP) agreement, the U.S. cotton industry is unified behind the inclusion of a yarn forward rule of origin in TPP or any other international trade agreement. A yarn forward rule of origin requires that any product made with yarn produced in a country that is a party to the trade agreement may receive the benefits accorded to partner countries under that agreement. Failure to maintain a yarn forward rule of origin will damage the entire hemispheric textile trade that has been built under NAFTA and CAFTA-DR, which both contain the yarn forward rule of origin. The inclusion of Vietnam in the current TPP negotiations underscores the importance of

a yarn forward rule of origin as a means to protect against textile products produced outside the partner countries from gaining preferential access to the U.S. market, thus resulting in severely negative impacts to the U.S. textile manufacturing sector.

Mr. Chairman, thank you again for holding this timely and important hearing, and for accepting our comments for the record. China and Turkey remain the two most important international markets for U.S. cotton, and it is vital to the U.S. cotton industry that those markets remain open and competitive. Although we appreciate the U.S. government's efforts to maintain strong trading relationships with Turkey and China, more work is needed. And we urge that the remaining negotiations on the TPP agreement ensure that there is a strong yarn forward rule of origin in place for textile products produced in the countries that are part of the TPP agreement. We would be pleased to provide any additional information or answer any questions regarding the information provided here. Reece Langley with NCC can be contacted at [rlangley@cotton.org](mailto:rlangley@cotton.org) or 202-745-7805.

Written Statement of Daniel Mark Ogden, Esquire,  
Attorney at Law and International Trade Consultant  
On behalf of the National District Export Council, Inc.

House Ways & Means Committee

**Hearing: U.S. Trade Policy Agenda**

January 27, 2015

## **Written Statement Background**

This written statement is submitted by Daniel Mark Ogden, Esq., an attorney, licensed customs broker, and international trade consultant who for over 25 years has counseled and represented U.S. and foreign companies of all sizes on a multitude of international trade and business legal and regulatory issues, and is also submitted by the National District Export Council, of which he serves as the Chairman Emeritus. The views expressed herein represent his own personal views as well as those of the National District Export Council, unless otherwise noted.

The subject of this hearing is on the development of a U.S. trade policy agenda. As the National District Export Council works very closely, although not exclusively, with small business exporters, this statement will focus on the development of a U.S. trade policy agenda as it relates in particular to the small business exporters and the opportunities and challenges they face in the international marketplace. The statement will cover the importance of trade to the well-being and wealth of the U.S. economy, to the health and profitability of small business, and to the creation of job growth in the United States. This statement will also discuss the challenges and barriers to success that small business exporters face from government laws and regulations, both foreign and domestic, and the development of a trade policy agenda that will serve the international trade interests of the United States, and in particular the interests of small business exporters.

### **The Nature of Small Business Exporters**

Like exporters of any size, small business exporters face both opportunities and challenges in the international marketplace. However, because of the nature of small business exporters, their opportunities are affected by these challenges disproportionately as compared to larger exporting firms. In order to understand the disproportionate effect of the challenges, a discussion of the nature of small business exporters is on order.

#### **Small Business Exporters are Small Businesses First**

Initially, it must be stressed, and this is a key point, that small business exporters are small businesses first. The fact that they derive a significant portion of their revenues from exports does not detract from the fact that they face the same challenges to their profitability that all small businesses in the United States face. Some of the most significant of these challenges that all U.S. small businesses face arises from the U.S. domestic regulatory and legislative environment which has a significant impact on their profitability. In fact, among all small businesses, small business exporters face unique challenges in this regard as not only do they have challenges to their profitability in the foreign arena but also from the domestic arena in the United States as well. Therefore, before discussing the challenges faced by U.S. small business exporters from foreign regulatory and legislative environments, and how Congress can assist in those challenges, it is important to first examine this environment at home.

#### **The Impact of U.S. Regulatory, Legislative & Tax Policies on the Health of Small Businesses**

Healthy small business exporters are healthy small businesses. The health of any business is measured by its profitability. While this profitability is impact by numerous factors, the

regulatory, legislative and tax environment in the United States unquestionably is a significant factor. For example, many small business exporters are manufacturers (part of the resurgence in U.S. manufacturing is being led by small business exporters). Like any other manufacturer, small business manufacturer-exporters are greatly affected by such U.S. regulatory agencies such as OSHA and the EPA and the voluminous regulations they produce. Additionally, like many small businesses, small business exporters are affected by laws such as Dodd-Frank, which is greatly limiting access to loans for small businesses, and Sarbanes-Oxley, which, as a result of its numerous reporting requirements for publicly-traded corporations, discourages small businesses from seeking investment capital through public stock offerings. Finally, like many small businesses, the fact that many small business exporters are Sub-Chapter S corporations means that current tax laws severely impacts their ability to reinvest their retained earnings in their operations.

One unintended consequence of these U.S. regulatory, legislative and tax policies is that in many instances, it forces manufacturers to move production to other countries that have regulatory, legislative and tax environments that are more conducive to the profitability of a business. This fact often is not true just for large manufacturers but for small manufacturers as well. When it comes to small business manufacturers, while the decision to locate production facilities overseas is determined by a multitude of factors, one of those factors is often U.S. regulatory, legislative and tax policies. The more that small business manufacturers locate their production facilities overseas, the less they will export from the United States and just as most important, the less Americans will be employed in such production.

In seeking, then, to answer the question “what trade policy agenda should Congress adopt that will assist American businesses in general, and in particular small business, in increasing their exports and thereby be competitive in the international marketplace?”, one answer quite simply is to stop over-regulating, over-legislating, and over-taxing small business in general. That answer may perhaps do more for the health of small business exporters than other single thing the United States government could do.

### **The Impact of U.S. Export Controls Reform on Small Business Exporters**

While general U.S. regulatory, legislative and tax policies that are friendly to small business will help to improve the health of U.S. small businesses in general, including small business exporters, there is one specific area of U.S. regulatory and legislative policies that in particular affects small business exporters. By its very nature U.S. export controls law and regulations directly impacts all American exporters, but, as is the case in general with law and regulation, they have a disproportionate impact on small business exporters. Large exporting firms generally have the requisite staff and resources to manage the complexities of export controls compliance. As a general rule, small business exporters usually do not and often will have a single employee with other responsibilities also be responsible for export compliance, or they may instead be forced to outsource export compliance to an outside consultant. Many exporters, however, do neither and therefore are non-compliant in various degrees when it comes to export controls.

There are, of course, very good policy reason for the U.S. to have export control laws as they help to protect U.S. national security and economic vitality. And further, it is the

responsibility of all U.S. exporters to ensure that they are in compliance. The importance of export control laws, however, does not necessitate that they either be so complex and cumbersome that they discourage companies from exporting, or that they fail to be updated and modernized to reflect the current stage of technological developments and the realities of the international marketplace. It does no good, for example, to have stringent controls on the export of computer chips that are several generations old and can be purchased on eBay for a few dollars. The challenge faced by the U.S. government, then, is to have export controls that are effective in meeting U.S. national security, foreign, and commercial policy, yet do not discourage exports. While meeting this challenge—which on its face may appear to be contradictory—is difficult, a continuous review and updating of export control law and regulation can overcome this challenge and accomplish the dual goal of both protecting vital U.S. interests and increasing U.S. exports.

Fortunately, there is at present an ongoing attempt by the current Administration to reform U.S. export controls, called, appropriately, export control reform or ECR. This process, although being called for by many years by those both inside of and outside of government, was really begun in earnest at the prompting of former Defense Secretary Robert Gates. Without getting into the weeds of ECR, the overall objective is to simplify both the administration of and compliance with U.S. export control law and regulation. While there are many things that the executive branch can itself do to advance this objective, Congress will also have a vital role to play. The simpler it is for the U.S. government to administer our export control laws, and the simpler it is for U.S. exporters to comply with them, the greater the likelihood will be that U.S. exporters will in fact comply with such laws and regulations—thereby accomplishing the policy objectives behind such laws and regulations—and the greater the likelihood that U.S. exporters will in fact increase their exports due to the fact that U.S. export controls law and regulation will not be a negative factor in their export efforts. These facts are doubly true for small business exporters.

### **The Defining Characteristics of Small Business Exporters**

In considering the development of a U.S. trade policy agenda that in particular will benefit small business exporters, Congress needs to have a firm understanding about the defining characteristics of small business exporters. When thinking about small business and exporting, first a definition is in order. When one thinks of a small business, quite often the thought is that of a business like your favorite dry cleaners. While dry cleaners are certainly small businesses, when it comes to small business exporters, they run the gamut from a single entrepreneur who drops his products to his overseas eBay customers to a company with 500 employees who ships its products to multiple countries. What really defines a small business in general is not so much the size of a company in terms of its employees or annual revenues but rather its level of entrepreneurship. To be successful, small businesses by necessity have to be entrepreneurial and the founders and owners of small businesses must be and generally are entrepreneurs. What defines entrepreneurship? In a word, risk-taking. The degree by which a company is willing to take risks, calculated and reasonable risks, but risks nevertheless, to a large extent determines its level of entrepreneurship. And when it comes to exporting, this is exponentially true.

To be a successful small business exporter means by definition that you are willing to take risks in order to increase your market share, grow your company, and improve your profitability. This need to be a risk-taker is due to the fact that the international marketplace is fraught with risks

arising from political, economic, cultural, legal and other factors. But as any true entrepreneur knows, risk means opportunity. And it is this opportunity that drives small businesses to become exporters. It is true that many small business exporters are occasional exporters, meaning that they export not as a result of a deliberate strategy, but rather in reaction to requests for orders. But when many a small business sets out to deliberately survey the global square, it often sees, because by nature it is a risk taker, not just roadblocks but also opportunities.

The reality is, of course, that these roadblocks to exporting do exist and present barriers to exporting that U.S. firms of all sizes, and particularly small businesses, have a difficult time overcoming. American small business exporters, of course, like all exporters, do not operate in a vacuum as their operations are affected by numerous factors. Perhaps the most single important factor is U.S. trade policy. Therefore, before discussing and some of the unique and specific challenges small business exporters face in regard to trade policy, a few comments about U.S. trade policy in general are in order.

### **U.S. Trade Policy Fundamentals**

Rather than cite numerous statistics indicating the importance of trade to the U.S. economy, it is sufficient to state that more than ever, due to the increasingly foreign competitive challenges faced by U.S. companies (and particularly small businesses), as well as to the global marketplace that has become a reality, trade policy is arguably—along with national security policy—the most critical policy the federal government faces today. If the U.S. economy is to have sustainable growth and generate wealth, which should be the goal of any economic policy, then we must have the right trade policy. It is not an option. It is a necessity.

The question then is, what should that trade policy be? This is a complex question that demands detailed answers. This statement provides some answers to that question from the standpoint of small businesses in the United States.

### **Trade Policy and Wealth Creation**

Initially, a few general points about international trade and its relationship to the wealth creation of an economy need to be made. Exporting, at least for most, is generally praised as a worthy and worthwhile activity. Importing, on the other hand, is frowned upon for obvious reasons which are not necessary to recite. The simple fact of the matter is, however, that trade is a two-way street. Every export is also an import and vice versa. Imports in of themselves are not a bad thing and in fact are vital to the success of many U.S. firms, and especially for small businesses who quite often have very thin profit margins. Being able to freely source the inputs and means of production is critical to the profitability of small business, including small business exporters. Those who do decry imports also—and oddly—generally ignore the existence and importance of exports to wealth creation and the U.S. economy as they tend to be anti-trade in general.

At its fundamental core, trade policy should be based on one underlying principle—free market economics. This principle was postulated over 200 years ago by Adam Smith in his seminal work the *Wealth of Nations*, which set forth the proposition that mercantilism—in today's parlance, protectionism—leads not to wealth but rather to poverty. Smith argued that the

mercantilism of his day distorted a market by introducing artificial barriers to trade and thus impoverished a country as a whole.

An accompanying principle which is also an important component of a free market trade policy, was advanced by David Ricardo in his *Theory of Comparative Advantage*. This theory, in simple terms, states that a nation should sell what it is good at producing and buy what it is not. This theory actually is borne out every day in the business practices of companies. A Coca-Cola bottler, for example, does not turn raw materials into the glass for which it uses to bottle Coke because it is not good at turning raw materials into glass. Rather, it purchases the glass which it uses to produce the bottles which contain the world's most recognized and consumed soft drink. The same principle holds true for countries. In Africa, for example, many countries have abandoned their comparative and natural advantage in the agricultural sector in an attempt to become producers and exporters of heavy industrial products, largely due to the bankrupt Soviet-inspired economic philosophy that a strong economy is by necessity a heavy industrial economy. As a result, many of these countries are now net importers of food, having neglected or destroyed their agricultural sectors and therefore have created not wealth, but poverty. And the failure of countries all around the world to recognize this principle is a prime driver of trade protectionism.

### **Dangers of Protectionism**

In spite of attempts by politicians, economists, political philosophers and ideologues over the last 150 years to the contrary, these fundamental economic principles spelled out by Smith and Ricardo have been proven by economic reality to be factually true. Protectionism is the mother's milk of economic depression. It is not a creator of wealth but is rather a creator of poverty. Trade policies that are protectionist in nature are a dead end and only hurt the very persons they are ill-designed to help. Protectionism was one of the major causes of the Great Depression. "Beggars thy neighbor" trade policies, such as the 1930 Smoot-Hawley Tariff (which is still on the books as the default tariff for non-MFN and non-GSP nations), merely led to a rapid and calamitous reduction in economic growth and activity both in the U.S. and abroad. The Great Depression was the price we paid for such a policy.

Avoidance of a protectionist trade policy used either as a strategy or a tactic should be at the core of U.S. trade policy. Protectionism is not a monopoly held by either party in our historically two-party system of government. It is a disease that is bi-partisan in nature. The United States as a nation cannot afford its fruits no matter how loud the cries are for it.

### **Importance of Trade Agreements to Small Business Exporters**

The temptation to implement protectionist trade policies is not, of course, unique to the United States and as a general measure is succumbed to far more often in most other countries. Protectionist trade policies are a fact of life that small business exporters have to deal with on a daily basis. This fact makes trade agreements an essential component of U.S. trade policy.

### **Reduction and Elimination of Tariffs**

Since the conclusion of the Second World War, the focus of trade agreements has been the reduction or elimination of tariffs on imported goods. These reductions or eliminations that have resulted from both bilateral and multilateral trade agreement, starting with the GATT in 1947, have been extremely beneficial to U.S. exporters in that they have leveled the playing field for U.S. exporters to compete against local producers in foreign markets. Tariffs are, in fact, the number one barrier to trade and trade agreements should continue to focus on them.

### **Non-Tariff Trade Barriers**

The tendency of trade agreement to focus on reducing and eliminating tariffs, however, while certainly vital, has resulted in an increased focus on non-tariff trade barriers. The temptation of protectionism is a constant. As more countries enter into free trade agreements and as a result reduce or eliminate their tariffs, non-tariff trade barriers have become the protectionist tool of choice. These barriers include such matters as customs facilitation and procedures, local product standards, intellectual property protection, packaging and marking requirements, consumer product health & safety requirements, just to name a few. While it may be argued that these barriers in of themselves are an essential exercise of the inherent police powers of government (to regulate for the health, safety and welfare of a society), the problem when it comes to trade is that these barriers are often applied *discriminatorily* against foreign producers exporting to that country and in fact are often designed solely for the purpose to either keep imports out of that country or making it very difficult for foreign exporters to compete against local producers.

### **Real World Examples of Non-Tariff Trade Barriers Faced by Small Business Exporters**

A few real world examples can be cited to illustrate the nature of these barriers and their effect on small business exporters. International Chem-Crete Corporation, a Texas corporation, produces construction materials that it exports around the world. One of the prevailing standards for this company's industry are the standards promulgated by ASTM International for materials, products, systems and services used in construction, manufacturing and transportation. The implementation of these standards by any country makes perfect sense as these standards are internationally recognized for their role in producing high quality products and services. While International Chem-Crete produces its construction materials according to the applicable ASTM standards, it often finds that many countries to which it has targeted for exports have local standards that differ from the internationally recognized ASTM standards. The only rational explanation for this fact is that these countries maintain these local standards in an attempt to raise the costs of foreign producers exporting to that country, which costs invariably result due to the necessity of product modifications required to be able to meet such local standards for sales into that particular market. International Chem-Crete also has to deal with the EU REACH regulations for its sales of chemical-related products by foreign-owned companies into the European Union (these regulations do not apply to EU-owned companies). This is true in spite of the fact that International Chem-Crete has even set up a local production facility in Slovakia for the purpose of supplying the EU market. The EU REACH regulations are a clear example of a non-tariff trade barrier designed to protect local industry from foreign competition.

A second real-world example is that of a small business exporter in Nevada that produces a paint coating that protects against and reverses rust oxidation which it presently exports to several

countries and regions. This company has patents covering its product formulas but, as often is the case in these situations, has not disclosed in its patents all of its proprietary technologies in order to prevent reverse engineering of its products. As a result, the maintenance of its non-publicly disclosed proprietary technology as trade secrets is vital to the success of its business. A major component of this company's export strategy is to license its technology through patent and trade secrets licenses for production of its products in local markets. The prevention of the theft or unlawful disclosure of its trade secrets in a such local markets is crucial due to risk of reverse engineering. As any company who has ever deal with trade secrets issues will tell you, the only even partially effective legal remedy against a theft or unlawful disclosure of trade secrets is an injunction enjoining a party from using such secrets and even then the effectiveness of this remedy is often questionable. The challenges to exporters regarding the theft or unlawful disclosure of their trade secrets in their export markets is a hugely significantly and growing problem. The Commerce Department has stressed the importance of this issue in what it is calling a "Strategy to Mitigate the Theft of U.S. Trade Secrets". While much of this strategy is targeted at thefts of trade secrets by foreign parties that occurs in the United States, the point has been made that a prevention of the loss of trade secrets is more and more being seen as critical component of the international competitiveness of the U.S. economy. This is not only true for a loss of trade secrets in the U.S., but also in other countries. The non-tariff trade barrier in this instance is the lack of an effective remedy in many countries, such as injunctive relief, for the consequences of a theft or unlawful disclosure of a trade secret. If American exporters are unable to obtain remedies such as injunctive relief in foreign markets for a theft or an unlawful disclosure of their trade secrets, it will greatly reduce their willingness to do business in such markets where their trade secrets may be at risk.

A third real-world example is that of another small business exporter from Illinois. NOW International is a producer and world-wide exporter of various health and food products. As an example of the barriers it faces, NOW International is subject to food laws which differ from region to region. For example, for any fish product such as omega 3 oils, cod liver oil or shark cartilage, in many countries it will need to register such products in order to obtain a veterinary certificate. The same holds true for its dairy products. In some instances it has taken more the 7 months to complete the process to obtain a registration number and an accompanying certificate. Fortunately, NOW International has been in the financial position where it was able to wait until these certificates were issued. Had it not been able to do so, it was looking at the loss of over a million dollars in business in 2013 alone. Many other U.S. companies in the same industry may not be in the financial position of being able to wait until such certificate are issued and therefore will lose export sales. Another barrier specific to NOW International's industry is the implementation of an EU Directive by the European Food Safety Authority. This directive is arguably designed to keep American companies out of the market.

Again, the point needs to be made that while government regulations in all countries are all too often a fact of life that businesses of all sizes and types have to deal with, when it comes to trade many of these regulation are not designed or implemented for legitimate or rational reasons but merely are used to create non-tariff trade barriers for the purpose of discriminating against foreign producers and exporters.

### **Effect of Non-Tariff Trade Barriers on Small Business Exporters**

While non-tariff trade barriers are damaging to all American exporters, this is particularly true for our small business exporters. Large companies have the resources to hire teams of specialist that can manage the requirements imposed by these barriers and often have the requisite cash flow necessary for the time it takes to overcome such barriers. An example of this can be illustrated by the experiences of Dallas-based Mary Kay, Inc., who is famous worldwide for its beauty products. One of its core strategies is establishing local production facilities in many of the countries in which its products are sold. Much if not most of the components of the end products produced in those countries, however, are exported from the U.S. to those countries. Brazil is infamous for using customs procedures to make it difficult to export to Brazil. While products can eventually clear Brazilians customs, getting them to do so is often onerous and time-consuming. Although it is very frustrating and expensive, a large, multinational company like Mary Kay has the resources and patience to eventually get its end product components through Brazilian customs as it is an integral part of its international business strategy. Small businesses, however, do not have such resources and have limited patience due to the nature of their business. Quite often they are operating on paper-thin margins and have very limited cash flow. Rather than dealing with the hassles of getting their products into a country such as Brazil where they face customs delays which results in having to wait for payment by customers to whom they provided trade credit, they often will just refrain from exporting to such a country even though there is a demand for their products in that country.

Non-tariff trade barriers are perhaps the number one impediment to the increase in small business exports for the United States. The reduction or elimination of these barriers must be addressed if America's small businesses are to increase their exports and market shares in the reality of the global marketplace in which they operate.

### **The Need for Inclusion of Non-Tariff Trade Barriers Provisions in Trade Agreements**

The U.S. at present is close to completing a multilateral trade agreement, the Trans-Pacific Partnership, and is on the initial stages of negotiating a trade agreement with the European Union, the Trans-Atlantic Trade and Investment Partnership. It is essential that these agreements, along with future trade agreements, have provisions that substantially deal with non-tariff trade barriers. In recent years there has been a trend to include such matters as labor provisions and environmental protections in trade agreements. While there are disagreements over the merits of having such matters in trade agreement, these matters are less important than the inclusion of non-tariff trade barriers provisions in trade agreement as they do not specifically deal with trade issues and would be better left to treaties that focus specifically on such matters. Non-tariff trade barriers, on the other hand, directly affect the ability to engage in trade and are vital components of future trade agreements.

At present, unless a non-tariff barrier falls under the coverage of a trade agreement of some nature, which does provide the U.S. government a means to ultimately legally challenge such barriers if commercial diplomatic negotiations to eliminates such barrier fails, commercial diplomacy is in fact the only recourse. While the enforceability of trade agreements through the WTO or other means may be uneven, the fact that a trade agreement includes provisions to reduce or eliminate non-tariff trade barriers—such as standards barriers, for example—makes it far more likely that such barriers will be successfully challenged due to legal remedies than having to rely

solely of the good graces of U.S. commercial diplomacy, valuable though it is. It is imperative, therefore, that, ongoing and future negotiations on trade agreement stress not only tariff reduction and elimination but also non-tariff trade barriers reduction and elimination. While trade agreement provisions reducing or eliminating non-tariff trade barriers will help all U.S. exporters, they will particularly help small business exporters proportionally more.

### **Trade Promotion Authority Renewal**

The last several years have seen trade agreement being approved by the United States at a snail's pace for various reasons, most of which have been political in nature. One of those reasons has been the expiration of Trade Promotion Authority (TPA). The National District Export Council over three years ago passed a Resolution supporting the renewal of TPA. This renewal is crucial for several reasons. First, the U.S. is not in a position to have 535 members of Congress negotiate international trade agreements. The U.S. needs to speak with one voice in negotiating these agreements. Secondly, TPA historically has worked very well in providing an effective means for the U.S. to negotiate trade agreements. Third, the interests of the United States when it comes to trade should be bi-partisan in nature. TPA helps to achieve that objective. And finally, and perhaps most importantly of all, the U.S. is falling behind other nation in entering into trade agreements, which thereby putting its exporters at a competitive disadvantage versus U.S. trade competitors. The tardy and belated enactment of the Korea, Panama and Colombia FTAs cost U.S. exporters lost sales in the millions of dollars. TPA renewal will help to ensure that this does not happen again.

Additionally, TPA in no way limits the Constitutional authority of the Congress to approve trade agreements. Rather, it only gives the Executive Branch the power to negotiate these agreements, not approve them. If Congress is concerned that trade agreements contain certain provision, such as those I have recommended regarding non-tariff trade barriers, it can under TPA for a particular agreement broadly require that such provisions be included while leaving to the Executive Branch the negotiation of those particular provisions.

Renewal of Trade Promotion Authority would be beneficial to all American exporters as it would increase the number of trade agreements the U.S. enters into and would do so more quickly. This renewal should be part of any small business trade agenda that the U.S. Congress develops.

In conclusion, small business exporters face unique challenges among exporters to their profitability and success. While, fortunately, the opportunities in exporting have never been greater, those opportunities to a significant degree will depend in part upon a trade policy agenda by the 114th Congress that is forward looking and address these challenges.

### **Federal International Trade Function Reorganization**

There have been in the last few years various proposals floated to create a unified single trade agency. While the National District Export Council has not taken a formal position on this issue, as a general matter it is concerned that any reorganization that is done may perhaps negatively impact the trade position of the United States and also may perhaps negatively affect the export assistance that the federal government currently provides to American exporters. Any

reorganization that is done needs to be carefully thought out and done not for political or budgetary reasons.

One possible alternative to a major reorganization that creates a single federal wide trade Department would be to merely combine all of the international trade functions of the Department of Commerce in to a new Department of International Trade, yet leaves intact the USTR, the U.S. Export-Import Bank and other trade functions outside of the Commerce Department as they presently exist. In essence, this would merely be a rationalization of the Commerce Department present international trade functions, which now exist in several Commerce constituent agencies, and would create a Department that is focused singularly on trade rather than the multi-focus that the Commerce Department currently has. Historically, the Commerce Department has been an areas where the federal government has placed agencies that it did not know what else to do with. As a result, perhaps more than any other federal department, the Commerce Department has a multitude of governmental functions. Spinning off its international trade functions all into one new Department would not create any new federal bureaucracy since those functions already exist in current agencies and would also avoid the cross-Departmental culture clash that the Department of Homeland Security has suffered. While this alternative would also need careful consideration, it is arguably a better one than combining all of the U.S. federal agencies that have anything to do with trade into one big new Department.

#### **IV. RECOMMENDATIONS**

In summary, the following are recommended to be part of U.S. trade policy trade agenda:

1. Congress should pursue regulatory, legislative and tax policies that reduce or eliminate the negative impacts that these policies have on U.S. small businesses, including small business exporters, and specifically those regulations, laws and taxes that affects their proclivities to manufacture goods in the U.S., that limits their access to loans and investment capital, and that limits their ability to reinvest their retained earning back into their business operations, all of which damages small business profitability and job creation and which diminishes economic growth in the United States and improvement in the U.S. international economic position.
2. Congress should maintain an aggressive trade agenda that increases the number of trade agreements, both bi-lateral and multilateral, including the Trans-Pacific Partnership, a trade agreement with the European Union, and other new agreements;
3. Congress should require that new trade agreements have provisions, including enforcement mechanisms, that reduce or eliminate non-tariff trade barriers;
4. Congress should renew Trade Promotion Authority in order to expedite the passage of trade agreement to ensure that the United States is not falling behind other nation in entering into trade agreements and thereby putting its exporters at a competitive disadvantage;
5. Congress should enact reforms to the U.S. export control laws that simplifies both the administration by the federal government and the compliance by U.S. exporters with such export controls.



February 9, 2015

The Honorable Paul Ryan  
Chairman  
Committee on Ways and Means  
U.S. House of Representative  
Washington, D.C. 20515

The Honorable Sandy Levin  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman and Representative Levin:

On behalf of the 1,400 members of Outdoor Industry Association, I am pleased to submit a statement for the record for the January 27, 2015 Committee on Ways and Means hearing “U.S. Trade Policy Agenda” with United States Trade Representative Michael Froman.

The outdoor industry is recognized as a critical sector of our nation’s economy, generating \$646 billion annually in U.S. consumer spending and directly supporting 6.1 million American jobs. Our members produces some of the most innovative products reaching all corners of the globe and enriching people’s lives by supporting healthy and active lifestyles.

OIA’s Trade Program represents the diversity of our membership, including outdoor companies whose products are conceived, designed, and produced in America and those companies that utilize global value chains to bring their products to retail markets. From some of the largest companies in the world, to small, family-owned businesses, we work to ensure that U.S. federal trade policy fosters and promotes a stable and predictable environment for all outdoor industry businesses, while seeking to lower costs for outdoor businesses and their customers.

International trade benefits U.S. importers and domestic manufactures alike, creates new jobs, lower consumer prices and open new markets to U.S. exports. For its part, OIA pursues a “balanced trade policy” meaning that we only seek tariff eliminations on outdoor products that have no commercially viable domestic production, while for those products that are made in America, we promote federal policies that support U.S. manufacturers and help them transition to competition in a global economy.

As such, the Trans-Pacific Partnership (TPP) negotiations present a tremendous opportunity for the outdoor industry. Outdoor products sourced from abroad are among the most highly taxed when entering the United States despite the fact that they face no domestic competition: the average bound tariff rate on imported goods is less than 3 percent, but duties on outdoor products average 14 percent or higher, with some as high as 40 percent. We understand the challenges in negotiating an agreement that balances the needs of U.S. manufactures and brands that conduct the research, development and innovation at home, but must manufacture their products abroad.

In that regard, we have offered USTR specific suggestions on how that can be accomplished in key areas as apparel and footwear. A “one-sized fits all approach” for apparel and footwear will lead to agreement that appeals to the lowest common denominator, resulting in tremendous lost opportunity for American workers and American innovation.

The duty savings from eliminating these disproportionately high tariffs on outdoor apparel and footwear produced in the TPP region will help lower costs for consumers, fuel innovation, and create jobs across the U.S.

Like the administration, OIA must balance the interests of importers and retailers who source apparel and footwear from abroad and domestic manufacturers. Our proposal on outdoor apparel and footwear in the TPP will help the administration bridge the gap among this diverse group of stakeholders and conclude a commercially meaningful, 21<sup>st</sup> century trade agreement. With the appropriate definition of products, rules of origin and market access terms can be designed in a manner that does not diminish the transitions needed for U.S. made products.

We understand the administration is committed to a “yarn forward” rule of origin at the core of its proposal on textiles and apparel, and we support that. Accordingly we have appreciated the opportunity to work with the administration on the Short Supply List of textiles and fabrics. Outdoor apparel products are highly innovative, incorporating multiple complex, highly technical fabrics. In fact, the outdoor industry is on the cutting edge of developing new fabrics not yet on the market. From a rules of origin perspective, we believe the Short Supply List goes a long way towards accommodating the innovation of the outdoor industry.

We believe the next logical, and non-controversial step would be to support the immediate elimination of duties on performance apparel products that use the Short Supply List. These products are not import sensitive and domestic textile producers have not opposed tariff elimination on them because there is no commercially meaningful domestic production. At minimum, we urge the administration to support classification breakouts for performance apparel as identified previously in legislation introduced by Senator Ron Wyden (D-OR).

At the same time, OIA has identified products that should receive a yarn-forward rule, and for which there is ample production in the U.S.

Like outdoor apparel, outdoor footwear is innovative and complex. Yet, these products often fall within the same tariff codes as import sensitive footwear. The outdoor industry is deeply concerned that a “one-size fits all” approach will be taken for 8-digit classifications of the Harmonized Tariff Schedule (HTS) that, due to outdated classification system, lumps together import sensitive footwear with non-import sensitive performance footwear. This is a particular concern for hiking shoes and boots, a critical segment of the outdoor footwear market. Our members have put a lot of time, energy, and investment towards developing new, innovative footwear products that attract new outdoor enthusiasts by providing protection against inclement weather.

The outdoor industry has identified certain performance footwear products that are not import sensitive to domestic manufacturers and should receive a tariff-shift rule of origin and immediate duty phase-outs. Congress has enacted most of these breakouts in the past through the miscellaneous tariff bills (MTBs) process after a thorough vetting by the administration. Failure to differentiate these products would be a tremendous lost opportunity, and in fact harmful to the outdoor footwear industry, U.S. consumers and the U.S. economy more broadly.

For those footwear products on the import sensitive list, OIA proposes a strict rule of origin (NAFTA rule) and maximum duty phase-outs.

As with other stakeholders, the outdoor industry will conduct a comprehensive review of a final TPP agreement to determine the benefits to outdoor companies and consumers.

In addition, any TPP agreement should also include tough, enforceable provisions on the environment and labor rights. Outdoor recreation companies are at the forefront of developing sustainable supply chains that protect the environment and ensure fair labor practices. The TPP represents a significant opportunity to advance those standards throughout the Asia-Pacific region. The final TPP agreement must:

- require all parties to adopt and maintain internationally recognized core labor standards and the provisions of multilateral environmental agreements (MEAs), and;
- these provisions should be subject to the same dispute settlement procedures as other enforceable obligations.

In order to conclude the TPP negotiations and other trade agreements, OIA understands that the administration must have Trade Promotion Authority (TPA).

OIA supports the principle of TPA because it puts the administration in the best position to secure trade agreements that could have substantial benefits for the outdoor industry by eliminating tariffs and non-tariff barriers and expanding access to global markets. Our trading partners are unlikely to make their best offer if they think Congress will alter the final agreement.

The outdoor industry also supports including additional outstanding trade items in a TPA package including:

- **The US OUTDOOR Act:** Soon be re-introduced in the House and Senate, the US OUTDOOR Act will create specific definitions and separate classifications within the U.S. Harmonized Tariff Schedule (HTS) for “recreational performance outerwear” and eliminate duties on those products. The Senate bill also includes the Sustainable Textile and Apparel Research (STAR) Fund that will support the research and development of sustainable textile and apparel supply chains. Recreational performance outerwear is highly technical and specialized apparel and should no longer be classified under the same HTS codes as ready made, mass market apparel. According to a 2007 study by the International Trade Commission (ITC), there is no commercially viable domestic production of recreational performance outerwear. Eliminating duties on recreational

performance outerwear will help lower prices, fuel innovation, and create jobs in the outdoor industry. It should be included in any trade package.

- **MTBs:** The outdoor industry strongly supports the renewal of the miscellaneous tariff bill (MTB) process. MTBs have suspended duties on certain imported products that are proven to have no competition from U.S. manufacturers. To date, twenty MTBs related to the outdoor industry have resulted in savings of more than \$30 million for outdoor companies, leading to more jobs, more innovation, and lower retail prices for outdoor enthusiasts. Failure to renew the most recent MTB and the tariff suspensions have forced outdoor companies to absorb cost increases as much as 40 percent, stifling economic growth and preventing more Americans from getting outdoors. The outdoor industry strongly urges Congress to provide for a clear and predictable MTB process in any trade package.
- **GSP Update Act:** The outdoor industry supports the renewal of the Generalized System of Preferences program and urges Congress to include the GSP Update Act in that initiative. This non-controversial piece of legislation simply allows for backpacks and travel goods, no longer made in the US, to be considered eligible for inclusion in that program.

Finally, we look forward to a TPA bill that includes strong consultation provisions and tough negotiating objectives on labor and the environment.

As leaders in the field of sustainable business practices and social responsibility, OIA supports such provisions as they could give the administration sufficient leverage to secure enforceable labor and environmental provisions in our trade agreements and ensure our trading partners match international standards.

OIA greatly appreciates the opportunity to submit a statement for this hearing and we look forward to working with Congress and the administration to support passage of TPA and TPP that will allow outdoor companies to lower costs for consumers, get more people outdoors, fuel innovation, and create more U.S. jobs.

Sincerely,



Richard W. Harper, Jr.  
Policy Advisor  
Outdoor Industry Association OIA



**TELECOMMUNICATIONS  
INDUSTRY ASSOCIATION**

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January 27, 2015

The Honorable Paul Ryan  
Committee on Ways and Means  
1101 Longworth House Office Building  
Washington, DC 20515

The Honorable Sander Levin  
Committee on Ways and Means  
1101 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Ryan and Ranking Member Levin:

The Telecommunications Industry Association (TIA), the leading trade association for global manufacturers, vendors, and suppliers of information and communications technology (ICT), wishes to thank you for holding a hearing on the “U.S. Trade Policy Agenda” for 2015. With an ambitious trade policy agenda that includes the potential conclusion of the Trans-Pacific Partnership (TPP), TIA strongly supports the bipartisan renewal of Trade Promotion Authority (TPA) this year. Trade agreements like the TPP are critical to the telecommunications sector because they promote trade liberalizing, market-based, and technology neutral approaches in international markets, which facilitates U.S. exports and investment.

Global investment is increasing in both wireless and fixed broadband networks. This global trend includes the launch of long term evolution (LTE) 4G wireless networks, continued growth in smartphone penetration, and fiber deployments to enhance fixed broadband infrastructure. Each of these developments stems from a single underlying driver – the need for greater capacity to accommodate growing global data transmission demands. Driven by this need, the global telecommunications market for equipment and related services was valued at \$5.4 trillion in 2014 – with about 75 percent of the total marketplace located outside of the United States.

The bipartisan renewal of TPA is essential to increasing the nation’s level of exports overall and to the growth of the U.S. ICT industry in particular. In addition, renewal of TPA presents the opportunity to address 21<sup>st</sup> century trade negotiating objectives related to digital trade and cross-border data flows, as well as the proliferation of localization barriers to trade. Moreover, experience shows that the effects of prior trade agreements on telecommunications equipment exports are both demonstrable and dramatic. According to *TIA’s 2014-2017 ICT Market Review and Forecast*, although countries having trade agreements with the United States currently represent only 13 percent of the overseas economy, they account for 38.6 percent of U.S. exports in telecommunications equipment in 2013.

Updated TPA legislation will further strengthen the partnership between Congress and the Administration through enhanced Congressional oversight, transparency, and consultations, which will ultimately result in stronger trade agreements for the benefit of the U.S. economy and job creation. With active negotiations to conclude the TPP as well as to advance the Transatlantic Trade and Investment Partnership and Trade in Services Agreement, TPA renewal will send a strong signal to other negotiating parties on the priority the United States places on high-standard trade agreements that enhance trade liberalization and market access for U.S. industry.

We appreciate the attention of the Committee on Ways and Means on the Administration's 2015 Trade Policy Agenda because trade is critical to job creation and the expansion of the U.S. economy. In addition to the bipartisan renewal of TPA, we would also underscore that the United States must ensure that other countries live up to their obligations under the World Trade Organization or other agreements, and in particular, refrain from implementing localization barriers to trade, including requirements for the local storage or processing of data.

Thank you again for your work on these important issues related to the global competitiveness of the U.S. ICT industry, and we look forward to working with you to ensure that TPA is enacted in 2015. For more information, please contact Danielle Coffey at 703-907-7734 or by email at [DCoffey@tiaonline.org](mailto:DCoffey@tiaonline.org).

Regards,

A handwritten signature in black ink, appearing to read "Scott Belcher". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott Belcher  
Chief Executive Officer  
Telecommunications Industry Association



**AdvaMed**  
Advanced Medical Technology Association

**HOUSE WAYS AND MEANS**

**COMMITTEE HEARING:**

**U.S. Trade Policy Agenda 2015**

**January 27, 2015**

**STATEMENT FOR THE RECORD**

**SUBMITTED BY:**

**THE ADVANCED MEDICAL TECHNOLOGY ASSOCIATION (AdvaMed)**

## **Introduction**

The Advanced Medical Technology Association (AdvaMed) appreciates the opportunity to provide comments on the U.S. trade policy agenda for 2015 to the House Ways and Means Committee. AdvaMed represents approximately 300 of the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. AdvaMed members range from the smallest to the largest medical technology innovators and companies. AdvaMed is dedicated to the advancement of medical science, the improvement of patient care, and in particular to the contribution that high quality health care technology can make toward achieving those goals.

The medical technology industry is one of the few remaining manufacturing sectors of the U.S. economy with a positive net balance of trade (over \$6.3 billion in 2013), and the people who work in the U.S. medical technology industry depend on trade to ensure security, growth, and new opportunities. In fact, medical technology industry salaries are nearly 30% higher than the average U.S. salary because the industry employs so many highly skilled workers in the areas of research and development, manufacturing, sales and management. Nearly two million American jobs depend on the success of the medical technology industry – roughly 350,000 directly and 1.6 million indirectly.

Medical technology accounts for 3 percent of U.S. Gross Domestic Product. The United States exports over \$42 billion worth of medical devices annually. AdvaMed members supply medical technology to almost every country in the world. Opening markets and ensuring a level playing field are essential to the future growth of the U.S. medical technology industry.

Our industry supports the Administration's current trade agenda and recognizes the Ways and Means Committee's work to help push major agreements forward. We appreciate the committee's work with USTR on the negotiations on the TransAtlantic Trade and Investment Partnership (TTIP) and the TransPacific Partnership (TPP) and other elements of the Administration's trade agenda. We look forward to continuing to work with the Congress to secure support for strong, comprehensive free trade agreements.

## **Trade Promotion Authority**

AdvaMed members support free trade and believe Trade Promotion Authority (TPA) is critical to guide and strengthen United States Trade Representative's objectives in trade negotiations. AdvaMed supports the early adoption of trade promotion authority outlining key negotiating objectives for U.S. free trade agreements. TPA should include procedures for Congress to consider as it addresses trade legislation. This will help ensure trade agreements are implemented in a fixed time period and without amendments.

## **TPP**

The negotiations on a Trans-Pacific Partnership (TPP) Agreement provide a critical opportunity to deepen the U.S. commercial relationship with the vital Asia Pacific region. While the United States already has FTAs with several of the TPP countries, the negotiations with this broader bloc provide an important demonstration of U.S. trade policy and can expand and enhance the economic benefits in these agreements. This is also an opportunity to demonstrate the U.S.

commitment to strong FTA provisions.

AdvaMed strongly supports the inclusion of provisions in the TPP that would establish transparency and procedural fairness in the process by which national health care authorities establish reimbursement for medical devices. Such provisions would provide for a fair, predictable process that would limit disputes and enhance confidence in decision-making processes, thus contributing to good governance.

AdvaMed believes that in order to fulfill its promise as a high-level, 21<sup>st</sup> century trade agreement, the TPP agreement should include specific provisions to ensure full access to safe, effective, and high quality medical devices in order to advance public health and patient access. It is important for the TPP agreement to address non-tariff barriers affecting the medical device industry, especially non-transparent or discriminatory regulatory procedures. AdvaMed supports the inclusion in the TPP agreement of provisions that will ensure that members grant efficient regulatory approvals, while ensuring product safety.

## **TTIP**

AdvaMed supports the negotiation of a comprehensive free trade agreement (FTA) between the United States and the European Union (EU), under the framework of the TTIP. We would like to see provisions addressing issues affecting our industry in US-EU bilateral trade and in trade with third countries.

Although the US and EU use different approaches to determine the safety and efficacy and/or performance, as appropriate of medical technology, studies have demonstrated that each system delivers similar results in terms of these basic objectives. AdvaMed supports cooperation between the regulatory agencies on both sides of the Atlantic as a way to promote understanding and reduce unnecessary regulatory burdens. Rather than attempting comprehensive “convergence” of these two systems, such as a mutual recognition agreement (MRA), we recommend focusing on specific areas of “convergence.” We have provided USTR an explanation of these issues.

We also believe that there should be improved transparency in the regulatory process in the EU. Stakeholders should be provided regulatory proposals while there is still a possibility of making meaningful changes – which is usually before the proposals are sent from the European Commission to the Parliament and Council. The Commission should be required to recognize such contributions – much in the way US agencies operate under the Administrative Procedures Act. This process would improve the regulatory process.

AdvaMed also recommends that TTIP include a regular dialogue between the U.S Food and Drug Administration (FDA) and DG Internal Market, Industry, Entrepreneurship and SMEs (GROW), involving USTR and U.S. Department of Commerce, to exchange information on regulatory measures being considered by either party that could impact trade and determine areas for additional “convergence.” In advance of these meetings, industry would be consulted to provide their views on regulators’ proposals. This dialogue could be held under provisions similar to Korea-US FTA, but strengthened to ensure that future measures be explicitly discussed and industry has the opportunity to comment on non- confidential proposals and has access to the results of such meetings.

In addition to regulatory cooperation, we urge both governments to address the following issues in the context of a comprehensive Free Trade Agreement. We have provided USTR our views on the eliminating border tariffs, improving Customs procedures, enhancing the single market in the EU for medical technology, reducing late payments to our members, and including provisions on transparency and procedural fairness in Member States' reimbursement systems.

Our industry faces an array of issues outside the US and EU. Our member companies source many of their products sold globally from the US and/or the EU. Therefore, governments in both the US and EU should be interested in ensuring that medical technology companies are treated fairly by third country governments. We ask that the TTIP include provisions that encourage the relevant agencies to work on behalf of our medical technology firms. We have provided USTR with a list of specific areas for cooperation on third country issues.

### **Conclusion**

Trade liberalization through the conclusion of TTIP and TPP would enhance economic growth and improve the quality of life for millions of patients in Europe, Asia, Latin America, and the US. The adoption of trade promotion authority that guides and strengthens USTR's negotiating objectives is critical for the early conclusion of these agreements. We hope the Administration and Congress will work together to accomplish these very important objectives.

## **Testimony to House Ways & Means Committee on Trade Promotion Authority (TPA)**

February 9, 2015

To the House Ways and Means Committee:

I'm pleased to see the House Ways and Means Committee taking steps forward to approve Trade Promotion Authority (TPA). This is the first real action supporting free trade agreements in years. I want to make sure the Members of Congress who are voting on TPA understand the importance of international trade to my business's bottom line.

With Congress reviewing the TPA I hope they will take the time to consider how important it is that intellectual properties are protected. I grew up in a very left-brained world where a series of rules or steps were that was required to achieve success.

Our children and grandchildren are growing up in a very different, right-brained world where they learn and express themselves creatively and visually. Today more and more occupations are creative, entrepreneurial and artisanal.

Yet, our laws do little to protect the creative contribution that as much so many new occupations in our new economy require. In December, the US Bureau of Economic Analysis, in partnership with the National Endowment for the Arts released a report on the Impact of Arts and Culture in the US Economy. Their latest findings put the annual contribution of goods and services at \$504 Billion of the current GDP (2011), 30% more than the travel and tourism sector to the GDP.

From my own experience, I know that this is only a small fraction of of the exploding creative economy. We have proof from online sources that there are millions of micro-enterprise, home-based businesses that are never counted in government statistics.

A large majority of these business owners are female, home-based manufacturers, and as part of the sandwich generation they are also caretakers of parents and children. They are part of the "informal economy." They are a struggling new middle class with obstacles that only government can remove.

As we expanded our free trade agreements over the last three decades some of the laws that protected our domestic small manufacturers have suffered from neglect and lack of enforcement.

At the latest New York International Gift show less than 60% of the products that I touched had any "Country of Origin" marking. Of the marked products I found, less than 10% were marked in an indelible or permanent manner as directed by Title 19, Chapter 1, Part 134 of the US Code.

This change of practice and weaker trade laws has led to rampant fraud in tourism areas, our national parks, Smithsonian Museum stores and even small town Main Streets throughout our country where stickers are removed from imports with the intent to deceive tourists seeking authentic artisan made or tribal souvenirs. The Attorney General of New Mexico estimates that as much as 50% of the tribal souvenirs sold in the state are counterfeit. Today the Navajo nation suffers from 43% unemployment, most of the unemployed are silversmiths.

Creative businesses, the individuals and the products or designs they create are a tangible asset that can be protected with very little effort or expense. All that is required is a directive from Treasury that would reinstate the requirement for permanent and indelible marking of Country of Origin on all finished products.

This action, must be supported by spot enforcement at our ports and trade shows by ICE officers. I thank you for your time and hope that you can help protect the designs of millions of designers and artisans from Intellectual Property fraud.

Thank you for your consideration.

Wendy Rosen, Founder  
The American Made Show and American Made Alliance.

[www.AmericanMadeShow.com](http://www.AmericanMadeShow.com)  
[www.AmericanMadeAlliance.org](http://www.AmericanMadeAlliance.org)

3000 Chestnut Ave #104 Baltimore, MD 21211  
410.262.2872



February 10, 2015

Ways and Means Committee Office  
1102 Longworth House Office Building  
Washington D.C. 20515

To the House Ways and Means Committee:

I'm pleased to see the House Ways and Means Committee taking steps forward to approve Trade Promotion Authority (TPA). This is the first real action supporting free trade agreements in years. I want to make sure the Members of Congress who are voting on TPA understand the importance of international trade to my business's bottom line.

As an exporter to Ghana, South Africa, Cote d'Ivoire, and Nigeria, the trade policy of the United States has a direct impact on my business and employment. I depend on FTAs for me to be competitive on the global scale within the markets I operate; otherwise I will be outmatched by other international companies.

I hope you and your committee will support international trade agreements.

Thank you for your consideration.

Sincerely,

Carl Powell  
Principal  
The Integral Group

## **Fact Sheet: Small Business Global Development Policy**

### **TRG's Vision for a 21<sup>st</sup> Century Trans-Pacific Partnership Free Trade Agreement (TPP) Focus On: U.S. Small Businesses Growth and the Peer-to-Peer Business Model (P2P)**

#### **To the House Ways and Means Committee:**

The Reddix Group (TRG) advocates a Trans-Pacific Partnership Free Trade Agreement (TPP) policy focused on sustainable business outcomes that places a premium on broad-based economic growth, democratic governance, game-changing innovations, and sustainable systems for meeting basic human needs. TRG believes a comprehensive TPP policy must advance and promote economic security, prosperity, respect for universal values, and a just and sustainable international order.

Therefore, TRG developed a game-changing policy designed solely at taking small businesses global. TRG created a revolutionary and disruptive Peer-to-Peer (P2P) Business Model where the "Network is the Prime." P2P is ideally suited to meeting the vision and requirements outlined in the TPP.

Our approach is a global game-changer and represents a paradigm shift in global free trade because it offers the world's economies an alternative to the current Prime Contractor-Subcontractor model which is the way business is conducted today. Below are links to the PM World Journal website that documents TRG's disruptive and novel approach to business:

<http://pmworldjournal.net/article/an-alternative-to-the-prime-sub-prime-model/>

<http://pmworldjournal.net/wp-content/uploads/2014/07/pmwj25-aug2014-reddix-alternative-to-prime-subprime-model-SecondEdition.pdf>

Joseph Reddix is TRG's Founder and CEO. Joe was recently interviewed by Information Week. He is quoted extensively in the article below.

<http://www.informationweek.com/government/leadership/government-it-priorities-security-reigns-cloud-crawls/d/d-id/1297449>

Joe Reddix is an acknowledged expert on IT policy and is a certified project manager (PMP). The Federal Government's preferred approach for implementing its Acquisition Strategy as enunciated in the Federal Acquisition Policy System using small Integrated Program Teams is grounded in concepts developed, articulated, and pioneered by TRG. In addition, TRG sent several policy documents to the Federal CIO, CTO, and to the Senate Minority Leader that describe the advantages of TRG's revolutionary and disruptive P2P business model and how efficiencies and enormous savings in costs, work processes, and workforce reallocation can be achieved. The McKinsey Group projects annual consumption in emerging markets will reach \$30 trillion – a historic level of economic growth. The future is exceedingly promising where the "Network is the Prime." Also, we feel our "There is no Box" approach represents the kind of fresh innovative thinking needed by the TPP to take maximum advantage of this \$30 trillion market. It should not come as a surprise to anyone that a small business like The Reddix Group originated and pioneered "The Network Is The Prime" methodology and the Peer-to-Peer Business Model. U.S. small businesses have long been the engine that drives cutting edge innovation in the United States.

In closing, let me say that TRG applauds the steps taken by the House Ways and Means Committee to approve the Trans-Pacific Partnership Free Trade Agreement. As a small business that specializes in IT, United States trade policy has a direct impact on my company's bottom line. We are always looking to use our Peer-to-Peer Business Model to expand into emerging markets using our unique brand "Our Network Is The Prime" paradigm, and a more open business-oriented Trans-Pacific Partnership Free Trade Agreement better facilitates our business growth and expansion.

I hope you and your committee will support international trade by approving passage of the Trans-Pacific Partnership Free Trade Agreement.

Thank you for your consideration.

Sincerely,  
Joseph Reddix  
President and CEO, The Reddix Group

# Where Is the Common Ground on Trade Policy?

Linda Schmid, *Trade in Services International*,<sup>1</sup> January 15, 2014

**The US is working with trade partners to shape global trade rules with high quality trade agreements.**<sup>1</sup> The challenge for the US is to design agreements that create a framework for prosperity. There is common ground across the political spectrum on certain priorities in US trade policy coupled with domestic reform to create a 21<sup>st</sup> century economy that returns growth to real wages and expands employment. Rigorous enforcement of trade rules, investment in physical infrastructure, boosting US trade in services exemplify shared priorities. Those who engage in the development of intellectual property in industrial processes, software, and entertainment span the political spectrum and support strong intellectual property rights protection. Increased transparency and greater availability of detailed trade data would also build confidence in the US trade regime. High quality trade agreements enable the US to work constructively with trading partners to design and implement a rules based trade relationship supported by a combination of technical cooperation, dispute settlement, and enforcement.

**Across the political spectrum, enforcement of trade law and existing trade agreements is a priority.** The US is active on multiple fronts monitoring and enforcing trade law and bilateral, regional, and multilateral arrangements. The Office of the US Trade Representative, reports annually on enforcement actions.<sup>2</sup> For example, the US has filed 103 complaints in the World Trade Organization (WTO) on manufacturing, intellectual property, agriculture, and services since 1994. The US also uses Section 301 of the Trade Act of 1974 to investigate foreign practices that hinder the US in the global economy. For example, in 2013, the US had a total of 294 antidumping and countervailing duty orders in place: 123 for China, 23 for the EU, and 23 for India.<sup>3</sup> The US is active on enforcement of labor provisions in Bahrain, Bangladesh, Colombia, Guatemala, Haiti, and Peru. On enforcement of environmental provisions, the US is active in Central America, Chile, Colombia, Panama, and Peru. The US has a track record of consistent enforcement.

**Table 1: Sample of US Enforcement Actions**

<b>World Trade Organization:</b>	103 complaints filed since 1994	29 disputes settled favorably	41 litigated with the US prevailing
<b>294 antidumping &amp; countervailing duty orders in place in 2013:</b>	123 for China	23 for the EU	23 for India
<b>Enforcement of labor provisions:</b>	Bahrain, Bangladesh, Colombia, Guatemala, Haiti, & Peru		
<b>Enforcement of environmental provisions:</b>	Central America, Chile, Colombia, Panama, & Peru		

**Sources:** 2014 Trade Policy Agenda and 2013 Annual Report & 2014 WTO, Trade Policy Review, Report by the Secretariat, United States, WT/TPR/S/307.

<sup>1</sup> Negotiations are underway for the [Transatlantic Trade and Investment Partnership \(TTIP\)](#), the [Trade in Services Agreement \(TiSA\)](#), and the [Trans-Pacific Partnership \(TPP\)](#).

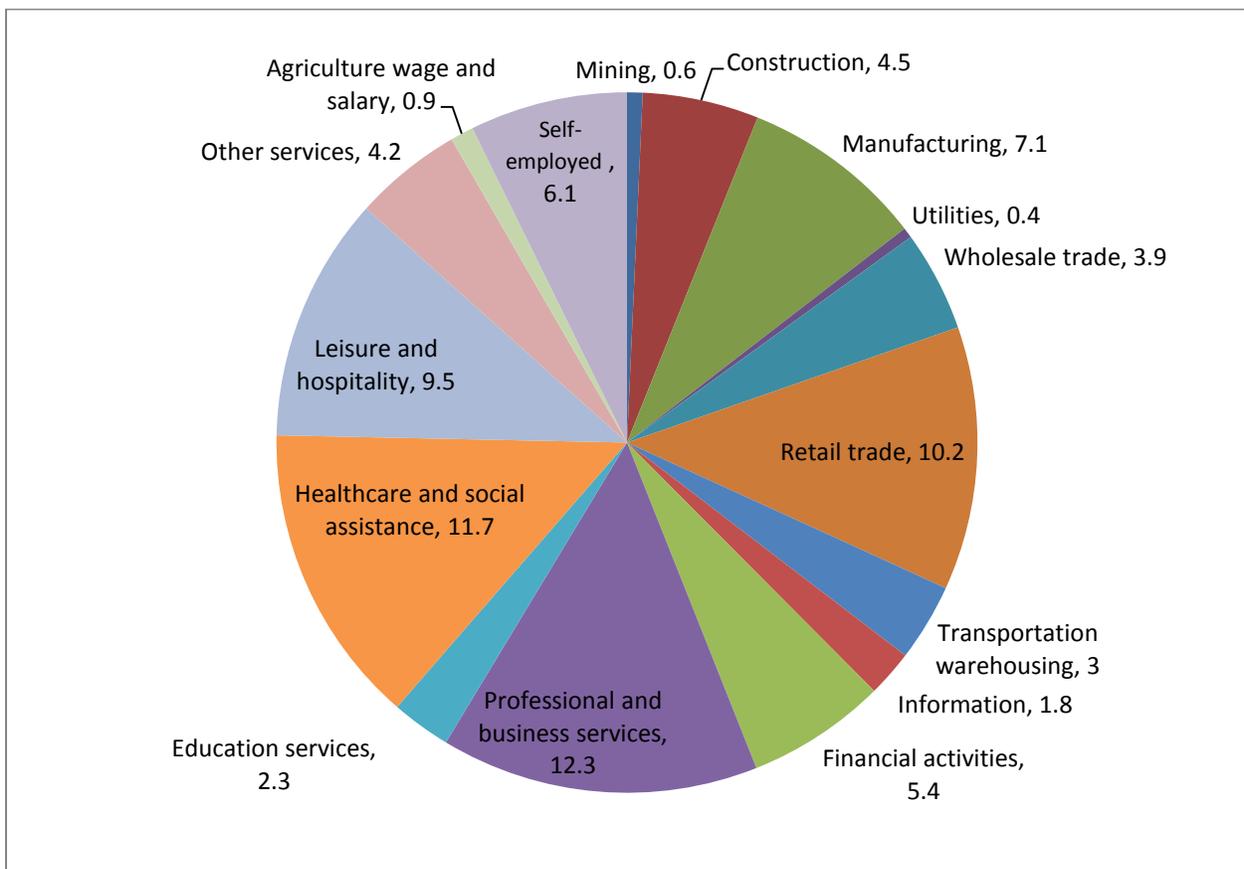
<sup>2</sup> [2014 Trade Policy Agenda and 2013 Annual Report of the President of the United States on the Trade Agreements Program](#)

<sup>3</sup> 2014 WTO, Trade Policy Review, Report by the Secretariat, United States, [WT/TPR/S/307](#).

**Political parties recognize the US must invest in physical infrastructure for prosperity in the 21<sup>st</sup> century.** A trade agenda that creates prosperity depends on high quality domestic infrastructure. The 2007 collapse of the I-35W bridge in Minnesota, drew attention to shortcomings in physical infrastructure investment across the US. [The American Society of Civil Engineers 2013 Report Card for America’s Infrastructure](#) evaluates the condition of airports, bridges, dams, drinking water, energy, hazardous waste, inland waterways, levies, ports, rail roads, solid waste, transit, and wastewater systems. Most if not all infrastructure systems earn a C or D. Whether through direct federal financing, public-private partnerships, or an infrastructure development bank, the US must create grade A infrastructure to compete in the global economy. Infrastructure investment will create gains in growth, productivity, and employment.

**Eliminating foreign barriers to trade in services is a high priority.** Today over 70% of US workers are employed in service industries (figure 1). Almost every service sector experiences international trade, either by the provision of services abroad, or the consumption of services in the United States by a foreign traveler, business person, or company. For instance, tourists, foreign medical patients, and foreign students consume a variety of services while in the US. Service industries will grow with the reduction of trade barriers.

**Figure 1: 2012 US Employment % by Major Industry Sector**



**Source:** US Bureau of Labor Statistics, [Employment by Major Industry Sector, 2013.](#)

**For over a decade, the US has experienced a positive trade balance in services, which on average account for 30% of total exports and 15% of imports.** In 2013, US service exports were robust in travel, transportation, information technology, and financial services (table 2). Professional and business services represent a fast-growing sector that faces substantial barriers in foreign markets. In 2013 exports amounted to 55 billion in this sector. US R&D services are also in high demand with exports totaling 30 billion in 2013. The US insurance industry is a formidable global competitor with 16 billion in exports in the same year. US architects and engineers are competitive internationally with exports of 12 billion in 2013. Breaking down barriers to trade in services will expand service industry exports.

**Table 2: 2013 Service Industry Exports in USD Billion**

Service Sector	Exports USD Billion
Travel services	173
Charges for the use of intellectual property rights	129
Transportation services, such as, sea, air, and postal or courier services	87
Legal, accounting, business management, public relations, & advertising	55
Telecommunications, computer and information services	33
Research and development services	30
Insurance services	16
Architectural and engineering services	12

**Source:** The Bureau of Economic Analysis, [US Trade in Services, by Type of Service, 2013](#).

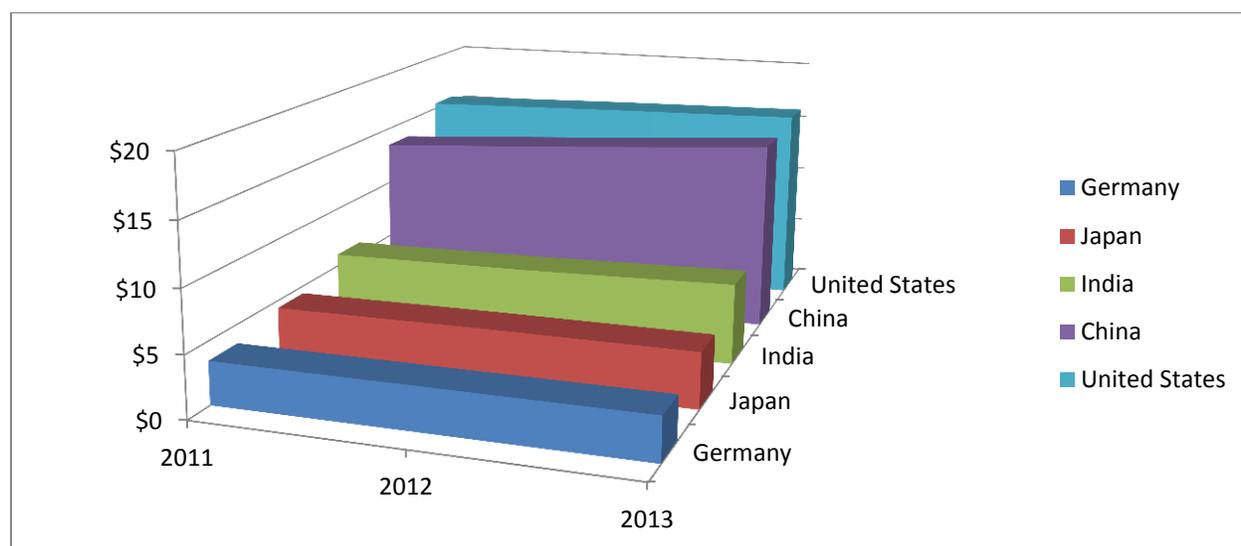
**The United States has a relatively open services economy; however, US firms face substantial barriers abroad.** The [OECD service trade restrictiveness index](#) compares the openness of countries in, for example, architecture, broadcasting, transport, courier, construction, and computer services. Many trading partners have significant trade restrictions in services. For example, Poland, Turkey, and India maintain significant restrictions in accounting. The US maintains restrictions on foreign investment in telecom; however, they are limited compared to restrictions maintained in Indonesia, China, and India. Similarly, the insurance sector is highly restricted in India, Indonesia, China, and Brazil compared to the US. Reduction of foreign trade barriers will enable US service firms to grow.

**Protection of intellectual property rights is a high priority.** Creators of intellectual property, such as, industrial processes, computer software, movies, and broadcasting, benefit from trade in intellectual property rights. In 2013, charges for the use of intellectual property rights exceeded USD 129 billion (table 2). This trade benefits large and small firms. For instance, the audiovisual industry is fragmented with a large number of micro, medium, and large production companies. Large firms rely on a network of medium and smaller firms to produce creative content. Thus returns on intellectual property rights flow to even the smallest firms. In 2010, “IP intensive industries supported 40.0 million jobs (or 27.7% of all jobs) directly and indirectly through a supply chain that stretches across the economy.”<sup>4</sup> Protection of intellectual property helps the US benefit from intellectual property originating from creativity, knowledge, and innovation.

<sup>4</sup> Economics and Statistics Administration and United States Patent and Trademark Office, [Intellectual Property and the US Economy: Industries in Focus](#), 2012.

**Transparency and trade data are fundamental to assessing trade policy.** Trade agreements are complex and in some instances counterintuitive. The US must do more to share principles and priorities of trade negotiations online through dynamic websites that are up-to-date, searchable, and provide access to relevant trade data. A critical element of appreciating the US position in the global economy is economic and trade data. The online presence of US statistical agencies should be bolstered to ensure that US trade data is readily available, searchable, provides illustrative graphics, and is sufficiently detailed at the state level. This is particularly true for trade in services data. US statistical agencies require state-of-the-art technology platforms to share data real time. This will help citizens grasp the scope of the US economy, the breadth of US trade, and the important role the US plays in shaping rules that govern trade.

**Figure 2: Comparison of economies in GDP, PPP (constant 2011 international \$ trillion)<sup>5</sup>**



**Source:** The World Bank, World Development Indicators (created on 01/14/2015)

**The US has a responsibility to shape global trade rules as one of the largest economies in the world.** The challenge for the US and its trading partners is to design agreements that create a trade framework for prosperity. The US remains active in the World Trade Organization and is at the forefront in designing trade arrangements for the 21<sup>st</sup> century. Together with Europe, the US has the opportunity to set the global standard for rules and regulations governing EU US trade under the Transatlantic Investment Partnership. In services, the US is working with trading partners to shape a new services agreement fit for a 21<sup>st</sup>-century economy. The Trans-Pacific Partnership (TPP) will deepen trade in the fast growing Asia-Pacific. High quality trade agreements are a primary element of building a US economy for the 21<sup>st</sup> century.

<sup>i</sup> Linda Schmid is International Trade and Development Adviser at Trade in Services International <http://www.tradeinservicesinternational.com/> (Email: [lschmidc@gmail.com](mailto:lschmidc@gmail.com), Skype: ls\_trade1). She previously served as the World Trade Organization (WTO) Component Leader of the USAID Investment Climate Improvement Project in the West Bank. She acted as the Trade in Services Officer, International Trade Centre in Geneva. She is a contributing author to *International Trade in Services: New Trends and Opportunities for Developing Countries*, World Bank 2010 as well as *Managing the Challenges of WTO Participation*, Cambridge University Press 2005.

<sup>5</sup> PPP GDP is gross domestic product converted to international dollars using purchasing power parity rates.



UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

STATEMENT FOR THE RECORD

*RE: Hearing on U.S. Trade Policy Agenda for 2015: January 27, 2015*

House Committee on Ways and Means

Submitted via email

February 10, 2015

The United States Council for International Business (USCIB) strongly supports an ambitious, proactive U.S. trade agenda to advance our national economy and promote American business at home and abroad. USCIB, as a trade association representing over 300 multinational corporations, associations and law firms, works with our members in policy areas spanning trade and investment, customs and trade facilitation, environmental issues, information and communications technology, intellectual property rights, product policy, agriculture, tax and much more. As the American affiliate of the International Chamber of Commerce (ICC), the Business and Industry Advisory Committee to the OECD (BIAC), and the International Organization of Employers (IOE), we advocate for open trade on behalf of U.S. business in the World Trade Organization (WTO) and other intergovernmental bodies.

USCIB and its member companies are committed to strengthening a rules-based global trading and investment system through further opening of international markets, continuing trade and investment liberalization, and removing barriers American companies face around the world. To that end, the USCIB 2015 Trade and Investment Agenda along with the USCIB 2015 Customs and Trade Facilitation Priorities and Goals outline five areas for action by our members to advance these goals:

- Press for an ambitious U.S. trade agenda that improves access to major economies and addresses emerging protectionist policies.
- Promote global investment policies that open markets and level the playing field for U.S. companies.
- Support efforts by the WTO to rebuild confidence and credibility through concrete action on specific negotiations.
- Leverage USCIB international platforms to build global business support for addressing key trade and investment policy concerns.
- Streamline trade at the borders by actively supporting Customs Reauthorization legislation and implementation of the WTO Trade Facilitation Agreement.

USCIB and its members look forward to working with the Obama Administration, especially U.S. Trade Representative Ambassador Froman and his team; the Congress; business; other stakeholders, and governmental organizations to realize our mutual goals of growing the American economy and creating jobs. Specifically, USCIB looks forward to working with USTR and the Administration on completing the TransPacific Partnership (TPP), substantially advancing negotiations in the Transatlantic Trade and Investment Partnership (TTIP) with the European Union, concluding the Trade in International Services Agreement (TiSA), and working with growing trading partners such as China to conclude Bilateral

Investment Treaties (BITs). We have been active in providing stakeholder input on these efforts, in policy recommendations, through letters and in meetings with negotiators.

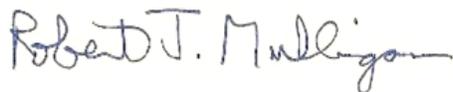
Most urgently, USCIB and our members believe that Trade Promotion Authority (TPA) legislation must be approved by Congress early in 2015. TPA is critical to moving forward on the trade agreements listed above with guidance on important negotiating objectives articulated by Congress. TPA would enhance America's competitiveness in the global economy as well as strengthen our commercial and strategic relations around the world. USCIB has been advocating passage of this legislation and will continue to employ its resources to achieve this objective. Additionally, we believe the passage of customs reauthorization is critical to the facilitation of trade and ensuring a faster clearance of goods at the border.

In addition to supporting a strong U.S. trade agenda, USCIB believes that multilateral approaches to trade can be the most effective means for opening global markets and leveling the playing field for U.S. companies. Directly and through our international affiliate organizations, USCIB supports a strong WTO. Successful ratification and implementation of the Trade Facilitation Agreement will provide a major boost to the work of the WTO and we are leading private sector engagement with the relevant government agencies to ensure a swift and positive outcome. We are also leading U.S. business efforts in support of completing the Environmental Goods Agreement this year in the WTO and we continue to support the conclusion of the Information Technology Agreement expansion. Success in these agreements along with progress on a post-Bali agenda would rebuild confidence in and the credibility of the WTO.

Through U.S. trade negotiations, the work at the WTO, and other international venues, USCIB will seek to address a growing list of trade and investment barriers that its members encounter globally such as: localization requirements, restrictions on the cross-border flow of data, regulatory impediments, unfair competition from state-owned enterprises, and customs-related challenges at the border. USCIB will leverage its unique relationships with the ICC, BIAC, and IOE to coordinate our efforts with business associations in other countries to address these issues with governments in other countries as a complement to our work with the U.S. government.

More details on the priorities and workplan for USCIB are included in the full USCIB 2015 Trade and Investment Agenda and key sections of the USCIB 2015 Customs and Trade Facilitation Priorities and Goals which we include as an attachment for the record.

Sincerely,



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International Chamber of Commerce (ICC)  
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Business and Industry Advisory Committee (BIAC) to the OECD  
ATA Carnet System



UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

### **USCIB Global Trade and Investment Agenda 2015**

The United States Council for International Business (USCIB) is committed to strengthening a rules-based global trading and investment system through further opening up of international markets, continuing trade and investment liberalization, and removing barriers American companies face in doing business around the world. In 2015, our USCIB Trade and Investment Agenda will build on the work done in 2014 to move many trade and investment initiatives important to USCIB member companies forward, as well as address emerging sets of practices that have the potential to and/or are increasingly creating trade friction.

USCIB's Trade and Investment Agenda will work hard to bring a number of trade initiatives, where the U.S. is an active participant, to successful closure while substantially advancing others, including: reaching bi-partisan agreement on Trade Promotion Authority (TPA) legislation, completing the Trans-Pacific Partnership (TPP) negotiations and getting Congressional approval, finalizing the agreement on expansion of the Information Technology Agreement (ITA), making significant progress on the Trans-Atlantic Trade and Investment Partnership (TTIP) and Trade in International Services Agreement (TiSA) negotiations, continuing to move the World Trade Organization (WTO) forward in positive ways such as implementation of the Trade Facilitation Agreement (TFA) concluded in Bali, and supporting efforts to continue to negotiate a high-standard U.S.-China Bilateral Investment Treaty (BIT).

Through our work on these trade and investment negotiations and our engagement with a wide range of intergovernmental organizations, the USCIB Trade and Investment Agenda will target many emerging policies and regulatory practices that are having a growing impact on members' business and global trade and investment flows. We will continue to educate policymakers on global value chains that are critical to business growth and advocate against policies that restrict the movement of goods, services, capital and people such as: localization barriers to trade, limitations on cross-border data flows, unfair support for state-owned or state-supported enterprises, customs and border impediments, mobility-related obstacles, inadequate anti-bribery enforcement, inadequate or eroding IP protection, and illicit trade.

While we will actively engage U.S. policymakers on the USCIB Trade and Investment Agenda, our members see a growing need to also engage policymakers and business leaders in other countries on the issues they are confronting in global markets. USCIB will seek to more effectively leverage its unique network of relationships with business groups in other countries that are best placed to influence the policymakers in their countries. As the U.S. industry representative to the International Chamber of Commerce (ICC), the Business and Industry Advisory Committee to the OECD (BIAC), and the International Organization of Employers (IOE), we already work closely with the foreign business groups in these organizations but will look to expand the scope of our cooperation in addressing the key trade, investment and regulatory opportunities to better facilitate global growth and competitiveness.

Growing trade and investment can generate much needed economic growth and job creation in the United States and around the world if policymakers take the steps needed to address

barriers to trade and investment. The USCIB Trade and Investment Agenda sets out a framework for continuing to open markets in 2015.

**1. Press for an Ambitious U.S. Trade Agenda that Improves Access to Major Economies and Addresses Emerging Protectionist Policies**

Short Term (6-12 months) –

- TPP. As member of TPP Coalition Steering Committee, actively support coalition strategy to press for completion of comprehensive, high-standard TPP agreement and approval by Congress by the first half of 2015.
- TPA. As member of TPA coalition steering committee, build bi-partisan Congressional support for approval of well-designed TPA early in 2015.
- TTIP. As member of Business Coalition for Trans-Atlantic Trade (BCTT) steering committee, and co-chairs of several key issue work groups, play lead role in engaging U.S. and EU negotiators to advance an ambitious and comprehensive TTIP agreement including investment protection and regulatory cooperation commitments, including specific sectors, and to promote a more open environment for U.S. companies in Europe.
- TiSA. Support a successful conclusion of the TiSA negotiations that sets high standards for opening services trade.
- WTO. Support U.S. efforts to move forward in the WTO, implementing the Trade Facilitation Agreement, completing ITA expansion, and moving forward with the Environmental Goods Agreement (EGA) negotiations. (See agenda item 3 on rebuilding WTO).
- Press for the U.S. to address through trade negotiations and bilateral engagement trade areas of growing concern such as: localization barriers to trade, restrictions on cross-border data flows and other forms of digital protectionism, state-owned enterprises (competitive neutrality), global value chains, mobility/temporary movement of talent, illicit trade, regulatory cooperation, food security and agriculture regulations, and advocate for IP language in trade agreements that establishes a robust and effective intellectual property framework to promote innovation and creativity.
- Engage Congress in support of building capacity on trade – including updating engagement with Africa in an AGOA 2.0 discussion.

Medium Term (1-3 years) –

- Identify new trade initiatives to follow after completion of TPP and TTIP such as expansion of TPP around the Pacific Region and/or integration of existing Free Trade Agreements (FTAs) including contributing to the USTR's co-chair role on the FTAAP working group.
- Provide thought leadership on future U.S. trade strategy and anticipate changing policy issues resulting from rapid economic and technological changes. Address growing trend of government intervention in markets.

- Provide thought leadership on the growing inter-play between regulation – coherence versus fragmentation and the need for sound science-based policy-making – and trade policy.

## **2. Promote Global Investment Policies that Open Markets and Level the Playing Field for U.S. Companies**

### Short Term –

- Continue leadership role on state-owned enterprise issues in the TPP, TTIP, TiSA, and BIT negotiations and at the OECD.
- Press for high-standard Investment chapters in TPP and TTIP, especially on investor-state dispute settlement; resist efforts to carve out important provisions or sectors.
- Play lead role in working with U.S. government on China BIT. Encourage U.S. government to move forward on high-standard BIT negotiations with other key countries including India.
- Build coalition to support maintenance of investor-state dispute mechanisms in investment agreements and ensure any discussions of a multilateral investment framework focus on including high-standard investment protections.
- Strengthen relationships with business groups from other key countries that are our partners in international affiliate organizations and build global support on key investment issues.

### Medium Term –

- Encourage helpful and constructive ICC approach to addressing global investment issues including through thought leadership at the G20/B20.

## **3. Urge WTO to Rebuild Confidence and Credibility Through Concrete Action on Specific Negotiations**

### Short Term – advocate for WTO to restore effective role in liberalizing trade:

- Ensure ratification and effective implementation of Trade Facilitation Agreement concluded in Bali at WTO ministerial.
- Support efforts to conclude an agreement to expand product coverage in the ITA in 2015.
- Lead coalition effort to advance negotiations in the WTO on an environmental goods agreement.
- Engage our business group partners from other countries directly and through our international platforms (BIAC, IOE, ICC) to build consensus views on trade agenda in the WTO, post-Bali.

Medium Term – work to rebuild consensus in support of multilateral trade negotiations and the WTO.

- Propose improvements to operation of WTO, including the dispute resolution process and consultation with the private sector.
- Develop paper on changing global economic environment and growing role of large emerging economies. Underscore the importance of a rules-based trading system.

#### **4. Leverage International Platforms to Build Global Business Support for Addressing Key Trade Policy Concerns**

Short Term – utilize ICC, BIAA and IOE where appropriate to raise global awareness on issues and build support of broad international business community. Work through our foreign business association partners to build local advocates. Engage OECD on useful work they could do in these areas. Utilize other platforms such as APEC and G20/B20, as appropriate for addressing issues such as:

- Localization barriers to trade
  - Cross border data flows
  - Regulatory cooperation
  - Illicit trade
  - State-owned enterprises/Competitive neutrality
  - Global value chains
  - Mobility
  - Support robust and effective intellectual property framework to promote innovation and creativity
  - Anti Bribery/transparency
  - Supply chain transparency
- Engage governments on potential negative impacts on economic growth/export generation from over-regulation and the benefits of regulatory coherence among countries.
  - Work with G20/B20 and other international organizations to support policies on infrastructure (including financing) that will improve trade and investment opportunities for members.
  - Implement strategy building on USCIB unique expertise, access and influence to intergovernmental organizations (IGOs) and the U.S. government in order to advance members' interests, enhance business participation and influence in key IGOs, and shape policy at the international level.
  - Strengthen our relationships with business groups from other countries that are our partners in international affiliate organizations and build support on key trade, investment and regulatory issues. Organize meetings with these groups in Washington and in their home countries to build relations. Identify issues of common interest and pursue joint advocacy efforts.

- Organize more meetings/lunches for members with foreign officials when they are in DC to provide opportunity to engage on the key trade policy concerns in that country and globally.

Medium Term –

- Address growing concerns that some multilateral institutions are pursuing policies that will restrict international trade and investment rather than promote trade liberalization.
- Assist the smallest businesses and individual entrepreneurs to engage in international trade by adopting trade policies aimed at improving access to the global marketplace such as removing red tape and simplifying customs clearance procedures.

## **5. Leverage Coordinated USCIB Committee Work on Trade Policy Related and Regulatory Issues**

Short Term – work closely with other USCIB policy committees on issues that intersect with trade and investment policy:

- Environment Committee – tariff reduction/elimination on environmental goods and services, IP erosion efforts in Climate Change talks, and unilateral environmental policies that become nontariff barriers to trade.
- Customs Committee – trade facilitation and customs modernization.
- ICT Committee – localization barriers to trade, cross border data flow and privacy.
- Competition Committee – competitive neutrality.
- IP Committee – support robust and effective intellectual property framework to promote innovation and creativity
- Labor Committee – ensure labor provisions in trade agreements are consistent with member positions in existing agreements.
- Tax - ensure tax policy changes do not create barriers to trade and investment.
- Country/regional committees – APEC, China, emerging markets, EU

Medium Term – identify cross-cutting issues that involve more than one committee and develop coordinated strategies to address these issues.

## **6. Provide Thought Leadership and Improve Analysis on Trade and Investment Policy to Inform Global Policymaking Activity**

Short Term – continue to educate policymakers on member business models that utilize global value chains by leveraging USCIB study by Prof. Slaughter through briefings on Hill, meetings with policymakers, engagement with our international organizations, possible briefing in Brussels, webinars, and other venues. Utilize study throughout the year in pushing for policies that facilitate member company competitiveness and counter policies like localization barriers to trade.

- Encourage affiliate organizations in other countries to work with local think tanks to write on impact of policies such as localization barriers to trade and restrictions on cross border data flows on global value chains and economic growth.
- Raise USCIB's public profile on trade and investment issues, including public speaking, media interviews, and well-prepared conferences.

## STATEMENT FOR THE RECORD

- Support work of OECD on Trade in Value Added research and policy analysis.
- Build on successful OECD/USCIB trade and investment conference by establishing it as an annual event.
- Support organization of first ICC/USCIB conference on customs and trade facilitation.
- Support business visit to OECD organized by BIAC.
- Support research connecting open government data with a more efficient trading system and economic growth.

Medium Term – identify other issue areas for in-depth research and develop plan for producing one or more reports. Possible issues might include localization barriers to trade, challenges of state capitalism, cross border data flows, impact of sanctions on trade. Work with US Council Foundation to expand study and research capabilities.



UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

### **USCIB 2015 Customs and Trade Facilitation Priorities and Goals**

The United States Council for International Business remains committed to pushing a robust trade and customs agenda in 2015. We will continue to urge for passage of Customs Reauthorization legislation in the U.S. Congress. We believe updating this legislation is critical to improving transparency and efficiency and to fostering a better relationship between trade facilitation, security and enforcement. There is also a growing need for mutual recognition globally and will continue to engage other countries to further push for an international single window initiative.

The USCIB Customs and Trade Facilitation Committee 2015 goals and priorities sets a framework for the year and presents a clear path forward for the committee towards the areas in which we can make the most impact. USCIB and our membership bring a unique view that enables us to actively engage U.S. policy makers. Our perspective allows us to actively engage and strengthen our international partnerships to advance global customs initiatives while supporting U.S. Customs and Border Protection.

#### **U.S. Congress:**

##### **Customs Reauthorization:**

- Continue to work with US Congress and business community to facilitate passage of a Customs Reauthorization Bill
  - USCIB continues to support CBP's efforts to increase the current values for *de minimis* and informal entry shipments. This change would promote faster border clearance for low-value shipments and allow Customs to focus on urgent priorities like ensuring product safety and protecting intellectual property. This in turn would benefit small business by reducing the burden associated with importing low value goods and international retail returns.
  - Push for language in the legislation to mandate mutual recognition of customs in all countries. A single window initiative benefits everyone and it is important to ensure trusted traders benefit from achieving trusted status. Today, one still has to apply for EU AEO even if they are C-TPAT. By creating true mutual recognition across borders, this would allow C-TPAT to be used for multiple purposes and would cut down on red tape.
  - Continue to engage with policy makers to ensure that companies benefit from their participation in trusted trader programs.
  - Work with members of the business community to provide outreach and education to Capitol Hill members about the importance of legislation.
  - Finalize USCIB *de minimis* white paper and circulate to government officials, multilateral institutions such as the WTO, WCO and other groups of interest.

##### **WTO Trade Facilitation Agreement/Trade Facilitation:**

- Continue to monitor developments and pursue opportunities to support ratification of agreement and ratification of protocol of amendment regarding food security for the WTO "Bali" Agreement on Trade Facilitation.

## STATEMENT FOR THE RECORD

- Continue to play a leadership role in the USAID/USTR Alliance and the private sector business coalition.
  - Coordinate with members of the international business community to ensure there is one coordinated message for business.
- Identify resource capabilities and regions/countries of interest for members involved in initiatives.
- Continue to work with the ICC, WCO, WTO, USTR and CBP to coordinate donor effort on technical assistance and capacity building.
- Coordinate with the OECD on creating helpful data, research and information on the benefits of implementing the agreement and how trade facilitation will help developing and least developing countries.