

PRESIDENT OBAMA'S TRADE POLICY AGENDA

HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES

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PRESIDENT OBAMA'S TRADE POLICY AGENDA

WEDNESDAY, FEBRUARY 9, 2011

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
WASHINGTON, DC.

The committee met, pursuant to notice, at 10:08 a.m., in Room 1100, Longworth House Office Building, Hon. Dave Camp presiding.

[The advisory of the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

Chairman Camp Announces Hearing on President Obama's Trade Policy Agenda

Wednesday, February 02, 2011

House Ways and Means Committee Chairman Dave Camp (R-MI) today announced that the Committee on Ways and Means will hold a hearing on the status of President Barack Obama's trade policy agenda. **The hearing will take place on Wednesday, February 9, 2011, in 1100 Longworth House Office Building, beginning at 10:00 A.M.**

In view of the limited time available to hear the witness, oral testimony at this hearing will be from the invited witness only. The sole witness will be United States Trade Representative Ron Kirk. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

International trade has been vital to U.S. growth and prosperity in the post WWII era. The United States is the world's largest economy, manufacturer, and trader. The future success of American workers and business, and the growth of America's economy, require continuing America's strong commitment to finding new markets and expanding existing ones for U.S. goods and services.

The United States signed trade agreements with three close allies in 2007—Colombia, Panama, and South Korea—and all three are still awaiting Congressional consideration. The independent U.S. International Trade Commission (ITC) has estimated that the combined effect of the three pending trade agreements would increase U.S. exports by at least \$13 billion. President Obama has repeatedly stated that increasing U.S. exports by 1% could create 250,000 jobs. The ITC has also estimated that implementing the three pending agreements would increase U.S. exports by at least 1%. The hearing will provide an opportunity to address the resolution of the outstanding auto issues in the U.S.-South Korea trade agreement and to discuss plans and timetable for consideration of all three of the agreements. The hearing will also provide an opportunity for the Administration to explain its response to China's trade restrictive practices and non-tariff barriers that prevent U.S. companies from competing on a level playing field. The hearing further provides an opportunity to monitor progress in areas such as the National Export Initiative, the Trans-Pacific Partnership negotiations, the Doha Round of World Trade Organization negotiations and WTO accessions, as well as other efforts to open new markets to U.S. agriculture, goods, and services and address bilateral and multilateral trade disputes and concerns.

In announcing this hearing, Chairman Camp said, **"In these challenging economic times for Americans, opening new markets to U.S. exports provides a proven way to fuel economic growth, create well-paying jobs here at home, enhance consumer choice, and raise our standard of living. An important first step is to consider all three pending trade agreements in the next six months. In this increasingly globalized economy, we must work together to maximize American competitiveness and prevent us from falling behind. I look forward to hearing Ambassador Kirk in his first appearance before the Committee as he lays out the President's trade priorities."**

FOCUS OF THE HEARING:

The hearing will focus on current trade issues such as: (1) the pending trade agreements with Colombia, Panama, and South Korea; (2) addressing the full range

of issues impeding American companies from selling U.S. goods and services in China and distorting trade flows through unfair trade practices; (3) the ongoing Trans-Pacific Partnership negotiations; (4) the prospect for trade expansion in agriculture, industrial goods, and services through the Doha Round negotiations at the WTO and the issues surrounding Russia's efforts to accede to the WTO; and (5) management of trade disputes and concerns and other trade issues.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "Hearings." Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Wednesday, February 23, 2011**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721 or (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word format and **MUST NOT** exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://www.waysandmeans.house.gov/>.

Chairman CAMP. Good morning. The committee will come to order. We are opening the hearing on President Obama's trade policy agenda. I want to welcome everyone here, and also extend a special welcome to our guest, United States Trade Representative Ambassador Ron Kirk.

Ambassador, this is the first time you have been invited to appear before this committee, so we are looking forward to a thorough discussion of the Administration's trade policy agenda, and particu-

larly the path you see forward on the three pending trade agreements.

International trade has been a cornerstone of United States foreign policy for the past 60 years. We must have a robust trade agenda to ensure our economic future and create U.S. jobs. While the President has often spoken about the merits of trade over the past 2 years, there is little to show for it. The American people are demanding more and more, and deserve more from this Administration when it comes to the job-creating potential of our trade agreements.

Now, we have seen some steps in the right direction in recent months, and I appreciate your work and the President's work on the South Korea agreement. But there is much more we need to do, and I fear we are ceding our influence and authority to the European Union, China, and countries that don't have our best interests at heart, diminishing our influence on the international economy, foreign policy, and security issues.

Most pressing on the trade agenda are the pending agreements with Colombia, Panama, and South Korea. As I noted, the President's leadership has helped move the South Korea deal forward. But there has been no similar action with regard to the Colombia and Panama agreements.

Where is the path forward for these agreements? Why isn't there a clear identification of the outstanding issues, an outline of reasonable steps that must be taken to address those issues, a time frame for resolution, and a commitment to action?

While the President made positive reference to completing the agreement with South Korea in his State of the Union address, Colombia and Panama were mentioned only briefly, almost as afterthoughts, with no action plan or commitment, characterizing them as items the Administration intends to, and I quote, "pursue."

But we already have trade agreements signed three and a half years ago. And Ambassador, I hope you will provide clarity on what the President meant and lay out today a concrete timeline for consideration of all three agreements. And as I have said repeatedly, I would like to see all these three agreements considered by July 1st.

And frankly, the lack of commitment on these critical, job-creating agreements is hindering the rest of our trade agenda, most notably ATPA and TAA. The President's unwillingness to engage, especially on Colombia, has ground everything else to a halt and our workers are suffering as a result.

The Administration's strategy makes no sense. These agreements are important to U.S. strategic and economic interests, and they will help support jobs here in the United States—250,000 jobs, according to the President's own measure. And given that our unemployment rate has been at or above 9 percent for the last 21 consecutive months, we must explore all possible opportunities to sell to the world and create and support existing jobs in the United States.

I am equally concerned that the failure to move these agreements will severely disadvantage U.S. business, workers, farmers, and ranchers who now sell their products in these markets. Other countries recognize the value of these markets and are signing

agreements that lower barriers for their exports and seize our opportunities.

In addition to our pending trade agreements, we must focus on enforcing our rights worldwide. Take China. It is now our second-largest trading partner overall and our third largest export market. While China presents the potential of 1.4 billion customers for our exports, China purposefully impedes market access for U.S. goods and services, and blatantly steals the intellectual property of American businesses. The litany of China's trade-distorting policies is deeply troubling and cannot be allowed to stand.

Part of our strategy for addressing these issues should include resumption of our bilateral investment treaty negotiations. I strongly support the Administration's efforts to promptly conclude an ambitious Doha Round of negotiations at the World Trade Organization, and hope that renewed efforts over the past few months will lead to success.

I also strongly support the Administration's efforts to negotiate the Trans-Pacific Partnership. I hope the President will be able to conclude a high standard agreement when he hosts the APEC leaders in nine short months. Such an agreement would show our commitment to the fast-growing Asia-Pacific region as well as create American jobs by opening markets. A robust trade agenda puts U.S. business, workers, farmers, and ranchers back on the offense. Let's seize this opportunity.

I look forward to hearing your testimony, Ambassador Kirk, on the Administration's ideas on how to kick-start the U.S. trade agenda. I will now yield to the ranking member, Sandy Levin, to make an opening statement.

Mr. LEVIN. Thank you, Mr. Chairman, and welcome, Ambassador.

I am disappointed that we start today's hearing without action to extend the Trade Adjustment Assistance program scheduled to expire in just a few days. TAA has been a good-faith effort for nearly 50 years to assist workers who have lost their jobs through trade and globalization.

As a result of the 2009 reforms, an additional 170,000 workers are eligible for TAA, which will help them secure new good-paying jobs. Starting Tuesday, tens of thousands of displaced workers in our country will be affected, and I strenuously urge my Republican colleagues not to let this vital program lapse.

Congressional Democrats have been actively working to shape a new trade policy that is responsive to the changing dynamics of a global economy. We rejected the passive hands-off approach of the last Administration by embracing expansion of trade in ways that assess its impact and broaden the benefits from expanded trade.

Carrying out this new policy, we succeeded in pushing for the inclusion of enforceable worker rights and environmental standards, beginning with their incorporation in the Peru FTA. We have fought for vigorous enforcement of basic rules of competition with our trading partners. We have insisted that trade must be a two-way street, not a one-way street, in critical areas of trade.

This is in sharp contrast to the approach of the last Administration, whose view was that trade was good in and of itself and that more trade automatically was better, regardless of its terms. As

President Obama responded, and I quote, “We just went through a decade where we were told that it didn’t matter. Just keep on importing, buying stuff from other countries, and everything is going to be okay. But it was built on a house of cards.”

The Obama Administration has undertaken a vital effort to implement a new and improved trade policy, for example, a commitment to the enforcement of existing trade agreements and trade laws. That was clear from the China safeguard action on tires. The previous Administration, on four occasions, refused to use that safeguard. Recent data indicates that the safeguard action has helped to make possible an increase in U.S. production and employment in U.S. tire manufacturing.

The commitment to enforcement is also clear from the filing of the first case ever on labor provisions in the trade agreement with Guatemala.

A commitment to two-way trade was embodied in the President’s insistence that we go back and change the Korea Free Trade Agreement to finally knock down the barriers there, where automotive trade accounts for 75 percent of the \$10 billion U.S. trade deficit with Korea. This would not have happened if the Republicans had succeeded in their earlier insistence that flawed agreements be approved.

Likewise, in the case of Panama, the Administration pushed for an agreement to address Panama’s status as a tax haven, and we understand Panama is working to ratify and implement that agreement now. This Administration has also been working on efforts started several years ago to ensure that Panama’s labor laws comply with basic international standards and with its FTA obligations. Because of our efforts, there are now important labor law changes pending before the Panamanian legislature.

With regard to Colombia, as we have pointed out repeatedly and as indicated consistently in the State Department and ILO reports, there are serious outstanding issues relating to the Colombia FTA. Colombian labor laws fall short of ILO norms, and workers struggle to exercise their rights to associate and collectively bargain.

Persistent problems include abuse of cooperative and other forms of contracting, employers’ direct negotiation with workers when unions are present, and prohibitions on the right to strike. Moreover, enforcement of labor laws is weak.

Union worker violence in Colombia remains unacceptably high, if not the highest in the world. Limited progress is being made in the investigation and prosecution of those responsible. Additionally, reports indicate that threats against union workers and others have increased. To date, there has been little concrete action to date to pursue these cases.

As I observed during my five-day fact-finding trip in Colombia last month, the new Santos administration has now articulated a different approach from its predecessor that provides an opportunity for serious discussions between the two governments on these concerns. But we should be very clear that the burden is on the Colombian government to act and address these concerns that have been made abundantly clear to them for years. The only adequate measuring stick is progress on the ground.

There are other areas where I believe we can do more to change U.S. trade policy. Mr. Camp, the chairman, has talked about China's distorting, trade-distorting policies. I also urge that the Administration take a more assertive stance to address China's currency manipulation.

As I conclude, let me just say that we are already taking action on many fronts. Republicans have expressed impatience with changing U.S. trade policy and have called for us to return to the failed policies of the past and approve flawed trade agreements.

So let me be clear. We will not go back. Thank you, Mr. Chairman.

Chairman CAMP. Thank you.

Today we are joined by Ambassador Ron Kirk, the United States Trade Representative. Prior to his work in the Obama Administration, Ambassador Kirk had a distinguished career in both the private sector and government. Notably, he was the mayor of Dallas from 1995 until 2001, at which time, I should add, he saw firsthand the benefits of trade agreements and was a strong proponent for NAFTA.

Ambassador Kirk, we welcome you and look forward to your testimony. I would ask that you keep your testimony to 5 minutes. And Mr. Ambassador, your full written statement will be made part of the record. And you are recognized for 5 minutes. Welcome.

STATEMENT OF AMBASSADOR RON KIRK, UNITED STATES TRADE REPRESENTATIVE

Ambassador KIRK. Thank you, Mr. Chairman and Ranking Member Levin, members of the committee. It is indeed an honor for me to have an opportunity to visit with you today.

In his State of the Union address, President Obama told America that the future is ours to win if we rise to the consulting. To compete for and win the jobs and industries of the future, America must out-innovate, out-educate, and out-build the rest of the world.

USTR is doing our part to keep America globally competitive, and our work is producing results. U.S. goods and services exports through the first 11 months of 2010 were up \$239 billion over the same time period in 2009, and we are on pace to reach or exceed President Obama's National Export Initiative goal of doubling exports by the end of 2014.

To ensure that American firms continue to generate jobs and economic growth, opening global markets and efficient America's trade rights must remain key components of our economic recovery effort. After extensive consultations with the business community, with labor, Members of Congress, in December we concluded a U.S.-Korea trade agreement that is better for America's auto industry and better for America's auto workers, and it is winning widespread support here in Congress.

To bring home its promise, which is billions of dollars in exports and tens of thousands of jobs here at home, the President will submit the U.S.-Korea trade agreement to Congress in the next few weeks, and looks forward to working with you to secure its approval this spring.

But we aren't going to stop there. With that same engagement and cooperation, we want to work to address outstanding concerns relating to the Panama and Colombia trade agreements. If we are successful, we will move these forward as well.

I can tell you today that the President has directed me to immediately intensify our engagement with our partners in Colombia and Panama with the objective of resolving the outstanding issues as soon as possible this year, and bringing those agreements to Congress for consideration immediately thereafter.

But I must make it clear. There remain serious issues to be resolved before these agreements can be submitted for congressional consideration, and some of these issues go to our core U.S. values and interests, such as the protection of labor rights. Any timetable will be contingent on the successful resolution of these issues.

For example, with regard to Colombia, it will be imperative to resolve issues regarding laws and practices impacting the protection of internationally recognized labor rights, as well as issues concerning violence against labor leaders and the prosecution of the perpetrators.

Colombia and Panama have begun to take important steps, and we think that is a good signal. But more remains to be done. We will be consulting closely with you and major stakeholders, including labor and human rights groups, throughout this process.

We will not be left behind, however, as others open markets and take our market share. The President has made one thing abundantly clear, however. We will not sign agreements just for agreements' sake. They must be enforceable and of the highest standard and in the interests of America's workers, farmers, businesses, and entrepreneurs.

In the Trans-Pacific Partnership, now the world's most dynamic regional trade negotiating market, we are moving forward to unlock the Asia-Pacific through a 21st century trade agreement. In the Doha talks, we seek an ambitious outcome in which all countries, including the advanced emerging nations, provide market access commensurate with their global economic roles.

And our efforts to bring Russia into the World Trade Organization will include working with you this year to grant Russia permanent normal trade relation status so that U.S. firms and workers fully benefit from Russia's accession to the WTO.

This year, the United States will host the 21 economies of the Asia-Pacific Economic Cooperation Forum. With them, we will work to make it cheaper, easier, faster for our firms to trade in a greener regional economy. And we are doing the same with our partners in Europe and throughout North America.

Aggressive enforcement will continue to accompany these efforts. We have kept our promise to hold our trade partners accountable, from steps to address a harmful surge of Chinese tires, to important wins at the WTO for our aerospace and agricultural sectors, to the first labor enforcement case ever brought under a U.S. trade agreement.

Our agenda will only succeed if we make clear to the American public what is at stake in global markets and if we keep faith with America's workers, including renewing trade adjustment assistance. We are also asking Congress to keep faith with some of the

world's poorest economies and create American jobs by renewing the generalized system of preferences in the Andean Trade Preferences Act, and let's do so for a longer period of time than a few months.

I believe, Mr. Chairman and members of the committee, that we can use common sense to find common ground on trade. And I look forward to working with you, and I look forward to taking your questions. Thank you.

[The prepared statement of The Honorable Ron Kirk:]

**Testimony of Ambassador Ron Kirk
United States Trade Representative**

February 9, 2011
House Ways and Means Committee Hearing
1100 Longworth House Office Building
Washington, D.C.

NOT FINAL – Updated Oral Testimony To Be Delivered 10am 02/09/11

Chairman Camp, Ranking Member Levin, members of the Committee, thank you for the opportunity to testify before you today.

In his State of the Union address, President Obama told Americans that the future is ours to win –if we rise to the challenge. If Americans are to compete for and win the jobs and industries of the future, we need to out innovate, out educate and out build the rest of the world. At the direction of President Obama, USTR is helping to ensure that America excels in the global economy. An aggressive trade agenda is strengthening our economic recovery. It is increasing U.S. exports and leveling the playing field for U.S. manufacturers. And that is supporting better jobs for American workers, firms, farmers, ranchers and service providers.

The President has said it, but it bears repeating: 95 percent of the world's consumers live beyond America's borders. This is why opening global trade markets and enforcing America's trade rights are key components of our economic recovery effort. If we ensure that American firms can sell their goods and services to more of those global consumers, they will realize their full potential to generate economic growth and jobs here at home. If we insist that our trading partners live up to their obligations, the market access we have won in those agreements will support American exports and American jobs as it should. And if we keep working on a trade policy that is more responsible and responsive to Americans' concerns, we will keep faith with America's workers even as we expand our reach around the world.

Over the last two years, I've worked to listen carefully and then to act with deliberation. I have heard from the California exporter who wants more access to the Asia-Pacific. I've heard from companies in Colorado creating new and innovative products with global appeal. I've heard from business owners in Florida who can grow with greater access to Latin America. No matter the good, service, or agricultural product, this is the common theme: American firms want to grow their business and hire more people with better access to foreign markets.

I've also heard from those who are skeptical about the benefits of trade – from workers concerned about past failures to enforce our current agreements, about imbalances with the world's emerging economic powers, about competition from abroad and what that means for our communities.

We have listened – and we have done something about it. This Administration's trade policy has been carefully crafted to benefit the factory worker and the farmer, the businessperson and

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American families. We have moved ahead with an agenda designed to restore Americans' confidence that trade can be forward-looking, fair and beneficial to American families and American firms.

We have a lot to show for the past year. And this coming year also promises to be a productive year for our trade agenda. Let me begin with some of our recent accomplishments.

After extensive work with you Chairman Camp, Ranking Member Levin, and many of you on this Committee, in December, USTR concluded a U.S.-Korea agreement that is better for America's auto industry and workers. Thanks to your leadership and cooperation, KORUS is winning widespread support with business, labor, agriculture, and services groups across the country. The promise of this agreement – more than \$10 billion in increased exports of goods alone, and more than 70,000 American jobs – is closer than ever and is coming at a time we need it most. The rest of the world is not standing on the sidelines. As they negotiate and implement FTAs of their own with Korea, we stand to lose market share, which is why this agreement should be approved without delay.

We will not stop there. I know that many of you are eager to consider pending trade agreements with Colombia and Panama. With the same engagement and cooperation, we will work to address outstanding concerns relating to the Panama and Colombia trade agreements. If we are successful, we will move those forward as well.

We will not be left behind as others open markets and take our market share. To compete, we must access the world's fastest growing markets on a level playing field.

But the President has made one thing abundantly clear: we will not sign agreements for agreements' sake. They must be enforceable and of the highest standard, in the interests of our workers, farmers, and businesses. They must not simply replicate the templates of the past, but build frameworks for the future.

This is our guiding philosophy for another critical objective: the successful conclusion of the Trans-Pacific Partnership trade agreement, or TPP. With your help and support, in just over a year the United States has joined the TPP, welcomed Malaysia and Vietnam as new TPP members, and put this nine-country trade agreement on an ambitious negotiating schedule. We are proposing new and challenging 21st century issues to our negotiating partners even as other Asia-Pacific countries are clamoring to join TPP talks. In just over a year, TPP has become the single most important regional trade negotiation and the platform for economic integration in the world's most dynamic region.

In addition to TPP, we want to do even more in the Asia Pacific as we seize the once in nearly two-decade opportunity to host the Asia-Pacific Economic Cooperation (APEC) Forum this year. Part of our focus in our APEC host year will be practical and concrete steps to make it cheaper, faster, and easier for U.S. small businesses to sell American goods and services throughout a region comprising more than half of global GDP and over 40 percent of the world's trade.

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In the World Trade Organization, we are working toward ambitious and balanced outcomes in the Doha Development Round of trade negotiations. To move an agreement forward, we need market access commitments from all countries – including the advanced emerging nations – commensurate with their role in the global economy. We will continue our efforts to bring Russia into the WTO – including work with Congress this year to grant Russia Permanent Normal Trade Relations, so that American firms can fully benefit when Russia has the responsibilities as well as the rights of a true trade partner.

We are also continuing to deepen our trade relationships with our North American and European partners, including enhanced regulatory cooperation through the NAFTA and forums such as the Transatlantic Economic Council. These efforts will better protect and inform our citizens while enhancing the competitiveness of our economies.

We also play a critical role in the Administration's effort to strengthen intellectual property protection and enforcement of intellectual property rights both here and overseas, through our coordination of IP trade policy and our active participation in the Administration's broader Intellectual Property Enforcement Advisory Committee. We finalized the text of the Anti-Counterfeiting Trade Agreement—a landmark new tool that strengthens international cooperation and enforcement practices to fight counterfeiting and piracy.

Engagement with China—including through the Joint Commission on Commerce and Trade—has been very productive, showing real results in addressing “indigenous innovation” policies, improving intellectual property right protections -- including securing greater use of legal software-- securing technology neutrality in the telecommunication and smart grid sectors, and providing new opportunities for U.S. firms in the wind power market. Importantly, China agreed to delink its innovation policy from the provision of government procurement preferences and to cover sub-central entities in its next offer to join the Government Procurement Agreement.

It is important to note that we have much to show for our trade enforcement agenda, and every intention to expand this important facet of a comprehensive trade policy. This Administration promised to enforce our trading rights and hold our trade partners accountable. That is a promise kept. Enforcing our agriculture rights has meant American ranchers are selling more beef to Europe than they have in decades. We have successfully reopened Russia, Indonesia and China markets to U.S. pork following the outbreak of H1N1. And we initiated the first ever labor enforcement consultation under a U.S. trade agreement.

At the same time, we've continued to defend our rights in the World Trade Organization (WTO). In December, the WTO upheld our right to take action to stop a harmful surge of Chinese tire imports into the United States – a decision made by President Obama in September 2009 that has helped to restore U.S. tire industry jobs. That decision came just two months after we won another decision in the WTO, affirming our right to apply anti-dumping and anti-subsidy remedies to China and other nonmarket economy countries.

We also won a WTO case against EU Subsidies to Airbus. In the largest case ever heard by a WTO panel, the United States proved that more than \$18 billion in subsidies conferred on Airbus

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by the EU and member countries were illegal. And we are pursuing cases against discriminatory barriers in China's electronic payments market to ensure our financial services companies can compete fully in this important sector, China's misuse of trade remedies in the steel sector and China's use of illegal subsidies to promote green technologies. This Administration's commitment to ensuring — through dialogue whenever possible and litigation when necessary — that our trading partners adhere to WTO rules is unwavering.

These USTR accomplishments are all contributions to the Administration's government-wide National Export Initiative. Based on the most recent trade data, we are on pace to reach our goal of doubling exports by the end 2014 — U.S. exports of goods and services through the first 11 months of 2010 were up 17 percent compared to the same period in 2009.

But we cannot rest. We must use the momentum from these many accomplishments to tackle the work before us. That includes ongoing work to ensure that Korea fully opens its market to U.S. beef and beef products and that more generally our trading partners adhere to international scientific standards in agricultural trade.

That includes work to renew our trade preference programs — the Generalized System of Preferences and the Andean Trade Preferences Act. These programs help foster economic growth for the world's poor and create well-paying American jobs here at home—they should be renewed.

Finally, we must work together to support a comprehensive trade agenda that keeps the faith with America's workers and provides a long-term extension of Trade Adjustment Assistance programs, which have helped so many Americans get back on their feet. These extensions should be paid for in a way that maintains investments critical for our nation's competitiveness.

I look forward to our dialogue today and to future discussions. By working together, we can use common sense and find common ground on trade in order to create jobs and new opportunities for American workers, businesses, farmers, and ranchers. Thank you.

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Chairman CAMP. Well, thank you very much, Ambassador.

As I listened to your testimony, I first want to say I appreciate your comments on the South Korea trade agreement. It was signed in June 2007. Korea is the world's eighth largest economy. The E.U. agreement with Korea is expected to be effective July 1st, so I think your timeline of a few weeks is a very important one.

In terms of the other agreements with Panama having been signed in June of 2007—they have signed this tax information exchange agreement—they recently signed trade agreements with the E.U. and Canada.

With regard to Colombia, it was signed in November 2006. Since that time, our exporters have paid over \$3 billion in duties to Colombia. Canada will implement a trade agreement in June. The E.U. is soon to complete. Colombia is our largest export market in South America.

So with regard to those agreements, I appreciate the language that you want to complete those by this year. But frankly, those are statements I would have expected two years ago. We are seeing other countries move forward dramatically. We are losing market share in those countries as they develop trade relationships with other places. We need specific, concrete steps.

Can you tell me what specific things or items need to occur with regard to the Colombia and Panama agreements that would allow the Administration to move forward?

Ambassador KIRK. Well, first of all, Mr. Chairman, let me assure you we share your concern with respect to the competitive market that is developing in South America and their very aggressive efforts to sign other free trade agreements.

But we also share a very firm belief, and an unshakeable belief, that the only way we can go forward in a manner that I think all of us would like to is that if we work together collaboratively, just as we did on the Korea FTA, and not just hear from those that, frankly, want me to cut the gas line and put the pedal to the metal and go forward; and not just those that, frankly, are stomping on the brake and say, do nothing. We have got to find a way to find common ground on some of those core values that, at least for the Obama Administration, we won't compromise on.

And we want to get these done, but we want to get them done in a way that we address the underlying concerns about labor rights. This is a little bit different than Korea in which, frankly, we were addressing issues of market access. These are more fundamental issues.

But what we want to do, and what we will do, is intensify our engagement over the next several weeks, I am sending a team to Colombia next week. As you know, Ranking Member Levin, I think, visited Colombia during the January recess. Finance Committee Chairman Baucus is going to go down. We will then meet with all the stakeholders, human rights groups, and come up with a workable plan, and sit down with our partners in Colombia to address those.

Chairman CAMP. When you say "we," are you planning to go to Colombia and Panama as well?

Ambassador KIRK. I don't know that I am going to go. USTR is sending a team. I may go, and I may wait and see what the plans are, as they evolve, for the President's visit to South America later this spring.

Chairman CAMP. Well, I guess my point was that the time for generalities has passed, to say, we need to continue to work forward on these. We really need specifics. And we need an action plan of benchmarks that we can meet to move this forward.

I think these have languished long enough, really far too long. And to the extent you can shed light on any specific items, I think we would all be enlightened.

Ambassador KIRK. Well, I want to do that, Mr. Chairman. But we are using the same approach as we did last year when—I think it was in June at the G20 Forum—President Obama directed our office to sit down and negotiate with our partners in Korea. We were able to do that in a reasonably efficient period of time.

We want to take that same approach with respect to Panama and Colombia. The issues are different. As I said, in Colombia there are longstanding concerns in terms of the rights of workers and violence against union organizers. In Panama, we have made good progress on a number of the issues in terms of addressing some of their labor law concerns.

As I understand, they have worked with our Department of the Treasury to address the issues of their having been labeled a tax haven by OECD, and are moving on the tax information exchange agreement.

Chairman CAMP. With Panama, is there anything left for the Panamanians to do?

Ambassador KIRK. There are still a couple of concerns over some recent changes to their labor law. But we have been in consultation with the Panamanian government in trying to get those resolved to our satisfaction.

Chairman CAMP. All right. Thank you.
Mr. Levin may inquire.

Mr. LEVIN. Thank you. Mr. Chairman, I think that your question has helped to frame the issue. You said, “the time for generalities”. They weren’t generalities. The issues with Korea were very specific.

The way it was negotiated did not assure access to the market for our automotive goods. You worked on this. It was very specific. They were shutting us out, shipping 500,000 cars a year. We were shipping 5,000. Hyundai has 1500 dealerships here, I think. Ford has one. Our automotive producers and their suppliers insisted that trade be a two-way street. It was very specific.

If the Republicans had had their way, or the Bush Administration theirs, we would have approved the Korea Free Trade Agreement essentially having a major part of our economy shut out from their market when they had complete access to ours.

As for Panama, we started discussions. The issues were very specific. They related to the violation by Panama of basic international standards, as outlined in our State Department reports and in the ILO reports, in terms of worker rights, and its states as a tax haven. We tried to work with them, but then they elected someone as the Speaker of the House who had an arrest warrant out for him for killing an American, and those discussions stopped. It was very specific.

When it comes to Colombia, Mr. Ambassador has laid out the areas where there are issues. And we have been discussing these for years with the Colombians. The ILO and State Department reports have spelled these out year after year after year.

Now, there is a new administration in Colombia which says that it now wants to address these issues that were not satisfactorily

addressed by the previous administration. And now the Ambassador has said that there is an effort to see if common ground can be reached.

So I think there isn't a lack of specificity. There has been a lack of a willingness to work with us to resolve basic important economic issues.

Let me just ask you, if I might, Mr. Ambassador, about TPP and proceeding. You intend to table something next week, do you, in terms of TPP? And I think it is important we proceed, but in the right way. There will be a tabling of some proposals next week?

Ambassador KIRK. Yes, there will. As you know, we have had four rounds of talks. We are moving very aggressively to meet our own goal, which is aspirationally, to craft a trade agreement for the 21st century with the highest standards in every area across the board. We will be meeting in Chile next week for the first round of more intense negotiations, and we will begin tabling proposals in certain categories at that time.

Mr. LEVIN. Everyone should note that we have trade agreements with most of the participants in TPP. It is the newcomers in terms of a trade agreement, Vietnam and now Malaysia who raise some important issues, not only in terms of worker rights, which is important, but in terms of agriculture, et cetera.

And as we have discussed, I hope very much that before those proposals are tabled, that there will be further consultations with this committee regarding the specifics, including those relating to investment.

Ambassador KIRK. We will. And we have—and I think as you know, Mr. Chairman, we have had the most extensive consultations with this committee and your companion committee of jurisdiction in the Senate, as well as all of the stakeholders on TPP as we have ever done before, and we will continue that.

But this is an opportunity in which, one, I think we have all benefitted from the fact that we are starting with a blank sheet of paper, so to speak. We aren't burdened by some of the arguments that have derailed some of our trade agreements in the past.

But it is an opportunity for the United States to be in the lead in crafting the architecture for what we hope will be the most advanced trade-liberalizing free trade agreements in one of the most dynamic regions of the world.

Mr. LEVIN. More consultation is needed. Thank you.

Chairman CAMP. Thank you. I just want to comment that I was concerned about market access on the South Korea agreement from the beginning. But that really sort of begs the question. I am not really interested in why these agreements weren't passed two and a half years ago. I am interested in why they are not being passed now, given all that has happened.

So with that, I will recognize Mr. Herger for 5 minutes.

Mr. HERGER. Thank you, Mr. Chairman.

I have a timeline here of key President Obama Administration statements regarding the Colombia trade promotion agreement. Unfortunately, I won't have time to go through all of it in my 5 minutes. However, I will like to have it included in the record, and I will just touch on some highlights.

[The information follows The Honorable Wally Herger:]

Colombia trade agreement: Key Administration comments

PRESIDENT'S 2009 Trade Policy Agenda
 "We are in the process of developing a plan of action to address the pending trade agreements in the cabinet and Congress. We plan to establish benchmarks for progress on the Colombian FTA."

02/27/09

Colombia trade agreement: Key Administration comments

Senate Finance hearing on KIRK nomination
 KIRK: "We should start with Panama... I also want to address the [Colombia FTA]. We must do a way to address the real and significant concerns with labor violence in Colombia."

President's 2008 Trade Policy Agenda

02/27/09
03/09/09

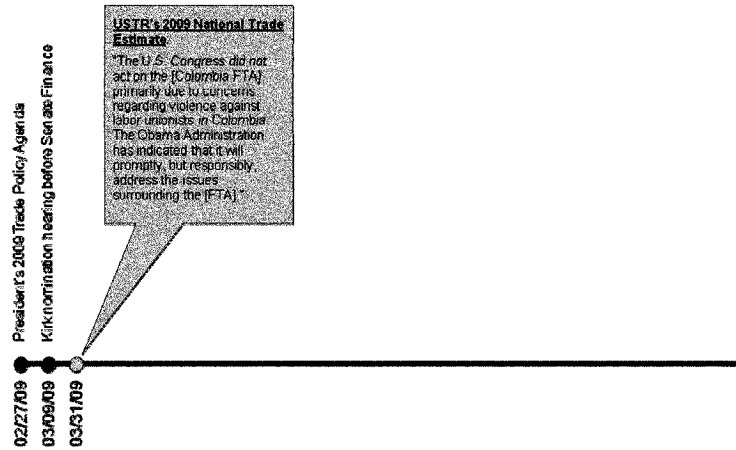
Question from Senator GRASSLEY:

"... Implementation of the Colombia trade agreement is my number-one trade priority. If confirmed, will you commit to work with me to implement the trade agreement this year — that is, over the next 10 months, not into 2010?"

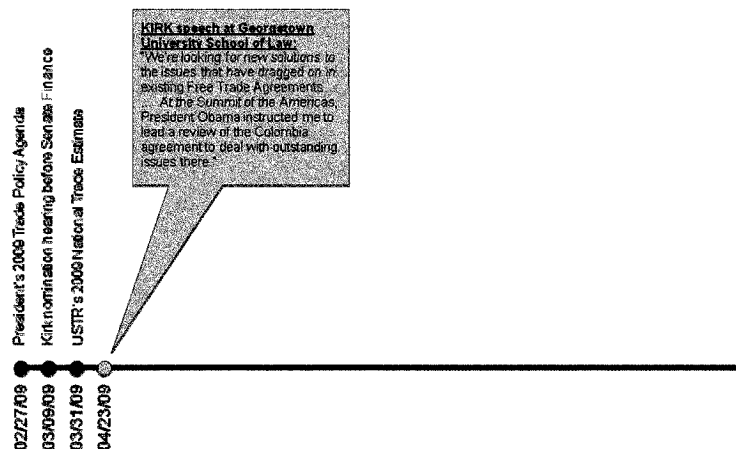
Answer from then-Mayor KIRK:

"... I cannot commit to a certain timetable. As I have said, we are going to take a comprehensive review of all of our trade policies, because we want to move forward in a strategic, rather than a tactical, manner. But we do agree with you that Colombia provides a great opportunity, and we will work with you to see if we cannot get that advanced sooner rather than later."

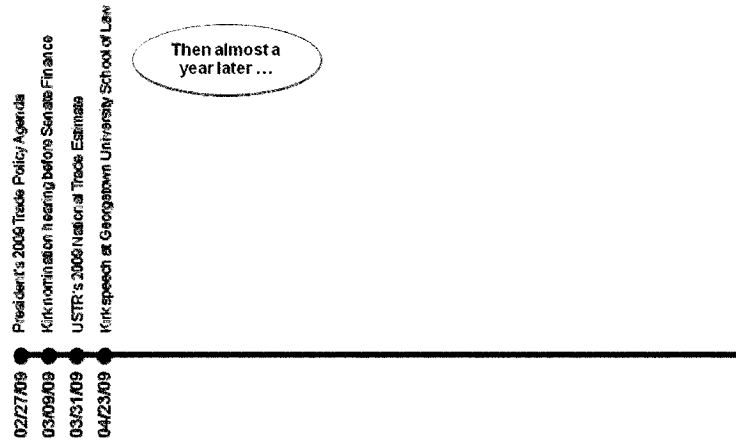
Colombia trade agreement: Key Administration comments



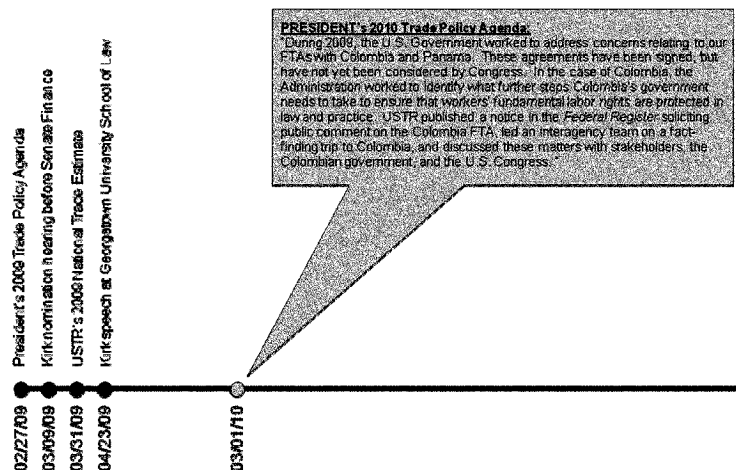
Colombia trade agreement: Key Administration comments



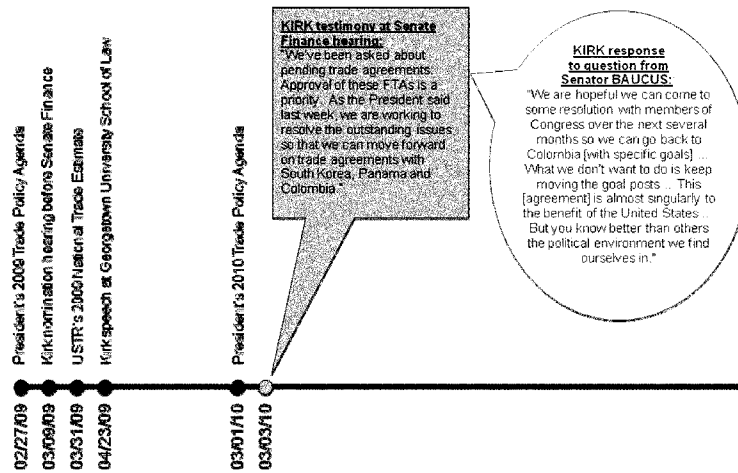
Colombia trade agreement: Key Administration comments



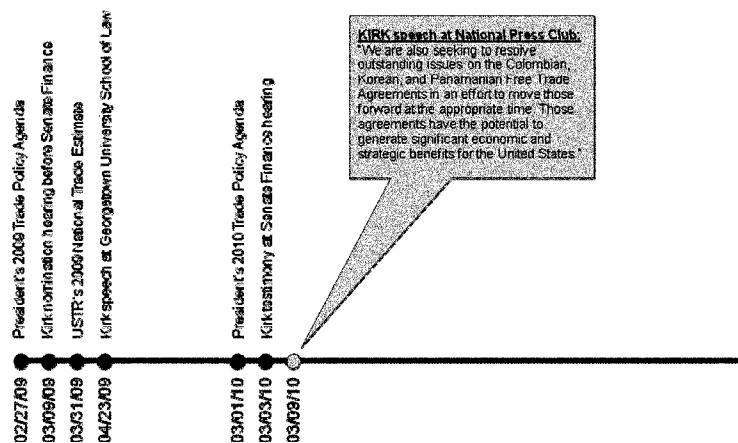
Colombia trade agreement: Key Administration comments



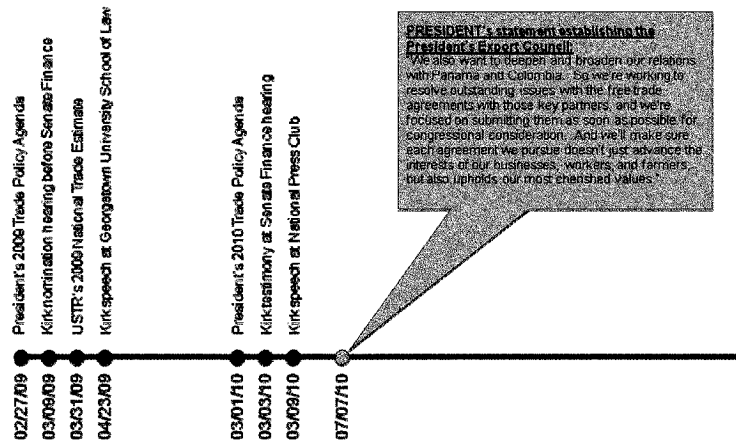
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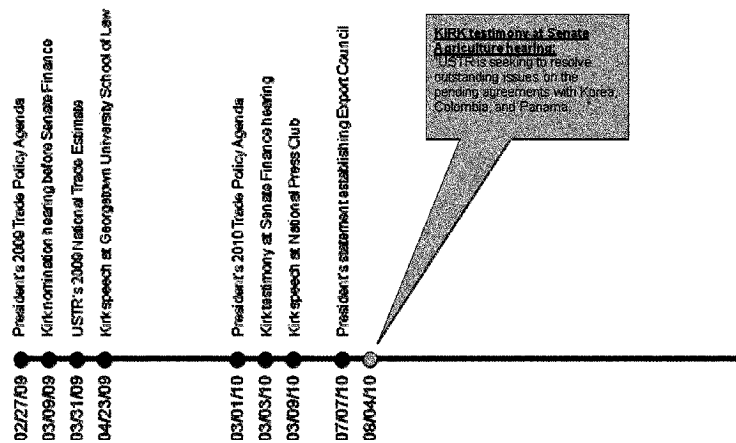
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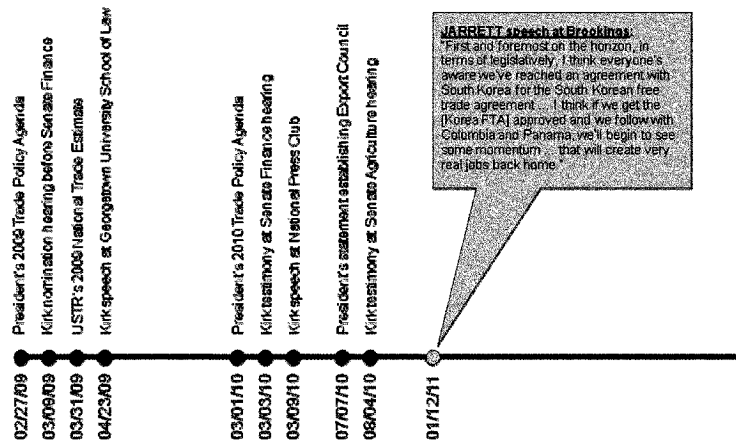
Colombia trade agreement: Key Administration comments



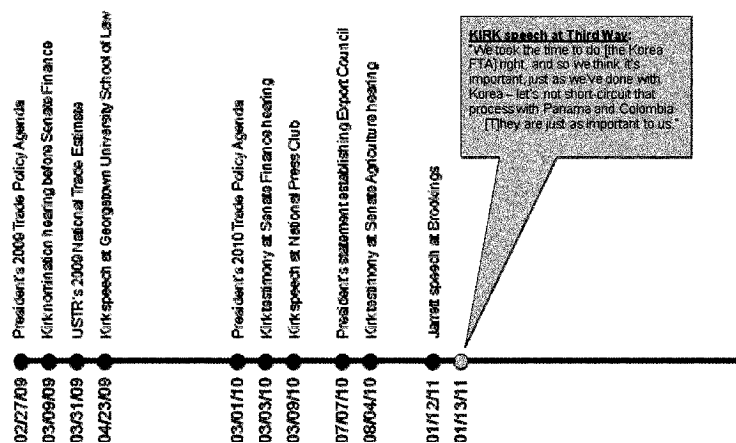
Colombia trade agreement: Key Administration comments



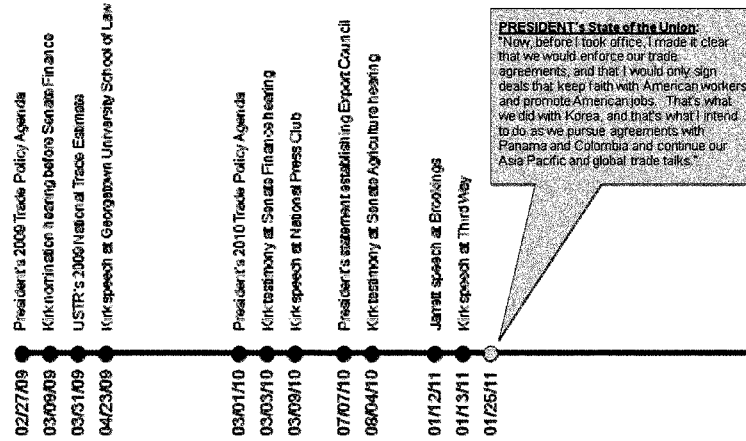
Colombia trade agreement: Key Administration comments



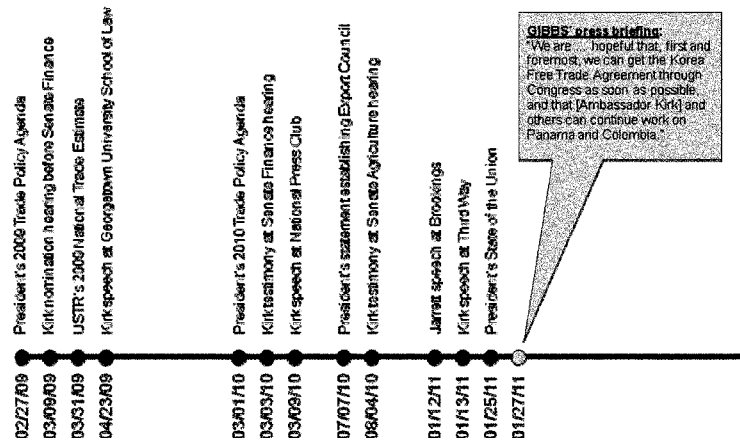
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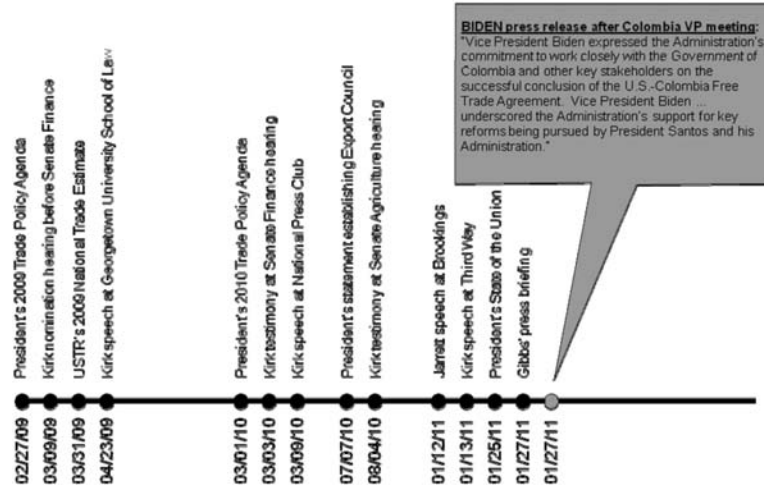
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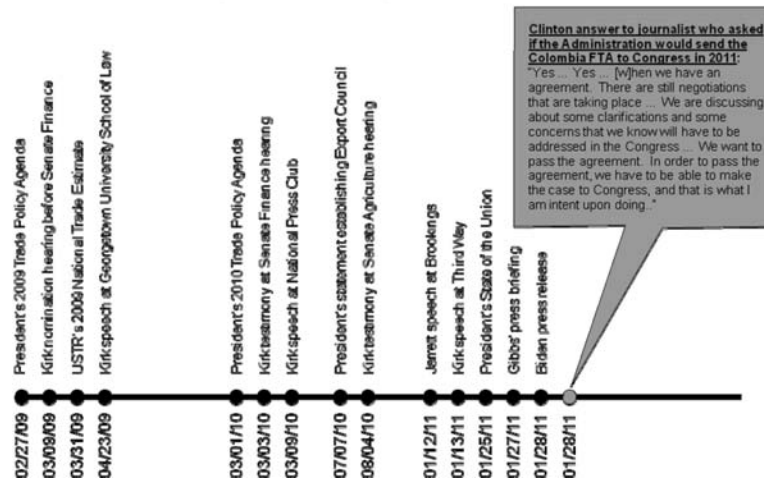
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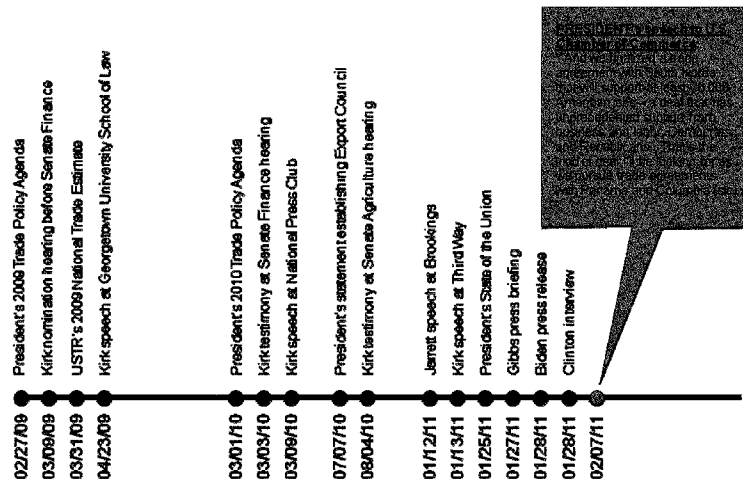
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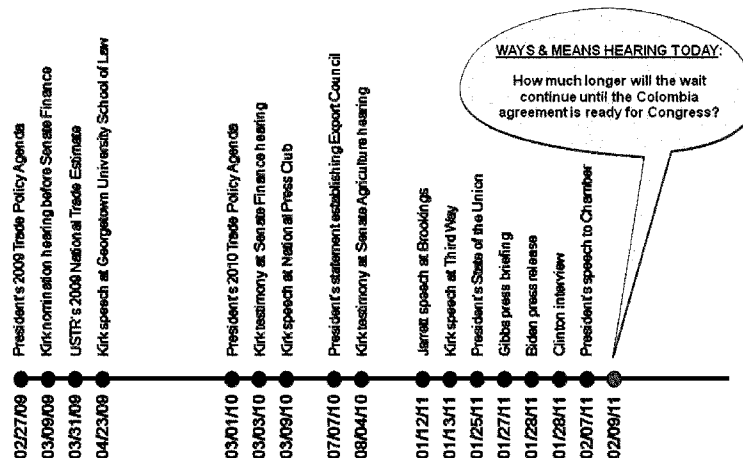
Colombia trade agreement: Key Administration comments



Colombia trade agreement: Key Administration comments



Colombia trade agreement: Key Administration comments



Mr. HERGER. Ambassador Kirk, the President's 2009 trade policy agenda released in February of that year two years ago stated, "We are in the process of developing a plan of action to address the pending trade agreements in consultation with Congress. We plan to establish benchmarks for progress on that Colombia FTA."

In April of 2009, during a speech at Georgetown University School of Law, you stated, "We are looking for new solutions to the issues that have dragged on in existing free trade agreements. At the Summit of the Americas, President Obama instructed me to lead a review of the Colombia agreement to deal with outstanding issues there."

Now let's skip to about a year later, in March of 2010, and your testimony at Senate Finance hearings. You stated that the pending FTAs were a priority, and that USTR was working to resolve the outstanding issues so that they could move forward with the agreements.

And in response to a question on the Colombia FTA, you stated the following: "We are hopeful we can come to some solution with Members of Congress over the next several months so we can go back to Colombia with specific goals. What we don't want to do is keep moving the goalpost. This agreement is almost singularly to the benefit of the United States."

Moving forward a few months to July 2010, in announcing the establishment of the President's Export Council, the President again reiterated that the Administration was working to resolve the "outstanding issues" with the pending FTAs with the goal of submitting them to Congress "as soon as possible."

Now, in 2011, during a speech at Third Way, Mr. Ambassador, you stated, "We took the time to do the Korea FTA right. And so we think it is important: Just as we have done with Korea, let's not short-circuit that process with Panama and Colombia. They are just as important to us."

Mr. Ambassador, how much longer will the wait continue until the Colombia agreement is ready for Congress? It has been two years since the Administration announced its plan to develop benchmarks on Colombia. We waited a year. And then the Administration again stated that it is working on a list of recommendations for the Colombians.

Where are these recommendations, these benchmarks that the Administration wants to see in place? And again, how much longer do we have to wait until the Colombia agreement is ready?

Ambassador KIRK. I appreciate your recitation of our commitment on that. We are firm in that. And hopefully, Mr. Herger, it won't be much longer.

We share your concern. We want to move forward on these agreements. But the reality is there is a very wide—you can tell from this committee, there has been a very wide divergence of thought as to how we ought to proceed. And one thing President Obama instructed me was to sit down with those on both sides of the aisle, stakeholders of every opinion, about how we are to go forward and see if we can't find a common way forward.

But we also made a firm commitment, when we came into office, that we didn't feel it was our responsibility just to pick up all of these trade agreements as they were and move forward. We took the time to take a step back and take a strategic look at how we wanted trade to fit into our overall economic policy and our number one goal. And that is how we get this economy going and how we create jobs.

And that included not only looking at and examining these free trade agreements, but the work that we have done on enforcement, the work we have done to engage labor and communities and business to come up with a plan that will allow us to do as we have done with Korea. And as I announced today, the President has directed us to do that same thing in the coming months with our partners with Colombia and Panama.

As Ranking Member Levin noted, we have new leadership in Colombia. Vice President Garzon was here last week. We have met with him. There is a renewed sense, I think, of urgency on both parts. And we will be meeting with them in the coming weeks and months to address those issues.

And it is different in the case of Korea because it isn't just related to market access. It goes to some of those core values that I think many Americans want Congress to take into account as it relates to how we treat and respect the rights of workers. And that is an issue that, at least for the Obama Administration, we won't compromise on.

Mr. HERGER. Well, Mr. Kirk, I appreciate that. But that sounds very much like we have been hearing for the last two years.

Chairman CAMP. And the gentleman's time has expired.

Mr. Johnson is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman. First I want to welcome my friend from Dallas. Too bad you weren't there; the Super Bowl might have been a better place to go.

Ambassador KIRK. Unfortunately, I was there, sliding around. But I didn't go to the game.

Mr. JOHNSON. God bless you. Ambassador Kirk and I have known each other for a long time. I am glad he has finally had the opportunity to visit here on this committee. I would like the committee to know, for the record, he and I used to bet dinners, and he still owes me one.

Now, Mr. Ambassador, as a former Dallas mayor, I know you are well aware of the benefits of trade to our area. And I am sure you know the Dallas area is the ninth largest metropolitan exporter in the United States. In 2008 alone, Dallas exported almost \$7 billion to both NAFTA and CAFTA. The numbers go on and on.

In 3 years before the U.S.-Australia agreement, exports from Texas to Australia averaged \$800 million. In the three years after that trade agreement, Texas exports averaged \$1.3 billion per year, an increase of 66 percent.

Before the U.S.-Chile agreement, Texas exports to Chile were declining. Since the agreement, Texas exports to Chile have increased by 107 percent.

You know, those numbers just tell me that we are spinning our wheels. This agreement was signed in 2007, and this is 2011, and we still haven't finished them. Now, I would like to know why we are delaying because other nations in the world are taking our place in the trade environment. And it is because you haven't been able to finish the job. And most of it, you are telling me, is labor-related.

I would like to know your opinion on that and what you intend to do. And I will tell you what. You get these three agreements done, you don't have to buy me a dinner.

[Laughter.]

Ambassador KIRK. Sam, I have enjoyed your friendship, and we have shared a lot of plates of Mexican food over the years. And it would be loath for me to quarrel with a good friend in public, but I am not so sure who holds which last dinner. But we won't make dinner contingent on these agreements.

Let me say this. I was incredibly honored and humbled when President Obama asked me to serve the Administration in this capacity. And frankly, Sam, you know there were a lot of people who were a little bit skeptical of me coming from Dallas, for the reasons you articulated.

We believe in trade. We understand it. We have seen the impact of it in our city and our state. Texas is the number one exporting state in the country. So you don't need to convince me how important these agreements would be to our economy.

But when I raised my hand and took that oath, I agreed to be United States Trade Representative for the entire country. And like the congressman over here, my wife is from Detroit. And so I brought with me not just our passion for exports that we have in Texas, but I also brought with me the concern and frustration of all of my in-laws in Detroit, in Cleveland, in Pittsburgh, who when I showed up and told them I was going to be the Trade Representative, thought I was a two-headed monster because they believe they haven't benefitted from trade.

And so what we have committed ourselves to doing is trying to find that common ground because the only way we can go forward in a way that allows our farmers and ranchers and manufacturers and states that want us to go is we have to keep faith with the rest of America that wants to know we have a trade policy that works for everybody and not just for some of us.

You know I like African proverbs, and one of my favorites is pretty simple. And it says, "You should take no comfort from the hole in my end of the boat." And the problem of too much of our trade debate is in places sometimes like Texas or Florida or Washington, we just look at our heads and say, poor Pittsburgh. Poor Carolinas. Poor Detroit. And we aren't going to get there.

That is why these agreements were stalled. I don't have to tell you there are strong differences on this committee whether we go forward or not. What we have been doing is trying to not only craft trade policy that allows us to have open, fair access to these markets, address that asymmetry we have with many of them, but also helps us restore the American public's faith that trade can work for us, that we can create jobs here.

That is what we did successfully, I think, with Korea, and that is what we are working to do with Panama and Colombia.

Mr. JOHNSON. It will create jobs. Right.

Ambassador KIRK. It will create jobs. But—

Mr. JOHNSON. But how about getting it done, all three of them? All three of them. Can you tell us you will do that?

Ambassador KIRK. I can do it if I can get this committee to come together and agree that just as important as it is to open up markets, it is equally important to make sure that we keep faith with America's workers and we don't compromise on our core values of standing up for workers' rights. If we can come together on that, we can do anything. We did it on Korea. We need to do it on Panama and Colombia.

Mr. JOHNSON. Thank you, Mr. Chairman.

Chairman CAMP. Thank you. Mr. Stark is recognized.

Mr. STARK. I would yield to Mr. McDermott.

Chairman CAMP. Mr. McDermott.

Mr. MCDERMOTT. Thank you, Mr. Chairman. Welcome, Ambassador. Good to see you here. On a historical note, I would point out to the Members of the Committee, who want specifics. In 5 days, the TAA program ends. 150,000 American workers will be ending their trade adjustment assistance. Now, I wonder if you are serious. It was on the calendar yesterday, but you took it off the calendar. It is not on the calendar today. This is Wednesday.

Is it going to be on Thursday or Friday, and be passed through the Senate by Monday, so that 150,000 workers in this country do not lose their assistance? If you are serious about trade and you want to make it all about somebody else out there and ignore the people in the United States, the workers, you are going to have a tough time.

But let me move to another issue because there are other things besides Colombia and Panama. How are we going to work and move forward on intellectual property protection in China? How are we going to keep the focus on this issue in China? I know when the Chinese were here, with respect to the piracy of business software, they continue to be long on promises and very short on performance.

It practically didn't come up when President Hu was here, and it doesn't appear that the Chinese are stepping up to address the massive piracy which is underway in their enterprises, including the state-owned enterprises which put U.S. companies at a competitive disadvantage.

It seems to me that the Chinese are very clever in how they have moved around. The Chinese audit authority has the ability to track how much money in the China procurement system is being spent. That is helpful, but it doesn't end the piracy. They don't check as to whether or not the software used in their government is legal.

Now, what is the plan? What do we need to do to help you enforce the good words that come out of Beijing? They are nice words. I appreciate them. But we would like to have some help from you about how we can help to enforce that.

STATEMENT OF HONORABLE JIM MCDERMOTT**Ways and Means Hearing on
President Obama's Trade Policy Agenda
Opening Statement of Jim McDermott
February 9, 2011**

The focus of this hearing is on President Obama's trade policy agenda. In my view, the Administration's record over the past two years demonstrates a clear commitment to change the course of trade policy. And when you look back at the last Administration's trade policy, it becomes abundantly clear that there is no other way to move forward on trade policy than by changing it.

Let's recall where we were just a few years ago. As one commentator noted, "the political base for Bush administration trade policy had in fact crumbled well before the 2006 elections."¹ With CAFTA, House Republican leadership and the last administration had to dole out a number of promises, unrelated to the agreement, and to apply considerable pressure to get a favorable vote. One Republican Member reportedly stated that the Republican leadership would "twist some Republican arms until they break in a thousand pieces" to get the votes they needed. The agreement passed the House by just two votes. And a very small FTA with Oman passed by only 16 votes.

Perhaps the clearest example of a stalled trade agenda was the trade agreement with Peru. The United States concluded an agreement with Peru in 2005, but it was never put to a vote in the Republican-controlled 109th Congress.

¹ I.M. (Mac) Destler, Peterson Institute for International Economics, American Trade Politics in 2007: "Building Bipartisan Compromise" (May 2007).

The Peru FTA was able to move forward only after we changed trade policy for the better in 2007 – such as by incorporating meaningful, enforceable labor and environmental obligations in the agreement, and by providing better access to affordable medicines for the poor in Peru. With those changes, the Peru FTA passed the House by a vote of 285 to 132 – and without the “arm twisting” or side deals that were necessary to pass previous agreements.

So let’s not fool ourselves: We can’t move *forward* on the trade agenda by going *backward*. The only way forward is by *addressing* – no longer *ignoring* – legitimate issues and concerns where we find them. And there are very legitimate concerns about the effect that trade, and trade deficits, can have on middle class Americans (which is why I am deeply disappointed that Trade Adjustment Assistance is set to expire at the end of this week). There are also legitimate concerns about violence and impunity against labor leaders in Colombia; about Panama’s status as a tax haven; about one-way trade in Korea’s auto market; and about a meager and unbalanced WTO Doha package.

Fortunately, the last two years demonstrates that Ambassador Kirk and this Administration are actively addressing the outstanding issues. Whereas the last Administration ignored concerns about the auto provisions of the Korea agreement, this Administration fixed that text in December. Whereas the last Administration ignored concerns over violence and impunity in Colombia (and even tried to force the agreement down the throat of Congress before changes had been made), this Administration is actively working to address those complex issues. And whereas the last Administration came close to signing off on a very bad WTO deal, this Administration is insisting on an ambitious and balanced deal.

That is the only realistic way to move forward with U.S. trade policy. I hope we can work on a bipartisan basis, and closely with the Administration, to continue to move forward.

Ambassador KIRK. The issue of piracy and copyrighting of America's intellectual goods and work product is one of our key concerns at USTR. It is a key component of our enforcement efforts, and it is a key part of our dialogue with China.

And I would only add one correction, perhaps, to your introduction of this subject. This issue did come up in President Hu's visit with President Obama. He addressed it directly.

As you know, we recently concluded the Joint Commission on Commerce and Trade, which Secretary Locke and I take the lead, in December. We did get a commitment from the Government of

China to begin to address more rigorously the absence of using legitimate software in their government procurement.

During President Hu's visit, we got two additional important commitments that, one, they are going to provide money for it. The Chinese have said they would do this a number of times, but they didn't give their governments and sub-governments any resources to purchase legitimate software. For the first time, they have committed to do that. And secondly, we did get them to make a commitment to audit that.

But as you know, our engagement with China is important. It is complex. There is a reason that we have regular engagements with China through the JCCT as well as strategic economic dialogue. And we will be as diligent as you say the Chinese are crafty in pressing them to make sure they honor and respect American intellectual property and copyrights because that is an extraordinary opportunity for our industries to grow into that market.

Mr. MCDERMOTT. I would like to also just thank you. I appreciate that. If there are things that we can do, I hope you will let us know because I think this committee would be interested in trying to support the USTR in their enforcement efforts.

We know that the Bush Administration, Peru passed, the free trade agreement, after the agreement made on May 10th by Mr. Rangel and Mr. Levin with the President and the USTR in that Administration.

You are about to table something in Chile, and I hope that you don't weaken the things that were agreed upon in that May 10th agreement that made possible the Peru agreement, particularly the access to medications. I think that is one of the issues that gets slipped under the table. We think of environment and we talk about labor, but sometimes the access to medication provision in there gets lost. I hope that that will be a part of what you table on Monday when you get to Chile.

Chairman CAMP. If you could just respond briefly because time has expired.

Ambassador KIRK. I would say I don't know that we are to that point we are tabling on access. But I would say, for us, the value of our Administration, the May 10th agreement represents a good, sound bipartisan agreement among Democrats and Republicans. And that is certainly something that we are going to reach for in every one of our agreements.

Now, we have the opportunity, from what we have learned over the last 7 years, that there are some areas that weren't addressed, like indigenous innovation and state-owned enterprises. But that is something that we are using as something we are striving for, certainly in something as aspirational as we hope to achieve through the Trans-Pacific Partnership.

Chairman CAMP. All right. Thank you.

The Chairman of the Trade Subcommittee, Mr. Brady, is recognized.

Mr. BRADY. Mr. Chairman, thank you. I would like to ask consent to insert my statement for the record.

Chairman CAMP. Without objection.

[The prepared statement of The Honorable Kevin Brady.]

**Statement For the Record
Trade Subcommittee Chairman Kevin Brady,
Committee on Ways & Means**

Hearing on President Obama's Trade Policy Agenda

February 9, 2011

For the past two years, many of us have been wondering what role trade plays in the Obama Administration's overall economic and foreign policy. While the Administration has been hesitant on the issue, American businesses, farmers, and ranchers are falling behind as other countries move forward without us, costing valuable customers – and jobs. American workers are the most productive in the world, and our goods and services exports are among the most coveted globally. We in government should not stand in the way. We should instead assist by providing a viable framework so Americans can take advantage of these comparative advantages abroad. This requires a forward-looking trade policy that seeks to open new markets and improve market access in existing ones.

Expanding opportunities for U.S. exports and workers is vital to jumpstarting the U.S. economy and promoting vibrant job creation. The three pending trade agreements, which have remained in limbo now for almost four years, require immediate action. The President's leadership on the U.S.-South Korea agreement helped to forge a bipartisan consensus on the auto issues and has brought the agreement closer to completion. Unfortunately, I cannot say the same about the Panama and Colombia agreements. The President and Administration officials have sent mixed messages – some forward-leaning, some back-pedaling. The President should move forward on Panama and Colombia, given the significant benefits these agreements present to American exporters, workers and consumers, and submit the agreements for Congressional consideration within the first six months of this year. Supporting such vehicles of job-creation is vital for the President to reach the goal of the National Export Initiative – to double exports in five years. Promptly moving both of these agreements would also shore up our strategic allies and put to rest efforts from the likes of Hugo Chavez, who capitalize on the lack of U.S. commitment to the region.

The expansion of market access opportunities for U.S. goods and services exports can't stop with these three agreements. The Doha Round of WTO negotiations, for example, has been ongoing since 2001 at a snail's pace. The Bush Administration and now the Obama Administration have faced tough demands from trading partners who are unwilling to put forward sufficiently ambitious proposals on areas that are important to us. We stand firmly in support of the Administration as it steps up pressure on our trading partners to be more ambitious. A multilateral trade agreement should be our highest priority because it could produce the broadest benefits. I urge the President to do

whatever is in his power to reinvigorate the process and bring home a deal that will allow America to sell more easily to the world.

We must also move ahead on new initiatives. Other countries are aggressively seeking new trade agreements, opening up markets, and reaching investment agreements around the world to drive exports. In contrast, we have only one active trade agreement negotiation, which began under the prior Administration, and our investment treaty negotiations are on what seems to be a permanent hiatus. We are falling behind at a time when we must be opening up new markets for new customers for our products and services.

Finally, while we press our trading partners to comply with their trade obligations, we must comply with ours. The most obvious reason, of course, is that we must avoid crippling retaliation like we're facing in the NAFTA trucks dispute. But equally important, we must show leadership by example. We can't credibly ask China to comply with its obligations if we're not complying with ours.

Global economic conditions have caused significant fluctuations in trade flows during and in the aftermath of the global financial crisis. Unacceptably high unemployment in the United States has shaken the faith of many Americans in free markets and trade. But just because our trading partners compete with our goods and services abroad should not persuade us to close our borders. In fact, the opposite is true. Our economy is too integrated globally with complex supply chains for us to survive such a unilateral withdrawal. We cannot stand by and allow our inaction to make us fall further behind. The United States remains the most open market in the world, and we must ensure that markets abroad are similarly open to U.S. exports. The only way to do that is to show leadership on international trade and demonstrate to the world that the United States will follow through on its pending agreements, enforce its rights, and live up to its own obligations.

Mr. BRADY. I want to thank you, Mr. Chairman, for holding this hearing. The way you build bipartisan support for trade is by shining a light on this job-producing issue. And House Republicans, especially this committee, are going to conduct a very aggressive trade agenda, focused on three areas: finding new customers, and opening new markets in a level playing field for American workers and companies; secondly, resisting protectionism, both here and abroad, so that we can tear down barriers for American producers and companies; and thirdly, working both within the United States and with our trading partners to find innovative ways to move goods and services faster, better, and cheaper around this world.

Your presence today, Ambassador, we think is key to those goals, and we look forward to you as a partner in all of those. We will be not just a willing partner but an insistent partner moving forward on trade.

I appreciate, one, your openness and willingness to consult and listen and talk about all of these issues these past 2 years. I congratulate you on successful improvement of the South Korea Free Trade Agreement. I very much applaud the joining of the Trans-Pacific Partnership. I think that is key to both job production, setting a state-of-the-art agreement, and getting us directly into China's back yard in that growing market.

Three points I hope you will take with you today from this committee. One, the time is up for Colombia and Panama. They have not only done all that we have asked, they have gone far beyond

it, signing the original agreement with the United States, a contract with us.

Then they amended it at the direction of Democrat members and Republican members in a bipartisan May 10th agreement. Both agreed to improve labor standards, improve environmental standards, improve intellectual property rights standards, a whole host of demands that have been levied upon them, and they did it.

Then both went beyond that, reaching in Panama to the tax information treaty addressing more labor issues. They have done everything we have asked of them. It is time for Panama.

Colombia has done the same, spending a decade improving their rule of law, their labor rights, creating a peace where there was violence. They too have been waiting to jump, frankly, to meet our demands so that we can be actual trading partners. And I think it is embarrassing that we have not moved forward on them.

And so I hope you will understand, this isn't about—these three trade agreements need to be submitted in the first six months. It is not about embarrassing any party or the White House. It is about making sure America doesn't further embarrass itself by turning its back on our trading partners and our workers in the meantime.

The second point is that Russia, indeed—I think there are tremendous benefits to moving them into a rules-based global system, and I applaud your work in that area. But as a priority, I think it is important to know that there is virtually no chance that a Russia PNTR will be moved ahead of Panama and Colombia.

I think it is critical that those be signed by the President before we take that up. Russia's progress can be measured in months. Panama and Colombia's efforts can be measured in years and years, and they deserve movement now.

Final point. The Administration is looking at reorganization of trade and exporting efforts. I think that is very important. But USTR is unique. It is a very lean, entrepreneurial, nimble agency in an economy worldwide that requires all that.

I am not interested in turning USTR from a cougar into a hippo on trade issues. Stay nimble. You will get great support from all of us.

I would like your comments on those points, and as well on TPP as a job opportunity looking forward. I know you are working hard on that. Can you address any of those issues?

Ambassador KIRK. Yes. And I am aware of the time constraints, Mr. Chairman. Just let me say, Congressman Brady, we very much look forward to working with you and your leadership on the subcommittee.

Being from Houston and understanding the importance of that port, the one thing I would tell you, in TPP, also with our partners in North America, we really are looking at the logistics side of all of these, those non-tariff barriers, to make it easier and cheaper to move those goods around. So that is a big part of what we are doing on that.

I hear your concerns and those of members of both sides on Panama and Colombia. I assure you we are ready to get started. We want to try to get those resolved.

With respect to USTR, I am exceptionally privileged to lead, I think, an agency that provides the best bang for the buck to the American taxpayers. There are only 230 of us. We do an extraordinary service in negotiating agreements, enforcing America's rights. And that does make our work special and we want to keep that.

But at the same time, having been in business, you and I know if you don't examine how you do what you do every three or 4 or 5 years, you are losing ground. So we welcome this review under the President's commission. But we will also make sure that we don't lose what makes USTR special, and our ability to help go out and create jobs with what we do.

Mr. BRADY. As a fellow Texan, thank you very much.

Chairman CAMP. Thank you.

Mr. Nunes is recognized.

Mr. NUNES. Thank you, Mr. Chairman.

Mr. Kirk, welcome to the committee. And here, virtually everyone on this side of the aisle has asked you about specifics as it relates to Colombia and Panama. And we still haven't heard any specifics. The ranking member, Mr. Levin, mentioned that these specifics do exist, although we still don't know what they are.

I did hear you specifically say—you mentioned something when Mr. Johnson was questioning. You mentioned the communities of Pittsburgh, Detroit, and the Carolinas as not benefitting from trade. So I thought that was getting close to specifics.

And I just wondered, how do those communities not benefit from the Colombian or Panama trade agreements?

Ambassador KIRK. Well, first of all, if I said that, I misspoke myself. I think all Americans benefit from trade because, first of all, every family benefits when we make it easier and cheaper to put food on the table to feed your families, when we make it easier to provide the most advanced electronics to help your kids with their education.

But there are communities—and I know you won't find it a surprise—that feel like that our trade policy has not operated to their benefit, that they have been harmed more than they have been helped. And it is a very broad brush. You get west of the Mississippi River and most of the members that I talk to, Democrat or Republican, are wanting me to move forward. You get into the Rust Belt and there is a little more cynicism about it.

And it isn't just that. Our concern is an overwhelming majority of Americans now disagree with the proposition that trade has been good for us. We have to work—

Mr. NUNES. Right. But when it comes specifically to Panama and Colombia, those countries have access into our market and we do not have access into their market. We would under these trade agreements if they were advanced.

Ambassador KIRK. That is correct.

Mr. NUNES. So if that is true, then why don't we—all we want are specifics. I think all Colombia and Panama are asking for is, specifically, what do you want us to do? They have gone beyond the labor chapter in the Andean Trade Preference Act. They have explicitly incorporated the International Labor Organization declaration into this agreement.

So all we want are specifics as to what is the Obama Administration asking Colombia and Panama to do before the President will submit these trade agreements to be approved by the Congress?

Ambassador KIRK. Let me make it plain. There are different elements involved in Panama and Colombia. They are not the same. With respect to Colombia, we are decidedly focusing on the issue of labor rights, the violence against workers. There has been some progress, and obviously some of you are reading from perhaps different hymn books. But I would say there is a fairly strong divergence of thought on this committee, and among a number of our stakeholders, how much Colombia has—the progress they have made in putting in place the necessary changes to their labor law to just provide those basic rights, to organize and such—we are not asking them to mirror our rules here in the United States—and to strengthen their judiciary, and the law enforcement, to bring those that have perpetrated this violence to justice.

Those are the issues that we are trying to focus on. We want to take advantage again of the fact-finding mission of your ranking member. Again, Chairman Baucus is going to go down. We are sending a team. We are going to do everything we can to expedite that, Mr. Nunes, so that we can agree what—

Mr. NUNES. But Mr. Ambassador, aren't these matters outside the confines of the trade agreement that was signed on May 10, 2007?

Ambassador KIRK. Yes. In many cases, they are. But I think they are issues that the American public believe are sacrosanct for us. I mean, again, the reason I gave you that recitation about my experience around the country, part of the American public's frustration, the biggest thing I have heard, is one, nobody else plays by the rules but us. And it wasn't just China. They felt like our trading partners weren't playing by the rules, and we wouldn't stand up and enforce our rights. We have addressed that.

But the other thing is people's concern that we will sign an agreement with anything. If somebody has benefitted, we will sign it, and we don't care how they treat their workers or if it undercuts our workers or creates an unlevel playing field.

And that is why we think it is important to address that, not just to find a way to go forward, but to begin to get Americans' confidence that trade works for us. We can create jobs here, and we aren't creating incentives to just move production to another country that may not respect the rights of those workers.

Mr. NUNES. Well, I know that President Obama is going to go down to South America. He is going to visit Brazil. And I just think before we go on—and I don't have a problem with him going to Brazil; I think it is a positive step.

But with Colombia still sitting out there, and he is going to that hemisphere, and for that trade agreement to be sitting out there, I just don't know what credibility the President will have or the Administration will have when we still have pending trade agreements from 2007 and we are operating outside of the confines of those trade agreements asking for things that, quite frankly, Mr. Ambassador, go outside of all the rules of engagement on making these trade agreements.

And I will submit—I want to thank you, Ambassador, and I will submit, Mr. Chairman, for the record a question on the Mexico trucking issue.

[The information follows The Honorable Devin Nunes:]

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**Questions for the Record from February 9, 2011
Committee on Ways and Means Hearing**

Question from Rep. Devin Nunes

1. Mexican Trucking

Ambassador Kirk, you met with Mexican officials the week of January 10, right after Secretary LaHood released a concept paper as a “starting point” for negotiating a new, “phased” cross-border trucking program with Mexico, to bring the United States back into compliance with its NAFTA obligations. You noted after your meetings in Mexico that negotiations would move ahead promptly and that the program could be in place “as quickly as within the next four to six months.” I have three questions:

- Are you confident that the final terms of the trucking program that you are currently negotiating with the Mexicans will be consistent with our NAFTA obligations, so that we can ensure an end to Mexico’s retaliatory tariffs, which have cost us over \$4 billion already?

- A: **Once a final agreement on the program is reached, Mexico will suspend its retaliatory tariffs in stages beginning with reducing tariffs by 50 percent at the signing of an agreement and will suspend the remaining 50 percent when the first Mexican carrier is granted operating authority under the program. Mexico will terminate all current tariffs once the program is normalized.**

- What timeframe do you now expect for a deal? Are you still on pace to hit your “four to six months” deadline, which means mid-May to mid-July?

- A: **Now that we have reached an agreement with Mexico on a path forward, the next step is for negotiating teams to work on the details. The proposed agreement between the Department of Transportation and Mexico will be available for Congressional briefings and will be published for public comment by late March or early April. We expect the final agreement to be signed in late May or early June.**

- What are you doing to encourage Mexico to lift the retaliatory tariffs now, based on the United States already having made a good-faith proposal for resolving the trucking issue?

- A: **It was important for the United States to seek relief from the retaliatory tariffs that Mexico has imposed on certain U.S. exports. On March 3, the President announced that we reached agreement with Mexico on a series of steps that will lead to the lifting of the tariffs. Once a final agreement on the program is reached, Mexico will suspend its retaliatory tariffs in stages beginning with reducing tariffs by 50 percent at the signing of an agreement and will suspend the remaining 50 percent when the**

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first Mexican carrier is granted operating authority under the program. Mexico will terminate all current tariffs once the program is normalized.

2. New Zealand Dairy Market Access

Ambassador Kirk, as you may recall from our interactions on this issue last year, I am a co-chairman of the Congressional Dairy Farmers Caucus. The American dairy industry is deeply concerned about the impact of expanding U.S.-New Zealand dairy trade. It is working to cultivate many export opportunities and to help to usher in a mindset among producers that trade can be beneficial. But the prospect of expanding dairy trade with a country that's 90 percent dominated by a single company and which exports more dairy products than any other single country has given both dairy farmers and processors throughout this country grave concern. How is USTR working to address those concerns as it goes about its bilateral market access negotiations with New Zealand?"

A: I appreciate hearing your views on market access for New Zealand dairy products in the Trans-Pacific Partnership (TPP) negotiations. We view the TPP initiative as an important element in our efforts to expand U.S. exports to the Asia-Pacific region, including new export opportunities for U.S. dairy products. At the same time, we also recognize the concerns raised by many of our dairy producers with regard to expanding dairy trade with New Zealand. We intend to work closely with our many stakeholders in the agricultural sector and Congress as the negotiating process moves forward. It will be very important for us to continue our dialogue with Congress and our dairy industry on the specific concerns they see and how best to address them.

3. Geographic Indicators

Ambassador Kirk, I am very concerned about the prospect that provisions regarding Geographic Indicators (GI's) in the Free Trade Agreement (FTA) between the European Union (EU) and South Korea will unfairly limit, if not foreclose, opportunities for enhanced market access that may otherwise be provided to the American dairy industry through the enactment of the U.S.-Korea Trade Promotion Agreement. I am appreciative of the efforts you have made to prevent such a result and am hopeful that the situation will be successfully resolved, in part through South Korea's fair and expeditious processing of U.S. dairy trademarks.

Although the lengthy delay in the enactment of U.S.-Korea Trade Promotion Agreement certainly has not helped, it is readily apparent that the EU is aggressively working to improperly use GI provisions to gain an unfair advantage for its dairy products. In addition to the situation in South Korea, I am very concerned that such GI provisions will also be included in other FTAs the European Union is seeking, such as with Colombia, Panama, and Peru. Thus, I am curious to know what efforts the Office of the United States Trade Representative is taking to ensure that the EU is not successful in bilaterally undermining the value of the concessions the U.S. has secured in its FTAs, particularly as they relate to use of EU-driven dairy GI provisions.

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- A:** USTR is committed to continuing its efforts to ensure that the Korea-EU Free Trade Agreement (FTA) does not impair the improved market access for U.S. products, including dairy products, which are provided for in the U.S.-Korea Trade Agreement (KORUS). In addition to commitments to open its markets to U.S. products, Korea also undertook a number of obligations in KORUS regarding the protection of trademarks and geographical indications (GIs). USTR continues to work with Korea to ensure that these commitments are not undermined by the Korea-EU FTA.

More generally, USTR is working intensively, through bilateral and multilateral channels, to advance U.S. market access and intellectual property rights interests, including with respect to U.S. dairy products. These efforts include on-going negotiations at the World Trade Organization and the Trans Pacific Partnership, to expand market access and secure appropriate protection of trademarks and GIs. Additionally, USTR carries out these efforts through its ongoing monitoring of the implementation of other U.S. free trade agreements.

Question from Rep. Pat Tiberi and Rep. Dave Reichert:

1. Exports of Travel and Tourism

One opportunity to increase exports to meet the goals of the National Export Initiative is through travel and tourism, our nation's largest service export. International travelers to the U.S. spend, on average, \$4,000 per visit. Chinese travelers spend an average of \$7,000 per visit.

Unfortunately, one of the most significant barriers is not one imposed by a foreign government, but instead by our own government. Burdensome visa processing procedures and visa interview delays result in the U.S. losing out to destinations such as Europe or Australia. Can you please provide the Committee with an analysis of the impact that U.S. visa processing procedures and visa interview delays are having and could have over the next two years from key travel markets -China, Brazil and India- where demand is outpacing visa processing resources? As you may be aware, the President's Export Council offered recommendations on this very topic at its September 16, 2010 meeting.

Our travel services companies also face barriers abroad. In China, for example, foreign travel and tourism firms are restricted from competing under the same conditions as Chinese firms. The Chinese government places restrictions on foreign-owned enterprises in selling outbound travel packages and airline tickets. And China requires travel agents and airlines to connect into China's nationally owned computer reservation system when booking airline tickets. How will the Administration work to resolve these issues?

- A:** The Administration recognizes the enormous value of the U.S. tourism industry, and the billions of dollars of export revenue that it generates for U.S. companies and workers. We are committed to creating and maintaining an effective and efficient visa process that ensures our country remains open to legitimate travel, while securing America's borders from external threats. In recent years, the Department

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of State has implemented initiatives to improve access to information about U.S. visa requirements and procedures, in addition to measures to reduce wait times for interview and visa processing. The Department of State's Bureau of Consular Affairs can provide further information about these activities, including with respect to specific markets.

The U.S. Administration also understands well the importance of China's travel and tourism market. We continue to press China's National Tourism Administration and China's Ministry of Commerce, including under the auspices of a JCCT Working Group on Travel and Tourism, to liberalize its market for travel and tourism services. Last year, China announced that it will launch a pilot project allowing a certain number of joint ventures to sell outbound travel and we are staying in close touch with the Chinese Government on that issue. We also will continue to engage China regarding its computer reservation services system. During the 2009 JCCT, China's Civil Aviation Administration committed to holding a joint forum addressing the expansion of travel distribution services, including computer reservation system technology. We have since confirmed an agenda and are presently exploring dates for holding the forum later this year.

Questions from Rep. Pascrell:

I. Turkey's Inspection of Pharmaceutical Manufacturers

In April 2009, Turkey implemented a requirement for inspections of pharmaceutical manufacturing facilities exporting to Turkey. This inspection is required before a product can be approved. Turkey does not have the current capacity to conduct these inspections for the hundreds of products in the regulatory queue in a timely manner, meaning product entry could be delayed up to 6 years or more. This policy represents a significant market access barrier for US companies. What is USTR's plan to change the Turkish government's current policy?

- A:** The Administration has brought this problem to the attention of Turkish authorities from the beginning, raising it at both working and cabinet level on multiple occasions. Through the new Framework for Strategic Economic and Commercial Cooperation (FSECC), Ambassador Kirk and Secretary of Commerce Locke have made clear to their Turkish counterparts that Turkish government actions regarding Good Manufacturing Practices (GMPs) certificates for pharmaceuticals have created a very significant barrier to bilateral trade. The Administration has also reached out to Turkish Ministry of Health officials through expert level discussions in order to promote understanding and cooperation between regulators, with the aim of enhancing MOH capacities to carry out future inspections in an effective and above all timely manner. We have also strongly encouraged direct communication between Turkish authorities and U.S. pharmaceutical firms. Senior officials from USTR and a number of U.S. agencies have been firm in noting to the Turks that immediate action is needed. We will continue to pursue this issue in upcoming meetings with Turkish officials, including the next meeting of the FSECC, now envisioned for the fall of 2011.

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2. Russian Protectionist Policies

USTR has made progress in ensuring Russia's compliance with its outstanding bilateral obligations to the U.S., including passage of legislation strengthening IP legislation in Russia as a part of Russia's WTO accession process. However, protectionist policies have increased in Russia in many spheres, including pharmaceuticals. Many aspects of Russia's PhRMA 2020 strategy are clearly protectionist and would violate Russia's pending WTO obligations. Is USTR working with the Russian government to ensure a review and cessation of existing major policies in Russia that would run afoul of WTO requirements?

- A: **USTR leads an interagency team that works with Russia through regular bilateral and multilateral meetings to address WTO requirements as well as to improve Russia's intellectual property rights rules and enforcement efforts. Removing barriers to market access for U.S. exports, including pharmaceuticals, is also a major objective. The National Trade Estimate Report and the Special 301 Report, which are issued at the end of March and April, respectively, lay out concerns that have been expressed and our ongoing efforts to address those concerns.**

3. Copyright Infringement in China

I understand the Committee is going to be working on Customs Reauthorization legislation in the next several months. Every year, Customs reports that the number one source of copyright infringing products is China. What should we be doing to address this problem?

- A: **International trade in counterfeit and pirated goods is a major problem. U.S. Customs data confirm that many IPR-infringing goods seized at U.S. borders originate in China. We engage extensively with China through the JCCT and other mechanisms to press for stronger action on this problem at the source. In addition, USTR is also joining together with other U.S. trading partners to step up cooperation in the effort to fight this illicit trade around the world. For example, last fall, USTR and partner countries representing more than half of global trade finalized the text of the Anti-Counterfeiting Trade Agreement (ACTA). The ACTA is an important new tool to fight the global scourge of counterfeiting and piracy. Moreover, ACTA is only one of many efforts that the Administration is pursuing to address the broader challenges of IPR enforcement. For a fuller description of the Administration's efforts, I would refer you to the *2010 U.S. Intellectual Property Enforcement Coordinator Annual Report on Intellectual Property Enforcement*, transmitted in February 2011, which describes the ongoing implementation of the Administration's Joint Strategic Plan on Intellectual Property Enforcement.**

4. Chinese Software Piracy

The piracy rate for software in China has remained constant for the last five years—hovering around 80 percent for the industry, and worse for some companies. While I am encouraged by commitments China has made to address the problem at the JCCT and President Hu's recent state visit, the proof is in the pudding. It seems that there needs to be a metric that

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ensures a substantial increase in software sales over the next three years. I also believe that increasing sales of legitimate software in China can be an important contributor to the President's National Export Initiative goal of doubling our exports in five years. What is your plan for ensuring China lives up to its recent commitments?

A: We continue to engage China at all levels to address software piracy. I agree that this is a major problem; in fact, it was raised by the President during the recent State visit by President Hu Jintao. During that visit and the preceding meetings of the Joint Commission on Commerce and Trade (JCCT), China took new steps on software piracy by committing to allocate budget funding for legal software purchases by government agencies, as well as making a commitment to audit the use of the legal software and publish the results of those audits. Furthermore, China said it would promote the use of licensed software in private companies and in state owned enterprises through software asset management programs. We are encouraging China to make additional efforts in the context of the "Special Campaign against counterfeiting and piracy" that was launched by the State Council in October.

While we must see how these steps work out in practice, and much more work remains to be done, China's recent commitments mark a significant opportunity for genuine progress on this difficult issue. As always, we will monitor progress on these issues to make sure that China is following through on its commitments, using such tools as the JCCT IPR working group, and other opportunities. We expect to see concrete and measurable results, including indications of a more robust market for legal software. We also look forward to studying the results of the forthcoming ITC study on the quantitative effects of IPR infringement and "indigenous innovation" policies in China.

Questions from Rep. Dave Reichert:

1. U.S.-Korea Trade Promotion Agreement

Chapter 18 of the U.S.-Korea Trade Promotion Agreement contains provisions that South Korea, like the United States and other trade agreement partners, will ensure that its central government agencies are not using infringing computer software and other materials protected by copyright. These are important provisions and all governments need to ensure that they are using legitimate software. What is the status of South Korea's implementation of these provisions? Has South Korea started the necessary budget process to address this situation? I understand that for some important ministries in the central government there still was substantial work to do to ensure compliance.

A: As you note, the KORUS Agreement has important substantive provisions to ensure Korean government agencies are not infringing computer software and other

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copyrighted material. We will ensure that these provisions are adequately and effectively implemented.

2. TPP Intellectual Property Rights Standards

At the last meeting of the President's Export Council in December, I worked with Disney CEO Bob Iger and other Council members on a letter of recommendation that the Council adopted concerning the need to protect intellectual property rights. One of the letter's recommendations was to seek the highest level of protection for IP in our bilateral and multilateral trade agreements, including the Trans Pacific Partnership trade agreement. At the meeting, you correctly noted that: "The beauty of... [the TPP] is [that], for the first time, we're starting with a blank sheet of paper and at least our intent is to be as aspirational as we can in this agreement that we hope will ultimately become the free trade agreement of the entire Asia-Pacific. All of you know the importance of that region... The IPR protections within that will be critically important." Can you assure me that the Administration is proceeding with that goal in mind, and that we can expect the United States to push for an IP Chapter that builds on the high standards of the U.S.-Korea Trade Promotion Agreement?

A: Our goal in TPP is to achieve standards of IP protection and enforcement that are in line with the benchmarks set in previous U.S. FTAs in the Asia-Pacific region. To date, the United States has put forward proposed text covering many aspects of copyrights, trademarks, patents, and enforcement that would achieve this goal. We have not yet tabled text on some IP issues where we are still developing positions, such as provisions relating to pharmaceutical IP protection, and provisions relating to copyright exceptions. We will be working with Congress and stakeholders to ensure that U.S. proposals strike the appropriate balance on those issues.

3. Substandard Copies of Medicines

Ambassador Kirk, given your Administration's support for strong IP protections in the U.S.-Korea Trade Promotion Agreement, would you support an initiative to address the concerns associated with the proliferation of substandard copies of medicines (not legitimate generics or counterfeit drugs) in global supply chains for developing world markets? Does your Administration currently have such an initiative? If not, please share your ideas on how to address this growing issue of concern.

A: The manufacture and distribution of pharmaceutical products bearing counterfeit trademarks is one dimension of the larger problem of substandard medicines and is a growing problem that has important consequences for consumer health and safety. USTR works with other relevant agencies in the U.S. government to ensure that we are attacking this problem holistically, including through encouraging adequate and effective IPR enforcement. We have noted, in the Special 301 Report for instance, our particular concern with the proliferation of the manufacture, sale, and distribution of counterfeit pharmaceuticals in countries such as Brazil, China,

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India, Indonesia, and Russia. USTR, along with other relevant U.S. government agencies will continue to work to address all aspects of this serious problem.

Questions from Rep. Adrian Smith:

1. U.S. Compliance with Trade Obligations

Representing one of the largest agriculture districts in the country, I am committed to removing obstacles for U.S. exports. One of the greatest frustrations I hear from agriculture producers in my district comes from the unfounded and unscientific sanitary and phytosanitary barriers imposed by our trading partners. American agricultural and food products are routinely targeted by unjustified restrictions from other countries. It is our obligation, however, to ensure the U.S. leads by example and upholds the rules-based system. With this in mind, please explain what the Administration and specifically USTR is doing to ensure U.S. compliance with our trade obligations, so agriculture producers are not targeted for retaliation?

- A: Sanitary and phytosanitary (SPS) issues are some of the most important trade related issues that we deal with at the Office of the United States Trade Representative (USTR). While many countries continue to eliminate barriers to U.S. agricultural exports, some countries continue to insist on imposing unjustified restrictions in the name of food safety or the health of animals or plants. USTR is working diligently to address these issues with our trading partners through a variety of bilateral and multilateral forums and relations in close connection with other agencies, our embassies abroad, and industry stakeholders. In 2010, USTR also published its first Report on Sanitary and Phytosanitary Measures (SPS Report). This report is dedicated to describing significant SPS trade barriers that are a priority of the Administration, and USTR will publish the second version at the end of this month.**

2. Science-Based Standards

It is critical for the U.S. government to work closely with our trading partners to eliminate non-tariff trade barriers which could keep U.S. farmers from meeting growing worldwide demand. Using less land to grow more food and fiber is an enormous challenge which will be met only if we encourage advancements in technology and farming practices.

As you know, USTR, along with the U.S. Department of Agriculture, the U.S. Department of State and other U.S. agencies, has a long history of advancing science-based regulatory systems around the world. Looking forward, can you reaffirm the Administration's commitment to working with our trading partners toward developing science-based regulatory systems for new agricultural products?

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- A:** The Administration is committed to promoting the development and implementation of science-based regulations by our trading partners for all agricultural products. Specifically on the food safety front, the TPP Sanitary and Phytosanitary (SPS) negotiations provide the United States with a real opportunity to resolve specific trade concerns, affirm our international obligations, and to advance the use of safer pesticides and new technologies to protect public health and the environment.

3. Regulatory Coherence

In addition, please describe what additional steps USTR can take -- either in bilateral or in multilateral negotiations such as the Trans Pacific Partnership -- to promote regulatory coherence so farmers can continue to compete in critical markets around the world?

- A:** U.S. trade and regulatory agencies are working together to draft a series of specific SPS-related proposals to enhance food safety, animal and plant health in every TPP country. Proposals could include joint initiatives on pathogen reduction treatments, joint research and data sharing between TPP partners as they establish their pesticide maximum residue levels, and promoting the use of new technologies in agriculture, such as biotechnology and nanotechnology, to promote a safe, wholesome and abundant food supply.

In addition, we will be working with Vietnam and some of the other TPP partners as they begin to implement their new food safety legislative mandates and regulations. Our goal is simple: we want to work together to address their legitimate food safety concerns and expand markets for safe and wholesome food from the United States.

Question from Rep. Diane Black:

1. Colombia and Panama Trade Promotion Agreements

In the President's speech to the U.S. Chamber, he demonstrated yet again that his Administration is making slow progress on advancing the U.S.-Colombia and U.S.-Panama trade agreements. Yet the President's speech reiterates the President's confusing declaration in his State of the Union address to Congress several weeks ago: that he is "pursuing" agreements.

Enacting these vital agreements with Colombia and Panama would create American jobs and lower consumer prices, helping the economy to grow and providing a no-cost stimulus that would actually work. Passing all three agreements in the next six months has the potential to increase U.S. GDP by \$10 billion and create jobs in the U.S.

While the President delays, American farmers and other U.S. exporters are falling behind because other countries' trade agreements with Colombia and Panama give their exporters a competitive advantage. For example, since 2007, the European Union, Canada, Brazil, and

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other countries have implemented, or will soon implement, trade agreements with Colombia – and, as a result, the U.S. share of key agricultural exports to Colombia has fallen from 71 percent in 2008 to 27 percent in the first ten months of 2010 heavily affecting my farmers. Even the President himself states that such an increase in U.S. exports could create 250,000 jobs.

Actions are more important than words. The President has offered no concrete plans for consideration of these two vital agreements. The Administration needs to lay out a roadmap for success, and the President's speech was a lost opportunity to do so. What is the roadmap going forward with the FTAs? What are the benchmarks being set to advance the FTAs?

A: As I stated during my testimony before the Senate Finance Committee on March 9, central to our trade agenda is the movement of pending free trade agreements to Congress as they become ready. On March 7th, we informed your committee that we are prepared to begin collaborative work on the text of the implementing bill for the U.S.-Korea trade agreement as soon as you are ready to do so. It is time to realize this agreement's promise of more than \$10 billion in increased goods exports and more than 70,000 American jobs.

We are seeking the same widespread support that the Korea agreement enjoys for agreements with Colombia and Panama. Our goal is to have all three agreements, with their outstanding issues addressed, approved by Congress.

On February 9th, I testified before you and other members of the House Ways and Means Committee that President Obama had directed me to intensify engagement with Colombia and Panama to resolve the outstanding issues as quickly as possible this year and submit them to Congress immediately thereafter.

The next day, on February 10th, I met with the Vice President of Panama. Our teams have met subsequently and agreed upon actions that, when taken by Panama, will ready that agreement for Congressional consideration.

On February 11th, Administration officials began consultations on Colombia with key stakeholders and members of Congress, including House and Senate leadership. On February 15th, USTR led an interagency mission comprised of the State Department, Labor Department and White House officials to Colombia. We have since met multiple times with stakeholders, Members of Congress, and your staffs to review these findings and assess next steps.

I announced before the Senate Finance Committee on March 9th that on March 10th senior Santos Administration officials would meet with USTR to engage further on our shared goals to protect labor rights and workers. We are working with the Colombian government to resolve serious outstanding issues regarding the protection of internationally-recognized labor rights, violence against labor leaders,

and the prosecution of perpetrators so that we can advance the agreement for your consideration.

Chairman CAMP. All right. Thank you. Mr. McDermott is recognized.

Mr. MCDERMOTT. Thank you, Mr. Chairman. Thank you, Mr. Stark, for giving me another 5 minutes.

I would like to go on with the question of China. In Section 301, the green technologies issue, there was a letter from us, 178 Democrats and three Republicans, asking you to look into what was

going on there in terms of their green technology and wind turbines.

It is my understanding you have decided to find a case on the wind turbine issue, and we are very much pleased by all of that. You said, in doing that, that you lack the tools and the resources to uncover all the evidence within the statutory time frame.

Tell us what you need to make it possible for you to do this in other areas and in a more timely fashion because we want to work hand-in-glove with you to make these things work for our workers, for our economy.

Ambassador KIRK. Well, first of all—and we do appreciate your letter, and as you know, a 301 petition was filed last fall regarding China's industrial policies in a number of the energy areas. There were five different complaints alleged.

The good news is we were able to successfully resolve the overwhelming majority of those by directly engaging and confronting China through our office at USTR, but also through JCCT. We did initiate consultations through the World Trade Organization on China's, we think, illegal subsidy of projects in the wind area. We are beginning consultations there.

I want to be careful in this environment in which I know at the same time this committee is meeting, your budget committee is meeting. And you are in a horribly constrained environment. And we are asking American families to tighten their belt and make decisions, and I know it is too easy sometimes for all of us to just come and say, give us more resources.

Now, having said that, we have a very strong team at USTR, but we are not all lawyers. That 223 employees is everybody, from top to bottom. And if we are going to have the robust enforcement that we have committed ourselves and engaged on, one of the things we are going to be looking, perhaps, through this organization is how we can strengthen our resources there because we have great legal talent that understands the law and can prosecute cases.

We are woefully short, frankly, on the investigative side, so in many cases, we have to rely on the resources of other agencies. Something as simple as when we take on a case with China—in the tires case that Congressman Levin mentioned, we exhausted our translation budget in three months on one case with China because of the amount of money we had to spend on translators.

But we are working with other agencies to see if we can't address that, and we will be happy to come back and visit with the committee on ways that will add the resources to make sure that we can stand up for our rights and America's workers.

Mr. MCDERMOTT. Can I ask further? We have talked a little about the Korean Free Trade Agreement, and I would like to hear from you what you think the positives impacts were. We are arguing or fussing about the timeline and when will it be up here and all that. When it happens, give us an idea what you anticipate will be the positive impacts on the economy.

I understand you estimate \$10 billion as opposed to \$1 billion in Colombia, so it seems like a much bigger deal. But where is that going to happen in the economy?

Ambassador KIRK. Well, first I want—and I do appreciate that. The \$10 billion number is one that the ITC estimates. We don't do

the economic estimates. They take that away from us. We think that is a fairly conservative number because the way we capture trade data right now is much more heavily weighted to manufactured and exported goods. It is not as precise as it relates to services.

We talked a lot about what this will do to level the playing field in the automotive sector. But this is going to be very good for all American manufacturers because we are going to see a reduction in those tariffs immediately, the elimination of most of them in the first 5 years, and 80 percent of our exports to Korea are in the manufactured goods sector.

For those of you from farm states, this is a great win for us. Our beef exports are up 187 percent. We are now exporting almost \$500 million worth of beef in Korea. The tariffs on those are going to come down immediately. It is also going to help grains and soybeans and others, so those sectors are going to benefit as well.

Where we really see an opportunity for us to gain market access is in Korea's service market. It is a \$560 billion market that we for the most part have had very little penetration. For the first time, we are going to have access to that.

So we think the \$10 billion number is compelling. The 70,000 jobs, we actually believe that is a fairly conservative number. The other important thing, it gives us a foothold, again, in one of the most economically dynamic regions in Southeast Asia and strengthens what is already a very strong strategic partnership between the United States and South Korea.

Chairman CAMP. Alright. Thank you.

Mr. Tiberi is recognized.

Mr. TIBERI. Thank you, Chairman. Thank you, Ambassador, for your leadership, and thank you for being here today. As you may remember, I am from Ohio, one of those Rust Belt states that you talked about. I know you have an Ohio connection as well.

A quick question: The President has talked about doubling exports. Can we do that without passing any additional trade agreements?

Ambassador KIRK. It would be difficult. And again, one of our passions for getting Korea and the others right, Mr. Tiberi, is to do that. Now—

Mr. TIBERI. Thank you.

Ambassador KIRK. I would tell you, to this point our exports are running at about 17 percent per annum clip, which is above the 15 percent needed. But certainly if we can get not only Korea but Panama and Colombia and Trans-Pacific Partnership done, it will make that goal much more—

Mr. TIBERI. And increasing exports means increasing jobs, growing the economy. Correct?

Ambassador KIRK. Yes, sir.

Mr. TIBERI. You talked about cynicism, and you were absolutely right on. In my state, in my district, there is a ton of cynicism with respect to trade, and there is a disconnect between trade and exporting. And I appreciate your leadership. It has been absolutely fantastic.

However, there is a farmer in this room from my district. His name is John Davis. And he is cynical as well with respect to Washington, D.C., and here is why.

If you sat at his farm home in the fall of 2008 during the election, you would have seen a Candidate Obama talk about repealing NAFTA, how CAFTA was bad, how trade has cost jobs. If you would have sat in his farmhouse during the last election in 2010, you would have seen more money than I have ever seen spent in Central Ohio, as well as in the Cleveland market, in the Cincinnati market, about how trade has cost hundreds of thousands of jobs in our state. Trade is the big bogeyman with respect to how Ohio's economy has suffered.

And so if you are John Davis sitting in this room and you want to hear about cynicism, how do we stop that cynicism when every 2 years in an election we have people running for office making trade the bogeyman? Nobody, nobody, understands that you are going to—in my state, at least, other than people who work this every day who you talk to who maybe run companies or farm like John Davis, that we could, for instance, with Panama, by passing Panama, we can double agriculture exports from the United States, which means, again, more healthy farmers.

But that is the minority. It is not the majority of Ohioans because all they see coming from leaders, like President Obama when he was campaigning in 2008, that trade costs jobs. That puts a tremendous amount of pressure on you and on me and everybody else up here when we try to tell them, no. Exporting and trade actually is going to grow our economy.

And I think the President is disadvantaged when now he says, we are going to grow the economy by exporting—and, by the way, not talking about trade agreements—because he is one of many who has said trade has cost us hundreds of thousands of jobs.

As you know, Canada is Ohio's largest trading partner and has created a ton of jobs in Ohio. And Canada is a great ally, not just a great trading partner. So how do you, as the point person, who has been dealt a very difficult hand and has handled it very professionally, help bridge that disconnect with the American people and the people in the Rust Belt that no, trade is good, trade can be very good, trade can actually grow our economy, exports mean trade, and it can actually create more jobs in America and create a better America for all of us and our kids?

Ambassador KIRK. Well, you heard Mr. Brady talk about my work as a mayor, and I always tried to govern myself with one principle, that the truth is always an option. And unfortunately, I don't know that either one of your statements is wrong.

And one thing we are doing is going to place like Cleveland, and going to Detroit, not just going to Dallas and Washington and others, and talking truthfully about what the promise of trade is. But it also means then that we have to have a less tin ear to those that say we need help.

So one of the things you do—and I agree; I think it was Congressman McDermott—we do need to pass trade adjustment assistance. And we need to enforce our rights as we did in the tires case. And then we can get people to sit and listen. We can make the case and help them understand trade can help create jobs in Ohio.

Mr. TIBERI. Well, Ambassador, I hope that your leadership—
Ambassador KIRK. Obviously, Rob Portman made a good case of it because he—

Mr. TIBERI. Yes. Well, I hope you use your leadership to help us get Colombia and Panama across the line as well because if we are indeed going to double our exports in the next several years, it is critical that we pass Colombia and pass Panama in the very near future.

Ambassador KIRK. Yes.

Mr. TIBERI. Thank you. I yield back.

Chairman CAMP. Thank you.

Mr. Davis is recognized.

Mr. DAVIS. Thank you, Mr. Chairman.

Ambassador Kirk, before asking my question, I would like to comment briefly on the Japan Post insurance issue, which I know you are aware of, which is a matter of serious concern to many of us on the Committee.

Members of both parties are watching closely to see how the Japan Post privatization is handled. This issue is very important to U.S. insurance companies. I know you have worked hard to encourage Japan to reform Japan Post in a manner consistent with its WTO obligations, and I am concerned that the privatization efforts to date may not fully be in compliance with its commitments as a member of the WTO.

Mr. Ambassador, we support your efforts and those of your predecessors and hope that you can achieve a successful resolution to this issue soon. I will be submitting a question for the record pertaining to this important issue.

But for my question today, I would like to come back a little bit closer to home, to some of the agreements that have already been touched on. I would like to hear your thoughts on the geopolitical or geostrategic aspects of two of our pending free trade agreements, Panama and Colombia.

They are key U.S. allies in Central and South America where Venezuela's anti-American president, Hugo Chavez, seeks to undermine U.S. interests and dominate the political landscape. Panama and Colombia are also key links in the north-south inter-American drug trade. By not implementing these agreements, we are allowing some in Latin America to question our commitment to the region.

I am not alone in this belief. In May 2008, five former heads of the United States Southern Command wrote an open letter to Congress strongly urging support for the Colombia Free Trade Agreement. In light of the significant U.S. strategic interests in the region, I am concerned that the failure to move these agreements could precipitate a setback for U.S. influence in the region.

Do you share these concerns? And if you do, would you mind elaborating on them for a moment?

Ambassador KIRK. Well, let me say that we have examined our relationship in Latin America from every standpoint. Now, I am always—I try to be guided by the reality that the only reason the Office of U.S. Trade Representative exists is because Congress mandated that there be someone that looked at these purely from sort

of a commercial standpoint, not a strategic one. That is why we are no longer housed in the State Department.

Having said that, we fully understand the strategic importance of our relationship with Colombia. We applaud the work of both the Uribe administration and now the Santos administration in working with us on the drug interdiction areas. But that is why I think it is that much more important that we are willing to try to find bipartisan compromise to move forward on these agreements that stalled in May 2008.

In Panama, everywhere I have gone from the Port of Baltimore to the Port of Orlando is getting ready and building infrastructure here to take advantage of the widening of the Panama Canal and the impact it can have on our port facilities here to handle greater transshipment of goods back and forth.

So yes, we have examined all of those elements of the benefits of that. And I think it just creates a great imperative for us to come together on this other issue so we can allow these agreements to move forward.

Mr. DAVIS. I guess I would like to go to a deeper level on it. The concern that I have—and I appreciate, as Mr. Tiberi noted, you have been dealt a difficult hand in dealing with this. You understand firsthand the issues of the benefits of trade.

But when we talk about raising the issues of the ILO standards, we talk about various perspectives, out of concern for the Colombians, let alone the Panamanians, we have had their militaries come and plead with us, militaries across Central America and the Colombians, to bring these agreements about because of their internal security issues.

And labor leaders in Colombia have come and pleaded to have us bring this forth. And those would have are strong organized labor advocates in the Democratic caucus have chosen to ignore the very voices that they say they are trying to help.

And I guess my concern is, considering that Colombia is more in compliance, as I understand it, with these ILO guidelines than we are, don't you think that this rhetoric is a little bit—not yours—but a little bit dissonant? That we need to actually agree that this needs to move forward? It needs to move forward urgently both for economic and national security concerns?

Ambassador KIRK. Well, we want to address all of the outstanding concerns. I am not going to comment on your interpretation of the Democratic members of this committee's understanding of those ILO commitments.

And I would say—and I appreciate Mr. Tiberi's concerns. But I enjoy the work that I have, and I think the President has demonstrated great courage and leadership in articulating to the American public how we can win, but we can win by having trade agreements that fairly reflect our values, that open up markets, that are enforceable. And if we can work in a manner to get those done, then I think we will get to a place that we are not having this conversation next year.

But the longer we want to sit and try to decide which party is to blame for not moving it forward, that is how you end up with these agreements being stalled for 4 years. And so I think it is time

to look. Let's find common ground. Let's stop pointing fingers at one another and figure out a way to move these forward.

Chairman CAMP. Thank you. Before I recognize Mr. Lewis for 5 minutes, after Mr. Lewis we will go to 3 minutes of questioning. I know the Ambassador has to leave at 12:30, and I want to give everybody an opportunity to ask a question of you.

So with that, I will recognize Mr. Lewis for 5 minutes.

Mr. LEWIS. Thank you very much, Mr. Chairman. Mr. Ambassador, I want to thank you for being here today, and thank you for your service.

We have heard a great deal about delay. Wait. Is it better to rush and get an agreement, or to wait and get it right? Now, Mr. Ambassador, you know I am very concerned about the issue of human rights, workers' rights, environmental issues. Some of these concerns and issues are long-seated problems in Colombia.

You know, it is all right to talk the talk, but sometimes we need people to walk the walk. And I am not sure that the leaders, even the new leaders, are prepared to walk the walk. There are too many killings, too many violations of human rights, too many people disappearing.

And as you said, and I agree with you, our trade agreements, our trade policies, should reflect our core values. Could you just elaborate? What are you going to do to see that the people in Colombia do the right thing? As someone said before, the time is always right to do right, and if we don't stand for something, we will fall for anything.

Ambassador KIRK. Congressman, thank you for your question. Thank you for your service. You are a hero to so many of us who value and respect human rights, and we appreciate your advocacy and leadership on that.

I will say what I have said to others. We think that there has to be a way for us to respect the sense of urgency that America take advantage of these opportunities to conclude these free trade agreements so we can say to that farmer, here is an opportunity for you to grow your business. We can say to our manufacturers.

But we have to keep faith with the American people that want us to have a trade policy that reflects those values. And so, again, my simple answer is we believe we have to be responsive to both, and we can do so.

I know you have spent years studying and devoted to the issue of human rights, labor rights in Colombia. I would tell you we are greatly encouraged with not only the rhetoric but the actions we have seen of the Santos administration, and that is part of what is driving the President to encourage us to intensify our negotiations.

I know for some there is still an unacceptable level of violence. But we do believe, not only under the current Administration but under previous Administrations, Colombia has made great strides. We think we can build on that and work with the new Administration, work with those of you on the committee on both sides, and come up with the path forward that allows us to address their sense of urgency but your concerns about making sure we do so in a manner that takes care and respects the rights of those workers.

Mr. LEWIS. Thank you very much, Mr. Ambassador. Mr. Chairman, I didn't take my 5 minutes. I think I took about three.

Chairman CAMP. All right. Thank you.

Mr. Reichert is recognized for 3 minutes.

Mr. REICHERT. Thank you, Mr. Chairman.

Welcome, Mr. Ambassador. I have enjoyed working with you, and you do enjoy your job, I have noticed that, although it is a tough one.

The bottom line is that we want to sell American, and that is really the message. And I think you are delivering that message loud and clear. I am pleased to be a part of the Export Council initiative with Mr. Tiberi and yourself and Secretary Locke. And the goal, as I understand it, so far in the two meetings we have had is to create two million jobs by doubling exports.

As I have said in some previous trade hearings, we haven't done that, doubled exports, since 1995, between the period of 1995 through 2007, and during that period of time, we passed nine trade agreements.

So one of the first questions I was going to ask is whether or not you thought that passing the Korean Free Trade Agreement, or not passing, would impact the doubling exports initiative. And your answer was, it would be difficult.

So I also want to say that I really appreciate your recognizing right up front Washington State's issues as far as Canada attracting new customers into their ports and not into the Port of Seattle and Port of Tacoma when we first visited, and the importance of Korea to Washington State, as Korea is its fourth largest trading partner.

So what will be the impact of further delays in passing the Korean agreement through Congress? What do you think they might have on meeting that the Export Initiative's goals? And do you believe, as I and many colleagues on both sides of the aisle do, that we will lose hundreds of thousands of American jobs if the E.U. implements its agreement with Korea before we pass ours? And connected with that, we know that China has already increased its exports—or imports to Colombia by over 200 percent. We are losing market share.

If that is true, we are going to lose thousands of jobs with these two things happening. Doesn't the same hold true with Colombia and Panama?

Ambassador KIRK. Yes. First of all, Congressman, thank you for hosting us during the road show with the ASEAN ministers when we were in Washington. Thanks for working with us on the Export Council.

And in the interest of time, the answer to all your questions is yes. I would add one thing, briefly. When we look at Korea, we tend to look at the 70,000 jobs. It is important to note 4 years ago we were the number one exporter in the Korean market. Today we are number four and sinking fast.

So there are two ways to look at this. You can look at this and say, we pass it, we have the opportunity to reap the benefit of those 70,000 jobs. If we don't pass the Korea Free Trade Agreement, we put at risk 270,000 jobs that are now tied to all that we export to Korea.

And I would say to those of you concerned about Panama and Colombia, I think it is a bit easy to look at Korea because it is \$10 billion. From our Administration—I can certainly speak for me—every job is important. So whether Panama is a billion-dollar market or Colombia is a \$2 billion market, they represent opportunities for some small business. And that is why I think it is important we find a way to bridge our differences to move forward on those as well.

Chairman CAMP. Alright. Thank you.

Dr. Boustany is recognized.

Mr. BOUSTANY. Thank you, Mr. Chairman. Ambassador Kirk, I am glad we finally have you in front of our committee, and so welcome.

Look, I appreciate the work done on the South Korean Free Trade Agreement. I know it is going to help workers. It is going to help us grow jobs and business. But I can't pass up this opportunity to say that rice, which is very important to my state in Louisiana, was excluded.

We know no trade agreement is perfect. But I do believe procrastination really hurts us from a standpoint of prestige, credibility, and leverage. So it is time to move forward on this agreement.

By contrast, if we look at Colombia, our commodities, including rice, are included in this agreement, and we have seen amazing statistics whereby U.S. exports of commodities have plummeted just over the past year or two because we have not moved forward and other countries are moving forward with Colombia and free trade agreements.

So I hope that we will get to the point where we stop hurting our farmers and rural communities and get moving on these because it is going to help us export our commodities going forward.

I want to raise an issue. You and the President have talked extensively over the past 2 years about enforcement as a very important part of your trade policy. I have a mid-sized Louisiana company that cannot get payments on nearly \$3.7 million in business with China, products that they sold to China.

I believe having a robust bilateral investment treaty with China is imperative. Other countries are doing this. If we are going to regain a competitive footing and help especially small and mid-sized firms, as the President has expressed interest in doing, we need a robust dispute settlement mechanism to handle this. And I think we are falling behind.

So what is the delay on the part of the Administration in moving forward in getting a bilateral investment treaty specifically with China?

Ambassador KIRK. Well, first of all, Congressman, thank you for your comments about agriculture. And parenthetically, I will tell you this year America's exports were up dramatically, almost \$106 billion, according to USDA. They are forecasting that 2011 could be our highest year ever. We may reach as high as \$114 billion, and that is extremely important to all of America's farmers and their workers and families. And we will be looking to try to address some of your concerns about rice within TPP and others.

With respect to enforcement, we are trying to do two things with China. We are seeking a BIT with China. It would be helpful. We have had four negotiating rounds thus far. We are moving on parallel tracks because, one, we had already begun a process to review our BIT model because we believed it needed updating; it hadn't been revised in almost 10 years.

We are hopefully at the very end stages of that. We have had extensive consultations with our committees of jurisdiction, the business community, and there are only just a couple of issues that remain to be resolved. But we are going to try to get that work concluded as soon as possible as well, and then we can go forward, not only with hopefully concluding our BIT with China, but with India as well.

Mr. BOUSTANY. Thank you.

Chairman CAMP. Thank you. The chair recognizes Mr. Neal.

Mr. NEAL. To you, Mr. Chairman.

Mr. Ambassador, I want to weigh in, as Mr. Davis did, on the issue of Japan Post. It is a very important issue to my constituency, and we have gone back and forth on that with USTR over a number of years. And I hope that you are going to continue to vigorously pursue that issue in terms of reform.

Let me just, if I can, Mr. Ambassador, take us to an issue that I think is important here. Our friends on the other side suggested repeatedly that there have been these delays that we have constructed into these FTAs. In many ways, the easiest bilateral was Panama, and the problem was the complication that was offered by the assembly speaker, who murdered, I believe, an American soldier, who was alleged to have murdered an American soldier.

The Bush Administration correctly pulled back on that bilateral because of that human rights violation. So we can't say that we are going to, as Mr. Lewis pointed out, dismiss certain bad behavior with human rights if it is a Republican president, and then insist that human rights ought not to be a consideration if it is a Democratic president. And I think that is the point that Mr. Lewis and I were trying to shop with you.

But could you give us an update on where we are with the Panama bilateral, and what has happened with domestic politics there that might ensure an easier path to completion?

Ambassador KIRK. I will try to. And thank you for your comment. You are correct in noting that one of the reasons Panama stalled was the complication of I think it was the head of their assembly that had been convicted in a court in Florida, in fact, of murdering a U.S. soldier. And the Bush Administration wisely said, we aren't going to do business with you.

After that person was removed from office, we began to engage Panama on ways we could address the outstanding issues we had presented to them. Then we had the intervening complications of the OECD designated Panama as a tax haven.

And we were engaged with the previous Administration, and we met with them in the Summit of the Americas. Mr. McDermott, in fact, was there, and others. And that Administration told us, frankly, if you are telling us that we are going to have to put in place a tax information exchange agreement, we are not sure that we want this deal.

But the bottom line is we were able to progress beyond that. We have a new Administration in place. They do value this relationship as we do. We have made great progress on a number of the issues on labor. They have been working with Treasury to address the tax issues.

I do understand they have initialed the tax information exchange agreement. There is some legislation that needs to be passed to address a corollary issue relating to bearer shares. But frankly, we are making very good progress with Panama, and we will be working with them on the coming months to see if we can't address those outstanding issues.

Mr. NEAL. Well, thank you, Mr. Ambassador. The point that I think that also needs to be raised, that this committee's history, certainly in the 22 years that I have been a member, has been largely bipartisan. I think that as we try to find a path forward on these issues with these bilaterals that are hanging out there, we really want to ensure that the language that is offered here makes certain that going forward would be a bipartisan undertaking. Thank you.

Mr. BRADY. [Presiding.] Thank you.

The chair recognizes Mr. Heller.

Mr. HELLER. Thank you, Mr. Chairman. And Ambassador, thank you for being here. Appreciate your spending some time and effort and energy in this committee with us.

From a state that is struggling, Mr. Ambassador [sic], with almost 15 percent unemployment, we talk about these free trade agreements and their impact and what they would mean to a state like Nevada. Clearly they are incredibly important. In fact, trade, as you probably well know, has certainly helped Nevada.

Since its inception in 1864 to the year 2000, we went obviously from zero trade to \$1.5 billion. But then from year 2000 to the year 2008, it went from a billion and a half to almost 6.2 billion, an increase of 266 percent in just 9 years.

Now, the President has challenged all of us to double exports in the next 5 years. I would argue that Nevada has already done this. From 2004 to 2008, our exports jumped 110 percent. And we did this by taking valuing of fast-developing markets, helping Nevada companies access these markets such as China.

In 2000, China was Nevada's 24th largest export market. In 2008, it was our third largest. Similar examples with India, from 28th in 2000 to 17th, or Brazil from 26th to 20th. So trade has always been very, very important for a state like Nevada, and clearly, as we move forward with this economy, trade is going to play a big part in picking this state up.

Mr. Boustany talks about rice, and rice is important in Louisiana. And mining is very important in Nevada. And I would like to share a real story. We have some miners here in the building, and some of their concerns are with pending free trade agreements.

For example, in Panama, their concern is that they have taken a lead based on encouragement from the government that there will soon be a free trade agreement; but in their efforts to mine and do the research and development which they are doing, what they are finding is that the corruption in the government in Panama

right now is making it very, very difficult for them to make a profit even though the ore, the mineral they are able to find, has been very good.

And a lot of these international or national mining companies, of course, come out of the State of Nevada. And sharing their concern with me, I guess I will put it in your lap. How would you address this?

I mean, they pay the licensing. They pay the fees. But then they pay the fines. They have a corrupt government that they have to make under-the-table payments, and it is making it very, very difficult for them, obviously, and their shareholders to produce or to make a profit.

How would you respond to that, and in light of perhaps a Panama Free Trade Agreement coming through, be able to give them some encouragement?

Ambassador KIRK. One, I would want to follow up and get more specifics on that. Secondly, I wasn't much of a lawyer, but the lawyer I was would tell you that what you framed to me was a hypothetical because American companies don't pay bribes because that would be in violation of the Foreign Corrupt Practices Act. So first of all, we are not going to put anybody—

Mr. HELLER. It is tough out there. It is tough out there.

Ambassador KIRK.—at risk of that. But I don't mean to make light of it.

Mr. HELLER. I understand. I understand.

Ambassador KIRK. If we could maybe have a conversation afterwards, I could learn a little more about that.

But I would say one of the values of all of these free trade agreements—and, for example, why we want Russia in the WTO, and China—is then we do have them in a legal rules-based environment that we can address some of these issues.

But I will be happy to follow up with you. And I would say—

Mr. HELLER. I would appreciate that.

Ambassador KIRK.—but we don't talk enough about travel as a part of our exports. And as Congressman Reichert can tell you, on our Export Promotion Council, that is one element that we are looking at. And since I was in your great state for the CEC Council, it is refreshing to see that the tourism and the dollars that those foreign businesses bring—

Mr. HELLER. It is helpful.

Ambassador KIRK.—are helping to bring Nevada back.

Mr. BRADY. Mr. Chairman—thank you, Mr. Chairman. Thank you very much. And thanks for being here today.

Mr. HERGER. [Presiding.] Thank you. And I do appreciate President Martinelli's effort both to resolve outstanding issues so we can move forward on Panama as well as create a business climate that is welcoming for foreign investment as well.

The chair recognizes Mr. Roskam.

Mr. ROSKAM. Thank you, Mr. Chairman. Ambassador, thanks for your time today.

Ambassador, earlier you said that the Administration was going to move forward on the Korean Free Trade Agreement in a matter of weeks. That sounds like a processed answer, and a lot of thought was given to that.

Is that a matter of weeks that can mean months, or is that a matter of weeks, the common understanding of weeks, that is, less than a month?

Ambassador KIRK. Well, I went to public schools in Texas. But for us, weeks means weeks.

Mr. ROSKAM. Good. So less than 30 days we can expect that?

Ambassador KIRK. We are—listen. We are trying to finalize the text. As you know, we are operating under trade promotion authority, and so there is a fairly structured process by which we submit this to this committee and Finance, and you began your, I think, mock hearings on those.

We very much are concerned, as you are, that we want to get this agreement before the Congress and passed so that at least we aren't putting our exporters in a competitive disadvantage.

Mr. ROSKAM. Great. But just so that I am clear, the common understanding of weeks is less than a month. And that is what really we are looking at. Is that right?

Ambassador KIRK. Yes, sir.

Mr. ROSKAM. Great. How about Colombia?

Ambassador KIRK. You may have missed my introductory remarks. But the President, just as he did last year in directing us to see if we couldn't conclude our negotiations on Korea, has directed us to intensify our engagement with Colombia so that we can resolve those outstanding issues this year.

And we have had, I think, a fairly exhaustive discussion of the sense of urgency and the sense of concern from members on both sides. And we are going to find some way to find some common ground that will allow us to address those and move forward.

We will send a team to Colombia next week. The vice president was here. Two weeks ago he met with myself, members of the Administration, the Secretary of State. We are encouraged with their new leadership. We hear your message. We are going to move forward as quickly but thoughtfully as we can.

Mr. ROSKAM. Turning just briefly to China, I want to highlight an experience in a nutshell. And I will follow up with you with a letter, Ambassador. A corporation in my district, Fellows Manufacturing, is involved in essentially a nightmare scenario with a joint venture that has gone south. And they have not been able to get the legal remedies that they deserve.

I think it is a very, very serious example of manipulations on the part of some in China that are taking advantage of an incredibly significant manufacturer in the Chicago area. Because our time is truncated, I won't belabor the point. But I did want to highlight it because I think it is an area where the Administration and Congress can work forthrightly to advocate and defend American manufacturers who in some cases, and in this case, a quick reading of this story, it sounds like the wild west.

So I know you don't have the benefit of the details, but I will follow up and get these to you for your consideration.

I yield back.

Mr. BRADY. Thank you. I inadvertently recognized a member who was not here at the gavel at the outset, so in fairness, would like to recognize Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman, and it is just a great pleasure to see you here, and even a greater pleasure to hear about the progress that is being made with our dear friends in Korea. I first went there in 1950 under different circumstances, but I cannot believe the tremendous advancement that they have made economically and in terms of democratic principles.

Quite frankly, it is much more difficult to alter agreements that already have been made rather than be involved in the first instance of discussion. You have done a fantastic job and I am so pleased to hear that.

You know better than most people that we have reached a point, due in part to high unemployment, that when you say trade, people believe you are selling out the "Made in the USA," and you are transferring jobs across. And of course, whether Republican or Democrat, business or labor, I don't think we do a good job in identifying exactly where is the job creation.

It just seems to me, as a former mayor, that if you are selling anything, the bottom line is, what is in it for me, Jack? And that is how you sell things. That is what politicians do.

So if you had asked me as to what this does for America, I would relate so closely to Detroit as well as Nevada and the pain that we feel as Americans. When you see this type of pain, you know if it is good for Detroit, it is good for us. And you have really overcome a big obstacle.

But what about the rest of the jobs, whether in services or agriculture? Why don't members, Republican and Democrats, come and say, Rangel, we need that bill; it is going to help us to have jobs? I don't hear that type of thing. I hear it from the Chamber of Commerce. I hear it from the Republicans. I hear it from business people, and certainly those that have a concern about making America great because we have to trade in order to survive.

But how do you reach out to see what jobs are going to be created? Of course, if they are for New York, that would be great. But if they are not, they should be good for the country. I don't get that response on trade.

Ambassador KIRK. Well, Mr.—forgive me, Mr. Chairman—Congressman Rangel, thank you for your kind words. Thank you for your service to our country. And one, we would love nothing more than to work with you, with the members, to provide you that data.

Again, we are reasonably small. But I can tell you, in the case, we can get data for every member, every district, at least to the degree we have collected what every one of these free trade agreements means in your communities.

And I can tell you, in the case of Korea, there is not a member here that does not have at least tens of thousands of workers that won't be benefitted from our passing this agreement. Some may be in manufacturing. Some may be in the services and insurance. Some may be in agriculture. Some may be those small businesses. We tend to overlook the fact that many of the beneficiaries of trade are those small businesses who are suppliers to either Caterpillar or Chrysler or Ford, and they may not even realize that they are benefitting from trade.

But we would welcome the opportunity to sit down with any member and at least give you the best data that we have. And then

hopefully you can help educate us on what some of those opportunities are.

Mr. RANGEL. Thank you, Mr. Ambassador. “Kamsa Hamnida”, as they say.

Mr. BRADY. Thank you. The chair recognizes Mr. Gerlach.

Mr. GERLACH. Thank you, Mr. Chairman. Mr. Ambassador, thank you for testifying today.

Whenever you talk about trade in Pennsylvania, the first word that comes up is China. Everybody is so concerned about the current trade policy, or lack of trade policy, that we have relative to that growing economy. And we have heard from so many different businesses and entrepreneurs in Pennsylvania that the currency manipulation problem is one that is greatly impacting adversely their ability to trade their products in China and have a fair price for a Chinese product here in the United States.

In the testimony you shared with the committee before you started at 10:00 a.m., you have a paragraph here that says, “Engagement with China, including through the Joint Commission on Commerce and Trade, has been very productive, showing results in addressing indigenous innovation policies, improving intellectual property rights, including securing greater use of legal software.”

That is wonderful progress and we applaud you for that. But there was no mention of the currency manipulation problem that continues to be such a problem.

So my question to you is, first of all, what was the specific discussion, if you know, between President Hu and President Obama when they met recently on this issue? And what can you tell me the specific plan is of the Administration to try to get this currency manipulation problem resolved once and for all?

Ambassador KIRK. Well, I appreciate your concerns about China. It is a complex but long-term and extraordinary opportunity for America’s businesses and exports, just as they are trying to move 600 million people from an agrarian society to one in which they can have a need for and afford the types of products, services, goods produced in this country. So first of all, we think it is worth the time and effort.

Secondly, my remarks were deliberately drafted to reflect those areas that USTR can most impact. And I hope I don’t sound evasive, but as you know, our Secretary of the Treasury has the responsibility to address the currency issue, and I know he has spoken on that. And so I don’t want to say anything that attracts or detracts from the stance that Secretary Geithner has enumerated on that.

I will tell you that in every occasion that President Obama has engaged President Hu—and it is instructive to note we have progressed to a point where it was a big deal 10, 15 years ago that an American president entertained his Chinese counterpart once in a term. President Obama and President Hu have now had eight face-to-face meetings. When you include G20, G8, every four, the President does address the issue of China allowing its currency to flow to national norm. So we do that.

But our work at USTR is to make sure we are responsive to those other concerns. You have heard other members talk about their concerns about intellectual property rights, piracy, indigenous

innovation, and that is where we think we can add the most value, is that while the currency issue is important, what we hear from small businesses is their fear of putting a product in China and, just frankly, having stolen it. We hear businesses who are there that are concerned about their indigenous innovation policies.

So we think the time and energy we spend on those areas can be just as important to your businesses as addressing the currency issue.

Mr. GERLACH. The House last session, late in the session, did pass a bill——

Chairman CAMP. [Presiding.] I am afraid the gentleman's time has expired.

Mr. GERLACH. Oh, okay. Thank you, Mr. Chairman.

Chairman CAMP. Mr. Buchanan is recognized for 3 minutes.

Mr. BUCHANAN. Thank you, Mr. Chairman.

Ambassador, I appreciate you being here today. And I share, I think, the intensity we just talked for a couple of minutes your views just as much on doing what is best for Americans and America and American companies. We need to continue to fight for them in terms of all the trade agreements.

I do want to say I applaud the effort that you guys have moved forward on Korea. I think that is very important. But let me mention to you as it relates to my district, and really the State of Florida. We have 14 ports in Florida, but I have a port in our area, Port Manatee. It is the closest port to the Panama Canal.

It is something that we have been working on for a lot of years. They are doubling the capacity in terms of Panama. I have been down there, have had the Ambassador in our area. We have met with the President. And we have had delegations from the port to go down there because, again, they are doubling the capacity. I think they are spending \$5 billion in terms of improvements in that area.

I am very concerned that these things go on for 4 years. You mentioned you have been in business. I have been in business. I have been in complicated deals before, maybe not as complicated as this, but I am very concerned when these things run on. There is the saying that you can't manage it if you can't measure it.

And I think that is what we are talking about, is having some reasonable time frames, because it is affecting us in terms of our jobs. We have got 20,000 good-paying jobs, directly and indirectly, with our port. We think we can double that. But here we are. We have been waiting 6 months, 9 months, some as long as 2 or 3 years.

It seems to me at some point you can't get the perfect deal. You get as much as you can get done, my experience 80, 90 percent, and then we need to move on. But I think it is imperative that Panama and Colombia, we get those off the table because to me it is a lot about politics. And if we don't do something now, we are going to run into more politics coming up here shortly. So we need to get that done. So I just want to get your comment.

And the second thing, I do share a lot of concern about China and a lot of issues with China. But what happens, because we can't move forward here, we don't get a chance to get to the China dis-

cussion. So it is imperative we get this done in the next six months, I think, for the sake of the country, Florida, as well as my district.

Chairman CAMP. Well, thank you. The other point is, Panama was started in 2004, and here we are in 2011. After 7 years the law declares you legally dead, and we don't want Panama to die. We want it to keep going.

So with that, I would recognize Mr. Doggett for 3 minutes.

Mr. DOGGETT. Thank you, Mr. Chairman.

It is always good to see a fellow from Austin do so good and do so much important work on the world stage. I appreciate your service, Ambassador.

I voted, as a member of this committee, for most of the trade agreements that have come here, and hope to vote for more. If we were looking at it solely in terms of trade impact, the three agreements we have been discussing would be very easy to support.

These Bush/Cheney trade proposals are very much at the margins. Even the Korea agreement, much larger than the other two, was described by the International Trade Commission as having a probable negligible impact on output and employment in the United States, as you know, in its study.

But there is much more at stake, and particularly in Panama, than just trade. Panama has made a name for itself not only as a place of a canal, but as one of the leading tax havens in the entire world. It has been an equal opportunity offender. It didn't discriminate against us. It wouldn't cooperate on taxes with anyone.

As recently as 4 months ago, the OECD outlined a long list of deficiencies in Panama's legal framework. They have refused, about as much as any country in the world, to cooperate anywhere on taxes.

You have indicated you are getting close to being ready to submit this agreement. Can you assure us that before you do so, that Panama will have provided full compliance in making all the necessary changes to correct these deficiencies and to fully implement them? It appears that this trade agreement is about the only thing we have to ensure they do what they should have done many years ago.

Ambassador KIRK. Congressman, I can tell you that we have worked with the Panamanians. We made it very clear last year that it was, frankly, their call to make, that if they did not choose to engage us on the issue of addressing the tax questions, then we would accept that.

I would say that we have engaged them. Treasury has taken the lead, so I want to be careful because you asked a fairly precise question.

Mr. DOGGETT. Okay.

Ambassador KIRK. I can tell you we have had very good engagement with the Panamanians under the new Administration—

Mr. DOGGETT. I appreciate that. Given the short time, I will just say, just as there have been 7 years in which it could be declared legally dead, there has been 7 years for Panama to fully implement and make the changes necessary to stop being a tax haven. It hasn't done it, and that remains a big concern to me in looking at that agreement.

You and President Obama have spoken eloquently of the need to make significant changes in our trade policy, and to recognize that it is not just about moving widgets across borders, it is a broader issue that encompasses the environment and working standards.

I have some concerns. Mr. Lewis indicated that the performance has not been quite up to the standards of the speeches, specifically on the question of opening up the process and involving more public representatives in the way our trade policy is developed.

You had Lisa Garcia come and testify at our committee almost 2 years ago. She could not identify any example where having public representation on these trade advisory committees had caused harm, as some have alleged in trying to block increased public representation.

I wrote you shortly after that, and I gather you and your staff, now having had almost 2 years, are unable to identify any substantive experience where having the public involved in this process through representations of environmental representatives or health representatives has caused a problem. Have you found any such problem in the history of USTR?

Ambassador KIRK. Well, I don't—

Chairman CAMP. The time is expired. So if you could just briefly answer.

Ambassador KIRK. I think we have submitted it. And if we didn't get it to you this morning, we did get your letter and we have submitted an answer. President Obama is committed, not just in trade policy, to opening up the advisory process in our government to all Americans.

And we have done our best to strike that balance between the statutory mandates we get from Congress in the composition of our technical advisory committees, but in opening it up to other voices as well. And I think—

Mr. DOGGETT. And you have found no problem, have you?

Chairman CAMP. Thank you. Thank you. You can submit an answer in writing, Mr. Ambassador.

Mr. DOGGETT. Just a yes or no would be helpful.

Ambassador KIRK. Let me get back thank you.

Chairman CAMP. Mr. Smith is recognized.

Mr. SMITH. Thank you, Mr. Chairman. Thank you, Ambassador, for your service.

As we have heard, obviously the U.S. agriculture sector is a vibrant economic engine that contributes significantly to our export efforts. We also know that there are some non-tariff trade barriers that do exist around the world, and that these actually keep United States' farmers from meeting the demands, the global demands, that we also know exist.

And so as we pursue science-based regulatory efforts, we know that perhaps some of our trading partners are not. And we know that we have got very innovative producers here. Can you tell me what USTR is doing to make sure that our trading partners are truly focusing on science-based standards as a regulatory effort rather than more political results or even efforts?

Ambassador KIRK. Well, we have a good story here, Mr. Smith. And in the interest of time, if I could, we do two things. One, for the reasons you articulated, one report that you mandate we de-

liver to you is what is called a 301 report in that we have to tell you how our other partners are complying, say, for example, in intellectual property.

I made the decision when we came in the office that that was good enough. We now issue a similar report on, specifically, the sanitary and phytosanitary standards. We will be submitting that to you soon. That is one thing.

But secondly, we have pursued in every forum compliance with sound scientific standards, and it has helped us. We, for example, settled a longstanding case with the European Union on their excluding our beef. We are now shipping 20,000 metric tons, almost \$250 million, into that market.

After we had the H1N1 scare, almost 28 economies cut off U.S. pork exports. We are back in, I think, all of those economies but one. We have dealt with everything from poultry in Russia to beef in China. But it is one of our highest priorities, and we would welcome your thoughts on how we can perhaps even do better.

Mr. SMITH. All right. Thank you, Ambassador. And Mr. Chairman, I do have some other questions that I will submit for the record. Thank you.

Chairman CAMP. All right. Thank you, Your Honor.

Mr. Schock is recognized.

Mr. SCHOCK. Thank you, Mr. Chairman.

Mr. Ambassador, thank you for being here, and I look forward to working with you on these issues, which are important to our country and even more so to my district, the issues of trade.

I guess, to be very frank with you, it is a little frustrating to hear the talk about these groups that have labor concerns—not that people don't have legitimate labor concerns, but who the groups are and who the Administration truly is working with and looking to for signoff on the issues of labor concerns. Let me give you an example.

I have a very large UAW presence in my district. They manufacture heavy equipment that would benefit, that right now is put at a competitive disadvantage when doing business in Latin America. I can assure you those labor workers would support having a level playing field in our country to do business in these countries.

When I traveled to Panama and Colombia a year and a half ago with then-Majority Leader Hoyer, we met with labor unions in Colombia who, interestingly, the trade groups, who I thought would be opposed, were actually in support of these agreements. But it was actually the public sector unions—the teachers, the garbage collectors—who were opposed to trade, not because they were concerned about human rights, but simply for political reasons.

There had been significant progress made then, and continues to be. President Uribe went through, line item by line item, the work that he had done. The ILO just last year removed Colombia from its labor watch list. Since then, 14 Colombian labor union leaders representing 79,000 of Colombia's workers have signed off in support of the agreement.

The president of the United Workers Confederation in Colombia stated that, "Never in the history of Colombia have we achieved that much progress," and views it as satisfactory and supports the agreement.

So I guess I am looking for some specificity on who are we—because we are not going to get complete agreement. And many of the same labor issues that we had with Peru were satisfied with the May 10 agreement, which is what is in the current Panama and Colombia agreements. And Peru was passed with strong bipartisan support. There were those who opposed it, but it got strong bipartisan support.

So if we have those same labor and environmental concerns, the same language, in Panama and Colombia, and the Administration is saying, wait, who are we looking to specifically to sign off?

Ambassador KIRK. Well, first of all, I don't know that we are looking for any one group to sign off. And we have made it plain: no one has a veto over the Obama Administration's trade policy save the President. But we listen to all voices, just as we did on Korea.

I have met with members of this body that have expressed concern. We have labor advisory committees. We have statutorily mandated technical and public advisory committees. I do as you have recommended. When I have come to Illinois or have gone to Washington, I sit down and meet with the workers themselves. I don't just listen to their representatives in Washington.

We have published a notice in the Federal Register. We have gotten all those comments. We take all of that information, and then we try to come up with the best decision. Just as we did in the case of Korea is what we want to do here.

Chairman CAMP. All right. Thank you.

Mr. Crowley is recognized.

Mr. CROWLEY. Thank you, Mr. Chairman. And Mr. Ambassador, welcome once again. It is good to see you again, and thank you for your hard work. I know sometimes it feels as though it is a thankless job, but you have done some remarkable work as it pertains to the Korean Free Trade Agreement, making the agreement a better agreement for the U.S.

I want to thank Mr. Levin as well as Mr. Camp for their work and engagement with you in your office in making that agreement a better agreement. I know there is work to be done on Colombia and Panama, particularly on the ground in Colombia as it pertains to human rights and to the rule of law there. And I know that your engagement over these next months will have an impact in making that agreement a better agreement as well. I look forward to that.

But one country that I want to look at, if I could, just divert for a moment, is India. I have once again assumed the chairmanship of the India caucus here in the House, as co-chairman along with Ed Royce. And I know that Secretary of Commerce Gary Locke is in India right now working on a trade mission, seeking opportunities for U.S. companies to help expand our opportunities for exports to India.

But one issue which I have been interested in for a very long time is the investment caps in the Indian insurance industry. Right now, American companies can only own up to 26 percent of the value of an insurance company within India, even though we have been, I have been working to increase that number to 49 percent.

What is the status as you know on that issue, and what more can be done to ensure that our service companies can export their services on a more level playing field?

Ambassador KIRK. Well, I appreciate your leadership on the Indian subcommittee. And this, we spend so much time on China, sometimes we neglect the opportunities, the growth markets and needs in India and Africa as well.

As you know, President Obama led an export mission to India as part of his Southeast Asia trip last year. And I will be honest: We have been extraordinarily frustrated at the slow pace of opening that market. We have a number of engagements with India.

I lead a trade policy forum in which we have raised these issues of them opening their economy for more. This would be a case that when we can finish our BIT review, we are also looking to perhaps get India to sign a bilateral investment treaty which would remove those caps, not only in insurance, but liberalize their markets across the board.

There is great opportunity for Americans in the retail, in the agriculture, in the manufacturing sector. Some of this we are trying to address if we can get, frankly, the right balance in a Doha Round. The rest of it we are going to continue to see if we can't find the right buttons to push in our bilateral engagement.

Mr. CROWLEY. As you see, my time has run out, Mr. Ambassador, I thank you and the Chairman for the opportunity. I do have other additional questions that I will submit to the Ambassador, and I look forward to your response, especially as it pertains to the TPP. Thank you.

Chairman CAMP. Thank you.

Mr. Lee is recognized.

Mr. LEE. Thank you, Mr. Chairman.

And Mr. Ambassador, I won't dwell on this subject too long, but I think it is worth repeating, and that is the issue of jobs. We are sitting on over 9 percent unemployment again, and why I think Congress gets such a bad name is we don't listen to the American people.

I think you have—I have heard you pretty loud and clear, and also even Ranking Member Levin when he was in Colombia, that in Colombia we have made improvements. And your belief is that all three of these trade agreements will create jobs here in the United States.

Yet we have sat for 7 years. And I know you are trying to move things along, but it worries me when we keep saying weeks, and I went back and I—you look at some of these timelines. The talk and the rhetoric that we have here, I think the American people are tired of it. And this should be a nonpartisan issue. This is about putting people back to work in this country.

To shift, then, to another point because I think all three of these will put people back to work, and that is really what our job is, is to help people in this country. But another area of mine, and I came from manufacturing, and that is the issue of IP and the issues surrounding China.

And we all want to increase our trade there. But China has been using indigenous innovation policy for quite a while, and it is their

opportunity to circumvent international trade rules and basically compel American companies to hand over their IPR.

And I know from your point just recently—we just had the meeting of the JCCT. I was hoping that you could go into some specific metrics that the Administration has put forward to help remedy the situation.

Ambassador KIRK. Well, one of—and again, I want to make it plain. We are going to have to be constantly vigilant with China, Congressman. But one of our victories this time was getting them to agree to de-link the IPR issue from indigenous innovative.

This has been one of the highest concerns to our business community in terms of China's efforts to try to have us transfer technology in order to bid on that. But we were able to successfully, between JCCT and then the followup engagement with President Hu and President Obama, at least get them to commit that they would de-link those two.

There was also a question—China had a very creative application of having to comply with their standards and experience in order to be able to bid on some of their projects, even though we had American companies that had experience all over the world. We were able to get them to agree to use that experience as well.

But I don't want to, in any means, downplay the challenge ahead of us. But this was one area where we did have some success, and we will continue to monitor that.

Mr. LEE. I thank you. And I would again urge you to try to push these trade agreements forward. It is very difficult to look our constituents in the eye when there are no jobs for them to be had, and we have a solution to help. Thank you.

Ambassador KIRK. Thank you.

Chairman CAMP. Thank you.

Ms. Jenkins is recognized.

Ms. JENKINS. Thank you, Mr. Chair, and thank you for holding this important hearing. Thank you, Ambassador Kirk, for being here today and for your service.

As you briefly touched on in your opening remarks, Russia has been seeking to become a member of the World Trade Organization for more than 16 years. Russia's joining the WTO on the right terms would be good for both our countries, strengthening the rule of law in Russia, and promoting closer economic ties.

Last fall our two governments made very encouraging progress in resolving a number of key outstanding bilateral trade issues, and work continues on the multilateral terms of Russia's accession to the WTO.

But with that said, Russia has much work to do on various long-standing issues of concern, such as IPR enforcement, barriers to U.S. agriculture exports, and other non-tariff barriers. Such trade concerns, combined with broader foreign policy and human rights concerns in Congress, is going to make it difficult for Congress to consider PNTR legislation.

Is Russia's WTO accession a top Administration priority? And if so, what exactly is the Administration, and more specifically, what is the USTR doing or planning to do to address such congressional concerns and lay the groundwork to consider such major trade legislation?

Ambassador KIRK. Thank you, Congresswoman, for your concerns. But you partly answered our question in the first part of your recitation of what we have done. The President expressly directed our office to work with our colleagues in Russia to address a number of the outstanding bilateral concerns we had.

We did work on that successfully over the summer. We met the President's September deadline for that. That, for the most part, we think addressed the overwhelming majority of the bilateral issues. Russia's accession then moves to the broader committee structure within Geneva, in which we will continue to engage them on those other concerns.

Now, we are frustrated. You mentioned agriculture and their adherence to sound science. And as you know—or maybe you don't know—we have had an extraordinary challenge getting our poultry and beef back into their market. But that also makes the case why we want them in the WTO, so that we have them in a form that we can address many of those concerns.

On the human rights component of that, as you know, the State Department takes the lead in addressing those. But we understand and appreciate all your concerns, and want to work you and other Members of Congress to address those so that we can move forward at the appropriate time.

Ms. JENKINS. Thank you, Mr. Ambassador. And I will yield back.

Chairman CAMP. Thank you.

Mr. Kind is recognized for 3 minutes.

Mr. KIND. Great. Thank you, Mr. Chairman, and thank you for holding this hearing.

Mr. Ambassador, thank you for being here and for the work you are doing in the Administration to try to advance a proactive, forward-looking trade agenda which is crucial, obviously, for economic growth and job creation back home. We will look forward to working with you on the pending bilaterals.

I am glad to see that the President has tasked you now to see if we can get Panama and Colombia put to bed at some point in the future. The bilaterals are important in their own right as stand-alone measures. But the real game changer, as you know, is really the multilateral round of discussions; the Doha Round.

I apologize for having to step out. We had a meeting with the Treasury Secretary a little bit earlier. But I just want to impress upon you how important it is for us not to give up the ghost yet when it comes to Geneva and the multilateral round. That is what can have the most significant impact, not only for global prosperity and growth, but for bringing the emerging and developing countries into the global trading regime as well.

I know we have had some hurdles there, not least of which are some of the agricultural provisions. And another item that hopefully is going to be teed up in this next session of Congress, is the next Farm Bill reauthorization and some of the reforms that I and others feel, that we need to move forward in a bipartisan fashion.

We have the Brazil cotton case still hanging over our heads. We have elected now to deal with that by subsidizing Brazilian cotton producers as opposed to reforming our own domestic cotton program, which we should be doing, but also the so-called amber box

payments under the Title I commodity programs and the work that needs to be there.

Given my history with the multilateral round, and having talked to many of the trade ambassadors that are involved in those ongoing conversations, so many times the roads do come back to our farm policy, both here and in the E.U.

I know the Administration is anticipating engaging the Congress when it comes to the next Farm Bill and the work and some of the changes that we have to pursue in order to assist an important trade agenda at the same time.

So I humbly advise, let's not take our eye off of the Doha Round even though it has been tough the last few years trying to get it back on track. I know there are a lot of interested people to see what we can do to advance that, and that we don't all just become all-consuming with these bilaterals right now. You can understand why, given that they are in front of us and pending. Hopefully, we will be able to advance on those later this year, too.

Thank you again.

Chairman CAMP. Well, thank you.

Mr. Paulsen is recognized.

Mr. PAULSEN. Thank you, Mr. Chairman. And thank you, Mr. Ambassador, for your leadership on this issue. We really do appreciate it.

Just real quickly, you mentioned one of the benefits we have of the South Korea trade agreement is going to be our ability to engage in more services, having a market there. The same thing exists, obviously, with Colombia and Panama in particular. I mean, 70 percent of their GDP comes from the service sector, and it is really important, I think, to give the U.S. access, a market foothold there. So we have got tremendous opportunity there.

But I want to ask a question about the potential benefits of what you might see with the Trans-Pacific Partnership, and also what the timing of that might be. We have participants right now in the TPP that include four of our existing trade agreement partners, and then four new countries which do not have trade agreements with us right now.

So with respect to our existing trade partners, in what ways do you see the TPP would add economic value to our existing trade agreements? And with respect to our potential new agreement partners, what areas do you think those talks might offer us the most promise for American jobs and exports in the future?

Ambassador KIRK. Well, in the broader sense—and thank you for your question—we think the TPP is an extraordinary opportunity for the United States because it is our belief and part of our rationale in reaching the decision to engage with this original group of countries is our hope is obviously that this will effectively become the free trade agreement, at least of those 21-member APEC economies, and perhaps the architecture for what could be the largest, most dynamic trading area in the world in Southeast Asia.

With respect to our trading partners, obviously, we want to be assertive. We are not looking to re-trade our existing market share. But there are lots of areas that we can further enhance trade by looking at regulatory coherence, addressing some of the non-tariff

barriers. Obviously, with these new markets, with Malaysia, Vietnam, those are an extraordinary for American businesses across the board.

We have a very ambitious goal. I don't know—I mean, it is sort of our aspirational goal. But the thought was, start with a small enough number of like-minded economies, work very aggressively, put everything on the table, and let's just see where we are by the time that our leaders meet at the APEC leaders forum in the fall.

And at least right now we are on that pace. But I will admit this next meeting in Chile is the first time we will begin to table offers, so this is where the negotiations will become a little more challenging.

Mr. PAULSEN. And maybe I can just ask, because I know the President's own economic council and the U.S. business community have both urged the goal of seeking a conclusion to the TPP agreement by maybe even this November, when the United States is going to host APEC, I think, in the President's home state of Hawaii.

Do you agree that that goal of concluding the TPP agreement would be an important, I mean, concrete deliverable in that time frame, if possible?

Ambassador KIRK. If we could meet that goal, that would be exceptional. But again, there are a lot of moving parts. I want to make—right now, I mean, the spirit of engagement among all of the economies is the right mood. But I am also tempering this a little bit because I know now we are getting into the guts of it.

Mr. PAULSEN. Thank you, Mr. Chairman.

Chairman CAMP. All right. Thank you.

Mr. Berg is recognized.

Mr. BERG. Ambassador Kirk, thank you for being here today.

Now, you and I both know how critical trade is for the United States and for us to recover from our current situation. And I know there is a lot of concern we have heard today, and just concern by the American public about trade.

The National Export Initiative, the goal of doubling exports, is a laudable goal and certainly one that I support. But in order to make that happen, we need to get the American people behind us. And you have done a tremendous effort in going out and speaking on the advantages of trade across this country, and I commend you for your efforts in doing that.

But it seems to me—and maybe you can discuss in more detail how yourself and the Administration are going to get the American people behind more trade, especially the three trade agreements that we are looking at right now.

Ambassador KIRK. Thank you for your kind words about our work. One, I think—and I have heard from all of you, and I know we have differences, maybe on Panama and Colombia. What I haven't heard, refreshingly, from any of you is a difference we all understand right now.

What the American public care about right now, as Mr. Rangel said, it is jobs. It is jobs. What is in it for me? And one, we have got to do a better job of articulating to the public how, when we provide opportunities for Americans to sell what we make, grow, produce around the world. That can help create jobs here.

And for whatever reason, we have had a political environment that Americans are a little more skeptical of that, but I think having an honest discussion with the American public and an honest presentation of the reality of what trade does and doesn't do.

But I do think it is important—and I trust you will not take this as a political statement—keeping faith with the commitment we have made to the American public. And I do think renewing trade adjustment assistance is one way to do that, to say to those communities that feel that they have gotten the short end of this that you have heard us and you are going to honor your commitments.

I think making sure that we honor our commitments to those poorest countries in the world. The work that we do in enforcement—when I take on China and stand up to them for American steelworkers, we absolutely got criticized. But we didn't spark a trade war. And in fact, every one of those tire companies, for example, has increased capacity, has added workers, and are making more tires.

So I think listening to the American public, being responsive to those that have concerns and honestly addressing those, making sure that we enforce our engagements, and then make sure we draw a connection between opening up markets around the world and creating jobs here at home.

And the more that we do that with one voice and we stop attacking one another here in Congress, the better chance we are going to have to convince the American public of the wisdom of what we are doing.

Chairman CAMP. All right. Thank you. Thank you very much. I want to thank Ambassador Kirk for his time this morning and for his testimony, and also thank all of the members for their thoughtful questions.

And let me note for Ambassador Kirk that members may submit questions for the record. And if they do, I hope you will provide a prompt and full response. Ambassador Kirk has—all right. I guess we are not quite done.

We have a few more minutes, and we have a member who just came, Mr. Pascrell. So he is recognized for 3 minutes. We have had members that have been going back and forth to the Budget Committee—

Ambassador KIRK. I understand.

Chairman CAMP. As members of the Ways and Means Committee are on that committee also.

Ambassador KIRK. I frankly am flattered by the attendance and the number of members that have stayed for being here. I really appreciate it.

Chairman CAMP. Thank you. Mr. Pascrell is recognized for 3 minutes.

Mr. PASCRELL. I appreciate that, Mr. Chairman. And thank you, Ambassador. We discussed one of my major issues earlier before I went to the committee.

Right off the bat, I want to stress how important it is that the Congress pass an extension of our trade adjustment assistance program. I think that is important to everything we have worked on in the last 14 years. It is Critical. Would you agree?

Ambassador KIRK. Yes, sir. You may have missed my closing remarks, but—

Mr. PASCRELL. I am disappointed that we were going to bring a bill to the floor yesterday extending the programs and, of course, it didn't happen. It was pulled. I strongly believe we can accomplish this in a fiscally responsible way without cutting the vital worker training programs we are trying to protect.

I want to thank you for being here. I believe we have been taking some important steps. We still have work to do to ensure that our trade policy reflects our values and the benefits of trade. I told you this morning what my prism is to look through on every trade deal. I will not back off from that. You know where I stand. It is not going to be a fait accompli by any stretch of the imagination, and I respect your candor on the matter.

The Trans-Pacific Partnership negotiations really represent the Obama Administration's best opportunity to reshape our trade policy. It also presents significant challenges. I have two questions regarding the TPP.

One of the countries involved in negotiations, Vietnam, is classified by our own government as a "non-market economy." They don't have a democratic government, and many of their major industries are controlled by the state.

As you negotiate the Trans-Pacific Partnership, what efforts are you making with regards to state-owned enterprises in countries like Vietnam? We have this problem in a lot of countries, which are owned or controlled by foreign governments. These are very serious problems. This is very serious to our competitiveness and leveling the field. What will you do if these countries will not be able to enter our market, if they won't be able to enter our market and act in their government's national interest instead of the company's commercial interest?

Ambassador KIRK. Thank you for your candor both now and this morning. I would say to you one of the reasons we are excited about this TPP. It is an opportunity to bring a country like Vietnam into this global system. One of the areas that we are frankly looking to expand on in our investment chapter is to take this opportunity to address the challenge of state-owned economies.

And that is one of the issues that we are specifically going to engage Vietnam on that. As well, it's for some other countries, the challenges brought on by some of these indigenous innovation policies.

Mr. PASCRELL. Thank you. Thank you, Mr. Chairman, for your courtesy.

Chairman CAMP. Thank you. Thanks again, Ambassador Kirk. You have spoken to many elements of the Administration's trade policy agenda, and I am encouraged by your statements on the South Korea agreement.

I am disappointed that the Administration has not been more forward-leaning on plans for Colombia and Panama's trade agreements as members of this committee, including myself, have repeatedly said American employers, workers, farmers, ranchers, are put at a disadvantage every day that we delay here in Washington.

So I continue to hope that the Administration will lay out a clear plan with specific areas of concern, a specific timetable for consid-

ering all three of these agreements in short order. And I strongly believe that we should consider all of the agreements, all three of them, in the next 6 months, and hope that we can work together to make that happen. Again, thank you for your testimony today.

But for now, the committee is adjourned.

[Whereupon, at 12:20 p.m., the Committee was adjourned.]

[Questions for the Record follow:]

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**Questions for the Record from February 9, 2011
Committee on Ways and Means Hearing**

Question from Rep. Devin Nunes

1. Mexican Trucking

Ambassador Kirk, you met with Mexican officials the week of January 10, right after Secretary LaHood released a concept paper as a “starting point” for negotiating a new, “phased” cross-border trucking program with Mexico, to bring the United States back into compliance with its NAFTA obligations. You noted after your meetings in Mexico that negotiations would move ahead promptly and that the program could be in place “as quickly as within the next four to six months.” I have three questions:

- Are you confident that the final terms of the trucking program that you are currently negotiating with the Mexicans will be consistent with our NAFTA obligations, so that we can ensure an end to Mexico’s retaliatory tariffs, which have cost us over \$4 billion already?

- A: Once a final agreement on the program is reached, Mexico will suspend its retaliatory tariffs in stages beginning with reducing tariffs by 50 percent at the signing of an agreement and will suspend the remaining 50 percent when the first Mexican carrier is granted operating authority under the program. Mexico will terminate all current tariffs once the program is normalized.**

- What timeframe do you now expect for a deal? Are you still on pace to hit your “four to six months” deadline, which means mid-May to mid-July?

- A: Now that we have reached an agreement with Mexico on a path forward, the next step is for negotiating teams to work on the details. The proposed agreement between the Department of Transportation and Mexico will be available for Congressional briefings and will be published for public comment by late March or early April. We expect the final agreement to be signed in late May or early June.**

- What are you doing to encourage Mexico to lift the retaliatory tariffs now, based on the United States already having made a good-faith proposal for resolving the trucking issue?

- A: It was important for the United States to seek relief from the retaliatory tariffs that Mexico has imposed on certain U.S. exports. On March 3, the President announced that we reached agreement with Mexico on a series of steps that will lead to the lifting of the tariffs. Once a final agreement on the program is reached, Mexico will suspend its retaliatory tariffs in stages beginning with reducing tariffs by 50 percent at the signing of an agreement and will suspend the remaining 50 percent when the**

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first Mexican carrier is granted operating authority under the program. Mexico will terminate all current tariffs once the program is normalized.

2. New Zealand Dairy Market Access

Ambassador Kirk, as you may recall from our interactions on this issue last year, I am a co-chairman of the Congressional Dairy Farmers Caucus. The American dairy industry is deeply concerned about the impact of expanding U.S.-New Zealand dairy trade. It is working to cultivate many export opportunities and to help to usher in a mindset among producers that trade can be beneficial. But the prospect of expanding dairy trade with a country that's 90 percent dominated by a single company and which exports more dairy products than any other single country has given both dairy farmers and processors throughout this country grave concern. How is USTR working to address those concerns as it goes about its bilateral market access negotiations with New Zealand?"

A: I appreciate hearing your views on market access for New Zealand dairy products in the Trans-Pacific Partnership (TPP) negotiations. We view the TPP initiative as an important element in our efforts to expand U.S. exports to the Asia-Pacific region, including new export opportunities for U.S. dairy products. At the same time, we also recognize the concerns raised by many of our dairy producers with regard to expanding dairy trade with New Zealand. We intend to work closely with our many stakeholders in the agricultural sector and Congress as the negotiating process moves forward. It will be very important for us to continue our dialogue with Congress and our dairy industry on the specific concerns they see and how best to address them.

3. Geographic Indicators

Ambassador Kirk, I am very concerned about the prospect that provisions regarding Geographic Indicators (GI's) in the Free Trade Agreement (FTA) between the European Union (EU) and South Korea will unfairly limit, if not foreclose, opportunities for enhanced market access that may otherwise be provided to the American dairy industry through the enactment of the U.S.-Korea Trade Promotion Agreement. I am appreciative of the efforts you have made to prevent such a result and am hopeful that the situation will be successfully resolved, in part through South Korea's fair and expeditious processing of U.S. dairy trademarks.

Although the lengthy delay in the enactment of U.S.-Korea Trade Promotion Agreement certainly has not helped, it is readily apparent that the EU is aggressively working to improperly use GI provisions to gain an unfair advantage for its dairy products. In addition to the situation in South Korea, I am very concerned that such GI provisions will also be included in other FTAs the European Union is seeking, such as with Colombia, Panama, and Peru. Thus, I am curious to know what efforts the Office of the United States Trade Representative is taking to ensure that the EU is not successful in bilaterally undermining the value of the concessions the U.S. has secured in its FTAs, particularly as they relate to use of EU-driven dairy GI provisions.

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- A:** USTR is committed to continuing its efforts to ensure that the Korea-EU Free Trade Agreement (FTA) does not impair the improved market access for U.S. products, including dairy products, which are provided for in the U.S.-Korea Trade Agreement (KORUS). In addition to commitments to open its markets to U.S. products, Korea also undertook a number of obligations in KORUS regarding the protection of trademarks and geographical indications (GIs). USTR continues to work with Korea to ensure that these commitments are not undermined by the Korea-EU FTA.

More generally, USTR is working intensively, through bilateral and multilateral channels, to advance U.S. market access and intellectual property rights interests, including with respect to U.S. dairy products. These efforts include on-going negotiations at the World Trade Organization and the Trans Pacific Partnership, to expand market access and secure appropriate protection of trademarks and GIs. Additionally, USTR carries out these efforts through its ongoing monitoring of the implementation of other U.S. free trade agreements.

Question from Rep. Pat Tiberi and Rep. Dave Reichert:

1. Exports of Travel and Tourism

One opportunity to increase exports to meet the goals of the National Export Initiative is through travel and tourism, our nation's largest service export. International travelers to the U.S. spend, on average, \$4,000 per visit. Chinese travelers spend an average of \$7,000 per visit.

Unfortunately, one of the most significant barriers is not one imposed by a foreign government, but instead by our own government. Burdensome visa processing procedures and visa interview delays result in the U.S. losing out to destinations such as Europe or Australia. Can you please provide the Committee with an analysis of the impact that U.S. visa processing procedures and visa interview delays are having and could have over the next two years from key travel markets -China, Brazil and India- where demand is outpacing visa processing resources? As you may be aware, the President's Export Council offered recommendations on this very topic at its September 16, 2010 meeting.

Our travel services companies also face barriers abroad. In China, for example, foreign travel and tourism firms are restricted from competing under the same conditions as Chinese firms. The Chinese government places restrictions on foreign-owned enterprises in selling outbound travel packages and airline tickets. And China requires travel agents and airlines to connect into China's nationally owned computer reservation system when booking airline tickets. How will the Administration work to resolve these issues?

- A:** The Administration recognizes the enormous value of the U.S. tourism industry, and the billions of dollars of export revenue that it generates for U.S. companies and workers. We are committed to creating and maintaining an effective and efficient visa process that ensures our country remains open to legitimate travel, while securing America's borders from external threats. In recent years, the Department

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of State has implemented initiatives to improve access to information about U.S. visa requirements and procedures, in addition to measures to reduce wait times for interview and visa processing. The Department of State's Bureau of Consular Affairs can provide further information about these activities, including with respect to specific markets.

The U.S. Administration also understands well the importance of China's travel and tourism market. We continue to press China's National Tourism Administration and China's Ministry of Commerce, including under the auspices of a JCCT Working Group on Travel and Tourism, to liberalize its market for travel and tourism services. Last year, China announced that it will launch a pilot project allowing a certain number of joint ventures to sell outbound travel and we are staying in close touch with the Chinese Government on that issue. We also will continue to engage China regarding its computer reservation services system. During the 2009 JCCT, China's Civil Aviation Administration committed to holding a joint forum addressing the expansion of travel distribution services, including computer reservation system technology. We have since confirmed an agenda and are presently exploring dates for holding the forum later this year.

Questions from Rep. Pascrell:

I. Turkey's Inspection of Pharmaceutical Manufacturers

In April 2009, Turkey implemented a requirement for inspections of pharmaceutical manufacturing facilities exporting to Turkey. This inspection is required before a product can be approved. Turkey does not have the current capacity to conduct these inspections for the hundreds of products in the regulatory queue in a timely manner, meaning product entry could be delayed up to 6 years or more. This policy represents a significant market access barrier for US companies. What is USTR's plan to change the Turkish government's current policy?

- A:** The Administration has brought this problem to the attention of Turkish authorities from the beginning, raising it at both working and cabinet level on multiple occasions. Through the new Framework for Strategic Economic and Commercial Cooperation (FSECC), Ambassador Kirk and Secretary of Commerce Locke have made clear to their Turkish counterparts that Turkish government actions regarding Good Manufacturing Practices (GMPs) certificates for pharmaceuticals have created a very significant barrier to bilateral trade. The Administration has also reached out to Turkish Ministry of Health officials through expert level discussions in order to promote understanding and cooperation between regulators, with the aim of enhancing MOH capacities to carry out future inspections in an effective and above all timely manner. We have also strongly encouraged direct communication between Turkish authorities and U.S. pharmaceutical firms. Senior officials from USTR and a number of U.S. agencies have been firm in noting to the Turks that immediate action is needed. We will continue to pursue this issue in upcoming meetings with Turkish officials, including the next meeting of the FSECC, now envisioned for the fall of 2011.

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2. Russian Protectionist Policies

USTR has made progress in ensuring Russia's compliance with its outstanding bilateral obligations to the U.S., including passage of legislation strengthening IP legislation in Russia as a part of Russia's WTO accession process. However, protectionist policies have increased in Russia in many spheres, including pharmaceuticals. Many aspects of Russia's PhRMA 2020 strategy are clearly protectionist and would violate Russia's pending WTO obligations. Is USTR working with the Russian government to ensure a review and cessation of existing major policies in Russia that would run afoul of WTO requirements?

- A: USTR leads an interagency team that works with Russia through regular bilateral and multilateral meetings to address WTO requirements as well as to improve Russia's intellectual property rights rules and enforcement efforts. Removing barriers to market access for U.S. exports, including pharmaceuticals, is also a major objective. The National Trade Estimate Report and the Special 301 Report, which are issued at the end of March and April, respectively, lay out concerns that have been expressed and our ongoing efforts to address those concerns.**

3. Copyright Infringement in China

I understand the Committee is going to be working on Customs Reauthorization legislation in the next several months. Every year, Customs reports that the number one source of copyright infringing products is China. What should we be doing to address this problem?

- A: International trade in counterfeit and pirated goods is a major problem. U.S. Customs data confirm that many IPR-infringing goods seized at U.S. borders originate in China. We engage extensively with China through the JCCT and other mechanisms to press for stronger action on this problem at the source. In addition, USTR is also joining together with other U.S. trading partners to step up cooperation in the effort to fight this illicit trade around the world. For example, last fall, USTR and partner countries representing more than half of global trade finalized the text of the Anti-Counterfeiting Trade Agreement (ACTA). The ACTA is an important new tool to fight the global scourge of counterfeiting and piracy. Moreover, ACTA is only one of many efforts that the Administration is pursuing to address the broader challenges of IPR enforcement. For a fuller description of the Administration's efforts, I would refer you to the *2010 U.S. Intellectual Property Enforcement Coordinator Annual Report on Intellectual Property Enforcement*, transmitted in February 2011, which describes the ongoing implementation of the Administration's Joint Strategic Plan on Intellectual Property Enforcement.**

4. Chinese Software Piracy

The piracy rate for software in China has remained constant for the last five years—hovering around 80 percent for the industry, and worse for some companies. While I am encouraged by commitments China has made to address the problem at the JCCT and President Hu's recent state visit, the proof is in the pudding. It seems that there needs to be a metric that

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ensures a substantial increase in software sales over the next three years. I also believe that increasing sales of legitimate software in China can be an important contributor to the President's National Export Initiative goal of doubling our exports in five years. What is your plan for ensuring China lives up to its recent commitments?

A: We continue to engage China at all levels to address software piracy. I agree that this is a major problem; in fact, it was raised by the President during the recent State visit by President Hu Jintao. During that visit and the preceding meetings of the Joint Commission on Commerce and Trade (JCCT), China took new steps on software piracy by committing to allocate budget funding for legal software purchases by government agencies, as well as making a commitment to audit the use of the legal software and publish the results of those audits. Furthermore, China said it would promote the use of licensed software in private companies and in state owned enterprises through software asset management programs. We are encouraging China to make additional efforts in the context of the "Special Campaign against counterfeiting and piracy" that was launched by the State Council in October.

While we must see how these steps work out in practice, and much more work remains to be done, China's recent commitments mark a significant opportunity for genuine progress on this difficult issue. As always, we will monitor progress on these issues to make sure that China is following through on its commitments, using such tools as the JCCT IPR working group, and other opportunities. We expect to see concrete and measurable results, including indications of a more robust market for legal software. We also look forward to studying the results of the forthcoming ITC study on the quantitative effects of IPR infringement and "indigenous innovation" policies in China.

Questions from Rep. Dave Reichert:

1. U.S.-Korea Trade Promotion Agreement

Chapter 18 of the U.S.-Korea Trade Promotion Agreement contains provisions that South Korea, like the United States and other trade agreement partners, will ensure that its central government agencies are not using infringing computer software and other materials protected by copyright. These are important provisions and all governments need to ensure that they are using legitimate software. What is the status of South Korea's implementation of these provisions? Has South Korea started the necessary budget process to address this situation? I understand that for some important ministries in the central government there still was substantial work to do to ensure compliance.

A: As you note, the KORUS Agreement has important substantive provisions to ensure Korean government agencies are not infringing computer software and other

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copyrighted material. We will ensure that these provisions are adequately and effectively implemented.

2. TPP Intellectual Property Rights Standards

At the last meeting of the President's Export Council in December, I worked with Disney CEO Bob Iger and other Council members on a letter of recommendation that the Council adopted concerning the need to protect intellectual property rights. One of the letter's recommendations was to seek the highest level of protection for IP in our bilateral and multilateral trade agreements, including the Trans Pacific Partnership trade agreement. At the meeting, you correctly noted that: "The beauty of... [the TPP] is [that], for the first time, we're starting with a blank sheet of paper and at least our intent is to be as aspirational as we can in this agreement that we hope will ultimately become the free trade agreement of the entire Asia-Pacific. All of you know the importance of that region... The IPR protections within that will be critically important." Can you assure me that the Administration is proceeding with that goal in mind, and that we can expect the United States to push for an IP Chapter that builds on the high standards of the U.S.-Korea Trade Promotion Agreement?

A: Our goal in TPP is to achieve standards of IP protection and enforcement that are in line with the benchmarks set in previous U.S. FTAs in the Asia-Pacific region. To date, the United States has put forward proposed text covering many aspects of copyrights, trademarks, patents, and enforcement that would achieve this goal. We have not yet tabled text on some IP issues where we are still developing positions, such as provisions relating to pharmaceutical IP protection, and provisions relating to copyright exceptions. We will be working with Congress and stakeholders to ensure that U.S. proposals strike the appropriate balance on those issues.

3. Substandard Copies of Medicines

Ambassador Kirk, given your Administration's support for strong IP protections in the U.S.-Korea Trade Promotion Agreement, would you support an initiative to address the concerns associated with the proliferation of substandard copies of medicines (not legitimate generics or counterfeit drugs) in global supply chains for developing world markets? Does your Administration currently have such an initiative? If not, please share your ideas on how to address this growing issue of concern.

A: The manufacture and distribution of pharmaceutical products bearing counterfeit trademarks is one dimension of the larger problem of substandard medicines and is a growing problem that has important consequences for consumer health and safety. USTR works with other relevant agencies in the U.S. government to ensure that we are attacking this problem holistically, including through encouraging adequate and effective IPR enforcement. We have noted, in the Special 301 Report for instance, our particular concern with the proliferation of the manufacture, sale, and distribution of counterfeit pharmaceuticals in countries such as Brazil, China,

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India, Indonesia, and Russia. USTR, along with other relevant U.S. government agencies will continue to work to address all aspects of this serious problem.

Questions from Rep. Adrian Smith:

1. U.S. Compliance with Trade Obligations

Representing one of the largest agriculture districts in the country, I am committed to removing obstacles for U.S. exports. One of the greatest frustrations I hear from agriculture producers in my district comes from the unfounded and unscientific sanitary and phytosanitary barriers imposed by our trading partners. American agricultural and food products are routinely targeted by unjustified restrictions from other countries. It is our obligation, however, to ensure the U.S. leads by example and upholds the rules-based system. With this in mind, please explain what the Administration and specifically USTR is doing to ensure U.S. compliance with our trade obligations, so agriculture producers are not targeted for retaliation?

- A: Sanitary and phytosanitary (SPS) issues are some of the most important trade related issues that we deal with at the Office of the United States Trade Representative (USTR). While many countries continue to eliminate barriers to U.S. agricultural exports, some countries continue to insist on imposing unjustified restrictions in the name of food safety or the health of animals or plants. USTR is working diligently to address these issues with our trading partners through a variety of bilateral and multilateral forums and relations in close connection with other agencies, our embassies abroad, and industry stakeholders. In 2010, USTR also published its first Report on Sanitary and Phytosanitary Measures (SPS Report). This report is dedicated to describing significant SPS trade barriers that are a priority of the Administration, and USTR will publish the second version at the end of this month.**

2. Science-Based Standards

It is critical for the U.S. government to work closely with our trading partners to eliminate non-tariff trade barriers which could keep U.S. farmers from meeting growing worldwide demand. Using less land to grow more food and fiber is an enormous challenge which will be met only if we encourage advancements in technology and farming practices.

As you know, USTR, along with the U.S. Department of Agriculture, the U.S. Department of State and other U.S. agencies, has a long history of advancing science-based regulatory systems around the world. Looking forward, can you reaffirm the Administration's commitment to working with our trading partners toward developing science-based regulatory systems for new agricultural products?

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- A:** The Administration is committed to promoting the development and implementation of science-based regulations by our trading partners for all agricultural products. Specifically on the food safety front, the TPP Sanitary and Phytosanitary (SPS) negotiations provide the United States with a real opportunity to resolve specific trade concerns, affirm our international obligations, and to advance the use of safer pesticides and new technologies to protect public health and the environment.

3. Regulatory Coherence

In addition, please describe what additional steps USTR can take -- either in bilateral or in multilateral negotiations such as the Trans Pacific Partnership -- to promote regulatory coherence so farmers can continue to compete in critical markets around the world?

- A:** U.S. trade and regulatory agencies are working together to draft a series of specific SPS-related proposals to enhance food safety, animal and plant health in every TPP country. Proposals could include joint initiatives on pathogen reduction treatments, joint research and data sharing between TPP partners as they establish their pesticide maximum residue levels, and promoting the use of new technologies in agriculture, such as biotechnology and nanotechnology, to promote a safe, wholesome and abundant food supply.

In addition, we will be working with Vietnam and some of the other TPP partners as they begin to implement their new food safety legislative mandates and regulations. Our goal is simple: we want to work together to address their legitimate food safety concerns and expand markets for safe and wholesome food from the United States.

Question from Rep. Diane Black:

1. Colombia and Panama Trade Promotion Agreements

In the President's speech to the U.S. Chamber, he demonstrated yet again that his Administration is making slow progress on advancing the U.S.-Colombia and U.S.-Panama trade agreements. Yet the President's speech reiterates the President's confusing declaration in his State of the Union address to Congress several weeks ago: that he is "pursuing" agreements.

Enacting these vital agreements with Colombia and Panama would create American jobs and lower consumer prices, helping the economy to grow and providing a no-cost stimulus that would actually work. Passing all three agreements in the next six months has the potential to increase U.S. GDP by \$10 billion and create jobs in the U.S.

While the President delays, American farmers and other U.S. exporters are falling behind because other countries' trade agreements with Colombia and Panama give their exporters a competitive advantage. For example, since 2007, the European Union, Canada, Brazil, and

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other countries have implemented, or will soon implement, trade agreements with Colombia – and, as a result, the U.S. share of key agricultural exports to Colombia has fallen from 71 percent in 2008 to 27 percent in the first ten months of 2010 heavily affecting my farmers. Even the President himself states that such an increase in U.S. exports could create 250,000 jobs.

Actions are more important than words. The President has offered no concrete plans for consideration of these two vital agreements. The Administration needs to lay out a roadmap for success, and the President's speech was a lost opportunity to do so. What is the roadmap going forward with the FTAs? What are the benchmarks being set to advance the FTAs?

A: As I stated during my testimony before the Senate Finance Committee on March 9, central to our trade agenda is the movement of pending free trade agreements to Congress as they become ready. On March 7th, we informed your committee that we are prepared to begin collaborative work on the text of the implementing bill for the U.S.-Korea trade agreement as soon as you are ready to do so. It is time to realize this agreement's promise of more than \$10 billion in increased goods exports and more than 70,000 American jobs.

We are seeking the same widespread support that the Korea agreement enjoys for agreements with Colombia and Panama. Our goal is to have all three agreements, with their outstanding issues addressed, approved by Congress.

On February 9th, I testified before you and other members of the House Ways and Means Committee that President Obama had directed me to intensify engagement with Colombia and Panama to resolve the outstanding issues as quickly as possible this year and submit them to Congress immediately thereafter.

The next day, on February 10th, I met with the Vice President of Panama. Our teams have met subsequently and agreed upon actions that, when taken by Panama, will ready that agreement for Congressional consideration.

On February 11th, Administration officials began consultations on Colombia with key stakeholders and members of Congress, including House and Senate leadership. On February 15th, USTR led an interagency mission comprised of the State Department, Labor Department and White House officials to Colombia. We have since met multiple times with stakeholders, Members of Congress, and your staffs to review these findings and assess next steps.

I announced before the Senate Finance Committee on March 9th that on March 10th senior Santos Administration officials would meet with USTR to engage further on our shared goals to protect labor rights and workers. We are working with the Colombian government to resolve serious outstanding issues regarding the protection of internationally-recognized labor rights, violence against labor leaders,

and the prosecution of perpetrators so that we can advance the agreement for your consideration.

[Submissions for the Record follow:]

National Pork Producers Council

February 23, 2011

The Honorable Dave Camp
Chairman
Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC, 20515
Submitted electronically via <http://waysandmeans.house.gov/committeesubmissions/>

RE: Committee on Ways and Means hearing on President Obama's Trade Policy Agenda

The National Pork Producers Council (NPPC) hereby submits comments in response to the Committee on Ways and Means hearing on President Obama's Trade Policy Agenda for consideration by the Committee for inclusion in the printed record of the hearing.

NPPC is a national association representing a federation of 43 state producer organizations, and represents the federal and global interests of 67,000 U.S. pork operations that annually generate approximately \$15 billion in farm gate sales. The U.S. pork industry supports an estimated 550,000 domestic jobs, of which 110,000 are supported by U.S. pork exports, and generates more than \$97 billion annually in total U.S. economic activity.

The U.S. pork industry is highly dependent on exports as a revenue source. Nearly twenty percent of the pork produced in the United States in 2010 was exported, compared to about six percent ten years ago. In 2010 the United States exported over 1.9 million metric tons of pork, valued at \$4.8 billion.

Most of the demand for pork in the world is outside the United States. During the past five years, on average, the U.S. has been the low cost pork producer in the world. The U.S. is the number one pork exporter in the world. In order to remain successful, the U.S. pork industry needs to be able to compete on a level playing field with its global competitors. There is enormous risk of letting other countries move forward first and gain market share. Now that the risk is becoming reality, it is critical that the U.S. act quickly to at least keep pork and other products on a level playing field.

U.S. Trade Agreements

The biggest actions the United States could take to expand U.S. pork exports would be implementation of the U.S. free trade agreements (FTAs) with Colombia, Panama and South Korea. There is no question that U.S. FTAs have been a major factor in the rapid growth in U.S. pork exports over the last two decades. As an example, since 1993, the year before the North American Free Trade Agreement (NAFTA) was implemented, the volume of pork shipments to Mexico increased from 95,000 metric tons to over 545,000 metric tons, and Mexico is now our largest volume market. The Central American Free Trade Agreement (CAFTA) has already begun to generate similar trends in terms of U.S. pork export growth.

1. U.S. – Colombia Free Trade Agreement

According to the American Farm Bureau Federation, the U.S.-Colombia FTA, if and when it is implemented, would result in U.S. agricultural export gains of more than \$815 million per year at full implementation.

In the agricultural sector as a whole, not a single U.S. product currently receives a zero tariff in Colombia, and applied tariffs range from 5 to 20 percent. These could rise to as much as 388 percent under Colombia's current WTO commitments. Under the U.S. FTA, tariffs on 77 percent of all agricultural tariff lines, accounting for more than 52 percent of current U.S. trade by value, would be eliminated immediately.

Iowa State University economist Dermot Hayes calculates that when fully implemented, the U.S. - Colombia FTA will generate an additional \$68.9 million in U.S. pork exports and will create 919 new jobs because of increased pork exports alone. In addition, live hog prices will be \$1.15 higher per animal than would be the case if we lost an export market of this size - and this beneficial price impact is based on the assumption that the Canada - Colombia FTA is implemented in 2011. However, should the U.S. fail to implement its FTA with Colombia, the U.S. will be completely out of the Colombian pork market within ten years.

To make matters potentially worse, Colombia also anticipates signing a trade agreement with the European Union that will also allow for pork access to Colombia. The failure to implement our FTA in advance of these agreements has prevented our industry from getting a head-start on the EU and Canada, which are the second and third largest global pork exporters after the U.S., both in terms of reduced tariffs and the ability to lock in all-important marketing arrangements. U.S. pork producers need the United States to implement the FTA with Colombia.

2. U.S. – Panama Free Trade Agreement

The American Farm Bureau Federation's economic analysis group estimates that the U.S. - Panama FTA could mean increased U.S. agricultural exports to Panama of more than \$195 million per year by full implementation. Once the FTA is in place, the tariff disparity in agricultural trade between the U.S. and Panama will immediately become more balanced. In the case of Panama, over 99 percent of its agricultural exports enter the U.S. market duty free. In contrast, Panama's average agricultural tariff rate is 15 percent, but many key U.S. export products face much higher rates.

U.S. pork exports to Panama are currently restricted by a very limited quota and out-of-quota duties as high as 80 percent. However, the FTA would have provided immediate duty free treatment for pork variety meats, expanded market access for U.S. pork through tariff rate quotas, and a phase out of tariffs on certain processed pork items within five years. Only by implementation of the FTA will the disparity in these tariff levels be reduced and ultimately eliminated.

According to Iowa State University economist Dermot Hayes, the FTA will generate an additional \$16 million in U.S. pork exports and will cause live hog prices to be 20 cents higher per animal, when fully implemented, than would be the case if we lost an export market of this size. In addition, the FTA will create 213 new jobs because of increased pork exports alone.

Panama concluded an FTA with Chile last August and has also concluded negotiations of an FTA with Canada. An FTA with the European Union bloc of 27 countries is also a possibility in the near future. The failure to implement our FTA with Panama two years ago has prevented our exporters from getting a head-start on those major agricultural exporting countries, both in terms of preferential tariff rates and the ability to lock in new marketing arrangements in Panama.

Canada's FTA with Panama would immediately eliminate import duties on 90 percent of Panama's pork tariff lines. As our closest competitor, Canada will have a distinct advantage in the Panamanian pork market resulting in the loss of market share for the United States pork industry.

3. U.S. – Korea Free Trade Agreement (KORUS FTA)

The Korean market is currently the fifth largest for U.S. agricultural exports, valued at \$5.3 billion in 2010. According to economic analysis by the American Farm Bureau Federation, the Korea FTA would expand exports in a wide range of commodities and result in \$1.9 billion in additional sales – a 36 percent increase.

The KORUS FTA would be one of the most lucrative for the U.S. pork industry. According to Iowa State University economist Dermot Hayes, by the end of the FTA's 15-year phase-in period, total U.S. pork exports to South Korea will be almost 600,000 metric tons. That represents nearly twice the current U.S. export level to Japan – now the top value market for the U.S. pork industry. The FTA will lift live hog prices by a staggering \$10 per animal and will generate an additional \$687 million in U.S. pork exports. South Korea alone will absorb 5 percent of total U.S. pork production, and the FTA will create more than 9,000 new direct jobs in the U.S. pork industry.

It has been over three years since the KORUS FTA was signed. While the U.S. delays implementation, Korea continues to move forward in strengthening trade relationships with other countries. Korea already has concluded, is negotiating or is planning FTAs with Chile, Australia, New Zealand, Canada, China, the European Union (27 nations), India, Japan, Mexico, Mercosur (Argentina, Brazil, Paraguay and Uruguay) and Peru. Many of these countries are competitors of U.S. pork exports. Two major competitors, Chile and the EU, pose the largest threat to the future success of U.S. pork exports to Korea.

Chile-South Korea FTA

South Korea's FTA with Chile was implemented in 2004. In 2010, South Korea import duties on Chilean pork have already been reduced to 9 to 10 percent. South Korean duties on Chilean pork imports will go to zero on January 1, 2014. Chilean market share grew 34 percent in 2009 due in large part to the gradual reduction of duties under the Chile-Korea FTA. This tariff reduction allowed Chile to increase its sales to South Korea by approximately 11,000 tons from 2008 to

2009. Because of the Chile-Korea FTA and failure to implement the KORUS FTA, the U.S. could be out of the Korean market within 20 years.

EU-South Korea FTA

Failure to implement the KORUS FTA, coupled with the implementation of the EU-Korea FTA on July 1, 2011, puts U.S. pork at a severe disadvantage with respect to competition from the European Union in the Korean market. Under a scenario in which the U.S. dollar returns to a price of 1.25 to the Euro, reflecting the long-run equilibrium between these two currencies, U.S. market share in Korea would fall by 3 percentage points per year for the entire projection period, and the U.S. would be eliminated from the Korean market over a 10-year period. This, Hayes calculates, would cost 3,628 full-time positions in direct pork industry employment and 18,000 economy-wide full time positions, after allowing for indirect employment impacts.

4. North American Free Trade Agreement

Implementation of NAFTA in 1994 provided U.S. agriculture substantial new market access opportunities for a broad range of products -- with pork at the forefront. Under NAFTA, U.S. agricultural exports to Mexico increased by 303 percent and pork exports by 780 percent. Mexico went from being an inconsequential market for U.S. pork to our second largest export volume market in 2010, valued at over \$986 million. The Mexican market alone accounted for over 20 percent of total U.S. pork exports and approximately 4 percent of U.S. pork production.

However, the continued growth of U.S. pork exports to Mexico is at risk. The United States has not complied with a provision of NAFTA that allows Mexican trucks to haul goods into America. This failure to meet its NAFTA obligations has negatively affected U.S. exports to Mexico. In March 2009 and August 2010, Mexico placed higher tariffs on an estimated \$2.4 billion of U.S. goods after the U.S. Congress failed to renew a pilot program that let a limited number of Mexican trucking companies to haul freight beyond a 25-mile U.S. commercial zone.

In August 2010, Mexico put a 5 percent tariff on most U.S. pork imports. Because of the tariff placed on U.S. pork products in August, the U.S. pork industry saw exports of these targeted products to Mexico fall from 17,400 metric tons to 12,900 metric tons in the first month. In dollar terms, that is a loss of \$8 million in a four-week period. These losses have since continued as U.S. exports to Mexico from August to December are down 9 percent from the same period last year. Canadian exports grew by 99 percent during the same period in 2010 with September and October reaching near record levels, amounting to 2,796 and 3,089 metric tons, respectively. Though its exports are low relative to U.S. exports, Canada's sizable export growth is of concern to the U.S. pork industry. October's export level of 3,089 metric tons is nearly five times the amount Canada exported in October 2009. In addition to the increased competition from Canada, we are already seeing Mexican pork become more price-competitive as a result of the tariff on U.S. product.

It is hard to overstate the importance of exports to pork producers and to the many people whose jobs depend on our industry. According to analysis conducted by Iowa State University economist Dermot Hayes, the loss of the Mexican market over several years would result in the loss of 1,389 direct jobs in the industry and 22,009 in secondary employment in areas such as veterinary services,

input supplies and local businesses and government. Labor income lost would total \$827 billion. U.S. pork producers need the United States to resolve the trucking dispute with Mexico. As long as these tariffs remain the U.S. will continue to lose exports and jobs.

5. Trans-Pacific Partnership

Equally important to U.S. pork producers is the earliest possible conclusion of negotiations and implementation of the strategic TPP negotiations. These negotiations offer the opportunity for elimination of import tariffs in Vietnam and New Zealand, as well as addressing a variety of SPS issues in various countries participating in the TPP. The elimination of import duties in Vietnam would be particularly valuable to the U.S. pork industry – Vietnam has one of the highest per capita consumption rates for pork in the world.

The TPP would allow the United States to keep pace with the recent explosive growth in FTAs in the Asia-Pacific region. There are over 152 agreements in force in the region, 21 more agreements are completed and awaiting implementation, 72 are being negotiated and 81 are in an exploratory phase. The TPP would be an important step in allowing the United States to keep pace in this increasingly competitive regional trade environment.

6. WTO Doha Round

The WTO Doha Round is another negotiation of major strategic importance to U.S. pork. We support the Administration taking an active role in bringing these negotiations to a successful conclusion. We anticipate that a successful Doha Round would result in significant new market access opportunities in developed country markets like the European Union and Japan, through the reduction of tariffs and other market access barriers, as well as the elimination of agricultural export subsidies. In addition, the Doha Round has the potential to create new market access opportunities for U.S. pork in developing country markets around the world, as long as developing countries are not allowed to escape market access liberalization through safeguard and special product provisions that are overly lenient.

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National Association of Manufacturers



Written Statement by the National Association of Manufacturers Hearing on President Obama's Trade Policy February 9, 2011

The National Association of Manufacturers (NAM) is pleased to submit the following statement on President Obama's Trade Policy to the Committee on Ways and Means. The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. Its membership includes both large multinational corporations with operations in many foreign countries and small and medium manufacturers that are engaged in international trade on a more limited scale.

Manufacturing is a critical part of the American economy and, contrary to some opinions, it is not dead. The United States is the world's largest manufacturing economy, producing 21 percent of global manufactured products, nearly as much as Japan and China combined. U.S. manufacturing produces \$1.6 trillion of value each year, or 11 percent of U.S. GDP. Manufacturing supports an estimated 18.6 million jobs in the U.S.—about one in six private sector jobs. Nearly 12 million Americans (or 9 percent of the workforce) are employed directly in manufacturing. In 2009, the average U.S. manufacturing worker earned \$74,447 annually, including pay and benefits. The average non-manufacturing worker earned \$63,507 annually. U.S. manufacturers are the most productive workers in the world—twice as productive as workers in the next 10 leading manufacturing economies. And U.S. manufacturers perform half of all R&D in the nation, driving more innovation than any other sector. In fact, taken alone, U.S. Manufacturing would be the 8th largest economy in the world.

The Three Pending Free Trade Agreements and Jobs

The United States has not progressed on a bilateral trade agenda since Congressional passage of the U.S.-Peru FTA in December 2007. There are three bilateral trade agreements pending approval in Congress: U.S.-Colombia, U.S.-Korea, and U.S.-Panama. The NAM is extremely concerned about the lack of movement on these trade agreements. Manufactured goods comprise two-thirds of overall U.S. exports of goods and services, and experience with previous trade agreements shows they provide robust new market access and increased growth in U.S. exports. The U.S. International Trade Commission estimates these three completed agreements would increase U.S. exports by at least \$13 billion. This growth in exports – the majority of which would be manufactured goods – will drive U.S. employment and economic growth.

These agreements can be best described as "preferential trade agreements" because in every case they reduce barriers to U.S. exports far more than any concessions made by the United States. Our tariff rates are far lower than those in almost any other nation and we are open to foreign investment, so any free trade agreement we sign benefits our manufacturing exports to a far greater degree than that partners exports to the United States.

The fact is that we had a combined trade *surplus* in 2010 of \$21 billion in manufactured goods trade with our existing free trade agreement partners, despite the overall trade deficit we have in manufactured goods trade with the world. Our cumulative manufactured goods trade surplus with our FTA partners for the last three years has reached nearly \$70 billion.

Standing still on trade agreements is more accurately described as “falling behind.” Since the Peru FTA was passed by Congress in 2007, while the United States has not taken action to pass existing agreements or begin new negotiations on any bilateral agreement, four of our largest competitors - Canada, the European Union (EU), Japan and Korea - have either completed or are in the process of negotiating nearly 40 separate trade agreements with nearly 100 countries. In every one of these markets, we will face disadvantages that will impair our ability to competitively sell our products. The United States should immediately re-engage in bilateral negotiations, beginning with rapid approval of the three pending agreements.

Job creation and economic growth go hand in hand with opening new markets. Manufacturing jobs are heavily dependent on exports, and agreements that increase our exports lead to creation of new manufacturing jobs and preservation of jobs in existing factories across the nation. The U.S. Department of Commerce estimates that exports of goods and services supported 10.3 million jobs in 2008, and that export-supported jobs accounted for 6.9 percent of total U.S. employment in 2008. Commerce also reports that in 2008, 6.8 American million jobs were linked to manufactured exports, 5.9 percent of total private-sector employment.

The U.S.-Colombia Trade Promotion Agreement

The U.S.-Colombia Trade Promotion Agreement (Colombia TPA) will increase trade in goods, services and agricultural products between the United States and Colombia, one of the fastest growing economies in the Western Hemisphere. As manufactured goods are roughly two-thirds of our exports to Colombia, manufacturers in America will be the largest beneficiaries of this trade agreement.

Congress has repeatedly voted tariff preferences for Colombia that permit it to export duty-free to the United States, as part of the Andean Trade Preference Act. The Colombia TPA would convert this one-way free trade to two-way free trade by giving U.S. exporters to Colombia the same open access to that market that Colombia's exporters already have to the U.S. market. Thus, the agreement would truly level the playing field.

The U.S.-Colombia agreement will immediately eliminate nearly all of Colombia's tariffs on manufactured goods, and would improve rules governing trade – strengthening intellectual property protection, increasing safeguards against product counterfeiting and copyright piracy, strengthening investment rules, opening access to government procurement, facilitating electronic commerce, speeding customs processing, encouraging express delivery, and opening financial telecommunications and other services markets.

It is important to stress the comprehensive nature of the agreement's coverage, and also its strong contributions toward improving both labor and environmental conditions in Colombia. The Colombia TPA contains enforceable provisions on core labor and environmental standards that were included in the agreement as a result of the landmark May 2007 bipartisan trade policy agreement between Congress and the Administration. Such provisions were included in the 2007 U.S.-Peru trade agreement, which was supported by a bipartisan majority in the 110th Congress.

U.S. Manufactured Goods Trade with Colombia

The United States exported \$12 billion worth of products to Colombia in 2010. It is the second-largest export market in South America for U.S. exports, behind only Brazil. Manufactured goods predominate in U.S. trade with Colombia. U.S. exports of manufactured goods to Colombia totaled \$11 billion in 2010 – 91 percent of total U.S. goods exports. We had a trade surplus in manufactured goods of \$7 billion in 2010.

According to U.S. Department of Commerce methodology, U.S. manufactured goods exports to Colombia in 2010 supported nearly 90,000 U.S. jobs. The United States represents over one-quarter of Colombia's imports of manufactured goods. Machinery, chemicals, plastics, aircraft, electrical equipment, and motor vehicles and other transportation equipment are the major U.S. manufactured goods exports to Colombia.

Small and medium exporters, like my company, form the vast majority of U.S. exporters to Colombia – over 85% of all exporters to Colombia are SMEs. Over 10,000 U.S. SMEs exported products to Colombia in 2009, making up over a third of total exports by value. This point cannot be made enough times – our free trade agreements benefit firms of all sizes.

Effect on U.S. Imports

Implementation of the U.S. – Colombia agreement is unlikely to result in significant new increases in U.S. imports from Colombia beyond those which can be expected to occur anyway. We expect that U.S. imports from Colombia will continue to increase, but the principal drivers of this will be the expansion of Colombia's oil production and the continuation of the duty-free treatment that the U.S. Congress has already given to imports from Colombia.

In 2010, while the United States imported \$15.6 billion in products from Colombia, \$8.8 billion – or nearly 60 percent of which – was oil and other mineral fuels. Other major exports from Colombia include coffee, precious stones, fruits and nuts, and cut flowers. These 4 product sectors, together with mineral fuels, comprise nearly 90 percent of total U.S. imports from Colombia. While the United States had a 2010 trade deficit of \$3.6 billion with Colombia, if mineral fuels are excluded, the United States had a trade surplus of over \$5 billion – most of which was in manufactured goods.

Colombian producers already have virtually complete duty-free access to the U.S. market. Colombia has enjoyed this status since 1991 under the Andean Trade Preferences and Drug Eradication Act (ATPDEA), which was intended to create employment alternatives to the drug trade. The U.S. Congress has voted repeatedly to extend ATPDEA preferences to Colombia. In fact, 99 percent of non-mineral fuel imports from Colombia already enter the United States duty-free. Unfortunately, at the time of this statement, the ATPDEA benefits for Colombia have been allowed to lapse. The NAM strongly supports extending these, with

The existing trade preferences have already allowed Colombian companies to utilize their comparative advantage and sell to the U.S. market. The principal significance to Colombian producers is the fact that it would make their existing preferential access permanent. Thus, while imports from Colombia should continue to increase, the differential effect of the trade agreement will affect very few products and have a very small effect.

How the Colombia Trade Agreement Will Boost U.S. Exports

The U.S.-Colombia free trade agreement has the potential to have a significant positive effect on U.S. exports. There will be three types of effects: (1) expansion of U.S. exports stemming from the reduction and elimination of Colombian tariffs on U.S. production; (2) expansion of U.S. exports through the reduction of non-tariff barriers in Colombia and the trade facilitation measures they are committed to take; and (3) preservation of existing U.S. exports that would otherwise be lost if Colombia maintains its expansion of trade agreements with other nations who compete with the United States in manufactured goods, like Canada, Brazil or the European Union. Together, these three effects could total as much as \$1.2 billion, according to the U.S. International Trade Commission (ITC) analysis of the Colombia TPA.

While almost all of Colombia's exports enter the United States duty-free, U.S. manufacturers face significant tariff barriers in Colombia. Colombia's average import duty on manufactured goods is 11.3 percent. These duties, however, are assessed not only on the invoice value of the goods but also on the freight and insurance charges (known as the "C.I.F. value"). When other charges are applied as well, the effective import duty on manufactured goods is 14 percent.

A wide variety of U.S. industrial products will benefit from the immediate reduction of these tariffs, the vast bulk of which would be eliminated immediately upon implementation of the agreement. The ITC's analysis shows the largest increases in U.S. exports will be chemicals, rubber and plastic products, machinery and equipment, and motor vehicles and automotive parts. NAM analysis shows other sectors that stand to gain include processed food products, electronic and electrical equipment, and transportation equipment.

U.S. Manufactured Goods Exports Compete with Other Suppliers, not with Colombian Industry

Analysis of the relative strengths of the U.S. and Colombian manufacturing sectors shows that there is little overlap in the types of product produced. This means that U.S. manufactured exports to Colombia currently are, and will continue to be, in sectors where Colombia either has no significant manufacturing presence or has very low levels of production. At the same time, Colombia's strongest manufacturing sectors are not exporters to the United States or are not at competitive levels that will displace U.S. manufacturing. Moreover, these Colombian industries already have duty-free access to the United States, and have already benefitted from that treatment.

There is, however, a high degree of similarity in the composition of U.S. exports to Colombia and those of our competitors in other nations, and this is where the U.S.-Colombia TPA will provide significant benefits to U.S. manufacturers. U.S. exports to the region will become duty-free, while exports from the European Union, Canada, China, Japan and other countries will continue to be subject to the full duties assessed by Colombia. This will make U.S. products more price-competitive relative to third-country production and will result in a shift of Colombian purchases from the other suppliers to U.S. products.

There is danger in not acting rapidly to pass this agreement, because Canada and other nations are in negotiations with Colombia on free trade agreements of their own. If these agreements are enacted before the Colombia TPA, foreign products will replace American goods in Colombia, and there will be a significant loss of U.S. market share. That is why time is of the essence in implementing the Colombia TPA.

The U.S.-Korea Free Trade Agreement (KORUS)

The KORUS Agreement will increase bilateral trade in goods and services between the United States and Korea, our 8th largest trading partner and one of the most dynamic economies in the Asia-Pacific region. As manufactured goods are roughly four-fifths of our exports to Korea, manufacturers will be the largest beneficiaries of this trade agreement.

The KORUS agreement will immediately eliminate nearly all of Korea's tariffs on manufactured goods and would improve the rules governing trade – by strengthening intellectual property protection, increasing safeguards against product counterfeiting and copyright piracy, strengthening investment rules, opening access to government procurement, facilitating electronic commerce, speeding customs processing, encouraging express delivery, and opening financial telecommunications and other services markets.

It is important to stress the comprehensive nature of the agreement's coverage, and also its very strong contributions toward improving both labor and environmental conditions in Korea. The KORUS agreement contains enforceable provisions on core labor and environmental standards that fully embody the provisions of the landmark May 2007 bipartisan trade policy agreement between Congress and the Administration.

The United States is already a very open market to Korea. Over half of all Korean exports to the United States enter duty-free. The average U.S. duty on dutiable imports from Korea is only 3.5 percent. Korea's market is considerably more closed than the U.S. market.

Korea's duties on dutiable manufactured imports average 7.6%. Since Korean tariffs are assessed on not just the invoice value of the imports but also on the cost of the freight and insurance (known as "C.I.F. value"), and Korea's 10 percent Value Added Tax (VAT) is levied on the C.I.F. duty paid value, the effective Korean import duty is actually about nine percent. This is a significant barrier.

The KORUS agreement would level the playing field for U.S. producers by providing much greater access to Korea – and provide American manufacturers with a competitive advantage over most other exporters. The European Union's FTA with Korea will go into effect on July 1, 2011 (the European Parliament approved it last week), and Canada is pursuing a trade agreement with Korea as well. Particularly in the case of the EU, this agreement will give their exporters a competitive advantage and would lead to significant trade diversion and loss of market share for American manufactured goods that can now only be prevented by quick passage and implementation of the KORUS agreement.

Of particular concern to American manufacturers is the EU-Korea agreement. This is of great significance because in 2008 the EU for the first time surpassed the United States both in overall and manufactured goods exports to Korea. In 2009, the EU had a 15 percent share of Korea's import market for manufactured goods, versus 11 percent for the United States. Last year, that gap narrowed somewhat, but the EU still remains ahead of the United States, 13.7 percent to 12 percent – and they will benefit from many months of preferential treatment for their goods, even after U.S. approval of the KORUS agreement.

Looking at their respective top fifteen export sectors broadly, on a two-digit Harmonized System (HS) level, the United States and EU show a significant similarity in the types of manufactured goods exported to Korea. EU exporters are already out-exporting the United

States even though they face the same tariffs that U.S. exporters do. Once the EU's FTA with Korea goes into effect, there is no question that the nine percent cost advantage from the elimination of Korea's tariffs on their products will lead to a significant market share loss for American manufacturing.

As the table below shows, Korea experienced a remarkable recovery in 2010. It is this strong economic growth that represents a truly unique opportunity for American manufacturing exports, and the competition our producers face from the EU, China and other nations is a prime argument for passage of the preferential KORUS agreement.

Top 10 Exporters of Manufactured Goods to Korea and Share of Korea's Import Market. (Thousands of U.S. Dollars)

| | 2009 | 2010 | % Share | % Chg 2010/09 |
|----------------------|---------------|---------------|-------------|------------------|
| World | 197,213 | 255,342 | | 29.5 |
| <i>EU 25</i> | <i>29,604</i> | <i>35,041</i> | <i>13.7</i> | <i>18.4</i> |
| China | 49,249 | 65,468 | 25.6 | 33.0 |
| Japan | 46,726 | 60,927 | 23.9 | 30.0 |
| United States | 21,952 | 30,655 | 12.0 | 39.6 |
| Germany | 12,018 | 13,938 | 5.5 | 16.0 |
| Taiwan | 9,530 | 13,198 | 5.1 | 38.0 |
| Singapore | 7,099 | 7,207 | 2.8 | 1.5 |
| Malaysia | 3,560 | 4,565 | 1.8 | 28.2 |
| France | 3,682 | 3,891 | 1.5 | 5.6 |
| Netherlands | 1,643 | 3,557 | 1.4 | 116.4 |
| Italy | 3,334 | 3,474 | 1.4 | 4.2 |

Source: Global Trade Atlas

U.S. Manufactured Goods Trade with Korea

The United States exported \$38.8 billion worth of U.S. products to Korea in 2010, a 35% increase from 2009. It is the third largest export market in Asia for U.S. exports, behind only China and Japan. Manufactured goods predominate in U.S. trade with Korea. U.S. exports of manufactured goods to Korea totaled \$31.6 billion in 2010 – 81 percent of total U.S. exports.

According to U.S. Department of Commerce methodology, U.S. manufactured goods exports to Korea in 2010 supported over 250,000 U.S. jobs. The United States represents 12 percent of all global manufactured goods exports to Korea – but that share has been declining or stagnant over the last five years due to increasing foreign competition, particularly from China (nearly 26%), Japan (24%) and the European Union (nearly 14%).

The United States had a 2010 trade deficit of \$10 billion with Korea – a decline of 5.5% from 2009. Machinery, automotive goods, electronics, chemicals and plastics are significant U.S. manufactured goods imports from Korea; significant U.S. exports are machinery and equipment, medical equipment, chemicals, aircraft, plastics, and automotive goods. Small and medium exporters form the vast majority of U.S. exporters to Korea – 89% of all exporters to Korea are SMEs. Nearly 19,000 U.S. SMEs exported products to Korea in 2009, making up over a third of total exports by value.

The Effect of Tariffs

The KORUS agreement has the potential to have a significant positive effect on U.S. exports. There will be three types of effects: (1) expansion of U.S. exports stemming from the reduction and elimination of Korean tariffs on U.S. production; (2) expansion of U.S. exports through the reduction of non-tariff barriers in Korea and the trade facilitation measures they are committed to take; and (3) preservation of existing U.S. exports that would otherwise be lost if Korea maintains its robust expansion of trade agreements with other nations who compete with the United States in manufactured goods, like Canada, Japan and the European Union.

Together, these three effects on U.S. exports could be an increase of as much as \$10.9 billion, according to the Korea analysis performed by the U.S. International Trade Commission (ITC). Non-tariff effects are important as well, but difficult to quantify, and are not included in the ITC estimate.

A wide variety of U.S. industrial products will benefit from the immediate reduction of the average nine percent Korean tariffs on manufactured goods once this agreement is passed. The ITC's study indicates that the largest increases in U.S. exports will be in electronics, transportation equipment, machinery and equipment, pharmaceuticals, medical devices, and motor vehicles and automotive parts. These sectors will account for the bulk of the new exports generated by the KORUS agreement.

Growth of U.S. manufacturing exports will lead to further growth in U.S. employment. NAM analysis indicates that if exports meet the ITC forecast (which has been demonstrated to be conservative in past FTAs), the increased manufactured goods exports to Korea could contribute 70,000 new U.S. jobs dependent on those exports. While nearly every U.S. state will benefit from added exports of goods to Korea, 5 states had over \$1 billion in manufactured goods exports and 22 states had over \$400 million in manufactured goods exports to Korea in 2010, including a number of heavily industrialized states that have been impacted by the recent recession. These states will see significant gains in exports and jobs from the KORUS agreement.

U.S. Manufactured Goods Exports to Korea: States with \$500 Million+ in 2010 Exports

| | |
|---------------|-----------------|
| California | \$6,624,832,986 |
| Texas | \$6,171,832,120 |
| New Jersey | \$1,602,226,704 |
| New York | \$1,548,288,654 |
| Washington | \$1,505,494,212 |
| Massachusetts | \$861,681,310 |
| Michigan | \$738,403,720 |

| | |
|----------------|---------------|
| Illinois | \$722,654,165 |
| Louisiana | \$678,822,563 |
| Pennsylvania | \$638,163,961 |
| Ohio | \$621,048,319 |
| Minnesota | \$605,208,935 |
| North Carolina | \$576,455,792 |
| Missouri | \$564,997,131 |
| Georgia | \$545,150,047 |
| Tennessee | \$543,013,466 |
| Indiana | \$537,189,494 |

The U.S.-Panama Free Trade Agreement

The United States exported \$6 billion worth of U.S. products to Panama in 2010, a 41% increase over 2009. U.S. exports of manufactured goods to Panama totaled \$5.6 billion in 2010 – 93 percent of total U.S. exports. We had a trade surplus in manufactured goods with Panama of \$5.5 billion in 2010. The overall U.S. trade surplus with Panama, at \$5.6 billion, is our ninth-largest of all trade partners. The U.S. is Panama's largest supplier of manufactured goods, with 30 percent of Panama's total import market share.

Growth opportunities for U.S. manufactured goods, particularly with the multi-billion dollar expansion of the Panama Canal, are robust, and a U.S.-Panama FTA will provide strong commercial links for U.S. companies to supply goods and services under this expansion. We further believe the agreement will reinforce the commitment of Latin America to democracy and greater economic openness. It will contribute to the political stability and economic integration of the Western Hemisphere and provides an incentive for further trade liberalization.

The Panama agreement is also an important link in the NAM's goal of expanding free trade throughout the Western Hemisphere, following our previous agreements with Peru, Chile and Central America and the Dominican Republic nations (CAFTA), and the pending agreement with Colombia. The NAM has been a strong supporter of a barrier-free Western Hemisphere, a goal first proposed by President Franklin Roosevelt in 1933. Though President Roosevelt called for free trade in the Hemisphere "without further delay," the goal has still not been achieved. Implementation of the Panama agreement will move us a little bit closer to the goal posts.

The agreement provides an important leveling of the playing field. It is important to understand that Panama's exporters have had nearly complete open access to the U.S. market through preference programs like the Caribbean Basin Initiative (CBI) and the Caribbean Basin Trade Partnership Act (CBTPA), while NAM members and other U.S. exporters have to pay import duties to sell their products in Panama. The agreement will allow duty-free entry for U.S. manufactured goods into Panama.

Last year fully 96 percent of Panama's exports to the United States entered duty-free. Panama's average tariffs are 7 percent – but nearly 90 percent of U.S. exports of consumer and industrial goods to Panama will become duty-free immediately, with remaining tariffs phased out over 10 years. The agreement includes "zero-for-zero" immediate duty-free access for key U.S. sectors including agricultural and construction equipment and medical and scientific equipment. Other key export sectors such as motor vehicles and parts, paper and wood products, and chemicals will also obtain significant access to Panama's market. This is a very favorable

achievement, similar to other recent trade agreements, and NAM supports such a wide-ranging and immediate opening of Panama's market.

Key Provisions Common to All Three Agreements

Non-Tariff Barriers

U.S. trade agreements are comprehensive and go far beyond simple removal of tariffs. The second positive effect on U.S. exports stems from liberalization of non-tariff barriers and improvements in trade-facilitating rules and policies. These include express delivery, expedited customs clearance and strengthened intellectual property protection. For example, the agreement requires that customs processing be accelerated and imported goods be cleared through customs within 48 hours to the extent possible. Advance customs rulings, transparent publication of customs rules, and other trade facilitation steps will lower the cost of processing exports.

The Colombia, Korea and Panama agreements include several important improvements over previous U.S. FTAs with regard to transparency issues. Among the key elements are: strong transparency obligations, including commitments that the national governments will publish proposed regulations in advance; agreement that the governments will allow a reasonable opportunity to comment on proposed regulations and will address significant substantive comments received; and publication of final regulations in an official journal of national circulation.

The provisions on technical barriers to trade are expected to reduce arbitrary rulings on standards. The agreement increases the likelihood that U.S. standards and conformity assessment procedures will be more broadly accepted, which will reduce costs in chemicals, machinery and other areas. Smaller U.S. exporters will particularly benefit. Additionally, the agreement improves the ability of U.S. exporters to switch distributorships, which is presently difficult to do in some of countries.

Investment Provisions

One of the strengths of the three agreements is a robust, enforceable investment chapter. The agreement will establish a stable legal framework for U.S. investors operating in Colombia, Panama and Korea. All forms of investment will be protected under the agreement, including enterprises, debt, concessions and similar contracts, and intellectual property. With very few exceptions, U.S. investors will be treated as well as investors of any other country in the establishment, acquisition and operation of investments in the three nations.

Pursuant to U.S. Trade Promotion Authority (TPA), the agreement draws from U.S. legal principles and practices to provide U.S. investors in Korea substantive and procedural protections that foreign investors currently enjoy under the U.S. legal system. These include due process protections and the right to receive fair market value for property in the event of an expropriation.

The investor protections in the Investment Chapter are backed by a transparent, binding international arbitration mechanism, under which investors may, at their own initiative, bring claims against a government for an alleged breach of the chapter. Submissions to investor-state arbitral tribunals will be made public, and hearings will generally be open to the public. Tribunals will also be authorized to accept *amicus* submissions from non-disputing parties.

Intellectual Property Rights (IPR)

The NAM views intellectual property rights (IPR) protection as one of the most important parts of any trade agreement, for America's competitiveness and its productivity depend upon innovation and technology which in turn depend upon strong intellectual property protections. The three pending agreements contain strong bilateral protections for intellectual property.

The protection of patents, trademarks, geographic indicators, internet domain names and copyrighted works are especially important. Particularly significant are the strong provisions to criminalize copyright piracy and trademark counterfeiting. Both the pirated or counterfeited goods are to be destroyed, as well as the equipment used to produce them.

Importantly, customs enforcement will be provided against goods in transit, including in free trade zones. Additionally, customs officials can bring IPR enforcement actions without having to wait for formal complaints from right-holders, who may not even know their goods have been counterfeited.

However, the NAM must again note our opposition to the specific language contained in the May 10th Agreement on intellectual property related to pharmaceuticals. We believe this language could prove severely detrimental to the medical sector members of the NAM and would encourage this Committee to carefully consider including that language in future trade agreements.

Remanufactured Goods Trade

Remanufactured goods are products that have been disassembled, cleaned, repaired, had components replaced as necessary, and rebuilt. This process is usually performed by the original manufacturer or by a licensed independent party, and the remanufactured good is covered by a new warranty or product protection. Many products – auto parts, medical devices, electrical components, computers, printer cartridges – are commonly remanufactured. The process can be complex, but also is environmentally friendly (saving space in landfills, requiring fewer raw materials and less energy). The 3 pending agreements commit Colombia, Korea and Panama to allow trade in remanufactured goods. This will provide significant export and investment opportunities for U.S. firms involved in remanufactured products such as machinery, computers, cellular telephones and other devices.

The Future: Far More Trade Agreements Are Needed

NAM members—particularly smaller members—believe the most important trade policy shift for doubling exports is an immediate change in the U.S. aversion to concluding market-opening bilateral trade agreements. As competitors race to negotiate barrier-reducing trade agreements for their companies, the United States is frozen by the widespread misperception in Congress that trade agreements are harmful to the U.S. economy. The truth is that NAFTA, CAFTA and other U.S. FTAs have never been a significant factor in the U.S. manufactured goods deficit. They have given the United States a manufactured goods surplus for the last three years, in fact.

Rapid passage of the three pending FTAs will barely get the United States back into the race. Our competitors around the world have spent the last three years rushing to negotiate and sign new FTAs with rapidly growing economies. We need to embrace the same enthusiasm and redouble our efforts. I commend the Obama Administration for pursuing the Trans-Pacific

Partnership (TPP) agreement, which will lead to critical new market openings in key economies like Malaysia, New Zealand and Vietnam. If negotiations on the TPP are successful, it could form the foundation of a larger Asia-Pacific Free Trade Area that could grow to include the most dynamic and rapidly growing economies on earth.

The TPP model should form the basis of new initiatives. It is time for the Obama Administration to propose and pursue a re-opening of the Free Trade Area of the Americas (FTAA) as well. The strong success of NAFTA, as well as that of CAFTA-DR, shows that we must link the entire Western Hemisphere together in a tariff-free economic zone. Economies like Brazil, Argentina and others are key growing markets and by removing their tariff and non-tariff barriers for U.S. exports, we will tap into important new avenues of growth.

In a similar vein, it is time to pursue a NAFTA-EU free trade agreement. Canada and the EU are negotiating an FTA right now, and the EU-Mexico FTA has been in place for years. The United States and the European Union have a tremendous bilateral trading relationship, and a NAFTA-EU FTA would offer valuable opportunities not just in removing tariffs, but in establishing new levels of cooperation on regulatory and standards issues, which can be major barriers to increased trade.

Only 40 percent of U.S. exports benefit from existing FTAs. The other 60 percent face trade barriers, particularly in fast-growing emerging nations. Using the USITC methodology for estimating the export expansion effect of existing trade agreements, and extrapolating to the major markets where the United States does not have FTAs, the NAM estimates that a robust program of FTAs with significant trading partners could generate as much as an additional \$100 billion in U.S. exports by 2014—accounting for one-third of the \$300 billion increase needed to reach the President's stated goal to double exports by that point.

Conclusion

The National Association of Manufacturers strongly supports swift Congressional approval and implementation of the U.S.-Colombia, U.S.-Panama, and U.S.-Korea Free Trade Agreements. U.S. manufactured goods exports are strong generators of economic growth and employment both directly and indirectly, and U.S. exports benefit substantially when a free trade agreement is put into place.

The record shows beyond a doubt that removal of tariff and non-tariff barriers increases U.S. exports of goods and services. U.S. manufactured goods exports are the vast majority of exports to Colombia, Korea and Panama, and the U.S. manufacturing sector will be among the largest and most immediate beneficiaries.

In summary, American manufacturers will see immediate reductions in average industrial tariffs on exports of fourteen percent to Colombia, seven percent to Panama, and nine percent to Korea. Colombia and Panama's exports enter the United States duty-free, and Korean exports to the United States already benefit from America's very low tariff treatment on manufactured goods. U.S. exports of manufactured goods will also benefit from other aspects of the agreement, which will facilitate and support U.S. export growth.

The United States must move swiftly to avoid trade diversion to the European Union, Canada and other industrial competitors, who have utilized the United States' three-year timeout on trade to forge dozens of preferential trade agreements that threaten to leave America's

manufacturers far behind. The NAM believes the time has come to level the playing field for American manufacturers,

National Association of Wheat Growers



U.S. Wheat Associates
National Association of Wheat Growers

Submission for the Record
To the House Committee on Ways and Means
February 9, 2011

The free and fair flow of trade is essential to U.S. wheat producers as roughly half of their wheat production is exported each year. In the most recent marketing year of 2009/10, the United States exported 24 million metric tons (MMT) of wheat, roughly 40 percent of production. World wheat exports in 2009/10 were estimated at 135.8 MMT, with the United States accounting for nearly 18 percent of global exports.

The National Association of Wheat Growers (NAWG) was founded more than 60 years ago by producers to work together for the common good of the industry. Today, NAWG works with its 21 state associations and many coalition partners to unite the wheat industry on issues as diverse as federal farm policy, environmental regulation and the future commercialization of biotechnology in wheat.

U.S. Wheat Associates (USW), the wheat industry's export market development organization, conducts training and provides information to customers in more than 100 countries on behalf of America's wheat producers. USW's activities are made possible by producer check off dollars managed by 18 state wheat commissions and cost-share funding from the Market Access Program (MAP) and Foreign Market Development (FMD) program administered by USDA's Foreign Agricultural Service. USW works on behalf of American wheat producers to increase wheat exports by collaborating with foreign government officials and industry representatives to address market constraints and opportunities.

A brief overview of the U.S. wheat industry's trade priorities is provided below. Fact sheets on the pending free trade agreements are also included.

FREE TRADE AGREEMENTS (FTAs)

The U.S. wheat industry strongly supports the ratification of the pending free trade initiatives and encourages the administration to resolve all outstanding issues and send implementing legislation for all three agreements to Congress for immediate ratification. Ratification of the United States-Colombia Trade Promotion Agreement is a top industry priority as U.S. wheat market share is at risk. Argentina enjoys advantages from the Mercosur agreement allowing for duty free access. Canada signed and ratified a free trade agreement in 2010 and implementation is expected to be complete in early 2011. This will allow Canadian wheat to immediately enter the country at zero duty, putting the U.S. at an increased disadvantage to both Argentina and Canada. Based on direct input from Colombia's milling industry, at current prices, U.S. wheat producers across the country stand to lose up to \$100 million in wheat sales every year we must compete without a

ratified FTA. Additionally, econometric analysis indicated that U.S. producers would have gained \$0.10 per bushel in their farm gate price if the Colombia agreement had been implemented ahead of other countries.

U.S. wheat growers are at a competitive disadvantage without new bilateral and regional agreements as other competing wheat producing nations move ahead briskly to sign their own bilateral agreements in several key U.S. markets. U.S. producers are supportive of new free trade initiatives such as the Trans Pacific Partnership to increase market access, but place ratification and implementation of pending free agreements as a priority.

WTO/DOHA

U.S. wheat producers support the eventual passage of a successful Doha agreement that balances reductions in domestic support with significant new market access, particularly in the advanced developing countries, as the best opportunity to generate significant new sales of U.S. wheat. We support current USTR efforts to quantify the current country-specific offers through a bilateral process.

Reciprocal market access for the U.S. wheat industry will be obtained through tariff reductions, but more importantly by limiting tariff loopholes and reducing exemptions on sensitive and special products, as well as the limited use or elimination of the special safeguard mechanism. Advanced developing nations such as China, India and Brazil should not be granted the same special and differential treatment as other developing nations.

In addition, we support the elimination of the monopoly practices of export state trading enterprises (export STEs), the continued use of monetization in food aid programs and the utilization of export credit guarantee programs.

We support Russia's accession to the WTO as a stand-alone undertaking, not as part of a trilateral customs union. We are alarmed by the rising influence of the country's state trading enterprise, the United Grain Company, in the market and increased domestic support payments. Further, Russia should commit to WTO rules relating to import restrictions, export STEs and domestic support prior to admission, not after.

OTHER ISSUES

The monitoring and enforcement of trade practices is critical to ensure the FTA and WTO agreements achieve new market access for U.S. producers. We support efforts to enforce compliance of WTO member country commitments pertaining to domestic support and market access.

We also encourage science based requirements for sanitary and phytosanitary (SPS) requirements to ensure measures are not artificially applied to limit U.S. wheat exports.

Trade is critical to the export dependent U.S. wheat industry. The ability to compete on a fair and level playing field with other wheat exporting countries is essential to the economic well being of U.S. wheat producers, and for continuing a positive trade balance for agriculture.



Fact Sheet: U.S.-Colombia Free Trade Agreement
(U.S.-Colombia FTA)
January 2011

The U.S.-Colombia Free Trade Agreement is crucial to the U.S. wheat industry to maintain sales and market share in an increasingly competitive trade environment. In 2009/10, Colombia was the eighth largest market in the world for sales of U.S. wheat. A fully implemented free trade agreement will immediately eliminate the country's price band system and remove tariffs on U.S. wheat imports upon implementation. This would level the playing field, ensuring U.S. products can compete in the Colombian market.

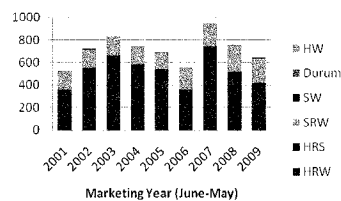
The U.S. wheat industry faces tough competition in Colombia:

Colombia is dependent on imports to satisfy 97 percent of its wheat demand. The U.S., Canada and Argentina are the principal sources of Colombia's wheat imports. **In 2007/08, U.S. wheat dominated Colombia's wheat market with a share of almost 70 percent.** The value of U.S. wheat exports to Colombia that year reached \$330 million, making wheat the second largest agricultural export from the United States. **However, U.S. share fell to 46 percent in 2009/10**, while Canadian wheat market share increased from about 24 percent in 2007/08 to 33 percent in 2009/10. Argentina's market share has grown from almost zero to an average of over 250,000 metric tons since 2005.

U.S. wheat producers stand to lose up to \$100 million in sales PER YEAR without a FTA.

Argentina enjoys advantages from the Mercosur agreement allowing for duty free access that puts U.S. wheat producers at a disadvantage. This agreement has been in place since 2005. Canada signed and ratified a free trade agreement in 2010 and implementation is expected to be complete in early 2011. This will allow Canadian wheat to immediately enter the country at zero duty, putting the United States at a disadvantage to both Argentina and Canada. Colombia signed a trade agreement with the EU in 2010 that will also allow for duty free market access to Colombia when implemented.

Colombia's Wheat Imports from the U.S. by Class
1,000 Metric Tons



The U.S. agreement was signed in November 2006, Colombia's legislature ratified the agreement in October 2007 and their Constitutional Court completed its conformity review in 2008. Ratification of the agreement has been held up in the United States on concerns over environmental and labor in Colombia. The Obama Administration has stated that it will develop benchmarks on these issues for the Colombian government to implement before sending the agreement to the U.S. Congress for ratification.

U.S. wheat producers face an increasingly competitive and uncertain market in Colombia:

Despite long-standing ties with Colombian millers, the U.S. wheat industry will continue to lose market share to Canada, Argentina and possibly the EU under implemented FTAs. Based on direct input from Colombia's milling industry, at current prices, U.S. wheat producers across the country stand to lose up to \$100 million in wheat sales every year we must compete without a ratified FTA. In that case, tariffs on U.S. wheat could fluctuate between 10 and 15 percent and move as high as the WTO bound rate of 124 percent. Additionally, Colombia has long made use of a WTO illegal "price band" scheme to control agricultural imports through variable duties that fluctuate based on changes in world prices.

Ratify the U.S./Colombia FTA Immediately:

The U.S. wheat industry, along with other agricultural commodity groups, supports immediate ratification of the U.S./Colombia free trade agreement so U.S. producers can compete fairly in the Colombian market.

Years ago, the U.S. opened its market to imports from Colombia through trade preference acts. As a result, more than 90 percent of Colombian imports already enter the U.S. marketplace duty-free. By contrast, U.S. exports to this market, including wheat, face tariffs that often soar into the double digits. Colombia enjoys nearly free access to our marketplace while our access to its market remains limited.

The U.S./Colombia FTA will fix this imbalance by forging a mutually beneficial, reciprocal partnership. Four-fifths of U.S. consumer and industrial products and more than half of all U.S. farm exports, including wheat, will enter Colombia duty-free immediately upon implementation of the agreement.

Without the U.S./Colombia FTA, U.S. wheat growers and producers will face an uphill battle in this hard-fought and critical export market resulting in millions of dollars in losses of both exports and jobs.

Colombia's Wheat Imports from the U.S. by Class

1,000 Metric Tons

| June - May Crop Year | HRW | HRS | SRW | SW | Durum | HW | Total |
|-------------------------|-----|-----|-----|----|-------|----|-------|
| 2009 | 299 | 119 | 215 | 13 | 0 | 0 | 645 |
| 2008 | 447 | 73 | 229 | 0 | 3 | 0 | 751 |
| 2007 | 522 | 220 | 204 | 0 | 0 | 0 | 947 |
| 2006 | 262 | 101 | 189 | 0 | 3 | 0 | 555 |
| 2005 | 428 | 112 | 145 | 0 | 6 | 0 | 691 |
| 2004 | 421 | 161 | 155 | 0 | 3 | 0 | 739 |
| 2003 | 547 | 112 | 161 | 0 | 0 | 0 | 820 |
| 2002 | 454 | 101 | 161 | 6 | 2 | 0 | 723 |
| 2001 | 363 | 0 | 165 | 0 | 0 | 0 | 528 |

Source: USDA, Federal Grain Inspection Service

Revised: January 24, 2011



Fact Sheet: U.S.-Korea Free Trade Agreement (KORUS FTA)

The U.S.-Korea Free Trade Agreement (KORUS) is important to the U.S. wheat industry in maintaining exports in an increasingly competitive trade environment. The U.S. wheat industry applauds the administration's effort to reach a side agreement in December 2010 to clear the path for ratifying and implementing the agreement. U.S. wheat exports to Korea have been trending lower since the mid-1990s, with occasional peaks in demand occurring. The **value of wheat exports to Korea in 2009 was listed at \$271 million**, making it the third largest U.S. agricultural export item to Korea.

U.S. wheat producers face competition in Korea:

U.S. wheat producers face stiff competition from Australia and Canada for the milling wheat market in Korea. Korea also purchases substantial quantities of feed wheat, but the U.S. is not price competitive in the feed wheat market in most years. Between 2000 and 2009, U.S. market share in the milling wheat sector has ranged from a low of 34 percent to a high of 63 percent. Meanwhile, Australia's share has ranged from 31 to 46 percent and Canada's from 5 to 35 percent.

Australia has made the largest gains in the Korean market through the Australian Wheat Board (AWB) monopoly practices. During the years that the AWB operated a monopoly on Australian wheat exports, they were able to control price and offer a special quality of Australian wheat to the Korean market, often at prices below similar quality U.S. wheat.

Canada's wheat export monopoly, the Canadian Wheat Board (CWB), also plays this game, with market share increasing substantially in certain years at the expense of the U.S. industry.

Korean wheat Imports from the U.S. by class
1,000 Metric Tons



The EU signed an agreement with Korea in 2010. The approval process is underway in the EU, and the agreement is expected to be in full force by July 1, 2011. Australia and Korea finished their fifth round of FTA negotiations in May 2010. A Korea-Australia FTA would be harmful to U.S. wheat producers if it is signed and implemented before the U.S. agreement. Canada is also negotiating a FTA with Korea.

Upon implementation, U.S. wheat will secure permanent duty-free access to the Korean market.

Upon implementation:

An agreement was reached between U.S. and Korean negotiators in 2007. A key parliamentary committee in Korea approved the bill in April 2009, which means all that is remaining in Korea to ratify the agreement is a final floor vote in the National Assembly. Ratification of the agreement by the U.S. Congress is expected after a side agreement was reached in 2010 that resolved outstanding issues on automobiles.

U.S. wheat imports face a 1.8 percent tariff and permanent removal of this duty, although minor, nevertheless reduces the price of U.S. wheat imports and **allows U.S. producers to compete with cheaper sourced imports and maintain dominant market share.** While the European Union (EU) is not a regular milling wheat supplier to Korea, lower tariffs granted to EU wheat imports from implementation of their free trade agreement could also threaten U.S. market share.

The U.S. wheat industry, along with other agricultural commodity groups, supports immediate ratification of the U.S.-Korea free trade agreement.

Media Contact: Steve Mercer (703) 650-0251

Revised: January 7, 2011



Fact Sheet: U.S.-Panama Trade Promotion Agreement

Panama is a consistent market for U.S. agriculture and it imports all of its wheat needs, with consumption averaging around 125,000 metric tons per year. U.S. market share for wheat has averaged approximately 90 percent since 2000. In 2009, wheat exports were valued at just over \$30 million.

An agreement was signed between negotiators from the U.S. and Panama in June 2007. Panama's legislature ratified the agreement in July 2007, but the U.S. Congress has yet to ratify the agreement. In 2010, the European Union (EU) and Canada signed agreements with Panama, but have yet to ratify these agreements.

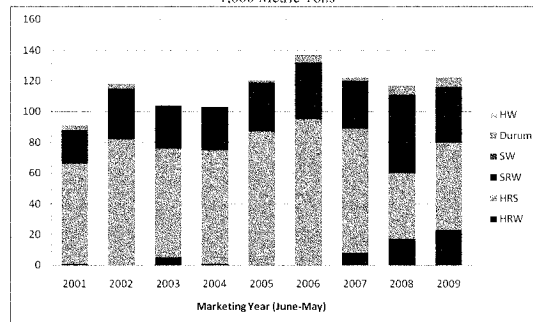
Concerns on Panama's labor laws and their status as a tax haven have held up movement on this agreement. A Tax Information Exchange Agreement (TIEA) was signed with the United States in November 2010 that removes the concern on the country's tax transparency. In addition, many of the labor concerns have also been addressed by the government of Panama.

The agreement would lock in a zero duty rate for U.S. wheat and remove any possibility of tariffs being raised

Upon implementation, the agreement would lock in a zero duty for U.S. wheat producers and remove the potential for the duty on U.S. wheat to rise to the bound level of three percent. This ensures that U.S. wheat will remain competitive against our origins.

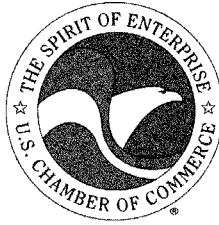
The U.S. wheat industry, along with other agricultural commodity groups, supports immediate ratification of the U.S.-Panama free trade agreement.

Panama's wheat imports from the U.S. by class
1,000 Metric Tons



Media Contact: Steve Mercer (703) 650 -0251
Revised: January 7, 2011

U.S. Chamber of Commerce



Statement of the U.S. Chamber of Commerce

ON: The Status of President Barack Obama's Trade Policy Agenda

TO: Hearing of the U.S. House of Representatives Committee on Ways and Means

BY: U.S. Chamber of Commerce

DATE: Wednesday, February 9, 2011

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business manufacturing, retailing, services, construction, wholesaling, and finance — is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 115 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

The U.S. Chamber of Commerce is pleased to submit this written statement to the House of Representatives Committee on Ways and Means on the status of President Obama's trade policy agenda. The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber serves as secretariat for both the U.S.-Korea FTA Business Coalition and the Latin American Trade Coalition, which represent hundreds of American companies, business and agricultural organizations, and chambers of commerce that support approval of the pending free trade agreements with South Korea, Colombia, and Panama.

No priority facing our nation is more important than putting Americans back to work. Nearly 10% of the U.S. workforce is unemployed — a figure that soars beyond 17% when those who have stopped looking for jobs and the millions of part-time workers who want to work full time are included. As a nation, the biggest policy challenge we face is to create the 20 million jobs needed in this decade to replace the jobs lost in the current recession and to meet the needs of America's growing workforce.

World trade will play a vital role in reaching this job-creation goal. When President Barack Obama delivered his State of the Union address in January, the U.S. Chamber and the rest of the business community welcomed his call for a national goal to double U.S. exports within five years. The rationale is clear: We cannot rely on domestic consumption to generate more demand for the goods and services we produce. The American consumer is likely to spend more frugally in the years ahead, and the federal government faces unsustainable budget deficits.

Most importantly, outside our borders are markets that represent 73% of the world's purchasing power,¹ 87% of its economic growth,² and 95% of its consumers. The resulting opportunities are immense.

Trade already sustains millions of American jobs. More than 50 million American workers are employed by firms that engage in international trade, according to the U.S. Department of the Treasury.³ President Obama has noted that one in three manufacturing jobs depends on exports,⁴ and one in three acres on American farms is planted for hungry consumers overseas.⁵

Nor is trade important only to big companies. Often overlooked in the U.S. trade debate is the fact that more than 97% of the quarter million U.S. companies that export are small and medium-sized enterprises (SMEs), and they account for nearly a third of U.S. merchandise exports, according to the U.S. Department of Commerce. In fact, the number of SMEs that export has more than doubled over the past 15 years.

The bottom line is simple: If America fails to look abroad, our workers and businesses will miss out on huge opportunities. Our standard of living and our standing in the world will suffer. With so many Americans out of work, opening markets abroad to the products of American workers, farmers, and companies is a higher priority than ever before.

The Problem: Foreign Tariffs and Other Trade Barriers

The chief obstacle to reaching the goal of doubling U.S. exports by 2014 is the complex array of foreign barriers to American exports. Those barriers are alive and well, and they pose a major competitive challenge to U.S. industry and agriculture and the millions of U.S. workers whose jobs depend on exports.

From the perspective of the U.S. business community, the foremost goal of U.S. trade policy should be to tear down those barriers. Casting light on this challenge, the World Economic Forum issues an annual *Global Enabling Trade* report, which ranks countries according to their competitiveness in the trade arena.⁶ One of the report's several rankings gauges how high the tariffs are that a country's exporters face. Leading the pack as the country whose exporters face the lowest tariffs globally is Chile, with its massive network of free trade agreements with more than 50 countries around the globe.

While the report found the United States did well in a number of areas, America ranked a disastrous 121st out of 125 economies in terms of "tariffs faced" by our exports overseas. In other words, American exporters face higher tariffs abroad than nearly all our trade competitors. It is also worth noting that tariffs are just part of the problem, as they are often found alongside a wide variety of non-tariff barriers that shut U.S. goods and services out of foreign markets.

Historically, the only way the U.S. government has ever enticed a foreign government to open its market to American exports is by negotiating agreements for their elimination on a reciprocal basis. This is done in bilateral free trade agreements (FTAs), such as those pending with South Korea, Colombia, and Panama, or the Trans-Pacific Partnership, which is under negotiation. In addition, reciprocal market openings can be accomplished multilaterally, as in the Doha Round, the global trade agreement currently being negotiated under the WTO by the United States and 152 other countries.

The Solution: Free Trade Agreements

The pending FTAs with South Korea, Colombia, and Panama are pro-growth agreements will create good American jobs, bolster important allies, and confirm that America is not ready to cede its global leadership role in trade. They will generate billions of dollars in new American exports within a few short years.

Most importantly, these are "fair trade" agreements that promise a level playing field for American workers and farmers. Many Americans don't know that the U.S. market is already wide open to imports from these countries, with most imports from South Korea, Colombia, and Panama entering our market duty free. However, these countries impose tariffs on U.S. products that often soar into the double digits, limiting our competitiveness overseas. These agreements would knock down those barriers, opening the door for American companies like mine to sell to these consumers.

If the United States is to double exports within five years, the proven export-boosting record of these reciprocal trade agreements will be indispensable. In 2003-2008, for example,

U.S. exports rose 79%, their fastest growth in nearly two decades. It is no coincidence that this period also saw the United States implement FTAs with 10 countries and saw earlier agreements such as NAFTA attain their full implementation with the elimination of all tariffs.

To settle once and for all the debate over whether these FTAs have benefitted American workers and companies, the U.S. Chamber commissioned a study entitled *Opening Markets, Creating Jobs: Estimated U.S. Employment Effects of Trade with FTA Partners*,⁷ which was released in May 2010. The study examined U.S. FTAs implemented over the past 25 years with a total of 14 countries. It excluded three other countries where FTAs have only recently been implemented. The study employs a widely used general equilibrium economic model which is also used by the U.S. International Trade Commission, the WTO, and the World Bank.

The results of this comprehensive study are impressive: 17.7 million American jobs depend on trade with these 14 countries; of this total, 5.4 million U.S. jobs are supported by the increase in trade generated by the FTAs.

No other budget neutral initiative undertaken by the U.S. government has generated jobs on a scale comparable to these FTAs, with the exception of the multilateral trade liberalization begun in 1947. The study also shows that U.S. merchandise exports to our FTA partners grew nearly three times as rapidly as did our exports to the rest of the world from 1998 to 2008.

The trade balance is a poor measure of the success of these agreements, but deficits are often cited by trade skeptics as a reason why the United States should not negotiate free trade agreements. However, taken as a group, the United States is now running a *trade surplus* in manufactured goods with its 17 FTA partner countries, according to the U.S. Department of Commerce (on top of the U.S. global trade surpluses in services and agricultural products).

America Left Behind

The success of reciprocal trade agreements has led to their proliferation around the globe. Countries are rushing to negotiate new trade accords — but America is being left behind.

According to the WTO, there are 283 regional trade agreements in force around the globe today, but the United States has just 11 FTAs with just 17 countries.⁸ There are more than 100 bilateral and regional trade agreements currently under negotiation among our trading partners. Unfortunately, the United States is participating in just one of these (the Trans-Pacific Partnership).

The United States is standing on the sidelines while other nations clinch new trade deals. This is painfully evident in the case of South Korea, Colombia, and Panama. The pending U.S. agreements with those countries would create good American jobs, bolster important allies, and confirm that America is unwilling to cede its global leadership role in trade.

While these U.S. agreements languish, other nations are moving forward. The European Union has concluded a comprehensive FTA with South Korea, and Canada has done so with

Colombia; both of these FTAs are expected to enter into force in mid-2011. Also, in May, the EU signed FTAs with Colombia and Panama, and Canada has signed an FTA with Panama.

If Washington delays, U.S. exporters will be put at a marked competitive disadvantage in South Korea, Colombia, and Panama. Canadian wheat farmers will be able to sell their crop to Colombians and Panamanians at a huge discount, and European manufacturers will easily undercut their American competitors in the South Korean market.

The cost of these delays will be high. According to a study commissioned by the U.S. Chamber, the United States could suffer a net loss of more than 380,000 jobs and \$40 billion in lost export sales if it fails to implement its pending trade agreements while the European Union and Canada move ahead with their own agreements.⁹

Unfortunately, this scenario is already unfolding. Following implementation of a new trade accord between Colombia and Mercosur, the U.S. share of Colombia's market for soybean meal, yellow corn, and wheat dropped by 67%, 53%, and 37%, respectively, in 2008-2009.¹⁰

Although Colombia has doubled its agricultural imports in the last five years, the United States has seen its market share shrink by half, according to the Embassy of Colombia. In 2008, the products of U.S. farmers and ranchers controlled nearly half the Colombian market; today that share has diminished to 22%. In the absence of an FTA, the average tariff paid by American farmers shipping their goods to Colombia is 16.9 %.

The implications have a profound significance in the rapidly growing Asia-Pacific region. U.S. trade with Asia continues to grow, but our market share is dropping as other countries boost their own commerce more rapidly. Over time, expanding Asian production supply chains will tend to shut out U.S. suppliers of intermediate goods and undermine U.S. manufacturers. U.S. farmers are shut out because highly protected agricultural markets are open to U.S. competitors but not to American food products. The United States will be left on the outside, looking in.

Washington's failure to negotiate more trade agreements not only hurts U.S. companies and workers, but it limits America's ability to advance its broader interests around the globe. A stronger U.S. economic presence abroad would boost America's ability to achieve its security, political, and economic goals.

A Closer Look at the Agreements

South Korea: The huge scale of trade and investment between the United States and South Korea makes the Korea-U.S. FTA (KORUS) the most commercially significant trade agreement in 15 years. This agreement will stimulate new demand in South Korea for U.S. goods and services which are at times shut out by tariffs and other trade barriers. Increased U.S. exports to Korea under the agreement, in turn, will generate new U.S. jobs and economic growth.

Korea, with a \$1 trillion economy, is the United States' eighth-largest trading partner in terms of two-way trade, which surpassed \$80 billion last year. Korea is a major market for U.S. producers across numerous sectors. Over 80% of U.S. merchandise exports to Korea are

manufactured goods. The United States is also Korea's leading supplier of agriculture products, and Korea is the fifth-largest market worldwide for U.S. agricultural goods, with U.S. agricultural exports totaling nearly \$4 billion in 2009. In addition, Korea is the second-largest market for U.S. services in Asia, and U.S. cross-border exports of services to Korea totaled \$12.6 billion in 2009. Korea boasts the highest broadband internet penetration levels in the world, making it an important growth market for U.S. companies in the information and communications technology sector.

KORUS will create substantial new opportunities and economic benefits for U.S. businesses and farmers by eliminating high tariffs and restrictive non-tariff market access barriers in Korea. Under the agreement, almost 95% of bilateral consumer and industrial goods trade will become duty-free within five years, with almost all remaining tariffs on goods eliminated within ten years. Korean average applied tariffs on U.S. non-agriculture goods are now 6.6%, as compared to the average U.S. applied tariff of 3.2%. Korea's tariffs on imported agricultural goods average 54%, as compared to the average U.S. tariff on these products of 9%. The elimination of these tariffs on almost all goods will significantly benefit U.S. producers and exporters by making their products more price-competitive in the Korean market.

In agriculture, the agreement will eliminate immediately Korean tariffs on nearly two-thirds of U.S. agricultural exports to Korea. It will phase out over 90% of all Korean tariffs on major U.S. agricultural exports, including beef, pork, poultry, and oranges, over 15 years. The U.S. Chamber expects the elimination of these tariffs to boost significantly U.S. agricultural exports to Korea and to create important new growth opportunities for U.S. ranchers and farmers.

U.S. small and medium enterprises play an important role in exporting goods and services to Korea, and these firms accounted for 89% of all U.S. companies exporting in Korea in 2007 and \$10.8 billion of total U.S. exports to Korea that year. These exports in every category are expected to grow significantly once the agreement is passed.

Implementation of KORUS will not only bolster trade and investment between the United States and Korea, but will also reinforce the two countries' important political and security partnership. For more than sixty years the U.S.-Korea security alliance has contributed to peace, stability, and prosperity in Asia. By expanding trade and investment and deepening the links between the United States and Korea, KORUS will be a significant step forward in updating our countries' relationship to reflect changing regional dynamics and Korea's increasingly important role as an engine of regional and global economic growth. It will also send a strong signal of the United States' commitment to maintain its leadership in Asia.

As noted above, the timing of implementing KORUS is crucial for the United States to realize the maximum possible economic benefits of the agreement. South Korea is rapidly expanding its network of bilateral trade agreements, including with major U.S. global competitors. In particular, if the EU-Korea FTA enters into effect in mid-2011 as announced, it will likely generate significant trade diversion in the Korean market away from U.S. exports as Korean consumers turn towards more price-competitive EU member country goods and services by virtue of benefits under the EU-Korea agreement. A comparison of leading U.S. and EU

exports to Korea reveals the significant degree of overlap between them — indicating the competitive disadvantage that U.S. manufacturers, farmers, and ranchers could be placed in under an EU-Korea FTA without implementation of KORUS.

Korea also concluded a Comprehensive Economic Partnership Agreement with India in August 2009, and it has ongoing negotiations with Canada, Australia, Peru, New Zealand, the Gulf Cooperation Council, and Japan and is exploring the possibility of FTA negotiations with China.

Colombia: Similarly, the U.S.-Colombia FTA is a critical component to increasing U.S. exports and strengthening a longstanding partnership with the second largest Spanish-speaking country in the world. The FTA's provisions are virtually indistinguishable from those in the U.S.-Peru FTA, which Congress approved by an overwhelming bipartisan majority in 2007. Like the agreement with Peru, the U.S.-Colombia FTA is a comprehensive agreement that will accelerate Colombia's progress as a resilient and strong democracy and a committed ally of the United States.

U.S. exports to Colombia have more than tripled since 2003, exceeding \$11 billion in 2010. A wide range of industries — including food and other agricultural products, chemicals, computers and electronic products, electrical equipment and appliances, and motor vehicles to name just a few — have seen exports grow into the hundreds of millions of dollars each year. More than 10,000 U.S. small and medium sized businesses were selling to Colombia, totaling 85% of all U.S. companies exporting to Colombia.

Building on these strong ties, the Colombia agreement will do away with a trade relationship built on temporary unilateral preferences and replace it with one that is mutually beneficial, reciprocal, and permanent. In 1991, Congress approved the Andean Trade Preference Act (ATPA), which has been renewed by bipartisan majorities several times in recent years. Thanks to the ATPA, the average U.S. import duty imposed on imports from Colombia was a stunningly low 0.1% in 2009, according to the U.S. International Trade Commission.¹¹ By contrast, Colombia's average duty on imports from the United States is 14% for manufactured goods and far higher for key agricultural exports. In short, Colombians enjoy nearly free access to our market while our access to theirs remains limited.

In fact, since the agreement was signed in November 2006, U.S. exports to Colombia have been penalized by the imposition of over \$3.2 billion in tariffs that could have been eliminated by the implementation of the agreement (*see Colombia Tariff Ticker* — www.latradecoalition.org). This sum is not only money out of the pockets of U.S. companies; it likely deterred hundreds of millions of dollars worth of additional sales.

This agreement will remedy the unfairness of today's U.S.-Colombia trade relationship by sweeping away most of Colombia's tariffs immediately, ushering in a mutually beneficial, reciprocal partnership. The day the agreement enters into force, four-fifths of U.S. consumer and industrial products and more than half of current U.S. farm exports will enter Colombia duty-free. Remaining tariffs will be phased out, most in just a few years. For example:

| Without the U.S.- Colombia FTA | | Products | With the U.S.- Colombia FTA | |
|-----------------------------------|----------|--------------------------------|--------------------------------|----------|
| We Pay | They Pay | | We Pay | They Pay |
| 35% | 2.5% | Automobiles | 0% | 0% |
| 20% | 0% | Furniture | 0% | 0% |
| 5-15% | 0-3.9% | Audiovisual (film and DVDs) | 0% | 0% |
| 5-15% | 0% | Mineral fuels and coal | 0% | 0% |
| 10% | 0% | Cotton | 0% | 0% |
| 5-15% | 0-3.9% | Copper, gold, silver products | 0% | 0% |
| 5-21% | 0-1.9% | Cereals (oats, corn, soybeans) | 0% | 0% |
| 10% | 0% | Computers & related products | 0% | 0% |

In addition, the agreement will open services markets, secure the intellectual property of U.S. inventors, researchers, and creative artists, and introduce enforceable protections for worker rights and the environment. Colombia's Congress has already enacted into law all of the provisions on labor, the environment, public health and enforcement agreed to in the bipartisan trade deal of May 10, 2007.

The geostrategic importance of the agreement is also profound. It will help Colombians lock in the gains of the past decade, which has seen violence fall to its lowest level in a generation. More than 40,000 fighters have been demobilized as insurgent groups have lost legitimacy, and the number of Colombians enrolled in school and the health care system has risen sharply. These sustained results are a triumph of brave Colombians as well as bipartisan U.S. foreign policy. The U.S.-Colombia FTA will build on this solid foundation.

In short, the U.S.-Colombia FTA is a job-creating imperative, a geostrategic imperative, and moral imperative. Four years of delay is already too much; it's time to approve and implement this agreement.

Panama: In similar fashion, the U.S.-Panama FTA will strengthen the century-old U.S.-Panama geostrategic partnership. From the time of the canal's construction, the United States and Panama have made common cause on issues from security to commerce. Panama has major ports on both the Atlantic and the Pacific, and fully five percent of world trade passes through the canal. With a remarkable one-third of its population speaking English fluently and a fully dollarized economy, Panama is a good friend and partner of the United States. The trade agreement will help both nations get even more benefits from these longstanding ties.

Like the other two FTAs, the U.S.-Panama FTA will level the playing field for American workers, farmers, and companies by eliminating over 88% of Panama's tariffs on U.S. consumer and industrial goods and a majority of the most competitive U.S. farm exports immediately upon implementation. Panama's average duty on imports from the United States is 7%, whereas the United States eliminated nearly all its tariffs on imports from Panama through the Caribbean Basin Initiative in 1984. The agreement will make these trade openings reciprocal — a two-way street that will benefit both countries.

Real money is at stake. The \$5.25 billion expansion of the Panama Canal is now moving ahead and presents significant opportunities for U.S. companies to provide goods and services to the government of Panama as it embarks on one of the largest public works project since the Three Gorges Dam in China. If approved, the agreement will grant U.S. firms ready access to the Panamanian market and the chance to compete in selling everything from heavy equipment to engineering services in a market that has reached annual growth rates above 8% in recent years.

Further, the agreement will bolster the rule of law, investor protections, internationally recognized workers' rights, and transparency and accountability in business and government. The agreement's strong intellectual property rules and related enforcement provisions will help protect and promote America's dynamic innovation-based industries and creative artists.

Panama is also an important market for U.S. small business. More than 7,500 U.S. companies export their products to Panama. Of this total, more than 6,000, or 83%, are small and medium-sized enterprises. These SMEs exported \$1.1 billion worth of merchandise to Panama in 2009. This represented one-third of all U.S. merchandise exports to the country.

With its economy overwhelmingly based on services, Panama's economy complements the strengths of the U.S. economy. Panama's export crops are mostly tropical products that largely do not compete with U.S. farm and ranch products. Panama has already ratified all eight International Labor Organization conventions on core labor standards, and Panama's National Council of Organized Workers, the umbrella group for all of the country's trade unions, endorsed the agreement in June 2007.

One of the supposed reasons not to move forward with the agreement was recently swept away. Anti-trade activists had charged that Panama is a tax haven and thus an unsuitable partner for a trade accord. Demolishing the idea that Panama is a tax haven, the United States and Panama in November signed a Tax Information Exchange Agreement (TIEA), guaranteeing close cooperation between U.S. and Panamanian tax authorities and a world-class level of transparency in Panama's system of taxation. There is no justification for further delay in seeking approval of the U.S.-Panama FTA.

Conclusion

For the Chamber, the agenda is clear. The United States cannot afford to sit on the sidelines while others design a new architecture for the world economy and world trade.

The United States needs a laser-like focus on opening foreign markets. This means approving the pending trade accords with South Korea, Colombia, and Panama and negotiating more of them, including the Trans-Pacific Partnership and an ambitious Doha Round agreement. To this end, Congress should renew the traditional trade negotiating authority that every president since Franklin D. Roosevelt has enjoyed. Moreover, we need to enforce our existing trade and investment agreements. International accords aren't worth the paper they're written on if we don't act to enforce them.

World trade is again expanding rapidly, and it is generating new opportunities around the globe. However, this is too often a story of missed potential. The business community could be doing much more to create jobs, lift people out of poverty, foster greater understanding and stability among nations, and solve vexing social problems if we weren't missing so many of the opportunities that global commerce can create.

If we stand still on trade, we fall behind. At stake is the standing of the United States as the world's leading power, our ability to exert positive influence around the world, our reputation and brand overseas, and our best hopes for escaping high unemployment, massive deficits, and exploding entitlements. The U.S. Chamber of Commerce looks forward to working with the members of the Committee to secure swift approval and implementation of the three pending FTAs.

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- ¹ David Wessel, "Asia's Latest Export: Recovery," *The Wall Street Journal*, February 24, 2010, <http://online.wsj.com/article/SB10001424052748703510204575085280515242598.html>.
- ² Office of the U.S. Trade Representative, Executive Office of the President, *The President's 2010 Trade Policy Agenda*, March 2010, http://www.ustr.gov/webfm_send/1673. "IMF forecasts indicate that nearly 87% of world growth over the next 5 years will take place outside of the United States."
- ³ U.S. Department of the Treasury: <https://ustreas.gov/press/releases/hp285.htm>.
- ⁴ The White House: <http://www.whitehouse.gov/the-press-office/remarks-president-announcing-presidents-export-council>.
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- ⁶ World Economic Forum, *The Global Enabling Trade Report 2010*, May 19, 2010, <http://members.weforum.org/en/initiatives/gcp/GlobalEnablingTradeReport/index.htm>.
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- ⁸ WTO: http://www.wto.org/english/tratop_e/region_e/region_e.htm.
- ⁹ U.S. Chamber of Commerce, *Trade Action—or Inaction: The Cost for American Workers and Companies*, September 2009, <http://www.uschamber.com/trade>.
- ¹⁰ Brian Wingfield, "U.S. Losing Out As Congress Dallies On FTAs," *Forbes*, April 21, 2010, <http://blogs.forbes.com/beltway/2010/04/21/u-s-losing-out-as-congress-dallies-on-ftas/>.
- ¹¹ United States International Trade Commission, *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution* (Investigation No. 332-352, USITC Publication 4188, September 2010), p. 2-2, <http://www.usitc.gov/publications/332/pub4188.pdf>.

Emergency Committee for American Trade

EMERGENCY COMMITTEE FOR AMERICAN TRADE

**EMERGENCY COMMITTEE FOR AMERICAN TRADE (ECAT) URGES CONGRESSIONAL
APPROVAL OF COLOMBIA, KOREA AND PANAMA TRADE AGREEMENTS**
**Written Submission in Connection with the House Committee on Ways and Means Hearing on
President Obama's Trade Policy Agenda**

February 23, 2011

ECAT strongly urges Congressional approval and entry-into-force of the pending trade agreements with Colombia, Korea and Panama as soon as possible this year so that they will provide important benefits to the U.S. economy, U.S. enterprises and their workers and broader U.S. national interests the Western Hemisphere and the Asia Pacific. ECAT also shares below other key trade and investment priorities for 2011.

This submission is provided on behalf of the Emergency Committee for American Trade – ECAT. ECAT is an association of the chief executives of leading U.S. business enterprises with global operations. ECAT was founded more than three decades ago to promote economic growth through expansionary trade and investment policies. Today, ECAT's members represent all the principal sectors of the U.S. economy – agriculture, financial, high technology, manufacturing, merchandising, processing, publishing and services. The combined exports of ECAT companies run into the tens of billions of dollars. The jobs they provide for American men and women – including the jobs accounted for by suppliers, dealers, and subcontractors – are located in every state and cover skills of all levels. Their annual worldwide sales exceed \$1.6 trillion, and they employ more than 6.2 million persons. ECAT companies are strong supporters of agreements to eliminate tariffs, remove non-tariff barriers and promote trade liberalization and investment worldwide.

ECAT strongly supports Congressional approval as soon as possible this year of the U.S.-Colombia Trade Promotion Agreement, the Korea-U.S. Free Trade Agreement and the U.S.-Panama Trade Promotion Agreement. The high-level market-access, intellectual property (IP), investment, and other provisions included in each agreement will produce strong economic benefits for the United States and U.S. enterprises and workers. This paper provides an overview of the important role that trade agreements play in the U.S. economy, a discussion of each of the three pending trade agreements and finally a discussion of the key provisions included in each of those agreements.

In addition to these important agreements, ECAT also supports work on a number of other high-priority trade and investment issues as detailed below.

Pending Trade Agreements with Colombia, Korea and Panama

The U.S. trade agreements with Colombia, Korea and Panama were completed several years ago and represent unfinished business that ECAT believes are critical to complete this year.

Trade Agreements and the U.S. Economy

Since the U.S. market is largely open, the main effect of trade and investment agreements is to eliminate foreign trade barriers, thereby opening other countries' markets to our goods and services, and

provide a more stable, transparent and fair legal environment for the protection of U.S. property and interests. According to the *Global Trade Enabling Report* (2009) of the World Economic Forum, America ranks 114th out of 121 economies in terms of “tariffs faced” by our exports overseas. As a result American exporters pay on average higher tariffs than nearly all our trade competitors, leaving the United States at a competitive disadvantage in foreign markets. The most effective way to eliminate these and non-tariff barriers is through new agreements and negotiations.

Bilateral, sub-regional and regional agreements also act to give an advantage to the United States by establishing preferential terms for U.S. manufactures, farm products and services, compared to competing products and services from foreign countries. At the same, the United States also faces a global marketplace where other countries, particularly in Asia, are entering into trade and investment agreements that exclude the United States. When the United States is left on the outside without the preferential access those agreements provide, our products and services, our workers and our interests, are disadvantaged through higher taxes and other barriers.

The importance of trade agreements to the United States is demonstrated by the fact that U.S. trade with the 17 countries with which the United States had a free trade agreement in effect by the end of 2009 accounted for approximately \$882 billion or nearly 29 percent of total U.S. trade and 28 percent of U.S. exports in that year. **Source:** U.S. Department of Commerce, Trade Stats Express. At the same time, these countries represent only seven percent of the world economy.

The United States has done very well with each of these FTAs. Indeed, U.S. exports to the 17 countries with which the United States had an FTA in force before 2010 increased 63 percent between 2001 and 2008 and, despite the economic downturn, were still 30 percent over 2001 exports in 2009. U.S. exports to new FTA countries (excluding Canada, Mexico and Israel) increased even faster, by over 100 percent between 2001 and 2008 and were 68 percent higher in 2009 than in 2001. **Source:** U.S. Department of Commerce, Trade Stats Express. It is also noteworthy that U.S. exports to each of its major FTA partners have increased significantly after each FTA has entered into force. Even with the economic downturn, which lowered U.S. exports in 2009, U.S. exports to each FTA partner have increased significantly.

- U.S. goods exports to the NAFTA countries almost tripled between 1993 and 2008, from \$142 billion to \$412 billion. In 2009, U.S. goods exports to the NAFTA countries were \$334 billion, still more than double U.S. exports in 1993 despite the economic downturn.
- U.S. goods exports to Chile increased by 348 percent between 2003 and 2008, increasing from \$2.7 billion to \$12.1 billion. In 2009, U.S. goods exports to Chile equaled \$9.4 billion, still more than three times higher than the pre-FTA level.
- U.S. goods exports to Singapore increased by 73 percent, from \$16.6 billion in 2003 to \$28.8 billion in 2008. In 2009, U.S. goods exports to Singapore equaled \$22.3 billion, 34 percent higher than pre-FTA levels.

- U.S. goods exports to Australia increased 57 percent, from \$14.3 billion in 2004 to \$22.5 billion in 2008. In 2009, U.S. goods exports to Australia equaled \$19.6 billion, 37 percent higher than pre-FTA levels.
- U.S. goods exports to the seven CAFTA-DR countries grew nearly 30 percent between 2006 and 2008 to approximately \$25.4 billion, before dropping to \$20 billion in 2009.

Source: U.S. Department of Commerce, Trade Stats Express.

U.S. services exports and U.S. investment also have increased following previous FTAs, supporting greater economic growth, better paying jobs and greater productivity here in the United States. In particular, U.S. services exports to the NAFTA countries more than doubled between 1993 and 2009, from \$27.4 billion to \$69.8 billion. **Source:** Bureau of Economic Analysis, Trade in Services. As well, U.S. investment has typically expanded following the entry-into-force of FTAs with other major trading partners, supporting greater economic growth, better paying jobs and greater productivity here in the United States.

Imports from U.S. FTA partners have also increased significantly, expanding the variety and choice of products available to U.S. consumers at competitive prices, lowering costs to U.S. manufacturers and dampening inflationary pressures.

U.S.-Colombia Trade Promotion Agreement (TPA)

ECAT strongly supports Congressional approval and implementation of the U.S.-Colombia TPA as early as possible in 2011, so that American farmers, manufacturers and service providers can more effectively access Colombia's growing market.

The United States and Colombia negotiated over several years on the U.S.-Colombia TPA, an important accord that will eliminate major barriers in Colombia's market, promote important new economic opportunities, foster improved ties and promote broader U.S. interests in Latin America. The U.S.-Colombia TPA was signed on November 22, 2006 and then amended on June 28, 2007 to incorporate the provisions of the Administration-Congressional trade deal.

Colombia is the United States' 26th-largest trading partner, importing \$9.5 billion in goods from the United States in 2009, with significant imports of U.S. machinery, fuel, electronics and chemicals. Colombia is currently America's largest agricultural market in South America. U.S. imports from Colombia totaled \$11.3 billion in 2009, with major imports of fuel, precious stones and coffee.

While the United States has been the largest foreign supplier of goods to Colombia's market, U.S. exports to Colombia are now losing out to exports from Argentina and Brazil and will soon lose out to those of other countries, including Canada and the European Union, that have negotiated their own trade agreements with Colombia. For example, U.S. agricultural exports to Colombia declined throughout 2009 as Argentine and Brazilian farmers gained duty-free access for their corn, wheat, soybeans and soybean oil and substantially grew their exports at the expense of American farmers. The longer America delays in approving and implementing this agreement, the more sales American farmers, manufacturers and service providers will lose to other foreign suppliers in the Colombian market.

The United States and Colombia are neighbors and longstanding allies in a region that is vitally important to the United States given its strategic proximity and both are concerned about increasing threats to the rule of law within the region. Colombia has worked side-by-side with the United States to help fight

illegal narcotics trade, while also working to tackle a violent insurgency that has been shown in recent years to be actively supported in part by Venezuela and others. Colombia's efforts to restore peace, reduce violence, maintain strong human rights protections and provide a better future for its citizens have been recognized and commended throughout the world. The U.S.-Colombia TPA will help expand that relationship and bolster democracy and the rule of law in Colombia. It will help promote economic growth and development within Colombia, which will make it easier for the government to maintain its progress on restoring peace and reducing violence. By promoting closer relationships and strengthened cooperative activities, as well as economic alternatives, the U.S.-Colombia TPA will also function as a key tool in the United States' and Colombia's efforts to combat the movement of illegal narcotics through the region.

With regard to labor practices, it is important to note that Colombia has in its Constitution and its laws a strong labor-rights regime. Colombia has ratified and implemented 60 ILO Conventions, including all eight core ILO labor conventions (of which the United States has only ratified two). As summarized in the 2009 ILO Report of the Committee of Experts, the Colombian government is actively engaged with the ILO and union representatives on a wide range of issues regarding each of these conventions, with detailed discussions on the many measures that Colombia has taken to improve the enforcement of fundamental labor rights, including protection of unionists against intimidation or violence and efforts to prosecute perpetrators of violence or intimidation against unionists. **Source:** *International Labour Conference, 98th Session, 2009, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part IA) at 74-79 (1st Ed.)*.

As documented by *Back from the Brink: Evaluating Progress in Colombia, 1999-2007*, Colombia's progress in improving the rule of law and restoring stability broadly since 1999 has been "impressive." **Source:** *Back from the Brink: Evaluating Progress in Colombia, 1999-2007* by Peter DeShazo, Tanya Primiani and Philip McLean (2007).

Areas of continuing improvement reviewed and identified by this study include:

- Extending legitimate state authority and the rule of law.
- Reducing levels of violence sharply.
- Improving the observance of human rights.
- Advancing the peace process.
- Checking the reach of drug trafficking.
- Enhancing governance.
- Growing the economy.
- Increasing social services.

While tackling these very broad and systemic issues, the Colombian government has also taken concrete and substantial steps to improve its labor laws, protect trade unionists and prosecute perpetrators of violence against unionists. Colombia is working actively and constructively with the leading international body on labor issues, the International Labor Organization (ILO), and both domestic and international trade-union groups on a wide range of issues. As a result of these efforts, there has been an unprecedented decrease in violence overall in Colombia and violence against trade unionists in particular has also declined substantially. As well, prosecutions against perpetrators of labor-union intimidation and violence have also increased dramatically.

To promote continued improvement on labor issues, ECAT strongly recommends that the United States, as a member of the ILO, work more intensively and collaboratively with the ILO to promote labor rights and labor-rights enforcement in Colombia, rather than pursuing a unilateralist agenda. As well, ECAT

urges the approval by the U.S. Congress and the entry-into-force of the U.S.-Colombia TPA to spur the increased economic growth and opportunity in Colombia that are vital to continued progress by Colombia in restoring peace and general stability, and more specifically, improving labor rights and the protection of trade unionists.

Continuing to delay the TPA will also further undermine and possibly erode the strong U.S.-Colombian relationship that has been forged through successive Administrations. Given the pressures in the region for Colombia to move away from a democratic and peaceful model, the erosion of the U.S.-Colombian relationship represents a severe risk every month that the United States fails to move forward on this agreement.

Some who advocate delay seem to take Colombia's progress over the past seven years for granted and seem to believe that further delay has no cost. As explained in *Back from the Brink*, however, Colombia's accomplishments could in fact be "reversed if forward momentum is not sustained." Given the importance of economic growth and a positive relationship with the United States to Colombia's progress thus far, further delay of the TPA is just the type of loss of momentum that will undermine, rather than foster, progress.

Over the past years, the Obama Administration has indicated that it wants to address these issues and is consulting with Congress and interested stakeholders. ECAT urges that this work be completed quickly so that the broad benefits of the U.S.-Colombia TPA can be realized as early as possible this year. Given the competition that the United States already faces in Colombia as discussed above, U.S. action is needed quickly.

U.S.-Korea Free Trade Agreement (FTA)

The U.S.-Korea FTA offers U.S. manufacturers, farmers, and service providers important opportunities in Korea's large and vibrant marketplace. ECAT strongly supports Congressional approval and implementation of the U.S.-Korea FTA as early as possible in 2011, so that U.S. enterprises remain competitive in the region and have access to key markets in Korea's economy.

The United States and South Korea negotiated over many years on the U.S.-Korea FTA, a landmark agreement that will eliminate major barriers in Korea's market, promote important new economic opportunities and foster broader U.S. interests in the Asia-Pacific region. The U.S.-Korea FTA was signed on June 30, 2007. In 2010, the United States and Korea reached further agreement in order to address key issues for the United States.

Korea is the United States' 7th-largest trading partner, importing \$28.6 billion in goods and \$12.6 billion in services from the United States in 2009. Yet, the United States is only the 4th-largest supplier of imports into Korea's market. The U.S.-Korea FTA will give the United States an advantage over other foreign exporters only after Congress approves the agreement and it enters into force.

The U.S.-Korea FTA will provide a significant opportunity to open Korea's market for U.S. manufacturing and agricultural exports. Upon approval and entry-into-force, U.S. companies will have strengthened opportunity to export manufactured products to Korea, including chemicals and pharmaceuticals, electronics, machinery, medical devices, transportation equipment and autos and processed foods. Additionally, the FTA will reduce Korea's 40-percent tariff on beef, creating even stronger opportunities for U.S. companies in Korea's marketplace.

When approved and enforced, this agreement will eliminate tariffs and non-tariff barriers for farm and manufactured goods, as well as services and investment going into Korea, enabling the U.S. to expand its commercial presence in South Korea's large and growing marketplace. Further, the FTA will help support and expand U.S. companies and workforce at home and abroad, while supporting U.S. competitiveness in the international economy. Through passage and entry-into-force of the U.S.-Korea FTA, the U.S. will position itself as a strong competitor throughout the vibrant Asia-Pacific region, helping to create new economic opportunities for U.S. companies in the region.

U.S. Panama Trade Promotion Agreement (TPA)

ECAT strongly supports Congressional approval and implementation of the U.S.-Panama TPA as early as possible in 2011, so that American farmers, manufacturers and service providers can more effectively access Panama's growing market.

The United States and Panama negotiated intensively on the U.S.-Panama TPA, an important accord that will eliminate major barriers in Panama's market, promote important new economic opportunities, foster improved ties and promote broader U.S. interests in Latin America. The U.S.-Panama TPA was signed on June 28, 2007. Panama's legislature approved the final trade agreement on July 11, 2007 by an overwhelming 58-to-3 margin.

Panama is the United States' 56th-largest trading partner, importing \$4.3 billion in goods from the United States in 2009, with significant imports of U.S. fuel, machinery, aircraft and parts, vehicles, food, and consumer products. The United States has long been the largest foreign supplier of goods to Panama's market.

The U.S.-Panama trade agreement is a comprehensive and high-standard agreement that will eliminate tariffs on U.S. farm and manufactured goods exports, eliminate barriers to access by U.S. service suppliers and set in place important rules from transparency to the protection of property and investment. As a result, this agreement will expand economic opportunities for U.S. businesses in all sectors of the economy and of all sizes. Panama has long enjoyed duty-free access to the United States; this agreement will make that relationship reciprocal for U.S. farmers, manufacturers and service providers.

This agreement is particularly important for expanding the U.S.-Panamanian commercial relationship as Panama has embarked on an over-\$5-billion expansion of the Panama Canal. The Panama Canal expansion will build a new lane of traffic, thereby doubling the Canal's capacity and allow the passage of longer and wider ships. Implementation of the Panama agreement will lower the cost of U.S. goods, require non-discriminatory treatment of U.S. services and guarantee non-discriminatory access to government procurement opportunities that will make U.S. firms much more competitive for Canal expansion work compared to other foreign competitors in Panama's market. But if approval and implementation of the agreement is delayed much longer, such potential advantage to the United States on this major construction effort will be lost.

Key Trade Agreement Provisions

U.S. trade agreements with Colombia, Korea and Panama each include important market-opening provisions that expand access to key markets in each country, including agriculture and manufactured goods and services. The agreements also set in place strong rules to advance and protect the interests of U.S. enterprises abroad, in areas including intellectual property (IP) and investments. These provisions serve as a strong foundation to facilitate commercially-meaningful opportunities for U.S. companies and workforce,

and ECAT strongly supports the inclusion of these critical provisions in each agreement.

- *Market Access.* Each trade agreement reduces and/or eliminates tariffs in important sectors and sub-sectors in Colombia, Korea and Panama, which will strongly promote U.S. exports of agricultural, consumer and industrial goods. The agreements also liberalize services trade and investment in these countries, a negative-list approach with few exceptions. As a result, these countries will dismantle barriers to financial, broadcasting and audiovisual, express delivery, information technology and other services to the benefit of the U.S. industries and workers. The agreements further eliminate or reduce prohibitive non-tariff barriers in each country by eliminating technical and other barriers to trade, while at the same time including provisions to facilitate the movement of goods across borders.
- *Investment.* Each of the trade agreements expand opportunities for U.S. investors and incorporate expropriation and other strong investment protections relating to non-discrimination, expropriation, fair and equitable treatment, performance requirements, transfer of capital and fair and objective investor-state and state-to-state enforcement mechanisms.
- *Competition Policy.* The trade agreements include strong competition policy chapters that will promote greater transparency and due process in each of these countries.
- *Intellectual Property Rights.* The trade agreements also contain strong protections for trademarks, patents, copyrights and trade secrets, including stronger penalties. The Korea trade agreement includes even strong provisions on anti-circumventing, and patent-term restoration, patent linkage and data exclusivity for pharmaceutical products.
- *Government Procurement.* The trade agreements provide non-discriminatory access to Colombian and Panamanian government procurement and expand access to Korean government procurement beyond Korea's existing commitments in the Government Procurement Agreement of the World Trade Organization (WTO).
- *Transparency.* The trade agreements include strong transparency standards, in such areas as customs and regulatory rulemaking, including with respect to pharmaceutical reimbursement, financial services, telecommunications and technical regulations.
- *Customs Procedures and Rules of Origin.* The trade agreements include strong commitments on customs administration, including use of automation and electronic-clearance procedures and streamlined customs procedures.
- *Labor and Environment.* Each of the Parties committed to adopt and maintain provisions in law consistent with the core principles identified in the International Labor Organization (ILO) Declaration, to honor obligations in a number of key multilateral environmental agreements (MEAs), to enforce effectively their domestic labor and environmental laws, and to not derogate from the ILO or MEA commitments in a manner affecting trade.
- *Dispute Settlement.* All trade agreement obligations will be enforced through strong, transparent and objective dispute settlement.

Other Key Trade and Investment Priorities for 2011

Completion of a Commercially Strong Trans-Pacific Partnership (TPP) Agreement

ECAT, working as secretariat to the U.S. Business Coalition for TPP, will continue to push for a high-standard and comprehensive agreement to be reached by the November 2011 meeting of APEC Leaders to take place in Hawaii. In particular, ECAT is seeking strong outcomes on a wide number of issues, including supply chain and trade facilitation, regulatory coherence, investment, intellectual property, government procurement, information technology, competition policy, transparency and other issues that are important to promote American industries and sustain and grow American jobs.

Further Market-Opening Measures and an Improved Commercial Relationship with China

ECAT seeks continued effort to develop an improved U.S.-China economic relationship that provides greater market access and investment opportunities in China, addresses multiplying non-tariff, anti-competitive and other barriers, such as indigenous-innovation programs, and promotes China's accession to the GPA on strong, commercially viable terms.

Jumpstarting the Doha Development Agenda Negotiations to Obtain Market-Opening Outcomes for U.S. Goods and Services

The successful conclusion of the WTO Doha Round talks remains ECAT's priority, despite the major challenges those negotiations face. ECAT continues to seek improved commitments by major countries in the three pillars of the negotiations — agriculture, manufactured goods and services, including with respect to trade in environmental goods and services. ECAT also seeks advancement of efforts to secure new rules to facilitate trade and to re-form trade rules, including antidumping and countervailing-duty rules, in ways that will promote the competitiveness of U.S. companies.

Progress in Key Negotiations and Relations, Including with China, India, Vietnam and South and Central America

ECAT continues to seek progress on a wide number of negotiations and country-specific and regional issues, including the following:

- *Bilateral Investment Treaty (BIT) Negotiations with China, India and Vietnam.* ECAT supports the restart of the currently paused BIT negotiations with China, India and Vietnam, which provide great potential to address key barriers that impede U.S. competitiveness in these markets. ECAT seeks strong and commercially meaningful investment protections and market opening in these negotiations, including binding investor-state dispute settlement.
- *Strengthening Western Hemisphere Competitiveness.* ECAT supports initiatives to enhance competitiveness throughout the Western Hemisphere, including through improved trade facilitation and supply-chain rules.
- *Addressing Foreign Trade and Investment Barriers and Practices.* ECAT supports greater focus on trade and investment barriers and practices that disadvantage U.S. companies, including unfair, overly burdensome and discriminatory standards, anti-competitive practices and trade-distorting subsidies. ECAT will work to support ongoing bilateral, regional and other dialogues and mechanisms that seek to address such barriers and practices.

Completion of Russia's Accession to the WTO on Commercially Meaningful Terms

ECAT supports the conclusion of a high-standard and commercially meaningful accession package with Russia that addresses significant areas of concern as part of its entry into the WTO. ECAT also supports the extension of permanent normal trade relations to Russia upon its accession on strong commercial terms so that U.S. industries and their workers can benefit from the market opening and improved rules that Russia commits to as part of its accession.

Keeping the U.S. Market Open

ECAT strongly opposes protectionist legislation and regulations, including expansions of Buy American provisions, provisions that would impose new taxes and other burdens on imports or investment, or other actions that violate U.S. WTO commitments or otherwise undermine U.S. competitiveness in the heavily integrated international economy. ECAT will continue efforts to limit existing U.S. restrictions and trade barriers, including with respect to trucks from Mexico and restrictions on sugar.

Development of Strong and Better-Enforced Rules on Intellectual Property Rights

ECAT strongly supports Congressional and Administration efforts to enhance intellectual-property protections globally across all sectors. Intellectual property and its protection are key components of U.S. competitiveness and success in the international economy.

Development of More Transparent and Open Government-Procurement Markets Worldwide

ECAT strongly supports, including as the secretariat to the International Government Procurement Coalition, progress on key procurement issues, including:

- China's accession to the WTO Government Procurement Agreement (GPA) and its adoption of transparent and nondiscriminatory procurement regulations in software and other sectors, and
- The adoption of strong, nondiscriminatory and transparent government-procurement rules by key countries through the expansion of membership and commitments in the WTO GPA, the TPP or through bilateral agreements.

Adoption of Tax, Export Control, Customs, Temporary-Entry and Other Policies that Support the Global Operations of American Companies

ECAT strongly supports efforts to promote trade, investment, tax, export control and temporary-entry policies and legislation, where appropriate, that support the global operations and competitiveness of U.S. companies. ECAT will remain a strong voice in opposition to additional proposed changes to the international-tax rules that will disadvantage globally engaged companies.

Improvements in the Mechanics of Trade

ECAT supports Congressional and Administration efforts to develop modern, efficient customs practices that better facilitate international trade through trade legislation, such as the Customs Reauthorization bill, and negotiations, such as the TPP negotiations.

Trade and Development

ECAT will continue to work to promote the renewal and development of strong and reinvigorated trade preference programs and countries' compliance with the core eligibility requirements and respect for the rule of law.

Conclusion

The U.S. trade agreements with Colombia, Korea and Panama are important accords that will promote new market opportunities for U.S. producers, enterprises and workers across the wide spectrum of the U.S. economy, while advancing U.S. interests and competitiveness more broadly in the international economy. These agreements incorporate critical rules on investment, intellectual property, transparency, competition policy and market access that will help ensure each agreement is commercially-meaningful and advantageous to U.S. companies and workforce. Congressional approval and entry-into-force of each agreement should be pursued immediately by the United States. Delaying approval will risk undermining the progress already achieved, as well as the important relationships the United States maintains with each country.

More broadly, there are a number of other important trade and investment issues that are critical to promote economic growth and sustain and grow American industries and jobs. ECAT looks forward to working with the Committee on all of these issues.

American Jewish Committee



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February 8, 2011

The Hon. Dave Camp
Chairman,
House Ways and Means Committee
U.S. House of Representatives
Washington, DC 20515

The Hon. Sander Levin
Ranking Member,
House Ways and Means Committee
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman and Rep. Levin,

Thank you for the opportunity to submit a statement for the record of the hearing on trade policy scheduled to take place before the House Ways and Means Committee tomorrow. I write on behalf of American Jewish Committee (AJC), the nation's global Jewish advocacy organization, to urge early Congressional consideration and approval of the three trade agreements—with South Korea, Colombia and Panama—signed by the United States in 2007.

AJC has consistently called on successive U.S. administrations to increase its cooperative efforts with Latin America and Asia. We believe that the promotion of trade agreements and innovative policies that advance economic development and integration around the world is crucial not only to addressing unequal distribution of wealth, but also to creating thousands of new jobs at home. In addition to opening channels of engagement and fostering political and strategic alliances, enhanced trade between the U.S. and these countries is an important tool in promoting U.S. foreign policy priorities. The special interests of specific companies or regions, which are invariably implicated in a trade arrangement, must not be allowed to hurt our nation's overall interests.

South Korea, Colombia and Panama have been reliable and loyal allies of the United States. Congressional action on the pending agreements would represent a well-deserved gesture of appreciation for their steadfast friendship. In addition, such approval would well serve our nation's strategic and economic interests, increasing U.S. exports by billions of dollars and creating many thousands of U.S. jobs.

On behalf of AJC's more than 175,000 members and supporters, we thank you for considering our views on this important matter.

Respectfully,

Richard T. Foltin
Director of National and Legislative Affairs

National District Export Council Inc.



February 8, 2011

Dave Camp, Chairman
House Ways and Means Committee
House of Representatives
Washington, D.C.

Dear Congressman Camp:

Exporting is a vital component of the American economy. Today, 95% of potential buyers and 75% of the world's commerce is outside the USA. We must level the playing field in order to help American companies compete in the global marketplace.

Exporting means jobs for Americans. That's why the National District Export Council Inc. supports the passage of Free Trade Agreements with Colombia, Panama and South Korea as a path to success for the U.S. economy. The National District Export Council is part of a nationwide network of 60 District Export Councils comprised of more than 1500 volunteers.

Passage of these free trade agreements will help stabilize our economy with increased exports and high-paying jobs. Exporting at these levels will require export control modernization, increased financing for exporters from the EX-IM Bank and the Small Business Administration, passage of Free Trade Agreements, and a continuous effort to ensure the competitiveness of U.S. companies in overseas markets.

One of the most important steps in helping the U.S. maintain its global competitiveness is passage of the pending free trade agreements. The attached resolution, unanimously passed by the National District Export Council, supports efforts to finalize these agreements.

Sincerely,

Gregory Sandler, Chairman
National District Export Council Inc.

413-586-8588
greg@thinkglobal.us

National District Export Council, Inc.
www.districtexportcouncil.com



A RESOLUTION BY THE
NATIONAL DISTRICT EXPORT COUNCIL

In support of the Free Trade Agreements with
South Korea, Panama and Colombia

WHEREAS, In 2007, the United States concluded trade agreements with Colombia, Panama, and South Korea;

WHEREAS, Each of the three trade agreements would open new markets to U.S. exports, and, in turn, benefit American businesses, farmers, workers, and consumers;

WHEREAS, The independent U.S. International Trade Commission has estimated that the three pending trade agreements, combined, would increase U.S. exports by at least \$13 billion;

WHEREAS, The benefits of trade agreements are also long lasting. Since 2000, U.S. exports to the 13 countries with which the United States has implemented trade agreements have grown almost twice as fast as our worldwide exports.

WHEREAS, Colombia, Panama, and South Korea have all concluded trade agreements with major trading partners and export competitors of the United States.

WHEREAS, So U.S. failure to implement our own trade agreements with these countries could severely disadvantage U.S. exporters and jeopardize U.S. job creation.

THEREFORE, BE IT RESOLVED that the National District Export Council urges the members of the U.S. House and Senate to support this trade legislation which will be coming before the Congress this year.

BE IT FURTHER RESOLVED That the Chair of the National District Export Council forward a copy of this Resolution to members of the NDEC Steering Committee and to each of the 60 DEC Chairs across the country to assist in their trade education and National Export Initiative programs with their Members of Congress, news media and the general public.

Adopted by the National District Export Council Steering Committee
February 1, 2011



Contact Information

Submitted on behalf of the National District Export Council, Inc.

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California Table Grape Commission-1



CALIFORNIA
TABLE GRAPE
COMMISSION

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February 23, 2011

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

To Members of Congress:

California produces 99 percent of the table grapes grown commercially in the U.S. The table grape industry is family owned and operated; most operations are small, all are located in rural areas of the San Joaquin and Coachella valleys. Together, those small operations generate an industry value of \$1.3 billion. The California Table Grape Commission represents California's table grape industry and is charged with maintaining and expanding markets domestically and worldwide for table grapes.

The commission requests Congressional approval and implementation of the U.S.-Korea Free Trade Agreement (FTA), as part of the U.S. trade agenda. Its implementation will benefit California table grape growers and the rural communities in which they live and work, by helping to ensure economic viability.

South Korea currently imposes a 45 percent tariff on California fresh grapes (HS 0806.1); elimination of the tariff will make California grapes much more competitive. South Korea is an important emerging market for California grapes; the exports in the 2009-10 season were valued at \$4.3 million.

In the FTA, South Korea agrees to eliminate its 45 percent tariff for grapes entering from May 1 to October 15, over a 17-year period. Tariffs on grapes entering between October 16 and April 30 will be immediately reduced to 24 percent and eliminated over a five-year period. Two-thirds of California grapes enter the South Korean market from October through December, which translates to a significant opportunity for California's table grape industry.

California's table grape industry faces competition from Chilean grapes in the early and late periods of the California season. Chile's competitiveness is enhanced by the existing South Korea-Chile FTA, where Chile benefits from a reduced South Korean tariff during its season from November through April (currently 12.4 percent). This tariff will continue to fall until it is completely eliminated in 2014.

The European Union (EU) completed a trade agreement with South Korea which is scheduled for implementation on July 1, 2011, that contains tariff reductions identical to the U.S.-Korea FTA. If the EU implements its agreement and the U.S. does not, California's table grape industry will lose market share to European producers due to the tariff advantage.

Implementation of the U.S.-Korea FTA, as a component of the U.S. trade agenda, will help to maintain economic viability in California's rural communities, and ensure that California farmers remain competitive internationally. Thank you for your attention to these comments and the important issues represented.

Regards,

Kathleen Nave
President

California Table Grape Commission-2



CALIFORNIA
TABLE GRAPE
COMMISSION

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February 23, 2011

House Ways and Means Committee
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To Members of Congress:

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The commission requests Congressional approval and implementation of the U.S.-Colombia Free Trade Agreement (FTA), which is an important part of the U.S. trade agenda. By helping to ensure economic viability, its implementation will yield benefit to California table grape growers and the rural communities in which they live and work.

California fresh table grapes entering Colombia currently face a 15 percent tariff. This tariff will be eliminated upon implementation of the U.S.-Colombia FTA, making California grapes more affordable for Colombian consumers and more competitive with grapes from competing markets, including Chilean and Peruvian grapes which currently enter Colombia duty-free.

In the 2009-10 season, California exported \$5.2 million worth of table grapes to Colombia; elimination of the 15 percent tariff provides the opportunity to significantly expand California table grape exports to this market. The commission encourages Congress to work with the Obama Administration to make passage and implementation of the U.S.-Colombia FTA a priority within the U.S. trade agenda.

Please feel welcome to contact me with any questions you might have.

Regards,

Kathleen Nave
President

National Oilseed Processors Association

**Statement for the Hearing on President Obama's Trade Policy Agenda
by Thomas A. Hammer, President
National Oilseed Processors Association (NOPA)**

**Ways and Means Committee
U.S. House of Representatives
February 9, 2011**

Mr. Chairman and distinguished Members of the Committee, thank you for holding this hearing on President Obama's trade policy agenda. The National Oilseed Processors Association (NOPA) thanks you for the opportunity to submit our comments on the President's trade policy agenda on current trade issues such as the pending trade agreements with Colombia, Panama, and South Korea and prospects for the WTO Doha Development Agenda.

NOPA is a national trade association comprised of 14 members engaged in the production of food, feed, and renewable fuels from oilseeds, including soybeans. NOPA's member companies process more than 1.7 billion bushels of oilseeds annually at 63 plants located in 20 states throughout the country, including 57 plants that process soybeans. Each one of these operates as a small business generating services and opportunities for farmers and ranchers in the rural communities they serve.

NOPA has long been a leader in supporting commercially meaningful market access and global trade liberalization. NOPA supports the WTO Doha Development Agenda (DDA) as a means to reform agricultural and food trade policy, promote global food security through furthering open trade, gain substantial improvements in market access, phase out all forms of export subsidies, and increase trade liberalization in the agriculture and food sector.

To this end, we vigorously support the elimination of Differential Export Taxes (DETs). DETs distort global trade in oilseeds and oilseed products, and more recently biodiesel. Under the system of differential export taxes as imposed by Argentina, soybean exports are taxed at a rate higher than the rates on soybean meal, soybean oil and soy biodiesel. The lower tax burden on meal, oil and biodiesel creates a strong economic incentive for processing soybeans in Argentina and exporting the value-added products rather than the raw product. As a result, DETs have effectively distorted the competitive balance among the world's major soybean processors. If the DDA is successful in disciplining and/or eliminating all other forms of export competition, such as export subsidies and export credits, we fear that DETs might well become the favored instrument to be used by commodity exporters in other countries for an increasing number of agricultural and industrial products. NOPA believes it is imperative that language be included in the final DDA Agreement to eliminate the differential element of export taxes.

American agribusiness is at risk of being left behind as a result of the long delay in the passage of these pending agreements. Many of our major trading partners, especially in Asia, have turned to bilateral economic agreements to promote trade at the expense of U.S. exports. South Korea is not waiting for the United States, but is negotiating FTAs with other major economies, including the EU and India, to the disadvantage of U.S. business. It is only a matter of time before South

Korea joins with other nations, such as China, Australia and New Zealand, in negotiating additional bilateral agreements.

These trade agreements are important to the overall economic health of farmers, ranchers, agricultural processors, and the entire value chain. Our industries play a vital role in the prosperity of rural communities. Agriculture is responsible for one out of every 12 jobs in America and is responsible for creating employment opportunities for people in urban, suburban, and rural communities across the country. The Department of Agriculture estimates that every billion dollars in agricultural exports supports 9,000 jobs. A decline in our exports means a decline in work for the entire supply chain. We must do whatever we can to assure that we are creating opportunities and jobs.

In President Obama's State of the Union Address on January 27, 2010, he announced the National Export Initiative (NEI), with a goal of doubling exports over the next five years. The President once again mentioned in his State of the Union Address on January 25, 2011, the goal of doubling our exports by 2014. The negotiation and implementation of FTAs and other trade expanding arrangements will lead to increased opportunities for oilseed processors, farmers, ranchers, and agribusiness. The three pending FTAs represent immediate growth opportunities in both revenue and jobs and support the NEI goal of doubling exports by 2014.

However, trade expansion between the United States, South Korea, Colombia and Panama are at risk because our competitors are moving quickly to gain market access. They are moving forward with their own FTAs. This is not a trivial concern. There are 13 such agreements in place or in the works involving some 50 nations around the world. They include some major agricultural producing and exporting countries: Chile, Australia, New Zealand, Canada, the 27-nation European Union, Mexico, Mercosur (Argentina, Brazil, Paraguay and Uruguay), Peru and the ASEAN bloc. In fact, South Korea's FTA with the European Union is set to enter into force on July 1, 2011. This, coupled with the failure to implement the KORUS FTA, will put U.S. food and agriculture products at a severe disadvantage with respect to competition from the European Union in the Korean market.

According to an analysis by the American Farm Bureau Federation, the KORUS FTA would result in \$1.8 billion in additional sales to Korea, a 46 percent increase over existing sales. These new exports would create thousands of new jobs across the agricultural sector, in rural communities and throughout the economy. For three years, these important benefits have been forfeited while the implementing legislation has been on hold.

We can lose jobs as our market share declines, we can relinquish our export sales to countries that have implemented their own FTAs, or we can create new jobs by expanding exports to South Korea, Colombia, and Panama.

NOPA strongly believes that the Administration should continue to negotiate multilateral trade agreements, such as the DDA, and regional trade agreements, such as the Trans-Pacific Partnership (TPP) Agreement. First and foremost, however, the Administration should send implementing legislation to the Congress on the three pending FTA agreements as soon as possible. NOPA encourages Congress to proceed expeditiously to ratify the pending agreements

with South Korea, Panama, and Colombia. Below is a detailed description of each agreement and the benefits to the U.S. soybean industry and our animal and livestock customers.

U.S. – Korea Free Trade Agreement (KORUS)

The United States is already Korea's top supplier of a broad variety of agricultural exports at \$4.37 billion in 2009, including fish and forest products, making Korea the fifth largest export market for U.S. farm products. The new agreement is expected to expand those sales even further. The U.S. is the No. 1 supplier to Korea of many farm products, including almonds, beef, fresh cherries, hides and skins, poultry, soybeans, corn, and wheat. With the agreement, the average agricultural tariff for U.S. goods will fall from the current 52 percent to 4 percent in 15 years. The tariff reductions will help the U.S. compete against China and Australia, which have increased their presence in Korea's \$12 billion agriculture market. The tariff reductions will help the U.S. compete against Korea's other major agriculture suppliers and help keep the United States on a level playing field with Korea's current free trade partners, such as Chile, and any future trade partners.

| Product | 2005 | 2006 | 2007 | 2008 | 2009 |
|--------------|------------|-----------|-----------|-----------|-----------|
| Soybeans | \$199.4 M | \$113.1 M | \$158.4 M | \$186.7 M | \$276.0 M |
| Soybeans Oil | \$ 6.8 M | \$ 27.7 M | \$ 46.4 M | \$ 66.8 M | \$ 55.9 M |
| Soybean Meal | \$ 4.4 M | \$ 17.2 M | \$ 38.0 M | \$ 82.0 M | \$116.0 M |
| | \$ 211.1 M | \$158.0 M | \$242.8 M | \$335.5 M | \$447.9 M |

Soybeans and Products: The greatest potential benefit for the soybean sector is likely to come from improved access to Korea's 300,000-ton market for food quality soybeans. Korea has agreed to immediately eliminate its 5-percent tariff on food-use soybeans. In addition, Korea will also establish a Tariff Rate Quota (TRQ) for identity-preserved soybeans for food use (the production of soybean curd). This quota will operate outside the current state trading entity, which has charged a reported \$250 per ton markup on soybean imports supplied to soybean curd processors. The TRQ will be operated by an association of food-grade soybean processors. Korean tariffs on soybeans for crushing will decline from the current 1 percent autonomous tariff to zero upon implementation of the KORUS FTA.

Soybean Oil and Meal: Korean tariffs on imports of crude soybean oil (the majority of Korea's soybean oil imports) will decline from the current 5.4 percent WTO tariff in 10 equal annual reductions. Refined oil tariff rates will decline from the current 5.4 percent in five equal annual reductions. Korea's 3 percent tariff on soybean flour and meal will immediately go to zero. U.S. livestock and poultry producers customers consume over 29.49 million tons of soybean meal.

Pork: Korea's tariffs on imports of more than 90 percent of U.S. pork products will become duty-free on January 1, 2014. This includes all frozen pork products and processed pork products. Fresh and chilled products will be phased out in 10 years and subject to a 10-year safeguard that is higher than historical trade and grows six percent annually. Date-certain duty-free access allows for U.S. exports to compete on a level playing field with other Korean free trading partners. In addition to ambitious market access gains, the Republic of Korea has agreed to

accept all pork and pork products from USDA-approved facilities. This provision ensures that trade will be possible without onerous technical or sanitary barriers.

The KORUS FTA will add hundreds of millions of dollars to the U.S. pork industry in additional pork exports. Exports positively impact the price of live hogs, and therefore the agreement will benefit all U.S. pork producers. In 2009, exports to South Korea were 133,530 metric tons valued at \$215 million. The United States is the largest foreign supplier of pork to South Korea. Major competitors include the EU, Canada, Chile and Australia. The U.S.-Korea FTA will give U.S. pork preferences in this lucrative market over other foreign competitors.

Poultry Meat and Egg Products: Korean tariffs on imports of chicken cuts, including the dominant U.S. frozen leg import category, will decline from the current 20 percent to zero in 10 equal annual reductions with the exception of frozen breast and wings, which will decline in 12 equal reductions. Korean tariffs on frozen turkey cuts will decline from the current 18 percent in seven equal annual reductions. Korean tariffs on egg products (egg yolks are the key import item) will decline from the current 27 percent in 12 equal annual reductions.

Korea's most significant poultry meat imports are frozen cuts, such as legs and wings, followed by frozen turkey cuts, such as legs and wings. The U.S. is the leading supplier, with an average market share of 53 percent, followed by Brazil and the European Union.

U.S.-Colombia Trade Promotion Agreement (CTPA)

The CTPA achieves two key trade objectives for the United States: it makes agricultural trade a two-way street, and it levels the playing field with respect to third-country competitors in the Colombian market.

| Product | 2005 | 2006 | 2007 | 2008 | 2009 |
|--------------|-----------|-----------|-----------|-----------|-----------|
| Soybean Meal | \$ 56.9 M | \$ 76.7 M | \$ 73.8 M | \$120.6 M | \$ 39.2 M |
| Soybean Oil | \$ 2.1 M | \$ 2.2 M | \$ 6.8 M | \$ 71.0 M | \$ 1.3 M |
| Soybeans | \$ 41.7 M | \$ 65.4 M | \$ 91.0 M | \$ 96.0 M | \$100.4 M |
| | \$100.7 M | \$144.3 M | \$171.6 M | \$287.6 M | \$140.9 M |

Upon implementation of the CTPA, U.S. exporters will receive immediate duty-free treatment on products accounting for more than half the value of current trade. Currently, no U.S. agricultural exports enjoy duty-free access to Colombia. In contrast, over 99.9 percent of Colombia's current exports already receive duty-free treatment into the U.S. market under the Andean Trade Promotion and Drug Eradication Act (ATPDEA), legislation passed by Congress in 2002. Most Colombian applied tariffs range from 5 to 20 percent for agricultural products and, in many cases, these tariffs now restrict U.S. exports.

Sanitary & Phytosanitary (SPS) Measures: Colombia also agreed to recognize the U.S. meat and poultry inspection system as equivalent to its own system. The U.S. and Colombia agreed to establish an SPS Committee to expedite resolution of technical issues.

Soybeans and Soybean Products: Colombia's WTO tariff bindings on soybeans and soybean products range from 75 to 150 percent. Colombia's applied tariff rates range from 5 to 20 percent on some products, while other products are subject to Colombia's price band system with tariffs ranging up to the WTO bound level, depending on world prices. Colombia will immediately eliminate tariffs on soybeans and soy meal and flour. Colombia will provide immediate duty-free access for crude soybean oil through a 31,200-ton TRQ with four percent annual growth. Colombia will phase out the out-of-quota tariff of 24 percent for crude soybean oil over 20 years. Colombia will phase out its 24 percent tariff for refined soybean oil over 5 years.

Pork: The CTPA negotiated between the U.S. and Colombia, once fully implemented, will significantly benefit U.S. pork producers. Under the terms of the CTPA, the tariffs on some pork and pork products will be eliminated immediately, while the tariffs on others will be phased out over a 5-year period.

Live hog prices are positively impacted by the introduction of new export markets. According to Iowa State University economist Dermot Hayes, the Colombia agreement, when fully implemented, will cause live U.S. hog prices to be \$1.15 higher than would otherwise have been the case.

Poultry: In 2009, the United States exported \$20.8 million of poultry and poultry products to Colombia. Colombia's WTO tariff bindings on poultry range from 70 to 209 percent. Colombia's applied tariff rates range from 5 to 20 percent on some products, while other products are subject to Colombia's price bands with tariffs ranging from zero percent up to the WTO bound rate, depending on world prices. The United States secures a 27,040-ton TRQ at zero duty with four percent annual growth for chicken leg-quarters. Colombia will phase out the out-of-quota tariff of 164.4 percent for fresh, chilled and frozen chicken leg-quarters and of 70 percent for processed chicken leg-quarters over 18 years with a grace period during the first six years. Colombia will have access to a safeguard on chicken leg-quarters in the event of an annual import surge during the 18-year tariff phase-out period.

Colombia will also establish a zero-duty, 412-ton TRQ with 3 percent annual growth for "spent fowl," typically post-production layers. The 45 percent above-quota tariff on spent fowl will be phased out over 18 years. Colombia will have access to a safeguard on spent fowl in the event of an annual import surge during the 18-year implementation period.

U.S.-Panama Trade Promotion Authority Agreement

The U.S.-Panama Trade Promotion Agreement provides for a growing market for U.S. agricultural products. U.S. agricultural products exported in 2009 were \$378 million, compared to \$207 million in 2005.

Over 88 percent of U.S. exports of consumer goods and industrial products to Panama will be duty-free immediately upon entry into force of the agreement, and an additional four percent will be duty-free within five years. All remaining tariffs will be eliminated within ten years.

| Product | 2005 | 2006 | 2007 | 2008 | 2009 |
|--------------|----------|----------|----------|----------|----------|
| Soybean Meal | \$28.6 M | \$27.5 M | \$42.5 M | \$59.0 M | \$51.8 M |
| Soybeans Oil | \$ 2.6 M | \$ 1.2 M | \$ 2.6 M | \$ 8.9 M | \$ 2.6 M |
| Soybeans | 0 | \$ 1.1 M | \$ 1.8 M | \$ 1.1M | \$ 1.5 M |
| | \$31.2 M | \$29.7 M | \$46.9 M | \$69.0 M | \$55.9 M |

Oilseeds and Vegetable Oil: Panama's tariffs on oilseeds and vegetable oils range from zero to 30 percent. All fat and oil tariff lines will be eliminated within 15 years or less.

- Oilseeds. Panama will lock in duty-free treatment for U.S. exports of both soybeans and soybean meal immediately.
- Soybean Oil. The tariff on crude soybean oil will be eliminated immediately. The tariff on refined soybean oil will be phased out within 15 years, with an initial grace period and a safeguard.
- Corn Oil. The tariff on crude corn oil will be eliminated immediately. Panama will establish a duty-free preferential TRQ for refined corn oil. The initial duty-free TRQ will be 368 tons with a 5-percent compound growth rate. The over-quota tariff on refined corn oil will be phased out within 10 years, with an initial grace period and a safeguard.

Pork: U.S. pork exports to Panama are currently restricted by a very limited quota and out-of-quota duties as high as 80 percent. However, the Panama Trade Promotion Agreement, if implemented, will provide immediate duty-free treatment on pork variety meats and expanded market access for U.S. pork through tariff rate quotas. U.S. pork competes in Panama with pork from Canada and the EU. The Panama Agreement, if implemented, will give U.S. pork products a competitive edge in the market.

Poultry: Panama's tariffs on poultry range from 5 to 260 percent. Tariffs will be eliminated immediately on frozen whole turkeys, most frozen turkey cuts, and mechanically de-boned chicken. Tariffs will be eliminated within five years on chicken wings and other turkey meat, as well as processed chicken and turkey. The agreement establishes a preferential duty-free TRQ for chicken leg quarters that starts at 660 tons and grows each year by a 10-percent compound rate. The over-quota tariff will be eliminated in 18 years with no tariff reductions for the first 10 years. All other poultry tariffs will be eliminated within 15 years or less. Under the CBI, U.S. tariffs on poultry imports from Panama currently are zero. The U.S.-Panama TPA continues this zero-duty treatment.

Agricultural Market Access: More than half of current U.S. farm exports to Panama will receive immediate duty-free treatment, including high quality beef, mechanically de-boned chicken, frozen whole turkeys and turkey breast, pork variety meats, whey, soybeans and soybean meal, crude vegetable oils, cotton, wheat, barley, most fresh fruits, almonds, walnuts, many processed food products, distilled spirits, wine, and pet food.

U.S. farm products that will benefit from expanded market access opportunities through tariff-rate quotas include the following: pork, chicken leg quarters, dairy products, corn, rice, refined corn oil, dried beans, frozen French fries, and tomato products. Tariffs on most remaining U.S. farm products will be phased out within 15 years.

Agricultural Regulatory Issues: Panama will recognize the equivalence of U.S. food safety inspection system for meat and poultry, and the U.S. regulatory system for processed food products. The agreement streamlines import documentation requirement for U.S. processed foods and ensures Panama's continued recognition of the U.S. beef grading system and cuts nomenclature.

As demonstrated from the above data, the three pending free trade agreements provide significant opportunity for U.S. agriculture. We urge Congress and the Administration to proceed to expeditiously ratify the pending FTAs with South Korea, Panama and Colombia.

Thank you for allowing NOPA to share its views on the pending free trade agreements and the ongoing Doha multilateral trade negotiations. We look forward to working with you and the Committee in address the challenges and opportunities in facilitating growth and jobs in U.S. agricultural trade and creating economic growth in rural communities across the country.

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National Potato Council

**NATIONAL POTATO COUNCIL**

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February 23, 2011

The Honorable Dave Camp
 Chairman
 House Ways and Means Committee
 1101 Longworth House Office Building
 Washington, D.C. 20515

Dear Chairman Camp:

On behalf of the US potato industry, I am writing to provide comments for the "Hearing on President Obama's Trade Policy Agenda." The National Potato Council represents the interests of the nation's potato producers and is a strong supporter of multilateral, bilateral, and regional trade negotiations that seek liberalized and fair access for US fresh and processed potato exports.

Free Trade Agreements: Exports are critical for the US potato industry. From July 2009-June 2010, the US potato industry exported \$1.2 billion worth of potato products to our trading partners. Frozen potatoes, including fries, were the largest export category, but all categories of potatoes, including fresh, and dehydrated potatoes were exported.

During the 2000's, the National Potato Council worked closely with US negotiators to obtain significant tariff reductions in each of the three pending free trade agreements with Korea, Panama, and Colombia. A brief summary of the benefits US potatoes will receive from each agreement is included below.

Korea FTA: Korea is the third largest fry export market with \$42 million in annual sales. (Total potato exports are \$56 million). The US has an 81% frozen fry market share. In the Korea FTA, Korea agreed to immediately eliminate the 18% fry tariff once implemented. Korea also agreed to establish duty-free quotas for other US potato products, opening these markets for the first time for US farmers. Similar concessions were provided to Europe in the Korea-Europe FTA, which will be implemented later in 2011. Passage of the Korea FTA is required to expand the Korean market and maintain market share against competitors.

Panama FTA: Panama is a \$5 million market for US potatoes. In the FTA, Panama agreed to establish a duty-free quota on US fries that will be eliminated in five years. Panama has many quick service restaurants and continues to grow as a market for US potato exports. Canada has already signed a FTA with Panama, which will be implemented soon. This will hurt US market share should the US-Panama FTA not also be implemented quickly.

Colombia FTA: Although currently a \$2 million market for US potatoes, the Colombia market is growing. It will expand further with the implementation the US-Colombia FTA. In the agreement, Colombia conceded to immediately eliminate ALL major potato tariffs on US product. Such a reduction will make it easier to export to Colombia and compete with Canada, which has completed its FTA with Colombia. Currently, US potato products face a 20% tariff in Colombia.

Passage of each of these agreements, will lead to additional US potato exports, which will lead to additional rural American jobs. I would be pleased to expand on the concessions achieved and benefits from any of these agreements.


Trade Dispute Management: Obstacles to the Mexican market continue to be a serious issue. Mexico is the third-largest market for US potatoes behind Japan and Canada. For the US potato industry to flourish, it is imperative that these obstacles must be overcome.

Mexico Trucking Dispute: Since March 2009, US potato growers have seen revenues from exports to Mexico decline by nearly \$68 million. The reason was first a 20 percent retaliatory tariff from March 2009 – August 2010 and then a 5 percent tariff from August 2010 to the present. The World Trade Organization (WTO)-sanctioned tariffs were imposed as a result of the unwillingness of the US to live up to its obligations as outlined in the North American Free Trade Agreement (NAFTA). The US Department of Transportation (DOT) released a "concept document" on January 6, 2011, that can serve as a starting point for discussions to resolve the issue with the Mexican government. It is important that efforts continue toward a resolution while there is momentum to do so. The alternative would mean continued tariffs that total \$2.6 billion in value across the entire US economy, hindering the ability for US producers to compete with their global competitors.

Fresh Potato Access: Presently, US potato exports are allowed only within a 26-kilometer deep area along the US-Mexico border. This is despite a 2003 signed market access agreement that called for increased access to the five northern Mexican states the next year and for consideration of full access in the following year. WTO commitments require countries to apply uniform rules to both imports and domestically produced agricultural products. The US potato industry believes that Mexico is in direct violation of this "national treatment" standard. On February 11, 2011, USDA indicated that the US and Mexico have agreed to pursue resolution of the issue through mediation. USDA further expressed interest in beginning the mediation process as soon as possible. Upon resolution of this ongoing dispute, it is expected that US fresh potato exports to Mexico will be \$150 million, a significant increase over the current \$30 million level.

The US potato industry looks forward to working with trade officials both in the US and elsewhere to expand trade opportunities for US potatoes through free trade agreements and expanding access to existing markets.

Sincerely,
John Keeling



CEO and Executive Vice President
National Potato Council

California Chamber of Commerce-1

California Chamber of Commerce Council for International Trade

International Trade Priorities

The CalChamber Council for International Trade expands California's voice on trade. The Council boosts the ability of California businesses and organizations to advocate sound international business policies. The Council is focused on sound policy and works with state and federal administrations and lawmakers to influence international business policies that support California's global success, job creation and sustainability. Leadership on these issues is more important than ever. With free trade agreements pending before Congress, we are at a historic time to take action. California business and trade leadership on domestic and global issues remains a key in fostering California competitiveness.

Overall, recognizing the current U.S. and California trade deficits, the California Chamber:

- **Supports** achieving and maintaining a stable and competitive relationship between the U.S. dollar and the currencies of our major trading partners.
- **Supports** actions designed to eliminate barriers that impede U.S. and California commerce domestically and abroad by aggressively negotiating fair and equitable market access for California agriculture, manufactured products and services.
- **Promotes** the education of California's citizens, legislators and businesses about the benefit of trade to the state's economy.

1. Trade Agreements

The CalChamber urges Congress to approve the U.S. – Korea Free Trade Agreement, U.S. – Colombia Free Trade Agreement, and the U.S. – Panama Free Trade Agreement. It is critical to consumers, workers, businesses, farmers, and ranchers in our state that these job creating trade agreements are approved at a time when they are needed more than ever.

U.S. – Korea Free Trade Agreement

The trade agreement with Korea will be positive both for the California and U.S. economies. Korea is a \$1 trillion economy and is the eighth-largest U.S. export market in the world (and our sixth-largest market for farm exports). In 2009, two-way trade between the two countries totaled over \$67 billion and US goods exports to Korea were \$34.8 billion. By giving U.S. exporters a leg up in one of the world's largest economies, the agreement with Korea will enhance the ability of U.S. companies to compete in the dynamic Asian economy. Korea is California's 5th largest exporting partner. In 2009, California exported \$5.9 billion to Korea.

The US-Korea FTA will greatly expand market access in Korea for US farmers, manufacturers, service providers, and financial services firms. Under the FTA, more than half of current US agricultural exports to Korea—with a value of \$1.6 billion—will become duty-free immediately. Almost 95 percent of all bilateral trade in consumer and industrial products will become duty-free within three years under the agreement, and virtually all remaining tariffs on consumer and industrial goods will be eliminated in ten years. Moreover, this agreement will eliminate significant non-tariff market access barriers in Korea to US goods, services, and investment. Consumers in both countries stand to gain from the broad benefits of this agreement.

US interests are protected under this agreement through robust provisions on transparency, intellectual property rights, competition, investment, and other rules, particularly in the area of services. The agreement also has important implications beyond bilateral trade and investment. By giving US exporters and investors a preferential position, an FTA with Korea will enhance US businesses' ability to compete in the dynamic Northeast Asia regional economy. From a strategic vantage point, the FTA will reinforce the critical partnership and alliance between our two countries.

The U.S. Commerce Department estimates that the implementation of the FTA will create 70,000 new jobs in the United States. On the other hand, failure to implement the FTA will lead to a loss of market share to competitors such as the EU and Canada, and a loss of over 345,000 U.S. jobs. The U.S. International Trade Commission estimates that the FTA will increase U.S. exports to Korea by \$11 billion and reduce the U.S. deficit by \$4 billion. 2010 marked the 60th anniversary of the start of the Korean War, and of the special relationship between the United States and the Republic of Korea.

For California, the FTA would be a big win too. According to the International Trade Administration in the US Department of Commerce, computer and electronic products accounted for \$1.5 billion of California's merchandise exports to Korea in 2009. With immediate removal of many of these related tariffs, exports will become more competitive and affordable to Koreans. California's exports of machinery also will benefit from US Korea FTA reductions as machinery manufactures accounted for \$945 million of the state's merchandise exports to Korea in 2009. Transportation equipment accounted for \$468 million of the state's export sales to Korea in 2009 and most of these duties also would be eliminated immediately. In addition, tariffs and other barriers would be eliminated on most agricultural products produced in California. From pharmaceuticals to pistachios – the US-Korea FTA is a win for California.

The Republic of Korea is a longstanding and close US ally, and strong partner in advancing regional and global security. The US-Korea FTA will reinforce this critical economic and political partnership by deepening the links between our countries as we work together to protect peace and prosperity in Northeast Asia.

U.S. – Colombia Free Trade Agreement

Colombia is a dynamic economy with a pro-U.S. government, and with whom U.S. trade has nearly doubled over the past four years. Over 9,000 U.S. companies export their products to Colombia and more than 85 percent of these are small and medium-sized companies. U.S. farmers and ranchers sell agricultural products to these markets, and U.S. manufacturers are enjoying double-digit sales growth that will only grow when the tariffs are removed.

A U.S.-Colombia Free Trade Agreement will increase momentum toward lowering trade barriers and set a positive example for other small economies in the Western Hemisphere. In 2009, California exported over \$328 million to Colombia, making it our state's 35th largest export market. America's two-way trade with Colombia reached \$20.7 billion in 2009, making Colombia our fifth largest trading partner in Latin America. Trade and investment in Colombia already sustains thousands of U.S. jobs and the Free Trade Agreement will only open up more opportunities.

Per the U.S. Department of Commerce, International Trade Administration, the U.S.-Colombia Free Trade Agreement offers tremendous opportunities for California's exporters. When the Agreement enters into force, 80 percent of U.S. consumer and industrial exports to Colombia, including nearly all information technology products; mining, agriculture, and construction equipment; medical and scientific equipment; auto parts; paper products; and chemicals, will be duty-free immediately. The remaining tariffs phase out over 10 years.

U.S. – Panama Free Trade Agreement

Panama has the highest GDP per capita in Central America. Its economy is based largely on the services sector, which accounts for nearly 80 percent of the GDP. Services include the Panama Canal, banking, insurance, container ports, and medical and health. Panama has been hailed for the strong growth in its economy and its commitment to fighting corruption, combating narco-trafficking and promoting democracy. In 2009, the United States had a trade surplus with Panama, with exports totaling \$4.4 billion and imports slightly under \$305 million. California exports to Panama totaled \$228 million, making it our 43rd largest export market.

Per the U.S. Department of Commerce, International Trade Administration, the U.S.-Panama FTA offers tremendous opportunities for California's exporters. Panama's strategic location as a major shipping route and the massive project underway to expand the capacity of the Panama Canal enhance the importance of the U.S.-Panama FTA for California's exporters.

The U.S.-Panama FTA will ensure that California's firms can participate on a competitive basis in the \$5.25 billion Panama Canal expansion project that will offer many opportunities for U.S. providers of goods and services. Ultimately, the Canal expansion will benefit California's exporters by increasing the Canal's capacity, which will reduce the costs of transporting goods while keeping up with the demands of a growing global economy.

When the Agreement enters into force, 88 percent of U.S. consumer and industrial exports to Panama, including nearly all information technology products; aircraft and related equipment; agriculture and construction equipment; medical and scientific equipment; environmental products; pharmaceuticals; fertilizers; and agro-chemicals will become duty-free immediately. The remaining tariffs phase out over 10 years. U.S. farmers and ranchers will also become much more competitive, benefiting from immediate duty-free treatment of more than 60 percent of current U.S. agriculture exports. Key U.S. agriculture exports such as high-quality beef, other meat and poultry products, soybeans, most fresh fruit and tree nuts, distilled spirits and wines, and many processed food products, will be duty-free upon entry into force of the Agreement. Tariffs on most remaining U.S. farm products will be phased out within 15 years.

Trade Promotion Authority

For the future, the CalChamber will support the extension of trade promotion authority so that the President of the United States may negotiate new multilateral, sectoral and regional trade agreements ensuring that the United States may continue to gain access to world markets, resulting in an improved economy and additional employment of Americans.

2. Trade Practices

With the ongoing global recession, jobs and exports will be the key to our economic recovery. The US Department of Commerce, specifically the Commercial Service, is an indispensable resource for California as it strives to increase its exports, invigorate its economy, and create meaningful jobs. We have a good working relationship with the California DOC offices and have a long-standing MOU. Almost every industrialized country has much higher per capita expenditures on export expansion than the US. Many provide subsidies to their beginning or small and medium- sized exporters.

The CalChamber is hopeful that appropriate funding will be available to make the US Commercial Service and export assistance a core part of the economic recovery package. Export assistance is an essential tool in economic recovery. Helping US firms find foreign buyers for products and services and finalize those sales delivers direct stimulus to retain or expand employment.

Protectionism

With a global recession, California stands to lose more than most states with a move toward protectionism. The CalChamber opposes unnecessary and trade-restrictive "Buy American" expansions. We oppose protectionism that results in higher prices to the consumer for the specific product protected and in limited choices of products for consumers. Protectionism causes a net loss of jobs in related industries, retaliation by our trading partners, and violates provisions of the World Trade Organization, as well as, our Free Trade Agreements.

California maintains its perennial position as a top exporting state and we lead the nation in export-related jobs. California exports amount to nearly \$120 billion annually. A move to protectionism only invites retaliation from our trade partners which would negatively affect trade-related jobs in our state. Increased protectionism has not helped our economy in the past and it won't in today's increasingly global economy.

3. The Trans-Pacific Partnership

As you know, the Trans-Pacific Strategic Economic Partnership Agreement was signed by New Zealand, Chile, Singapore and Brunei in the summer of 2005. In September of 2005, negotiations for the United States to join the Trans-Pacific Agreement were launched. Australia, Peru and Vietnam also indicated interest in participating in negotiations from the first round.

The Asia-Pacific region is a key driver of global economic growth, representing nearly 60 percent of global GDP and roughly 50 percent of international trade. U.S. trade with Asian countries totals nearly \$1 trillion annually.

The Trans-Pacific Partnership is reinforcing the Asia-Pacific Economic Cooperation (APEC) goal of promoting regional economic integration and could serve as a potential way to build towards the Free Trade Area of the Asia Pacific. The CalChamber encourages continued participation in these negotiations eventually leading to the US accession to the TPP.

America's standing as world leader depends directly upon our competitive success in the global economy. For the past half century, the United States has led the world in breaking down barriers to trade and in creating a fairer and freer international trading system based on market economics and the rule of law. Increased market access achieved through trade agreements has played a major role in our nation's success as the world's leading exporter.

These Trade Agreements will ensure that the United States may continue to gain access to world markets, which will result in an improved economy and additional employment of Americans. We urge your support of these trade agreements that will continue to keep American and Californian businesses competitive.

4. World Trade Organization

The WTO is having a tremendous impact on how California producers of goods and services compete in overseas markets, as well as domestically, and is creating jobs and economic growth through expanded international trade and investment. It gives businesses improved access to foreign markets and better rules to ensure that competition with foreign businesses is conducted fairly. The California Chamber of Commerce is supportive of a successful Doha Round in the near future.

5. Trade Disputes

The California Chamber of Commerce urges a quick resolution to the North American Free Trade Agreement (NAFTA) Cross-Border Trucking Dispute with Mexico. We are supportive of NAFTA and understand that a 2001 dispute-settlement panel unanimously ruled that the blanket exclusion of Mexican trucking firms violates US obligations under the NAFTA.

Mexico's retaliation for the US refusal to implement the cross-border trucking provisions of the Agreement has resulted in harm to California's economy. Mexico's retaliation imposes tariffs on products from most states ranging from dental floss to Christmas trees. The targeted California agricultural products include fresh and processed products worth millions ranging from grapes to almonds.

Mexico is California's largest trading partner. With a global recession, California stands to lose more than most states with moves toward protectionism. A move to protectionism only invites retaliation from our trade partners which negatively affects trade-related jobs in our state. We would support the ongoing movement to resolve this issue.

***Chairman Camp and Members of the Ways and Means Committee
- thank you for your consideration and interest in these important issues.***



California Chamber of Commerce-2



ALLAN ZAREMBERG
President and Chief Executive Officer

February 7, 2011

The Honorable David Camp, Chairman
Committee on Ways and Means
US House of Representatives
Washington, DC. 20510

Dear Chairman Camp,

Re: Wednesday, February 9, 2011 Hearing on President Obama's Trade Policy Agenda

On behalf of the California Chamber of Commerce and our Council for International Trade, I would like to reiterate our support for free trade worldwide, expansion of international trade and investment, fair and equitable market access for California products abroad, and elimination of disincentives that impede the international competitiveness of California business.

As the President continues his support for the National Export Initiative (NEI), a multi-year effort to increase U.S. jobs by increasing the number of companies exporting and expanding the number of markets to which U.S. companies are selling, we are pleased to be able to comment per the attached document on the importance of a sound US trade policy agenda.

California is one of the 10 largest economies in the world with a GSP of over \$1.8 trillion. International related commerce (including exports and imports of goods and services) accounts for approximately one-quarter of the state's economy. California maintains its perennial position as a top exporting state and we lead the nation in export-related jobs. California exports amount to over \$120 billion annually. Although trade is a nationally determined policy issue, its impact on California is immense. California exports to over 220 foreign markets. Trade offers the opportunity to expand the role of California's exports. In its broadest terms, trade can literally feed the world and raise the living standards of those around us.

The California Chamber of Commerce is a broad-based, non-profit membership organization through which business, industry and agriculture join forces to work for positive action on key legislation and regulatory issues affecting California's economic and job climate. International trade is one of our highest priorities.

The organization, established in 1890, is the largest and most broadly based employer representative in Sacramento. Its members include more than 16,000 firms of all kinds and sizes, as well as 450 affiliated local chambers of commerce and 200 trade associations. Through its grassroots action program, the California Chamber reaches out to a statewide network of 430,000 small business owners.

The California Chamber also offers a variety of services to help businesses comply with complex laws and regulations, as well as compete in the international marketplace.

The CalChamber supports allowing California companies to compete more effectively in foreign markets, as well as to attract foreign business to California. We appreciate your consideration of our positions.

Sincerely,

Allan Zaremborg

Attachment

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Sacramento, CA 95814
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Retail Industry Leaders Association



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**United States House of Representatives, Committee on Ways and Means
Hearing on President Obama's Trade Policy Agenda
Wednesday, February 9, 2011**

**Written comments for the record by the
Retail Industry Leaders Association (RILA)**

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit written comments for today's hearing with United States Trade Representative (USTR) Ron Kirk on the direction and content of U.S. trade policy. RILA supports a robust and proactive trade agenda to strengthen America's economy and create good-paying American jobs. The relative importance of trade to the U.S. economy has increased, and trade now supports 38 million jobs in the United States — more than one in five American jobs. Nearly 18 million of these U.S. jobs depend on trade with America's free trade agreement partners.

RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry — retailers, product manufacturers, and service suppliers — which together account for more than \$1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

The retail sector, along with the suppliers and customers that it serves, is an essential part of the U.S. economy. Retailers meet the needs of U.S. consumers, and in doing so are essential drivers of the U.S. economy. We also serve the global market for consumer goods and bring U.S. products to the foreign markets where they operate. Retailers provide quality jobs at all employment levels with good benefits. The industry also creates opportunities for entry-level employment, part-time work, jobs for non-skilled workers, management training, as well as a variety of rewarding professional careers.

Implementing Free Trade Agreements

RILA supports the pending free trade agreements (FTAs) between the United States and South Korea, Colombia, and Panama. We appreciate your recognition of the importance these agreements hold for American job creators — retailers, manufacturers, innovators, farmers, ranchers and service providers. These trade agreements would, immediately upon implementation, expand market access for American exports and create new opportunities for American companies and consumers to purchase high-quality, affordable imports.

RILA strongly urges Congress and the Administration to move swiftly to advance all the three pending free trade agreements, and to successfully pursue additional trade liberalizing initiatives. By doing so, the government can help to strengthen the U.S. economy, eliminate hurdles for American job companies, and create good-paying American jobs.

Beyond the direct economic benefits that these agreements would bring, they will also signal to the rest of the world that America is ready to embrace international trade. Enactment of these agreements should be the first step in a robust, proactive trade agenda. In recent years, as the United States has stood on the sidelines debating the merits of free trade, countries around the world moved expeditiously to enact free trade agreements that exclude the United States, thereby putting American industries at an economic disadvantage.

U.S. Competitiveness at Stake

In today's highly competitive global marketplace, U.S. retailers are in direct competition with foreign competitors that offer similar products and services and seek to gain a competitive advantage. Some of the United States' biggest competitor countries have already concluded trade agreements with Colombia, Panama, and South Korea. A proactive trade agenda that includes enacting comprehensive and commercially meaningful free trade agreements that remove tariffs and non-tariff barriers can save companies and consumers millions of dollars annually, is one way in which the U.S. Government can and should help U.S. businesses to better compete.

Although RILA supports all three FTAs, we note with disappointment that the yarn forward rule of origin for textiles and apparel is in most cases commercially unviable and will not result in new trade migrating to the U.S. or our FTA partners. Although all three pending FTAs have similar rules of origin for textiles and apparel, the limitations of a yarn forward rule are particularly acute with an Asian trading partner such as Korea.

Korea-U.S. Free Trade Agreement

The Korea-U.S. Free Trade Agreement (KORUS FTA) would be the United States' most commercially significant trade agreement in seventeen years. South Korea is currently the United States' seventh largest trading partner and would become even more economically significant to the United States with the passage of the KORUS FTA.

Within three years of enacting this monumental agreement, 95% of U.S. industrial and consumer goods would enter South Korean markets duty-free, with most of the remaining tariffs phased out within 10 years. Furthermore, most tariffs on U.S. agricultural goods, which currently average 52%, would be eliminated over a defined period of time. Studies show that U.S. exports to South Korea could rise by 50% as a result of the level playing field generated by the KORUS FTA, which would provide a tremendous boost for the U.S. economy.

U.S.-Colombia Free Trade Agreement

RILA strongly supports enactment of the U.S. – Colombia FTA, which would finally create reciprocal benefits for U.S. exporters by removing tariffs and non-tariff barriers for U.S. exports to Colombia, and finally permanently enshrine preferential benefits Colombia currently receives under the Andean Trade Preferences Act (ATPA) for exports to the United States. The recent

threats of expiration of Andean preferences and extremely short term renewals are devastating to Colombian farmers and American importers that rely on the preferences.

Enactment of the agreement would provide significant benefits to retailers through trade liberalization, transparency in regulatory trade practices, reductions in tariffs and non-tariff barriers and the creation of dependable sourcing opportunities. These issues are essential to providing U.S. customers with the high-quality goods they seek at a price they can afford and have come to expect. This comprehensive agreement provides for across-the-board tariff eliminations, services trade liberalization, trade facilitation measures, and strong intellectual property rights protections.

Two-way trade between the United States and Colombia reached \$25.1 billion in 2010, with U.S. exports to Colombia reaching \$10.9 billion in 2010. But much of this trade has been unbalanced because most products from Colombia already enter the United States duty free under the Andean Trade Preference Act (ATPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). In contrast, U.S. exports to Colombia currently face an average tariff of 14 percent. The U.S.-Colombia Free Trade Agreement would remedy this inequity on the first day the agreement enters into force, when Colombian tariffs on over 80 percent of U.S. exports of consumer and industrial products would be eliminated.

Panama-U.S. Free Trade Agreement

The Panama FTA would provide a significant benefit for retailers by effectively removing investment restrictions currently present in Panama's constitution that prevent foreign retailers from establishing stores within the country. The agreement would resolve that barrier, give retail companies strong investment protections, and expand product sourcing options. The free trade agreement will further provide benefit to retailers by liberalizing trade, promoting transparency in regulatory practices, reducing tariff and non-tariff barriers and creating a more dependable sourcing opportunity.

Transpacific Partnership (TPP) Talks

RILA strongly supports the negotiation of a comprehensive Trans-Pacific Partnership (TPP) agreement, and the objective to achieve a high- standard, 21st century agreement with a membership and coverage that provides economically significant market access opportunities. RILA believes that membership in the TPP will foster economic growth for partner nations and serve as a good launching pad for expansion of the alliance to other partners in the region.

The TPP rules of origin should be flexible to facilitate efficiencies in global sourcing. In particular, RILA supports broad accumulation for all products, particularly textiles and apparel, produced in one or more TPP countries. The rules of origin should also be predictable, transparent, and easily administered. RILA believes that U.S. negotiators should consider phased in ROOs, beginning with a flexible ROO that recognizes regional capacities are insufficient to drive new sourcing and allows time for regional production capabilities for fabric and other inputs to advance. For example, during the first 5 years the agreement is in effect, it could offer several alternative rules of origin for all types of textile products, including a fabric forward tariff shift rule for a majority of apparel and made-up articles, an alternative value-added

rule and a tariff preference level. The tariff preference level and value-added rules could phase out, leaving the remaining fabric-forward tariff shift rule for a majority of apparel and made-up articles and a substantial transformation rule for other textile and apparel articles. A fabric forward ROO would still require the vast majority of the inputs and value added for apparel to come from within the region, but would be significantly more flexible, and easier to implement and enforce than a yarn forward ROO. At the same time, the phase-in to fabric forward would promote further development of a robust, vertically integrated textile and apparel industry within the region.

Retailers believe that noncontroversial textile and apparel products should be covered by a substantial transformation ROO as that concept is currently interpreted by CBP for textile and apparel products in Section 102.21 of the U.S. Customs Regulations. This standard is well-established and routinely enforced by both CBP and the trade community. It is the standard that is used by CBP on a daily basis with respect to all textile and apparel articles imported into the US that are NOT subject to preference programs. In this category should be (1) textiles and apparel made with most synthetic fabrics; (2) products subject to a "single transformation" or "cut and sew" ROO in other U.S. FTAs or preference programs; and (3) swimwear, performance and active wear, and outerwear (sweaters, jackets, suits, coats, loungewear, woven blouses and woven shirts). For footwear, RILA supports a substantial transformation or tariff shift rule of origin.

Improving U.S. Trade Preference Programs

The retail industry has a longstanding record of supporting trade preference programs, including the Generalized System of Preferences (GSP), Andean Trade Preferences Act (ATPA), African Growth and Opportunity Act (AGOA), Caribbean Basin Trade Partnership Act, Haiti HOPE Act and other initiatives. These programs are important trade facilitation tools that reduce tariffs and other trade barriers, and establish dependable sourcing options that are essential for successful retail supply chains. The purpose of these programs is to increase trade capacity and economic growth in our poorest trading partners, and retailers' sourcing actions are directly relevant to whether these initiatives achieve their intended goals. Retailers are most likely to use those trade preference programs that meet retailers' sourcing objectives and that do not have complicated or overly burdensome rules of origin or compliance provisions.

Unfortunately, some of these programs have operated under short extensions that do not allow retailers sufficient time for long-term planning for investments in their supply chains. Extending these programs for greater periods of time, such as ten years, would encourage more use of the programs and long term investment in some of the world's poorest countries. Moreover, U.S. trade preference programs can often exclude the specific products that poor countries can make, particularly textile and apparel products and certain agricultural products.

RILA encourages Congress and the Administration to work together to expand product coverage, harmonize and simplify the rules of our preference programs, and grant them long term extensions.

Pakistan Reconstruction Opportunity Zones (ROZ)

RILA supports meaningful trade preferences for Afghanistan and Pakistan to help create jobs and counter the recruitment efforts of the al Qaeda and Taliban. We urge Congress and the Administration to act expeditiously to enact Reconstruction Opportunity Zones (ROZ) legislation (for example, S. 496, introduced by Senator Cantwell in the last Congress), and to expand and revise it in several areas, including expanding product and geographical coverage, limiting disclosure requirements, and finding a bipartisan and workable solution on labor conditions. The ROZ program represents an important opportunity for the United States to foster economic development, advance social stability, further security in the region and to make good on the promises of a closer economic relationship with Pakistan and Afghanistan.

For the ROZ initiative to be effective, duty-free treatment should be extended to all textile and apparel products, and especially to cotton trousers and shorts and cotton knit tops. These products are most likely to generate employment opportunities. Cotton knit shirts and cotton trousers are vitally important to Pakistan, yet these products face U.S. duties that average around 17 percent. Configuring the ROZ program to include these items will give Pakistan a fighting chance in this competitive industry.

We also urge Congress to revisit the limited areas in Pakistan that are eligible to use the ROZ program. Limiting ROZ investment to extremely remote areas that are experiencing intense conflict and are not yet mature for industrial growth would only delay job creation. Therefore, we encourage you to consider expanding the geographic areas in Pakistan to include areas that are currently capable of production. All of Pakistan, not just the tribal areas on the Northwest Frontier, is being targeted by extremists.

RILA also notes that controversial and unworkable labor provisions included in the House-passed ROZ legislation in the last Congress caused momentum for ROZ legislation to come to a screeching halt. RILA encourages policymakers to work with stakeholders to find a bipartisan solution for workable labor conditions, based on longstanding criteria in U.S. trade preference programs, including the Generalized System of Preference (GSP) and the African Growth and Opportunity Act (AGOA).

Trade Development Agreements

RILA also believes that preferences should be modified over the long term to encourage a sustainable two-way trading system that benefits United States importers and exporters, as well as our trading partners. Trade preferences have been beneficial by introducing developing countries to the benefits of international trade, but those benefits are limited due to their inherent one-way structure, restrictive rules of origin and onerous documentation requirements. Moreover, as countries become more developed, our trade preference programs discourage further growth by cutting off access to the U.S. market, rather than encourage further development. RILA believes that Congress and the Administration should consider modifying our trade preference programs to provide clear incentives and timetables for trading partners that become more economically advanced to open their markets to U.S. goods, thereby creating opportunities for U.S. exporters and providing foreign consumers and businesses with high quality U.S. goods and services at competitive prices. This new trade policy tool could be called trade development agreements (TDAs) and would be a bridge to carry trading relationships from

traditional one-way preference programs to long term and sustainable two-way trading relationships.

Whether this new trade tool is called a TDA or something else, it should provide significant benefits through trade liberalization in goods and services, transparency in regulatory trade practices, intellectual property protection, and other reductions in tariffs and non-tariff barriers. All of these areas will help to create dependable sourcing and export growth opportunities for retailers. To provide the most benefit, these trade tools should ultimately be comprehensive and commercially meaningful.

Trade with China

RILA advocates a balanced trade policy that recognizes the tremendous opportunities and benefits that trade and investment with China bring to our economy, while also effectively addressing market access barriers and other unfair trade practices that affect U.S. companies.

RILA supports the Strategic and Economic Dialogue and applauds the Obama Administration for its continued efforts to advance this initiative to facilitate engagement at the highest levels of government. RILA believes that the Obama Administration should advocate policies that encourage China to move from an economy based on export growth to one based on growth in domestic consumption. Congress and the Administration should encourage China to break down the remaining barriers to foreign investment and market access in China, and the pending negotiations for a Bilateral Investment Treaty should resume and accelerate.

Fair Application of Trade Remedy Laws

While the benefits of trade spread across many sectors of the U.S. economy and to U.S. consumers, RILA recognizes that some entities may be harmed by international competition. U.S. trade remedy laws can provide an appropriate and reasonable venue for U.S. industries that are injured by unfair trade. The Administration should recognize that the administration of these laws involves a significant amount of subjectivity within the administering agencies, and it should be a priority to ensure that these laws are implemented fairly and objectively, taking into account the impact of such actions on all stakeholders. All trade remedy actions should be considered on their merits and should not be initiated, self-initiated or determined as a political trade-off for other policy priorities.

Creating Certainty for Importers

Retailers need certainty in the marketplace to be able to make informed business decisions. U.S. trade remedy laws (antidumping (AD) and countervailing duty (CVD) laws) are inherently unpredictable because parties cannot know in advance whether products they import may later be subject to AD/CVD duties or at what level of duties. There is one element of the U.S. trade remedy system that could be modified to provide more certainty than currently exists, and this is to change the current "retrospective" system of AD/CVD duty collections to a prospective system. The United States is the only country that employs a retrospective system for collecting AD/CVD duties whereby duty deposit rates are established at the end of an investigation, but the final duty bills are not calculated until after a review is completed, which can be two or more

years after the product was imported. This retrospective system creates enormous uncertainty for retailers' supply chains because the actual AD/CVD duty liability is not determined until long after the goods have been imported into the United States and sold on retail shelves. Thus, as long as an AD/CVD order is in place (which can be for decades), companies are unable to make rational sourcing decisions. Even more than the duties, this uncertainty in the supply chain is one of the most detrimental aspects of U.S. trade remedy law. Retailers will pay fair (or "undumped") prices for goods, and they simply need to know what that price is at the time they make sourcing decisions.

One possibility for Congress and the Administration to consider is a prospective normal value system, such as those used by our major trading partners, which would eliminate uncertainty. Under a prospective system, final AD/CVD duties are assessed at the time of importation, like normal customs duties. A prospective system would allow stronger duty collection rates since the total duty bill can be adjusted and is collected upon importation. The Government Accountability Office (GAO) studied U.S. Customs and Border Protection's (CBP's) efforts to collect duties and found that since 2001, over \$600 million in AD/CVD duties were uncollected - in large part because of retrospective nature of the U.S. duty collection system.¹ The GAO therefore recommended studying the potential benefits of moving to a prospective system.

A prospective system would also resolve other WTO challenges to U.S. trade policy, such as zeroing and CBP's requirement for bonds on shrimp imports. U.S. zeroing policy and the shrimp bonds have been found to be inconsistent with WTO obligations.

RILA strongly supports moving the current retrospective system to a prospective system and respectfully asks Congress and the Administration to consider adopting this proposal.

Repeal the Rest of the Continued Dumping and Subsidies Offset Act (CDSOA)

Enacted in 2000, the Continued Dumping and Subsidies Offset Act (CDSOA, also known as the "Byrd Amendment") required CBP to distribute duties it collected under the antidumping and countervailing duty laws to companies that supported the original petition for imposition of the duties. Companies have received tens of millions of dollars in windfall subsidies that are not contingent upon whether the money is spent to create or protect U.S. jobs. Available data indicates that CDSOA has caused nearly \$2.455 billion dollars to be diverted from the U.S. Treasury and given to a small number of companies. CDSOA was partially repealed in 2005, yet disbursements under the program still continue today.

CDSOA disbursements

| | |
|---------|------------------|
| FY 2001 | \$231,201,890.83 |
| FY 2002 | \$329,871,463.94 |
| FY 2003 | \$241,301,429.00 |
| FY 2004 | \$284,044,599.00 |
| FY 2005 | \$226,051,863.09 |

¹ GAO-08-876R, Collecting Antidumping and Countervailing Duties (July 2008)

| | |
|---------|------------------|
| FY 2006 | \$380,562,870.40 |
| FY 2007 | \$264,361,332.40 |
| FY 2008 | \$180,360,227.37 |
| FY 2009 | \$247,718,477.35 |
| FY 2010 | \$69,438,316.06 |

**Total CDSOA
Disbursements \$2,454,912,469.44**

Source: Customs and Border Protection data

In addition to these figures, more money will be disbursed in November 2011 as further entries are liquidated, and another \$40.45 million is being held by CBP while litigation is pending. The World Trade Organization has ruled that the CDSOA violates the United States' international trade obligations. Eleven countries were authorized to retaliate against U.S. exports, and the European Union and Japan continue to impose retaliatory tariffs today.

In a time of budget shortfalls and soaring deficits, RILA believes that this program should be completely repealed before any more money is diverted from the U.S. Treasury to private companies. Further, in a time of economic uncertainty and when the Administration is undertaking an initiative to double U.S. exports over the next four years, Congress and the Administration should actively work to have the retaliatory tariffs lifted, and this will only happen when the CDSOA disbursements cease.

Affordable Footwear -- Lowering the Cost of a Basic Necessity

RILA supports passage of the Affordable Footwear Act (S. 730), legislation that repeals a Smoot-Hawley tariff on low-cost and all children's footwear. The U.S. tariff system with respect to footwear is highly regressive in that it charges higher rates of duty for lower-valued merchandise. With tariffs reaching as high as 67% for a children's sneakers, footwear duties act as a regressive tax on low- and middle-income American households, including single-parent households, who spend a larger share of their disposable income on basic necessities.


In previous Congresses, this legislation has received widespread bipartisan support in both the House and Senate. Given the strong support for the legislation, the lack of domestic opposition and the important stimulative benefits it will provide to American middle-class families, eliminating these duties would provide targeted and timely relief to ease the cost of a basic necessity.

Conclusion

RILA appreciates the opportunity to submit these trade policy recommendations for the 2011 trade agenda as we all share the common goals to boost U.S. job creation, economic growth, and competitiveness, promote U.S. leadership in the international economy, and to double U.S. exports over the next four years. We look forward to working with you to advance these and other shared goals.

Should you have any questions regarding this matter, please feel free to contact me at (703) 600-2046 or stephanie.lester@rila.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Lester".

Stephanie Lester
Vice President, International Trade

United States Council for International Business



UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS

**U.S. House of Representatives
Ways and Means Committee
Hearing on President Obama's Trade Agenda
February 9, 2011
Written Testimony of
United States Council for International Business**

The United States Council for International Business (USCIB) appreciates the opportunity to provide written testimony to the House Ways and Means Committee for its hearing on the status of the President's trade agenda.

USCIB promotes open markets, competitiveness and innovation, sustainable development and corporate responsibility, supported by international engagement and prudent regulation. Its members include top U.S.-based global companies and professional services firms from every sector of our economy, with operations in every region of the world. With a unique global network encompassing the International Chamber of Commerce, the International Organization of Employers and the Business and Industry Advisory Committee to the OECD, USCIB provides business views to policy makers and regulatory authorities worldwide, and works to facilitate international trade and investment.

USCIB has consistently urged the Administration to pursue an active trade and investment agenda designed to open global markets. We commend the Administration for finalizing the U.S.-Korea FTA negotiations, establishing the National Export Initiative to double exports over five years, and moving forward with the Trans-Pacific Partnership (TPP) negotiations. Efforts to improve enforcement of existing trade agreements, especially through the WTO dispute procedure have been helpful. However, much more could be done to open global markets for U.S. business.

During the recent economic downturn, we strongly believed that an improved global environment for trade and investment would stimulate growth and jobs in the United States. A study* supported jointly by the United States Council Foundation and the Business Roundtable and written by Matthew J. Slaughter, Associate Dean, Tuck School of Business, illustrated how U.S. multinational companies strengthen the U.S. economy through their global operations. A

*"How U.S. Multinational Companies Strengthen the U.S. Economy", Matthew J. Slaughter, Spring 2009. Published by Business Roundtable and the United States Council Foundation

proactive U.S. strategy for opening markets is critical to continued growth of these companies. It is also needed to ensure U.S. businesses can continue to compete with companies from other countries that have completed trade agreements.

The key elements of a trade and investment agenda should include: completing the Free Trade agreements with Korea, Colombia and Panama; concluding an ambitious Doha Agreement in the World Trade Organization; moving forward with the Trans-Pacific Partnership negotiations to reach a high-standard trade framework; identifying new bilateral and multilateral trade initiatives with significant economic partners; addressing ongoing U.S. – Chinese trade and investment issues; accelerating work on investment treaties that will ensure protection of U.S. business investments in other countries; and aggressively promoting U.S. exports of clean technologies and environmentally-friendly goods and services.

USCIB applauds the Obama Administration for finalizing the U.S. – Korea FTA negotiations last December and urges the President to bring the agreement to Congress as soon as possible for final approval. Our organization represents global companies across the full range of industry sectors that will benefit from implementation of the Korea FTA. It will eliminate tariffs on almost all goods, open up many opportunities for service providers, increase regulatory transparency, establish high standards for intellectual property protection, and enhance investment protections. With the agreement between Europe and Korea taking effect soon, it is critical that the U.S. move quickly to approve and implement the FTA as soon as possible to protect U.S. business activities in Korea that will support job creation back home and prevent the loss of trading opportunities to other countries.

Similarly, USCIB supports finalizing the Colombia and Panama FTAs and urges the Administration to lay out a timeline for action on these agreements in the coming months. Panama has addressed the major concerns that had been delaying action by signing a Tax Information Exchange Agreement and increasing transparency of its financial sector. Colombia has demonstrated its willingness to work with the U.S. to resolve remaining concerns if the Administration will provide a clear path towards completing the agreement. From the business perspective, these FTAs would level the playing field as many of the Panama and Colombia products already enter the U.S. duty-free. Again, our companies are losing market share in these countries as competitors from Canada and Europe take advantage of reduced tariffs resulting from already completed trade agreements. We also believe that the U.S. has a compelling foreign policy interest in supporting a democratic ally such as Colombia through enhanced economic ties.

The Doha negotiations in the World Trade Organization offer the greatest potential for opening markets globally and expanding business opportunities for U.S. companies. USCIB strongly supports efforts by the Administration to reach an ambitious, balanced, and comprehensive agreement that will provide meaningful commercial benefits for U.S. business. We agree with the view that

2011 provides a particularly opportune window for all countries to move forward on completing the round. USCIB believes a successful Doha Agreement would insure against the growth of protectionist policies, stimulate the global economy, and create employment opportunities.

USCIB has actively engaged with the Administration as it advances the Trans-Pacific Partnership (TPP) negotiations. The Asia-Pacific region includes many of the fastest growing markets for U.S. businesses but also one that presents many market access and intellectual property protection challenges. The TPP could provide significant trade and investment benefits if it lives up to the promise of being a high-standard agreement. It also has the potential to serve as a platform for adding more countries in the region leading to a wide-reaching free trade area. While we support the goal of completing these negotiations by November 2011, we urge the Administration to focus on achieving the level of commitments needed to make the TPP a high-standard, commercially meaningful agreement.

In addition to completing the trade negotiations already in progress, USCIB urges the Administration to present a vision for future trade and investment initiatives that confirms its commitment to opening global markets. As technology changes, business models evolve, and new challenges emerge to global trade, the Administration needs to be pushing forward with new and innovative trade negotiations. We need to find ways to engage our largest commercial partners – Europe, China, India and others – in trade arrangements that eliminate tariff and nontariff barriers still confronting U.S. companies seeking to do business in those markets.

China presents a particularly significant challenge that must be part of the trade agenda. USCIB supports the Strategic and Economic Dialogue with China as well as the work of the JCCT, but urges the Administration to develop a clearer strategy for engagement with China on trade and investment issues. While U.S. trade with China has grown significantly over the last 10 years, U.S. businesses still confront a wide range of barriers to doing business in and with China. The pirating and counterfeiting of all kinds of intellectual property continues to be rampant throughout China. Recent export taxes and quotas on raw materials and rare earth metals give domestic companies an unfair competitive advantage. Indigenous innovation policies hinder U.S. companies trying to sell to Chinese government entities. Clean energy subsidies to state-owned enterprises discriminate against foreign producers. To tackle these and many other non-tariff barriers to trade, the U.S. will need a coherent and comprehensive approach to opening markets in China.

It is essential from our perspective that work on protecting U.S. business investments in foreign markets is an integral part of the trade agenda. For many of our companies, investment in markets outside the U.S. is a necessary part of their ability to compete with foreign companies. Local rules, regulations, and practices can discriminate against U.S. investors or threaten their property unless we have agreements that provide adequate protection and recourse.

Negotiations with China and India on high-standards bilateral investment treaties should be accelerated and additional negotiations undertaken with remaining key countries. High-standard protections must be part of the TPP and any new agreements the U.S. undertakes.

Finally, the Administration should aggressively promote U.S. exports of clean technologies and environmentally-friendly goods and services. USCIB has joined with several other associations in proposing principles to guide U.S. government efforts that include: ensuring clean technology neutrality; activating U.S. commercial diplomacy; evaluating the effectiveness of clean technology promotion programs; developing additional sources of funding in support of clean technology exports; strengthening intellectual property protection for clean technologies; and reducing barriers to green trade. We believe that government efforts consistent with these principles would significantly enhance U.S. exports in the fast growing areas of clean technology and services.

In summary, USCIB believes that the Administration has a great opportunity to implement a trade and investment agenda over the next two years that could significantly open global markets for U.S. businesses, realize the goal of doubling exports, stimulate the economy, and create new jobs throughout the country. But it must act quickly and decisively. The Korea FTA needs to be brought to Congress in the next few weeks and approved by Congress by July 1. A clear framework needs to be presented in the next few weeks for completing the Panama and Colombia FTAs this year. The Administration must be prepared to move quickly on the Doha negotiations if other key countries demonstrate the will to make meaningful market access commitments. TPP negotiations need to stay on track for reaching a high-standard, commercially meaningful agreement by November of this year. New trade initiatives with our largest trading partners need to begin in the near term. A comprehensive strategy for engaging China on continuing barriers to trade and investment must be crafted and actively pursued. The U.S. needs to complete high-standard bilateral investment treaties with China and India. And the government should implement a program for promoting clean technologies and environmental services. USCIB stands ready to work with the Administration and Congress on all of these elements of the trade agenda to open markets and create opportunities for U.S. businesses to compete on a level global playing field.

Supplemental Sheet

Testimony Submitted on Behalf of USCIB

Robert J. Mulligan
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United States Council for International Business
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Securities Industry and Financial Markets Association-1



Securities Industry and Financial Markets Association Comments on the Pending
Free Trade Agreements with Colombia, Panama, and South Korea

February 8, 2011

Mr. Chairman, Ranking Member, and Members of the Committee, the Securities Industry and Financial Markets Association (SIFMA) appreciates the opportunity to comment in support of the U.S.-Colombia Trade Promotion Agreement (Colombia TPA), the U.S.-Panama Trade Promotion Agreement (Panama TPA), and the U.S.-Korea Free Trade Agreement (KORUS FTA).¹ These agreements represent a key building block of President Obama's efforts to open foreign markets to U.S. workers, business, consumers, and investors, resulting in new opportunities to create U.S. jobs and bolster economic growth. Consequently, we strongly encourage the Administration to renew efforts to pursue international economic engagement on global, regional, and bilateral tracks.

Access to foreign markets and the ability to provide products on a global basis is critical to the continued success of the U.S. financial services industry. The exports of financial services totaled \$55.4 billion in 2009, with a surplus of \$39 billion - this helps support millions of jobs in the U.S., both within the industry and in supporting sectors. Open and fair global capital markets reduce the cost of capital for U.S. companies in all sectors of the economy, and enable continued growth and expansion.

¹ The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to develop policies and practices which strengthen financial markets and which encourage capital availability, job creation and economic growth while building trust and confidence in the financial industry. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

In addressing the specific requests of the Committee, our comments will focus on the following key points: 1) the benefits of the pending agreements to the U.S. economy; 2) the costs of delaying approval of the agreements; 3) the agreements' impact on the financial services industry; and 4) the importance of concluding other pending regional and global negotiations.

Benefits to the American Economy

As the U.S. and global economy navigate through a sustained period of weak economic growth, the pending agreements would provide debt-free stimulus to the American economy by opening new markets for U.S. goods and services. The agreements complement and support the Administration's National Export Initiative that pledges to "remove barriers to trade and open new markets, make sure that trade is free and fair, and work with the world community to promote strong balanced growth worldwide that will benefit everybody."² Nearly six million U.S. jobs are supported by goods exports, which is more than 5 percent of private industry jobs.³ President Obama has stated that a 1 percent increase in exports would create 250,000 jobs.

In the aftermath of the recent global economic crisis, international trade agreements are an important means of promoting greater cross-border cooperation, transparency, predictability, and accountability in financial services, which is critical to continuing the global recovery. G20 leaders have highlighted the critical role that vibrant financial markets play in providing the credit and capital essential for economic growth, especially in developing countries. Financial services firms operating in a sound

² National Export Initiative, July 2010.

³ U.S. Korea FTA Business Council Factsheet, <http://www.uskoreafita.org/sites/default/files/Benefits-KORUS.pdf>, Accessed February 1, 2011.

regulatory environment help companies manage risk, raise debt and equity, carry out acquisitions or sales, and help individuals plan and invest for the future. Capital markets facilitate economic growth and development by substantially broadening the range of vehicles for savings and investment and lowering the cost of capital for businesses and entrepreneurs.

This, in turn, supports economic growth and job creation. Consequently, global investors will benefit from more attractive investment opportunities, exporters will be able to access to a more vibrant export market for goods and services, and workers will benefit from increased job opportunities.

SIFMA strongly supports Chairman Camp's statement that Congress should consider all three agreements in the next six months.

KORUS FTA

Notably, U.S. services exports to Korea totaled \$12.6 billion in 2009 (most recent data available). Following ratification of the KORUS FTA, U.S. goods exports to Korea are projected to increase by \$10 billion to \$11 billion annually, according to estimates by the U.S. International Trade Commission. Implementing the agreement would create about 70,000 American jobs.⁴

Colombia and Panama TPAs

Under the Colombia and Panama TPA, more than 80 percent of U.S. consumer and industrial products and more than half of current U.S. farm exports will enter

⁴ Report to the President on the National Export Initiative: The Export Promotion Cabinet's Plan for Doubling U.S. Exports in Five Years, http://www.whitehouse.gov/sites/default/files/nel_report_091310_short.pdf, Accessed February 1, 2011.

Colombia and Panama duty-free immediately. The agreements will also strengthen intellectual property and investor protections, open services markets, and enhance transparency in government procurement.

Not only will all three agreements be important for our clients in the agriculture, manufacturing and services sector, financing the increased exports and U.S. business activity in all three countries will also be a significant benefit to our industry itself.

Costs of Delay

The United States stands to lose more than 380,000 jobs if it fails to implement its pending trade agreements with Colombia, Panama, and South Korea, while the European Union, Canada, China and other countries move ahead with their own agreements with the those countries, according to a study by the U.S. Chamber of Commerce.

KORUS FTA

To fully reap the benefits of the agreement, the KORUS FTA must be implemented in a timely manner. The European Union, an economy of similar size and composition to the U.S., recently concluded a free-trade agreement with Korea and is scheduled to begin the provisional application of the agreement July 1, 2011. Under the agreement, EU bilateral exports to Korea are expected to increase by as much as 82.6 percent, as barriers to EU-based firms are reduced and eliminated in Korea.⁵ Korea is also in the process of negotiating trade agreements with Australia and India. According

⁵ The Economic Impact of the Free Trade Agreement (FTA) between the European Union and Korea
http://trade.ec.europa.eu/doclib/docs/2010/may/tradoc_146174.pdf, Accessed February 1, 2011.

to White House economic official estimates, if competing economies reach and implement their pacts first, the U.S. stands to lose about \$30 billion in exports.⁶

Colombia and Panama TPAs

According to the Committee on Ways & Means (Republican Staff) based on technical assistance provided by the independent, nonpartisan U.S. International Trade Commission:

- If the EU-Colombia Trade Agreement is implemented and the U.S.-Colombia Trade Promotion Agreement (CTPA) is not, U.S. exports to Colombia of:
 - Machinery and equipment would decline by 15 percent, totaling \$155 million in lost revenue;
 - Textiles and apparel would decline by 11 percent and 21 percent respectively, combining for nearly \$21 million in lost revenue;
- If the Canada-Colombia Trade Agreement is implemented and the U.S.-Colombia Trade Promotion Agreement (CTPA) is not, the hardest hit U.S. sectors would collectively experience a 35 percent reduction in U.S. exports to Colombia, totaling more than \$56 million in lost revenue.

⁶ Elizabeth Williamson, "US Vows New Push in Korean Trade Pact," The Wall Street Journal, June 25, 2010. <http://online.wsj.com/article/SB1000142405774870484600457533303589295326.html>, Accessed February 1, 2011.

Impact on Financial Services Firms

The KORUS FTA will generate significant benefits for U.S. financial services firms and their customers, including:

- 100 percent ownership, as well as the right to establish their corporate form of choice;
- National treatment to foreign financial sector participants and investors on the same basis as domestic investors for regulatory and other purposes;
- The right to supply specific financial services on a cross-border basis, including portfolio management services for investment funds in Korea, and with the ability for portfolio managers to manage their portfolios from their regional or head offices outside of Korea;
- Enhanced regulatory transparency. Securities firms in Korea are often confronted with non-tariff barriers in the form of regulatory restrictions and a lack of transparency in the development, implementation and application of regulations. These barriers prevent access in much the same way as tariffs, but unlike tariffs, no quantitative mechanism exists to reduce them;
- The transfer of information into and out of its territory for data processing where such processing is required in the institution's ordinary course of business;
- Strong provisions to protect U.S. investors and U.S. investment against arbitrary, confiscatory and discriminatory government action,

including compensation for expropriation, commitments to fair and equitable treatment and most-favored nation treatment, and an objective and independent investor dispute settlement mechanism to resolve individual disputes; and

- In addition to establishing regular bilateral dialogues between regulators, enabling more effective regulatory cooperation, the financial services agreement also provides provisions protecting each trading partner's sovereignty and regulatory approaches.⁷

The Colombian agreement has been overwhelmingly approved by Colombia's Congress and will serve to benefit the more than 10,000 U.S. companies that export to Colombia, of which about 8,500 are small-and medium-sized firms. The pending agreement with Panama is also a vital piece of the trade puzzle and its ratification would complete the series of bilateral trade agreements currently outstanding. As with the KORUS FTA, the Colombia and Panama agreements provide similar benefits to the financial services industry:

- Full rights to establish or acquire existing financial institutions in Colombia and Panama to supply a complete range of financial services, including:
 - The right to 100 percent ownership;
 - Extensive rights to establish in the judicial form that best suits the business model of financial services firms.

⁷ U.S. Korea Business Council Factsheet, <http://www.uskoreafca.org/sites/default/files/Financial-Services-KORUS.pdf>, Accessed February 1, 2011.

- Non-discriminatory, national treatment for financial services firms, including on the types of services provided to customers;
- Automatic binding of future liberalization through most favored nation (MFN) treatment whereby both Colombia and Panama agree that if they liberalize further in the context of another FTA, then that liberalization is offered automatically to the U.S.; and
- Enhanced regulatory transparency and important regulatory reforms, such as more regularized and transparent regulatory procedures, the adoption of a negative list approach to financial sector regulation, and a regional integration of data processing.

Pursue Regional and Global Agreements

Increasingly important to the future of the U.S. economy and the financial services sector is the conclusion of the Trans-Pacific Partnership (TPP), a regional trade agreement that includes Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, the United States, and Vietnam. In a January 2011 speech, U.S. Trade Representative Ambassador Ron Kirk said he wants to "substantially complete" TPP negotiations by the annual Asia-Pacific Economic Cooperation (APEC) meeting in Hawaii in November 2011. We fully support this effort and believe its rapid implementation is critical to sustain a dynamic economy and create and retain high paying, high-quality jobs in the U.S.

SIFMA believes that a high-standard, comprehensive, and broad-based regional agreement would represent a key building block in opening foreign markets to U.S.

business, consumers, and investors, resulting in new opportunities to create jobs, and bolster economic growth. Such an agreement among TPP markets can also serve as a launch pad for the addition of similar like-minded countries.

In developing a 21st century agreement, the Administration should build on “best of breed” provisions from recent agreements, such as those in the KORUS FTA, rather than simply inventorying provisions from existing FTAs with TPP countries. A mere recounting of existing agreements would not reflect the global and rapidly changing nature of the financial services sector.

While U.S. exports to the Asia-Pacific have increased by 63 percent over the past five years, the U.S. share of trade in the region has declined by 3 percent in favor of U.S. competitors.⁸ Last year, China and the 10 Southeast Asian ASEAN nations ushered in the world’s third-largest free-trade area. According to the United States Trade Representative, in addition to the ASEAN-China trade deal, there are now 175 preferential trade agreements in force that include Asia-Pacific countries. More are on the way, with an additional 20 agreements awaiting implementation and more than 50 others under negotiation. A recent study forecasts that the U.S. could lose as much as \$25 billion in annual exports just from the discriminatory effects of an East Asia Free Trade Area that excludes the U.S. Exclusion from economic opportunities already is becoming evident and such exclusion will cost American jobs.⁹

Finally, we note that the Doha Round has been stalled for more than two years. We encourage Congress and the Administration to work with members of the G20 and

⁸ USTR Fact Sheet, <http://www.ustr.gov/about-us/press-office/fact-sheets/2009/december/economic-opportunities-and-tpa>, Accessed February 1, 2011.

⁹ Demetrios Marantis, “U.S. Trade Priorities in the Asia-Pacific: TPP and Beyond,” Accessed February 1, 2011.

other major global trading partners to ensure the successful completion of these negotiations. A recent Peterson Institute for International Economics study projected a boost of between \$180 billion and \$520 billion annually to global exports. Likewise, the potential GDP gains are significant, estimated between \$300 billion and \$700 billion annually, and are expected to be well balanced between developed and developing countries.¹⁰

Conclusion

SIFMA believes these trade agreements offer Congress and the Administration another opportunity to secure open and fair access to foreign markets for U.S. firms and their clients. To sustain its recovery, the financial services sector must continue to position itself globally to meet the demands of its U.S. and foreign clients.

Free trade agreements are a key component of the global economic recovery. The financial services sector helps to facilitate and support these bilateral agreements. For the financial services industry to help multinational companies take advantage of these global opportunities, they must have ability to provide, for example, currency-related products, deal with cross-border tax differences, offer country risk assessments, develop global cash-management facilities, and provide country-specific investment advice and solutions: all key services provided by global financial institutions to promote U.S. exports.

¹⁰ What's on the Table? The Doha Round as of August 2009, <http://piie.com/publications/wp/wp09-5.pdf>, Accessed February 1, 2011

SIFMA looks forward to continuing to work with Congress and the Administration to pursue free-trade agreements that enhances U.S. competitiveness abroad and supports jobs at home.

Securities Industry and Financial Markets Association-2



Securities Industry and Financial Markets Association Comments on Pending Free Trade Agreements, the Trans-Pacific Partnership, and Industry Efforts in China

February 23, 2011

Mr. Chairman, Ranking Member, and Members of the Committee, the Securities Industry and Financial Markets Association (SIFMA) appreciates the opportunity to comment in support of the U.S.-Colombia Trade Promotion Agreement (Colombia TPA), the U.S.-Panama Trade Promotion Agreement (Panama TPA), and the U.S.-Korea Free Trade Agreement (KORUS FTA).¹ These agreements represent a key building block of President Obama's efforts to open foreign markets to U.S. workers, business, consumers, and investors, resulting in new opportunities to create U.S. jobs and bolster economic growth. Consequently, we strongly encourage the Administration to renew efforts to pursue international economic engagement on global, regional, and bilateral tracks.

Access to foreign markets and the ability to provide products on a global basis is critical to the continued success of the U.S. financial services industry. The exports of financial services totaled \$55.4 billion in 2009, with a surplus of \$39 billion - this helps support millions of jobs in the U.S., both within the industry and in supporting sectors. Open and fair global capital markets reduce the cost of capital for U.S. companies in all sectors of the economy, and enable continued growth and expansion.

¹ The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to develop policies and practices which strengthen financial markets and which encourage capital availability, job creation and economic growth while building trust and confidence in the financial industry. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

In addressing the specific requests of the Committee, our comments will focus on the following key points: 1) the benefits of the pending agreements to the U.S. economy; 2) the costs of delaying approval of the agreements; 3) the agreements' impact on the financial services industry; 4) the importance of concluding other pending regional and global negotiations; and 5) the need for improved access to the Chinese financial services sector and the development of a level playing field.

Benefits to the American Economy

As the U.S. and global economy navigate through a sustained period of weak economic growth, the pending agreements would provide debt-free stimulus to the American economy by opening new markets for U.S. goods and services. The agreements complement and support the Administration's National Export Initiative that pledges to "remove barriers to trade and open new markets, make sure that trade is free and fair, and work with the world community to promote strong balanced growth worldwide that will benefit everybody."² Nearly six million U.S. jobs are supported by goods exports, which is more than 5 percent of private industry jobs.³ President Obama has stated that a 1 percent increase in exports would create 250,000 jobs.

In the aftermath of the global economic crisis, international trade agreements are an important means of promoting greater cross-border cooperation, transparency, predictability, and accountability in financial services, which is critical to continuing the global recovery. G20 leaders have highlighted the critical role that vibrant financial markets play in providing the credit and capital essential for economic growth,

² National Export initiative, July 2010.

³ U.S. Korea FTA Business Council Factsheet, <http://www.uskoreafta.org/sites/default/files/Benefits-KORUS.pdf>, Accessed February 1, 2011.

especially in developing countries. Financial services firms operating in a sound regulatory environment help companies manage risk, raise debt and equity, carry out acquisitions or sales, and help individuals plan and invest for the future. Capital markets facilitate economic growth and development by substantially broadening the range of vehicles for savings and investment, and lowering the cost of capital for businesses and entrepreneurs.

This, in turn, supports economic growth and job creation. Consequently, global investors will benefit from more attractive investment opportunities, exporters will be able to access a more vibrant export market for goods and services, and workers will benefit from increased job opportunities.

SIFMA strongly supports Chairman Camp's statement that Congress should consider all three agreements in the next six months.

KORUS FTA

Notably, U.S. services exports to Korea totaled \$12.6 billion in 2009 (most recent data available). Following ratification of the KORUS FTA, U.S. goods exports to Korea are projected to increase by \$10 billion to \$11 billion annually, according to estimates by the U.S. International Trade Commission. Implementing the agreement would create about 70,000 American jobs.⁴

⁴ Report to the President on the National Export Initiative: The Export Promotion Cabinet's Plan for Doubling U.S. Exports in Five Years, http://www.whitehouse.gov/sites/default/files/nei_report_091510_short.pdf, Accessed February 1, 2011.

Colombia and Panama TPAs

Under the Colombia and Panama TPA, more than 80 percent of U.S. consumer and industrial products and more than half of current U.S. farm exports will enter Colombia and Panama duty-free immediately. The agreements will also strengthen intellectual property and investor protections, open services markets, and enhance transparency in government procurement.

Not only will all three agreements be important for our clients in the agriculture, manufacturing and services sector, financing the increased exports and U.S. business activity in all three countries will benefit our industry directly.

Costs of Delay

The United States stands to lose more than 380,000 jobs if it fails to implement its pending trade agreements with Colombia, Panama, and South Korea, while the European Union, Canada, China and other countries move ahead with their own agreements with the those countries, according to a study by the U.S. Chamber of Commerce.⁵

KORUS FTA

To fully reap the benefits of the agreement, the KORUS FTA must be implemented in a timely manner. The European Union, an economy of similar size and composition to the U.S., recently concluded a free-trade agreement with Korea and is scheduled to begin implementing it July 1, 2011. Under the agreement, EU bilateral

⁵ The State of World Trade, U.S. Chamber of Commerce, <http://bit.ly/hself74>, Accessed February 22, 2011

exports to Korea are expected to increase by as much as 82.6 percent, as barriers to EU-based firms are reduced and eliminated.⁶ Korea is also in the process of negotiating trade agreements with Australia and India. According to White House economic official estimates, if competing economies reach and implement their pacts first, the U.S. stands to lose about \$30 billion in exports.⁷

Colombia and Panama TPAs

According to the Committee on Ways & Means (Republican Staff) study based on technical assistance provided by the independent, nonpartisan U.S. International Trade Commission⁸:

- If the EU-Colombia Trade Agreement is implemented and the U.S.-Colombia Trade Promotion Agreement (CTPA) is not, U.S. exports to Colombia of:
 - Machinery and equipment would decline by 15 percent, totaling \$155 million in lost revenue;
 - Textiles and apparel would decline by 11 percent and 21 percent respectively, combining for nearly \$21 million in lost revenue;
- If the Canada-Colombia Trade Agreement is implemented and the U.S.-Colombia Trade Promotion Agreement (CTPA) is not, export and agricultural sectors would collectively experience a 35 percent

⁶ The Economic Impact of the Free Trade Agreement (FTA) between the European Union and Korea

http://trade.ec.europa.eu/doclib/docs/2010/may/tradoc_146174.pdf, Accessed February 1, 2011.

⁷ Elizabeth Williamson, *US Vows New Push in Korean Trade Pact*, The Wall Street Journal, June 25, 2010.

<http://online.wsj.com/article/SB10001424052748704846004575333303589295326.html>, Accessed February 1, 2011.

⁸ House Ways and Means Republican Staff Study, May 10, 2010. <http://bit.ly/bY20ro>, Accessed February 22, 2011. *NOTE: Further benefits of the Panama and Colombia agreements can be found in a study provided to the Senate Foreign Relations Committee which was conducted by Sen. Lugar's staff. <http://bit.ly/h9l6kC>*

reduction in U.S. exports to Colombia, totaling more than \$56 million in lost revenue.

Impact on Financial Services Firms

The KORUS FTA will generate significant benefits for U.S. financial services firms and their customers, including:

- 100 percent ownership, as well as the right to establish their corporate form of choice;
- National treatment to foreign financial sector participants and investors on the same basis as domestic investors for regulatory and other purposes;
- The right to supply specific financial services on a cross-border basis, including portfolio management services for investment funds in Korea, and the ability for portfolio managers to manage their portfolios from their regional or head offices outside of Korea;
- Enhanced regulatory transparency. Securities firms in Korea are often confronted with non-tariff barriers in the form of regulatory restrictions and a lack of transparency in the development, implementation and application of regulations. These barriers prevent access in much the same way as tariffs, but unlike tariffs, no quantitative mechanism exists to reduce them;

- The transfer of information into and out of its territory for data processing where such processing is required in the institution's ordinary course of business;
- Strong provisions to protect U.S. investors and U.S. investment against arbitrary, confiscatory and discriminatory government action, including compensation for expropriation, commitments to fair and equitable treatment and most-favored nation treatment, and an objective and independent investor dispute settlement mechanism to resolve individual disputes; and
- In addition to establishing regular bilateral dialogues between regulators, which would enable more effective regulatory cooperation, the financial services agreement also provides provisions protecting each trading partner's sovereignty and regulatory approaches.⁹

The Colombian agreement has been overwhelmingly approved by Colombia's Congress and will serve to benefit the more than 10,000 U.S. companies that export to Colombia, of which about 8,500 are small- and medium-sized firms. The pending agreement with Panama is also a vital piece of the trade puzzle and its ratification would complete the series of bilateral trade agreements currently outstanding. As with the KORUS FTA, the Colombia and Panama agreements provide similar benefits to the financial services industry:

⁹ U.S. Korea Business Council Factsheet, <http://www.uskoreafta.org/sites/default/files/Financial-Services-KORUS.pdf>, Accessed February 1, 2011.

- Full rights to establish or acquire existing financial institutions in Colombia and Panama to supply a complete range of financial services, including:
 - The right to 100 percent ownership;
 - Extensive rights to establish in the judicial form that best suits the business model of financial services firms.
- Non-discriminatory, national treatment for financial services firms, including on the types of services provided to customers;
- Automatic binding of future liberalization through most favored nation (MFN) treatment whereby both Colombia and Panama agree that if they liberalize further in the context of another FTA, then that liberalization is offered automatically to the U.S.; and
- Enhanced regulatory transparency and important regulatory reforms, such as more regularized and transparent regulatory procedures, the adoption of a negative list approach to financial sector regulation, and a regional integration of data processing.

Pursue Regional and Global Agreements

Increasingly important to the future of the U.S. economy and the financial services sector is the conclusion of the Trans-Pacific Partnership (TPP), a regional trade agreement that includes Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, the United States, and Vietnam. We note U.S. Trade Representative Ambassador Ron Kirk's comments during the February 9 hearing regarding his intentions of concluding TPP negotiations by the annual Asia-Pacific Economic

Cooperation (APEC) meeting in Hawaii in November 2011. We fully support this effort and believe its conclusion is critical to sustain a dynamic economy and create and retain high-paying, high-quality jobs in the U.S.

SIFMA believes that a high standard, comprehensive, and broad-based regional agreement would represent a key building block in opening foreign markets to U.S. business, consumers, and investors, resulting in new opportunities to create jobs, and bolster economic growth. Such an agreement among TPP markets can also serve as a launch pad for the addition of like-minded countries.

In developing a 21st century agreement, the Administration should build on "best of breed" provisions from recent agreements, such as those in the KORUS FTA, rather than simply inventorying provisions from existing FTAs with TPP countries. The ongoing Santiago negotiations represent a key milestone to concluding the TPP agreement and provide a forum to address outstanding regulatory barriers and non-tariff barriers.

A mere recounting of existing agreements would not reflect the global and rapidly changing nature of the financial services sector. We encourage the inclusion of language similar to the 1998 Rwanda Bilateral Investment Treaty (BIT) that allows for an arbitration mechanism to allow investors to work with competent investment authorities for a joint determination on the issue.

While U.S. exports to the Asia-Pacific have increased by 63 percent over the past five years, the U.S. share of trade in the region has declined by 3 percent in favor

of U.S. competitors.¹⁰ Last year, China and the 10 Southeast Asian ASEAN nations ushered in the world's third-largest free-trade area. According to the United States Trade Representative, in addition to the ASEAN-China trade deal, there are now 175 preferential trade agreements in force that include Asia-Pacific countries. More are on the way, with an additional 20 agreements awaiting implementation and more than 50 others under negotiation. A recent study forecasts that the U.S. could lose as much as \$25 billion in annual exports just from the discriminatory effects of an East Asia Free Trade Area that excludes the U.S. Exclusion from economic opportunities already is becoming evident and such exclusion will cost American jobs.¹¹

Finally, we note that the Doha Round has been stalled for more than two years. We encourage Congress and the Administration to work with members of the G20 and other major global trading partners to ensure the successful completion of these negotiations. The G20 finance ministers reaffirmed their commitment to concluding the Doha round in the February 2011 communiqué, pledging also to "refrain from introducing, and oppose protectionist trade actions in all forms."¹²

A recent Peterson Institute for International Economics study projected a boost of between \$180 billion and \$520 billion annually to global exports. Likewise, the potential GDP gains are significant, estimated between \$300 billion and \$700 billion annually, and are expected to be well balanced between developed and developing countries.¹³

¹⁰ USTR Fact Sheet, <http://www.ustr.gov/about-us/press-office/fact-sheets/2009/december/economic-opportunities-and-tpp>, Accessed February 1, 2011.

¹¹ Demetrios Marantis, "U.S. Trade Priorities in the Asia-Pacific: TPP and Beyond," January, 2010.

¹² G20 Finance Ministers Communiqué, February 19, 2011.

¹³ "What's on the Table? The Doha Round as of August 2009," <http://piie.com/publications/wp/wp09-6.pdf>, Accessed February 1, 2011.

A Level Playing Field in China

The development and liberalization of the financial services sector in China is essential to help sustain a global economic recovery and allow financial services firms to compete on a level playing field in the world's second largest economy. The industry is currently working through a number of government-sponsored forums, primarily the Strategic and Economic Dialogue, to foster a constructive, sustained dialogue with our Chinese counterparts to resolve these issues.

While China has been slow to provide market access for foreign firms, they continue to expand their global presence. In the past year, the Industrial & Commercial Bank of China has acquired a U.S. broker-dealer, a U.S.-based depository institution, and is expanding its presence in the European Union with branches in Paris, Brussels, and Amsterdam.

China is also striving to create a world-class financial exchange through the implementation of the Shanghai Stock Exchange Strategic Plan. The plan is intended to develop "one of the most influential bourses in the world, boasting a mature stock market, an improved bond market, a highly developed fund market, an abundance of securities derivatives and an increasingly rational investor structure."¹⁴ In February 2011, the Shanghai Stock Exchange and the Brazilian BM&FBovespa signed a Memorandum of Understanding to allow Brazilian companies the right to list on Chinese exchanges.¹⁵

¹⁴ Shanghai bourse eyes Asia's top market by 2020, <http://bit.ly/hOeMC8>, Accessed February 10, 2011.

¹⁵ Irene Shen, *Shanghai exchange in pact with Brazil bourse*, China Daily, February 18, 2011. <http://bit.ly/g8EhSY> Accessed February 22, 2011

SIFMA supports full market access and national treatment for financial services firms seeking to establish operations in China. While China has worked to expand their international financial presence, access for foreign firms has not kept pace. Without improved market access, regulatory transparency, and increased qualified domestic institutional investor (QDII) and qualified foreign institutional investors (QFII) quotas, financial services firms will be unable to service their clients' needs in China and unable to compete at a global level.

Underscoring the importance of the globalization of the financial services industry and access to growing markets, Treasury Secretary Timothy Geithner recently said:

"As developing economies in the most populous countries mature, they will demand more and increasingly sophisticated financial services, the same way they demand cars for their growing middle classes and information technology for their corporations. If that's true, then we should want U.S. banks positioned to compete abroad."¹⁶

To achieve these aims, more work must be done to liberalize China's financial services sector and allow for the development of a level playing field.

Conclusion

SIFMA believes these trade agreements and market access issues offer Congress and the Administration an opportunity to secure open and fair access to foreign markets for U.S. firms and their clients. To sustain its recovery, the financial services sector must continue to position itself globally to meet the demands of its U.S. and foreign clients.

¹⁶ Noam Scheiber, *The Escape Artist*, The New Republic, February 10, 2011. Page 7. <http://bit.ly/hngjsk>, Accessed February 15, 2011.

Free-trade agreements and access to growing markets are key components of the global economic recovery. The financial services sector helps to facilitate and support these bilateral agreements. For the financial services industry to help multinational companies take advantage of these global opportunities, they must have the ability to provide, for example, currency-related products, deal with cross-border tax differences, offer country risk assessments, develop global cash-management facilities, and provide country-specific investment advice and solutions: all key services provided by global financial institutions to promote U.S. exports.

SIFMA looks forward to continuing to work with Congress and the Administration to pursue free-trade agreements, and engage on other global, regional, and bilateral tracks that enhance U.S. competitiveness abroad and support jobs at home.

International Dairy Foods Association



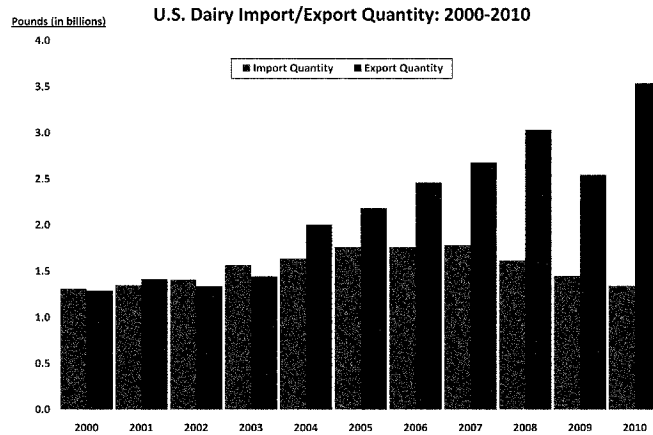
TESTIMONY OF THE INTERNATIONAL DAIRY FOODS ASSOCIATION BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS REGARDING THE HEARING ON PRESIDENT OBAMA'S TRADE POLICY AGENDA

Chairman Camp, Ranking Member Levin, and members of the committee, the International Dairy Foods Association (IDFA) represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 550 companies representing a \$110-billion a year industry. IDFA's 220 dairy processing members operate over 600 plant operations and range in size from large multi-national organizations to single-plant companies. They manufacture more than 85% of the milk, cultured products, cheese and frozen desserts produced and marketed in the United States. In addition, over 300 member companies provide processing equipment and supplies, packaging equipment and materials, ingredients and a wide variety of products and services to the dairy processing industry. IDFA member companies compete in the U.S. and foreign markets and are deeply committed to improving international trade opportunities for dairy products.

Dairy exports have grown into a vitally important aspect of the U.S. dairy industry. In 2010, the U.S. exported over \$3.7 billion worth of dairy products around the world, up 64% from 2009 and the second-highest level ever. The U.S. ran a dairy trade surplus last year of over \$1.2 billion. These numbers are a clear departure from a decade ago when the U.S. dairy industry historically ran a trade deficit.

Over 10 percent of U.S. farm milk production now ends up in dairy exports and there is a huge potential to increase this number. Developing and newly industrialized economies offer stronger consumption growth rates for food products generally and dairy products in particular. Although Mexico and Canada are the major recipients of US dairy products, dairy exports to Asia have shown tremendous growth in recent years. Exports last year to China were up 73 percent, to Japan up 55 percent, to the Philippines up 137 percent, and to Vietnam up 177 percent.

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With the right policies, we are confident that this trend will continue. In 2009, the Innovation Center for U.S. Dairy, funded by dairy producers, commissioned a study by Bain & Co. which projected that net import demand for dairy products would grow faster than net export supply through 2013. The study found that this demand growth would come primarily from developing economies in Asia, Latin America, North Africa and the Middle East. This will lead to a "latent demand gap" (global shortfall between consumption and production forecasts) of 100,000 metric tons of dairy protein by 2013 (equivalent to 7 billion pounds of milk). Importantly, the U.S. is well positioned to capture the opportunity of filling the demand gap in the near term (10-15 years). Beyond this 10-15 year window of opportunity, new sources of low cost supply will emerge as competitors. Thus, there is an urgent need to take the appropriate policy action to ensure that U.S. industry is able to meet this growing demand before other suppliers.

The study recommended that the dairy industry become a "consistent exporter" and that we change many of our domestic and international policies in order to position our industry to take advantage of this opening. IDFA agrees with this recommendation and urges the committee to review the report which can be found here:

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<http://www.usdairy.com/Globalization/GlobalImpactStudy/Pages/BusinessCase.aspx>

The report specifically recommends against establishing policies that would create a "Fortress USA" and attempt to focus merely on our domestic market with policies that will insulate our industry from international markets.

Although many dairy policies are not within the jurisdiction of this committee, its members should be aware that policies that would create a "Fortress USA" by establishing a growth management program to address volatility have gained considerable momentum over the past several months and are being seriously considered. Studies of milk supply control programs established in other countries such as Canada and the European Union have shown that exports decline and imports increase under such programs. If growth management, or price stabilization, programs are established here, they will undermine the efforts of this committee and the Administration to increase exports through the National Export Initiative (NEI).

Before the U.S. dairy industry can fully realize its global potential, we also need international agricultural policies that are more market oriented. Dairy manufacturers cannot fully compete in global markets unless there is a reduction of dairy product tariffs, subsidy practices, and technical trade barriers that currently impair U.S. exports. Bi-lateral and multilateral free trade agreements provide extremely important opportunities to advance trade liberalization and break down trade barriers that obstruct the global growth of the dairy industry. As more market barriers fall, and the historical gap between U.S. and world dairy market prices closes, competitive opportunities for U.S. dairy foods expand and more U.S. firms can make inroads into foreign markets.

Free trade agreements are an extremely important opportunity to advance dairy trade and break down barriers that obstruct the global growth of the dairy industry. The agreements currently pending before Congress, including those with Colombia, Panama, and South Korea, offer enormous potential for growth in new markets for U.S. dairy products. FTAs such as these allow U.S. dairy companies to improve market opportunities and access for their exports.

In particular, quick action is needed to move the Korea-U.S. Free Trade Agreement (KORUS-FTA) forward as South Korea's dairy market is particularly important to American exporters. Assuming the U.S. is able to make full use of the new market access opportunities negotiated, this agreement embodies what IDFA believes is one of the most important free trade deals for the American economy since the North American Free Trade Agreement.

The KORUS agreement represents a tremendous opportunity for the U.S. dairy industry to increase and sustain its growing presence in an extremely important

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economic region. South Korea's dairy market is already very important to American exporters. Currently, duties on U.S. dairy exports to Korea are subject to high tariffs starting at 36 percent, while most of Korea's agricultural exports enter the U.S. market at about 10 percent. Despite these barriers, in 2010 South Korea constituted the U.S. dairy industry's sixth largest export market and imported over \$115 million worth of American dairy products, which was a 72 percent increase over 2009. South Korea was the fourth largest export destination for U.S. cheeses and curds and the eighth largest export destination for ice cream and related products.

Estimates from the U.S. International Trade Commission (ITC) Report: U.S.-Korea Free Trade Agreement "Potential Economy-wide and Selected Sectoral Effects" indicate that full implementation of the KORUS agreement would increase U.S. dairy exports by \$175–336 million (249–478 percent).¹ The report notes that the domestic Korean dairy industry is currently unable to supply total Korean demand for dairy products. One-half of non-fluid dairy consumption in Korea is supplied by imports. If the market access opportunities for the U.S. dairy industry under the KORUS-FTA are fully realized, U.S. farmers, and processors and their suppliers, are well positioned to meet this demand.

Perhaps most importantly, the ITC report estimated that the dairy sector would be among the industries seeing the largest gains in output and employment. Based on Commerce Department multipliers, such an increase in U.S. dairy exports could mean 10,000 or more additional U.S. jobs when considering the effect across the dairy industry value chain.

In addition to supporting the approval of the KORUS-FTA at the earliest opportunity, IDFA also strongly supports quick approval of the FTAs with Colombia and Panama. The estimated benefit to the U.S. dairy industry over the first several years of each of these agreements will be an additional \$25 million per year, on average.

If congress fails to act, these tremendous opportunities for market expansion and resultant job growth in the U.S. will be critically threatened, especially in light of the rapid pace at which the European Union has negotiated competing FTAs with these countries.

IDFA urges members of this committee and Congress to work diligently to approve these long-pending free trade agreements. The advancement of these FTAs is viewed by IDFA as a crucial step forward in the industry's continued overseas growth and logical progression towards becoming a

¹ Impact relative to a 2008 base. See chap. 2 of U.S. International Trade Commission U.S.-Korea Free Trade Agreement: Potential Economy-wide and Selected Sectoral Effects report for additional information regarding the economy-wide analysis: <http://www.usitc.gov/publications/pub3949.pdf>

significant global dairy industry player and "consistent exporter". In particular, the KORUS-FTA is a key building block and a critical step forward for the U.S. dairy sector to increase and sustain its growing presence in an extremely important economic region.

The Trans-Pacific Partnership negotiations (TPP) are another important building block towards trade policies that will facilitate U.S. dairy's expansion into the important Pacific Rim market. IDFA is encouraged by the recent inclusion of Vietnam in the TPP talks and ongoing discussions with Japan as another potential entrant. The Pacific Rim is the U.S. dairy industry's fastest growing export region, totaling over \$1.2 billion in dairy exports during 2010, an increase of over 100 percent from 2009. As these economies continue to develop and incomes grow, consumption of animal proteins such as dairy and other value-added agricultural products increase as well. Local production of dairy products in this region is often constrained by the lack of manufacturing facilities making U.S. dairy processors uniquely positioned to meet consumer demand that local manufacturers are not able to supply.

This opportunity will not be fully realized unless the U.S. promotes sound trade policy that provides full market access in the region and addresses important technical trade barriers. As the economies and incomes of these Asia-Pacific countries have grown, they have struggled with the need and ability to implement science-based regulatory systems that allow for free and fair access for U.S. dairy products. These systems are often fractured and inconsistent across the region. The TPP negotiations and other dialogue, such as economic and trade-related discussions with China, are vital venues in building the regulatory coherence and sound science-based policies within the region that will permit U.S. dairy and other agriculture exports open access to these crucial markets.

China is currently the U.S. dairy industry's largest export destination outside North America, and one of its fastest growing markets. China imported \$237 million of U.S. dairy products in 2010, a 73 percent increase over the previous year. However, this vital market has been plagued with uncertainty for nearly a year, as China has failed to agree upon an acceptable dairy health certificate with the United States. While dairy exports are currently able to enter the country through the legacy certificate, and U.S. interagency efforts to reach an agreement have been admirable, this unfavorable risk-management situation reflects the importance of market access issues as a focus of U.S. trade policy towards China. Other issues deflect important political attention away from those that directly affect the ability of U.S. dairy processors and other companies to do business in China. For example, any congressional attempts to force China to move more quickly to allow market forces to influence its currency are likely to be counter productive and would likely put dairy exports further at risk from retaliatory trade actions.

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IDFA is also strong proponent of the successful completion of the Doha Development Round of the World Trade Organization (WTO) and is hopeful that the U.S. will provide leadership in pushing for a breakthrough in the long-stalled negotiations before the year ends. Multilateral negotiations in the WTO provide one of the best and most important opportunities to strengthen international trade rules to remove artificial advantages or protections and truly open markets for U.S. dairy products and dairy-containing foods.

It is essential for Congress and the Administration to remain ambitious in all three "pillars" of the agriculture negotiations: market access, elimination of export subsidies and trade distorting domestic support. Furthermore, successful completion of the Doha round would provide an excellent framework for the writers of the upcoming farm bill to ensure that U.S. agricultural policies are WTO compliant and non-trade distorting, which will provide for a level playing field and shield U.S. agriculture from unnecessary trade retaliation.

IDFA appreciates the opportunity to provide comments on the magnitude of these issues and the importance of a robust trade policy to our industry. Thank you.

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Association of Global Automakers, Inc.**House Ways and Means Committee Hearing on
Hearing on President Obama's Trade Policy Agenda**

February 9, 2011

Statement of the Association of Global Automakers, Inc.

Michael J. Stanton, President and CEO

The Association of Global Automakers (Global Automakers) respectfully requests that these comments be accepted as part of the formal record of the February 9, 2011 hearing on President Obama's Trade Policy Agenda. Among other things, this hearing focused on pending trade agreements with Colombia, Panama, and South Korea. Global Automakers supports enactment of the U.S.-Korea Free Trade Agreement (FTA) as well as the pending agreements with Columbia and Panama.

Global Automakers, formerly known as the Association of International Automobile Manufacturers (AIAM), represents global motor vehicle manufacturers, original equipment suppliers, and other automotive-related trade associations. Our members' share of total U.S. vehicle sales and production is 40 percent and growing. Global Automakers' companies have invested \$43 billion in U.S.-based production facilities, have a combined domestic production capacity of 4.2 million vehicles, directly employ more than 80,000 Americans, and create nearly 600,000 jobs for Americans at dealerships and supplier companies across the country.

Global Automakers has been a consistent advocate of free trade and open investment and supports the elimination of trade barriers and the expansion of free trade rules worldwide. A complex and multifaceted accord, the U.S.-Korea FTA establishes clear and predictable rules, avoids stipulating or "managing" trade outcomes, and creates a viable mechanism for handling disputes. Its approval will improve the global competitiveness of automakers in both countries and benefit consumers on both sides of the Pacific.

As the Committee is aware, enactment of the U.S.-Korea FTA will lead to the elimination of U.S. and Korean tariffs on imported motor vehicles and auto parts, the simplification and reduction of Korean taxes based on engine displacement, and an increase in the transparency of Korea's regulatory process. When fully implemented, the agreement will promote job growth by creating opportunities for increased reciprocal trade and investment between the two countries.

Reduced barriers to automotive trade has facilitated the expansion of auto markets worldwide and benefited all consumers. Because of the global nature of automotive trade, Global Automakers also supports efforts to develop a broader trade pact like the Trans-Pacific Partnership (TPP) Agreement and urges its speedy and successful negotiation.

We appreciate the opportunity to comment on the historic U.S.-Korea FTA and encourage Congress to approve the agreement at its earliest opportunity.

Pharmaceutical Research and Manufacturers of America

**U.S. Biopharmaceutical Innovation and U.S. Trade Policy:
The Importance of Trade Agreements in Keeping Foreign Markets Open**

Submission for the Record

February 18, 2011

The Pharmaceutical Research and Manufacturers of America (PhRMA) appreciates the opportunity to provide this written submission for the record in conjunction with the hearings held on January 25 and February 9, 2011, to examine the U.S. trade policy agenda and its relationship to U.S. economic growth and job creation. In this statement, we focus on the contributions of the research-based biopharmaceutical industry to the U.S. economy and to U.S. exports, as well as the importance of enhancing the global competitiveness of our industry through negotiating and enforcing strong trade agreements containing high-standard, market-opening commitments and intellectual property rights (IPR) protections. A good example of such an agreement is the Korea-United States FTA (KORUS FTA), which we believe will serve to strengthen the U.S. economy, jobs, and exports. We also discuss the importance of initiatives like the proposed Trans-Pacific Partnership (TPP) in creating more consistent, market-based policies in the treatment of biopharmaceutical products by other governments, especially given the proliferation of restrictive, discriminatory practices in some markets that threaten the ability of our industry to compete globally.

PhRMA represents the country's leading innovative biopharmaceutical companies. Our members are devoted to developing medicines that allow patients around the world to live longer, healthier and more productive lives. In 2009 alone, the research-based biopharmaceutical industry contributed approximately \$65.3 billion to R&D for new medicines to help find cures to diseases affecting all regions and populations of the globe.¹ In order to continue to foster economic growth in the United States and the much-needed medical breakthroughs that will save lives, we must continue to pursue public policies that promote innovation, and that require the protection of intellectual property rights and the removal of critical barriers to market access. Free trade agreements offer a compelling approach to addressing many of the concerns affecting our industry in exporting to and competing effectively in foreign markets.

The Biopharmaceutical Industry's Contributions to the U.S. Economy and U.S. Exports

The U.S. biopharmaceutical industry is a major U.S. employer, supporting over 3.1 million jobs nationwide, including direct employment of over 655,000 Americans.² In 2008, every direct job

¹ 2010 PhRMA Pharmaceutical Industry Profile.

² L. R. Burns, *The Biopharmaceutical Sector Impact on the U.S. Economy: Analysis at the National, State and Local Levels* (Washington, D.C.: Archstone Consulting LLC, 2010).

in the biopharmaceutical sector supported 3.7 jobs in other sectors.³ The industry consists of companies ranging from large, multinational enterprises to medium and small companies. It also includes a network of suppliers, distributors and others who contribute to ensuring patients receive the medicines they need.

PhRMA member companies are important drivers of high-quality, innovative job creation in the United States, investing more per employee in research and development than other manufacturing sectors. Our industry is also a significant contributor to U.S. economic growth. The biopharmaceutical sector's direct contribution to U.S. gross domestic product (GDP) in 2008, \$114.6 billion, was approximately three and one-half times the average per sector for the rest of the U.S. economy.⁴ Moreover, the per job contribution to GDP by the biopharmaceutical sector is more than double the average in the rest of the economy.⁵

On average, U.S. biopharmaceutical employees earned annual wages of \$96,563 (excluding benefits) and paid an average of \$24,033 in federal taxes, and an average of \$3,653 in state taxes, or approximately three times the average amount paid by U.S. workers in the rest of the economy.⁶

These figures are driven in large part by exports. In 2009, the biopharmaceutical industry exported \$46 billion, or approximately 5 percent of total U.S. goods exports, making the United States the world's third largest pharmaceutical exporter. This made the biopharmaceutical sector the second largest U.S. export sector (after aerospace products and parts).⁷ Our industry has shown steady and strong export performance in the recent past, with 2009 marking an increase from \$36.7 billion in 2007 and \$41.7 billion in 2008.⁸

As strong as our recent performance has been, it could be even stronger. Barriers to exportation still remain, as do limits on the ability to market and distribute innovative biopharmaceutical products in particular countries. We are encouraged by the important steps the pending KORUS FTA makes towards eliminating those barriers and creating new export opportunities that will lead to high-skilled, high-value job creation in the United States. Moreover, we believe that the KORUS FTA should serve as the model to build off of in future trade agreements, including the TPP. Such trade agreements benefit not only the biopharmaceutical sector, but also key U.S. trading partners and the global economy.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ U.S. International Trade Commission, Trade DataWeb, accessed February 1, 2011, at <http://dataweb.usitc.gov/> (query run of U.S. domestic exports classified by 4-digit NAIC code).

⁸ *Id.*

The KORUS FTA Represents a “Gold Standard” for Opening Foreign Markets to U.S. Biopharmaceutical Innovative Products and Protecting the Intellectual Property Embedded in Those Products

PhRMA views the KORUS FTA as the model for other FTAs, including the TPP that the United States may pursue. The agreement’s provisions represent the most thorough articulation in any U.S. FTA of commitments to open markets, institute ethical business practices, promote transparency, and strengthen the protection of intellectual property rights. The comprehensive commitments in the KORUS FTA represent an excellent model to build on for future FTA negotiations, including the TPP.

As the world’s 14th largest economy, Korea represents an important export market for U.S. biopharmaceutical companies, despite the reality that the operating environment in Korea has for many years presented our industry with numerous challenges. Given that Korea has a single-payer system, the most important hurdle that must be overcome in gaining access to the national healthcare system is being granted a meaningful right to participate in the Korean market. The KORUS FTA accomplishes this important objective by establishing a level playing field so that U.S. research-based biopharmaceutical companies can compete on equal terms with Korea’s domestic firms. Without appropriate market access for innovative pharmaceutical manufacturers, Korean patients may not be able to benefit from the most innovative therapies and treatments. Korea’s national health insurance system is in the position of unilaterally determining which new medicines are available to Korean patients and at what prices they may be sold. Innovative biopharmaceutical products, which are mainly imported into Korea by U.S. and other multinational companies, only gained access to Korea’s national healthcare system in August 1999. Since then, biopharmaceutical companies in the United States and other countries have struggled to overcome various impediments to operating successfully in the market, including, but not limited to:

- A government pricing and reimbursement (P&R) system that is non-transparent and heavily focused on price-cutting and cost-containment, and not sufficiently concerned with rewarding innovation;
- Decisions that are not science-based and do not reflect international norms and best practices; and,
- Use of unethical business practices by local industry that led to efforts by the Korean Government to impose new (and still emerging) disciplines on the ability of biopharmaceutical companies, both foreign and domestic, to provide physicians with the latest information on innovative medicines.

Faithful implementation by Korea of the provisions negotiated in the KORUS FTA will make many meaningful strides toward addressing these issues and ensuring that U.S. biopharmaceutical companies have fair and non-discriminatory access to this important market. Moreover, the Pharmaceuticals and Medical Devices chapter of the KORUS FTA provides a strong precedent for future U.S. free trade agreements. Overall the chapter sets a high standard for market-opening that our industry would support replicating and building on in future U.S. FTA negotiations.

Key provisions in the KORUS FTA that help to address the issues listed above are as follows:

A set of agreed general principles that underscore the importance of:

- Adequate access to biopharmaceutical products in order to provide high quality healthcare and reduce overall healthcare expenditures;
- Economic incentives and competitive markets to provide conditions that encourage the development of biopharmaceutical products;
- Government support for research and development, intellectual property protections, and other incentives for innovation; and
- Promoting innovation and access to pharmaceuticals through transparent and accountable procedures.

Lack of transparency in Korea's reimbursement and product listing decisions is a difficult, long-standing issue for U.S. biopharmaceutical companies. Therefore, PhRMA has been especially pleased with the forward-leaning, extensive transparency provisions in the Pharmaceuticals and Medical Devices chapter of the KORUS FTA, which:

- Ensure that, in general, laws, regulations and procedures are published for review and comment before they are adopted, and that all stakeholders have a meaningful opportunity to provide comments;
- Make available a process whereby the applicant for listing of a pharmaceutical product for reimbursement may obtain independent review of the original listing determination and the level of reimbursement;
- Ensure that applicants receive meaningful and detailed written information regarding the bases for recommendations or determinations related to listing or reimbursement decisions; and
- Create a Medicines and Medical Devices Committee, co-chaired by health and trade officials, to monitor and support implementation of and promote discussion of issues related to the Pharmaceuticals and Medical Devices chapter.

The KORUS FTA contains other important provisions that ensure strong protection of intellectual property rights, the lifeblood of the biopharmaceutical industry. These provisions include, in particular:

- Agreement by Korea to establish effective patent enforcement mechanisms to help prevent patent-infringing products from gaining access to the market;
- Provision of at least a five-year period of data protection (*i.e.*, a period during which persons other than the originator of proprietary data are prohibited from using that data to meet safety and efficacy standards in the marketing approval process); and

- The possibility that the term of a patent can be adjusted to compensate for unreasonable delays that occur in the patent registration and marketing approval processes.

Korea's willingness to take concrete steps to increase the protection and enforcement of intellectual property rights will be highly beneficial to Korean, U.S., and other foreign firms, and to Korea's own goal of enhancing its life sciences sector.

With the expected entry into force of the EU-Korea Free Trade Agreement on July 1, 2011, the urgency of implementing the KORUS FTA becomes evident, particularly if U.S. exporters are to have access to Korea's market comparable to that enjoyed by their counterparts within the European Union. PhRMA applauds the action by the House Ways and Means Committee to hold its hearing on January 25 to begin the important process of moving the KORUS FTA forward expeditiously over the months ahead.

For the U.S. biopharmaceutical industry, the KORUS FTA, particularly its transparency and intellectual property rights provisions, represents a 21st century standard that should stand as a model for other U.S. free trade agreements, including the TPP that is currently being negotiated. As demonstrated in this submission, entry into force of the KORUS agreement will enable the innovative biopharmaceutical industry to put its export "muscle" to work, growing the U.S. economy and contributing to the creation of high-paying and high-skilled U.S. jobs in the process. Our industry looks forward to the day when the KORUS Agreement is in force, and our access to Korea's market becomes more stable and predictable as a result of its path-breaking, market-opening provisions.

The Role of Trans-Pacific Partnership Negotiations in Shaping the Global Competitiveness of the U.S. Innovative Biopharmaceutical Industry

PhRMA favors the TPP negotiations as a comprehensive policy mechanism for addressing commercially meaningful intellectual property rights and removing market access barriers that hamper our industry's global competitiveness, particularly with the four countries with which the United States does not have existing free trade agreements (Brunei Darussalam, Malaysia, New Zealand and Vietnam). This is especially important given the likelihood that the TPP will serve as a "docking station" for other countries in the Pacific region (including possibly China, Japan, and Canada, to name a few) to join on to in the future.

A strong TPP template that builds on the elements of the KORUS FTA and establishes a new model for future U.S. free trade agreements will best enhance the ability of the U.S. biopharmaceutical innovative industry to expand U.S. exports and create high-skilled, high-value science and engineering jobs.

Key elements the TPP should contain to achieve these goals include:

- **Provide clear, market-based support for innovation.** The TPP agreement should include specific commitments to promote regulatory transparency, accountability and objectivity, particularly in government drug approval and drug reimbursement processes. Regulatory barriers can too often result in delaying or restricting patient access to the latest innovative medicines. Restrictions on biopharmaceutical reimbursement proposed as fiscal policy

measures often are disproportionate to the share of pharmaceuticals relative to overall healthcare expenditures. The KORUS FTA addresses this issue. For example, it contains a commitment to promote the development of high-quality patented and off-patent biopharmaceutical products as part of improving public health as well as the obligation to appropriately recognize the value of patented products when setting government reimbursement levels.

- **Engage on foreign government price control and cost containment policies.** Government price controls and cost containment policies include a wide range of practices, including for example, direct and indirect price controls, profit controls, *ad hoc* government price cuts, international and therapeutic reference pricing, mandatory rebates, physician budget constraints, marketing approvals, limits on promotion of medicines, and many others. Such policies can delay or reduce the availability of new medicines and limit market entry prospects for U.S. biopharmaceutical companies. The TPP provides the opportunity to engage other governments on the broad range of policies used to control prices and contain costs in the biopharmaceutical sector.
- **Maintain high-standard protection for intellectual property rights, coupled with rigorous enforcement.** High-standard protection for and enforcement of intellectual property rights provide the framework for U.S. companies to retain high-quality knowledge-based jobs in the United States, and for U.S. innovative companies to continue to invest in technological advances. This is no less true for U.S. biopharmaceutical firms, which depend on strong IP protection to provide market-based incentives for innovation, creativity and advanced global drug discovery, the benefits of which improve patient care around the world. Strong IP enforcement and protection help to maintain the levels of R&D investment required for development of new medicines.
- **Promote greater transparency in government policy and regulatory decision-making.** Decisions on how drugs are approved, regulated, procured and made available to patients should be made transparently and be guided by scientific principles. Manufacturers and other stakeholders should have meaningful opportunities for input to health authorities and other regulatory agencies regarding these decisions, and a right of appeal on specific decisions to an independent, objective court or administrative body. These issues affect innovative and generic manufacturers alike and deserve attention in the TPP negotiations.⁹
- **Ensure the TPP empowers patients.** Patients, physicians and other healthcare providers are key stakeholders in government regulatory and policy decision-making processes. The TPP should require that all stakeholders have access to the information necessary to allow them to make informed decisions.
- **The TPP should require governments' healthcare programs to respect the specialized expertise and therapeutic judgment of all healthcare providers, including physicians and nurse practitioners.** Healthcare professionals should have the freedom to prescribe medications that best address patients' needs.

⁹ See, for example, PhRMA-GPhA Joint Transparency Principles.

The TPP and U.S. Trade Policy in General Should Address Other Governments' Trade Policies that Limit the Ability of U.S. Biopharmaceutical Companies to Compete

The long-term importance of the TPP for the U.S. biopharmaceutical industry is that it will limit the ability of future parties to the agreement to implement policies that discriminate in favor of domestic producers while restricting the ability of U.S. biopharmaceutical companies and other multinational firms to compete. Such violations of national treatment often appear to be prohibited by existing international trade agreements. Despite these existing agreements, however, governments have succeeded in imposing discriminatory rules and practices adversely affecting the market access of innovative biopharmaceutical producers. Often these rules exploit gaps in the trade agreement disciplines on national treatment. Examples include:

- **Requirements to establish local manufacturing or transfer intellectual property.** Indonesia, though not currently a participant in the TPP negotiations, could join the TPP at a later date, or may decide to participate in a future Free Trade Area of the Asia Pacific (FTAAP) as a member of the Asia Pacific Economic Cooperation (APEC) forum. Indonesia has issued a government decree that sets unreasonable conditions for market entry. Only companies meeting Indonesian licensing requirements will be allowed to obtain marketing approval for their biopharmaceutical products. In order to obtain such regulatory approval, companies must either establish a factory in Indonesia or transfer sensitive intellectual property to a local Indonesian company. Licensing requirements generally are used in the biopharmaceutical sector to ensure that producers meet globally recognized good manufacturing and good distribution practices. Indonesia's decree, however, uses licensing requirements as a means of severely limiting access to its market for our sector.
- ***De facto* bans on imports.** Some governments impose additional requirements on biopharmaceutical producers that, in effect, prevent market entry. An example would be failure by a government to recognize the internationally accepted certification of good manufacturing practices (GMP) from another country unless a mutual recognition agreement (MRA) with that country is in place. Such a measure amounts to a *de facto* ban on imports in the guise of sound health policy.

Conclusion

The U.S. biopharmaceutical industry is both a leading export industry and a strong contributor to U.S. economic expansion through the creation of high-skilled, high-value, knowledge-based jobs. As such, our industry relies heavily on comprehensive, high-standard trade agreements to open foreign markets and help create new export opportunities for U.S. biopharmaceutical innovative medicines. Our industry supports trade agreements that provide strong and comprehensive protection for intellectual property rights, make government pricing and reimbursement policies more transparent and accountable and remove discriminatory trade barriers that limit or prevent entry for U.S. research-based medicines.

PhRMA looks forward to the speedy ratification of the KORUS FTA. Its "gold standard" provisions recognize the value of innovation, increase transparency and create a Medicines and Medical Devices Committee for addressing future developments in our sector, and establish a

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model for the TPP and future U.S. free trade agreements. Accordingly, we greatly appreciate the Committee's efforts to push for approval of the KORUS FTA in as early a timeframe as possible.

Finally, the TPP negotiations represent an opportunity to raise the level of trade commitments by key U.S. trading partners on the protection of intellectual property rights and related undertakings affecting market entry and competitive opportunities for the U.S. biopharmaceutical industry. We believe the TPP's ambition should be to provide a template for future trade liberalization, not only in the Asia Pacific region, but also for future U.S. free trade agreements with potential trade partners in any part of the world. The U.S. biopharmaceutical industry is global in scope, and we have the potential to increase our R&D investment and level of U.S. employment every time foreign markets become more open. Using U.S. trade agreements, and U.S. trade policy broadly, to address and dismantle trade barriers our industry faces in overseas markets is a winning strategy that adds to the innovative capacity and global competitiveness of the United States, while also expanding valuable employment opportunities for knowledge-based workers. PhRMA looks forward to working with the Committee and its Members in support of the objectives outlined in this Statement.

General Electric Company

Written Submission of Brackett Denniston

Senior Vice President & General Counsel, General Electric Company

House Ways & Means Committee
Hearing on President Obama's Trade Policy Agenda
February 23, 2011

GE is the world's largest diversified infrastructure company. Marrying technological innovation with world-class talent, we seek to tackle this generation's biggest challenges – supplying the world with sustainable energy, affordable healthcare, efficient transportation and accessible finance. In so doing, we directly employ more than 133,000 people throughout the United States, and support thousands of additional jobs through our suppliers.

International markets are vital to our company and its U.S. operations. GE today operates in more than 100 countries. Last year, more than 55% of the company's revenues derived from overseas sales. Just as examples: more than 70% of the commercial aircraft engines shipped from our Evendale, Ohio facility were destined for international markets, as were more than 80% of the gas turbines manufactured in our Greenville, South Carolina plant. Simply stated: international markets make U.S. a stronger American company and support hundreds of thousands of U.S. jobs.

The importance of international markets to our company will only increase over time. With 95% of the world's consumers outside the U.S. and the dramatic growth of markets in Asia, Latin America, the Middle East and Africa, we believe that an increasing percentage of GE's U.S. operations will be tied in some form or another to international markets.

GE's success in these markets will be based on a number of factors. One important factor is how effectively our company organizes and engages in these markets. To that end, we have recently announced a broad reorganization of our international operations to make us a more effective company globally. A second factor is U.S. government policies that underlie and enable U.S. competitiveness broadly – including in areas like education, infrastructure, and tax policy. A third factor – the focus of today's hearing – is U.S. trade policy.

U.S. trade policy is critically important to companies like GE. We believe that effective trade policy has at least three elements: (1) an active and sustained international campaign to open markets and remedy trade distortions; (2) a competitive

program to promote and support American exports; and (3) development policy that prioritizes building and sustaining open and transparent international markets.

Open Markets

GE sees market-liberalizing agreements, whether bilateral, multilateral or regional, as important tools to create economic opportunities that benefit U.S. companies and American workers.¹ The U.S. succeeds when markets are open to our products, and we need to seize opportunities for increased trade liberalization. We applaud the Administration's decision to submit the Korea-U.S. (KORUS) Free Trade Agreement to Congress for its approval. This one FTA alone will help create an estimated 72,000 jobs, while failure to enact it could result in the loss of 345,000 U.S. jobs.² We similarly would urge that the Colombia and Panama FTAs be promptly submitted and approved as well. Both are markets that are growing in importance in Latin America and it is important that we move those agreements forward.

We also applaud the Administration's decision to continue the Trans-Pacific Partnership negotiations. This agreement, together with KORUS, will help demonstrate America's commitment to and leadership in Asia, a region where multiple preferential trade agreements have been concluded without the United States.

Nor can the United States' efforts to open markets abroad rest with the TPP. We strongly urge prompt pursuit of additional free trade agreements, including, importantly, a zero tariff arrangement with the EU. We also urge plurilateral sectoral agreements, starting with environmental goods and services and healthcare products and services.

Additionally, we urge the Administration to look hard at what specific commitments are encompassed in the TPP and other trade initiatives going forward. In particular, we believe that any 21st Century trade agreement must discipline (i) the market-distorting challenges posed by state-owned and state-influenced entities, which play an increasingly important role in global commerce, (ii) initiatives to condition market access on forced transfer of technology, (iii) the growth of requirements conditioning market access (including access to government procurement markets) on localization of production; (iv) the use of product and service standards to undermine

¹ See, e.g., "The Benefits of Trade Liberalization," (Business Roundtable) ("The benefits of liberalized trade are apparent from our past trade agreements. The North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO) agreements increased U.S. gross domestic product (GDP) by \$40 billion to \$60 billion a year. When that is combined with lower prices on imported products, the average American family gained \$1,000 to \$1,300 a year from these two agreements.")

² Laura M. Baughman & Joseph F. Francois, *Failure to Implement the U.S.-Korea Free Trade Agreement: The Cost for American Workers and Companies*, (Nov. 2009).

market access, and (v) doing-business challenges posed by weak transparency and rule-of-law.

While we continue to pursue bilateral and regional liberalization, we must also work to continue to strengthen the multilateral trading system. Most immediately, we need to bring Russia into the WTO. As the largest economy outside the WTO, Russia's accession will be an important affirmation of the importance of the multilateral trading system, and will also help to enhance market access, increase regulatory transparency, and strengthen rule of law in this growing economy.

There still remains time — and sufficient prospects — to move the Doha Round forward this year. As strong believers in the importance of a robust multilateral trading system, GE is concerned about the failure to bring the Doha Round to conclusion after more than 10 years of negotiations. That said, we believe strongly that any multilateral trade deal — particularly one that has taken this long to conclude — must offer real trade-enhancing benefits.

While we press forward to negotiate new market-opening agreements bilaterally, regionally and multilaterally, we need to continue to resist protectionism at home and abroad. Domestically, we need to resist the temptation to resort to initiatives, like “Buy America” government procurement restrictions, which invite similar measures around the world, diminish our status and credibility as an advocate for free trade, and erode our competitiveness. Internationally, we must ensure that our current trade agreements are being implemented by our trading partners and act to enforce them when we see violations occurring. We need to insure a level playing field where trade laws and intellectual property rights are respected globally.

Trade Promotion and Finance

The President's goal of doubling exports over the next five years is commendable. We have done that at GE over the past five years, doubling exports from \$8 billion in 2004 to \$18 billion in 2009. The President's goal is an important call to arms to the American public and private sectors to focus on the importance of engagement in international markets. While doubling U.S. exports will require a change in mindsets — *thinking* of ourselves as an internationally-focused economy — it also requires reform of the government programs that support and govern U.S. exports. In 2009, U.S. exports supported 8.5 million U.S. jobs.³

As a start, we need to greatly expand and modernize U.S. export finance. Financing is increasingly the determinant of international competition, particularly with respect to major infrastructure projects. Many of our international competitors —

³ Report to the President on the National Export Initiative, September 2010

whether state-owned enterprises or private sector – bring sovereign-backed financing from their governments to the table. Canada’s export credit agency has a budget four times that of our Export Import Bank, with a population that is one-tenth our size. Japan’s export financing is almost seven times the size of Ex-Im with a population that is one-third. It is also important to refocus the mandate of the Overseas Private Investment Corporation (OPIC) and expand the U.S. Trade and Development Agency (USTDA), two small agencies that provide vital support to our companies as we compete globally.

U.S. export finance institutions not only need to be better resourced, they need to be free of restrictions that unnecessarily restrict the effectiveness of export finance, especially versus global competitors. High U.S. content requirements, outdated cargo preference requirements, and other regulatory restrictions bog down U.S. export support agencies and render them far less nimble and competitive than their global counterparts. The result, of course, is fewer U.S. exports and fewer U.S. jobs. While large companies like GE have resources to navigate the complex maze of U.S. export finance – and other alternatives where ExIm financing is not available – small and medium-sized enterprises are particularly adversely affected by these weaknesses. ExIm Bank financing alone helped support 200,000 jobs in 2009.⁴

The U.S. also needs to dramatically scale-up its export promotion. We need to put American exporters at the forefront of our diplomacy. Chancellor Merkel has led four trade missions to China in the past five years, bringing German business leaders for face-to-face meetings with China’s rulers and helping to secure billions in contracts for German companies and their workers. We should enhance commercial advocacy through the Commerce and State Departments, and at senior levels of government and in our embassies. Relative to the size of our economies, Germany’s government invests twice as much as the United States on export promotion. We should particularly focus on enhancing USG export promotion resources in the fastest growing, emerging markets. Support for our exporters also includes simple things like leadership on technical standards. The international arms of U.S. technical agencies, like the Departments of Transportation and Energy, need to be better resourced and more involved in the export advocacy game, working with developing countries and international institutions to develop standards and regulations that work for U.S. companies.

Finally, support for exports includes removing self-imposed obstacles. We support the Administration’s effort to modernize our export control regime and focus on key, truly sensitive technologies, decontrolling technology that is widely available or no longer sensitive. We need to revise our customs laws to enhance efficiency and revamp our visa programs to keep pace with the way businesses need to move around

⁴ Ibid.

employees, partners and customers. We should also create a fast-track program to allow timely issuance of visas to commercial visitors

Development Policy

For too long, development policy has been divorced from trade policy. Integrating our international development efforts with our trade policies will make both stronger. A more trade-focused development policy will help countries in the bottom quarter of the world economy climb up the ladder, by bringing them into the global trading system. Raising these countries out of poverty will not only go a long way towards promoting our national security, but as those countries develop, they will become bigger consumers of U.S. products, ranging from consumer products to infrastructure.

As a start, we need to renew, reform and expand programs like the Generalized System of Preferences, the Andean Trade Preferences Act and the African Growth and Opportunity Act, which provide limited duty free access to the U.S. market for less developed countries. We should supplement these trade preference programs with targeted aid that builds their institutional capacity. For the most part, these countries are selling products that do not compete with products produced in America.

Second, we need to update our aid agencies to work effectively with American business so that we will get greater development impact from our limited aid dollars. We need our companies to bring their resources, expertise and know-how to the developing world. When American companies invest overseas we bring with us our world class training programs, ethical business practices, technical expertise, and management, labor and environmental practices. Most importantly we bring economic opportunity. Aid agencies need to provide capacity building that facilitates and promotes investment by U.S. companies. It is only by working together and integrating economic development and trade that we will be successful in creating jobs, both in the United States and overseas and promoting global growth.

* *

In closing, we appreciate the opportunity to offer this written testimony before the House Ways & Means Committee and commend it for convening this hearing on this important topic. GE stands ready to work with the Committee and with the Executive Branch to design and implement a trade policy that works for the 21st Century.

**American Federation of Labor & Congress
of Industrial Organizations**

WRITTEN COMMENTS OF

THE AMERICAN FEDERATION OF LABOR &
CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL-CIO)

BEFORE THE U.S. HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

HEARING ON PRESIDENT OBAMA'S TRADE POLICY AGENDA

FEBRUARY 9, 2011

The AFL-CIO embraces international trade and does not fear globalization. That is because we believe that it is possible to construct a fair, flexible, rules-based global trading system that will contribute to the generation of high quality, well-paying jobs in advanced manufacturing and services in the United States while at the same time incorporating the billions of workers living in developing countries into the global economy in decent and dignified work. This is not only desirable but absolutely necessary to our collective future. However, the global trading system is not now working for workers here or elsewhere. It remains plagued by enormous imbalances, both between countries and within countries. And the myriad trade-related rules currently place substantial limits on governmental policy space, prioritizing the rights of capital over democratically elected governments and people. This must change.

The three pending Bush-era bilateral trade agreements, supported by the current administration as key components of its National Export Initiative, will not however set us on a jobs-centered path to balanced global growth that we desperately need.

JOBS?

From our past experience, we have serious doubts that these three trade agreements (FTAs) will produce the number of jobs touted (and certainly not the number of jobs needed). According to the 2010 study of the U.S. International Trade Commission (ITC), the US-Korea FTA is actually predicted to contribute to a growing goods trade deficit between the U.S. and the world and will lead to output and job losses in the U.S. manufacturing sector upon full implementation. This is the optimistic view. The Economic Policy Institute (EPI) projects that the FTA would actually displace about 159,000 U.S.-based jobs within the first seven years after it took effect. A more recent, and unofficial, study by the USITC prepared in 2011 at the request of the Senate Finance Committee (using questionable assumptions) still finds an increase in the overall goods trade deficit and some losses in U.S. manufacturing, while touting an increase in service sector jobs. The promise of jobs is even more attenuated with the Colombia and Panama trade agreements. With Colombia, the USITC predicts that the FTA will support virtually no U.S. jobs. At best, it points to a handful of jobs in the rice production sector – not the kind of high quality, 21st century jobs we need. Results are similar for Panama.

GOOD JOBS?

Unless worker rights are respected in law and in practice, we can be sure that whatever gains from trade there may be will not be equitably distributed. Major labor rights concerns persist in each of the three FTA countries, as well as in our own.

There is a commonly-held misperception that South Korean labor laws are high quality and that labor relations are free of the repression and violence found elsewhere. However, the regular reports of the International Labor Organization (ILO) indicate clearly that South Korea is not in compliance with core labor rights regarding freedom of association, collective bargaining and the right to strike. In practice, workers are routinely fired for trying to form a union. Employers frequently opt to use temporary and subcontracted “irregular” workers, under far inferior wages and working conditions, and at times in defiance of legal restrictions on hiring workers under these modalities. And workers undertaking legal and peaceful strikes can still find themselves subject to substantial fines and/or imprisonment. The use of police by company managers in labor disputes is an all too common practice. Indeed, workers in both the U.S. and Korea have jointly expressed their concerns that without bold action labor conditions in both countries will continue to deteriorate.

Despite this, USTR has expressed a reluctance to press the government of South Korea to address these concerns before implementation of the trade agreement. Failure by the Obama Administration to ensure that outstanding labor rights concerns are addressed fully in the first agreement it intends to submit to the Congress for ratification would send a very troubling signal.

In Colombia, the problem remains the continued assassination of trade unionists and the failure to prosecute those responsible for planning or carrying out the crimes. Last year was another bloody year for Colombian trade unionists. The well-respected National Labor School in Colombia estimates that there were 46 murders and 19 attempted murders. Nearly 300 trade unionists received death threats. Eleven of these murders took place under the new Santos Administration, which took office in August 2010. In total, over 2,850 trade unionists have been murdered since records were systematically collected in 1986. During the same period, there were 276 attempted murders, 218 forced disappearances, at least 4,935 death threats and 1,721 forced displacements. These figures confirm a clear and sustained intent to exterminate trade unionism. Yet, no one has been held responsible in 94% of these murder cases.

Additionally, the ILO has identified numerous ways in which Colombia’s labor laws fall short of the core labor rights, the international minimum set of rights to be guaranteed by all countries regardless of level of development. Colombia has made very little progress in passing the laws and regulations necessary to comply with these international norms. Further, the government of Colombia has an abysmal record enforcing the labor laws currently on the books. Colombia must bring its laws into compliance with international rights and begin to establish a record of sustained enforcement of its labor laws and regulations. Labor law reform, no matter how positive, will be insufficient in the absence

of evidence of a sustained and systematic effort to enforce the law. Of particular concern to us is the proliferation of indirect forms of employment which limit or exclude millions of workers from the coverage of the labor code.

Finally, Panama has not yet addressed the range of laws and regulations necessary to comply with the labor obligations of the trade agreement, including limitations on collective bargaining in new companies and in the export processing zones. Further, in 2010, the government severely weakened labor rights in a special economic zone which is to be used to export goods to, among other countries, the United States. Another effort to weaken the law in other important respects was repealed only after thousands took to the streets in protest; at least two were killed and hundreds were wounded and/or detained by the police. There is also no evidence that Panama has implemented and is fully enforcing decrees passed in 2009 to prevent the illegal use of temporary contracts and subcontracting, as these practices continue unabated.

WHAT SHOULD BE DONE RIGHT NOW?

If we are serious about creating jobs and global rebalancing, the immediate priority should be addressing currency imbalances. As explained in December 2010 by Paul Krugman, Nobel laureate and world-renowned expert on trade economics: *"If you want a trade policy that helps employment, it has to be a policy that induces other countries to run bigger deficits or smaller surpluses. A countervailing duty on Chinese exports would be job-creating; a deal with South Korea, not."* The decision of the Treasury on February 4, 2011 not to name China a currency manipulator weakens Treasury's credibility on this matter. Congress should act immediately to pass legislation that will encourage the administration to address currency manipulation through multilateral negotiations and WTO action.

The Obama Administration must also work to help raise living standards for workers by promoting compliance with basic labor rights around the world. The fundamental and growing imbalance between the rights of employers and workers is leading to lower wages and the further deterioration of employment conditions. When workers have a voice on the job, it is not only workers who benefit. Unionized firms can be more productive and efficient as well trained, seasoned workers stay on the job longer and contribute to the firm's overall success. The improvement in wages also helps increase aggregate demand, which creates a virtuous circle.

At the same time, there are things we can do to create jobs and improve the competitiveness of U.S. workers. The Obama Administration should pursue policies including: ending tax policies that discourage exports; continued and effective enforcement of U.S. trade laws to encourage fair trade practices; additional public investment in infrastructure, research and development; substantial resources directed toward lifelong learning and workforce development; and, of course, creating a strong legal environment where US workers can organize and bargain collectively. Export powerhouses like Germany have done all of these things. It is time we do the same.

Finally, as the Obama Administration pursues its own, new trade initiative, the Trans Pacific Partnership (TPP), it is critical that it truly dedicate itself to building a trade architecture through a combination of international and domestic policies that puts a premium not on trade as an end in itself but trade as a means of generating quality jobs and broadly shared prosperity. Unfortunately, we are seeing few signs of change. The bulk of the internal negotiations remained confined to closed door meetings with industry, and the proposals on the table, as far as we can ascertain, are little different than what we have seen in the past.

CONCLUSION

The AFL-CIO wants to support an Obama trade agenda. Unfortunately, we have no choice but to oppose the US-Korea FTA. We appreciate the administration's considerable effort to renegotiate the auto related provisions; however, our concerns went beyond that issue alone. With regard to Colombia, we long ago spelled out exactly what needs to be done with regard to anti-union violence, impunity and labor law reform. However, despite a welcome change in rhetoric by the Santos Administration, meaningful reforms that would contribute to lasting change in the country have yet to be taken. And, Panama still has additional steps to take to demonstrate that workers will be able to exercise their fundamental labor rights. Importantly, the TPP represents an extraordinary opportunity for this administration to get trade right. We urge the Obama Administration to undertake the reforms necessary to make this trade agreement one that will generate broadly shared economic prosperity -- not perpetuate the NAFTA legacy.

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Public Citizen's Global Trade Watch



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**Testimony of Public Citizen's Global Trade Watch
House Ways and Means Committee Hearing on the
President Obama's Trade Policy Agenda
February 9, 2011**

Public Citizen is a national, nonprofit public interest organization with 150,000 members and supporters that champions citizen interests before Congress, the executive branch agencies and the courts. We thank Ways & Means Committee Chairman Dave Camp (R-Mich.), Trade Subcommittee Chairman Kevin Brady (R-Texas), Committee Ranking Member Sander Levin (D-Mich.) and Trade Subcommittee Ranking Member Jim McDermott (D-Wash.) for the opportunity to testify for the record on President Obama's trade policy agenda. Chairman Camp has identified as a particular focus for this hearing the proposed trade agreements with South Korea, Panama and Colombia.

Government and independent estimates show that approval of any of these trade agreements, which replicate many terms of the North American Free Trade Agreement (NAFTA) and the Central America Free Trade Agreement (CAFTA), will be a net negative for U.S. jobs, our economy, reining in Wall Street abuses, and the environment. Moreover, they will open a wide range of routine public interest policies to attack outside of the U.S. court system, where multinational corporations will be empowered to make claims on taxpayer funds for measures that interfere with investors' expectations or future expected profits. At a time of high unemployment, it would be politically perilous for any member of Congress to vote for any NAFTA-style trade deal that is expected to kill jobs, much less the most economically significant one since NAFTA.

This testimony will focus primarily on the U.S.-Korea "free trade agreement" (FTA), which is projected to cost American jobs, and which the government's own estimates suggest will increase the U.S. global trade deficit. But the NAFTA-style deals with Colombia and Panama are virtually identical, and have their own special problems, which we address at the end of the testimony.

Korea Trade Deal: An Increased U.S. Trade Deficit and More U.S. Job Loss

The Korea FTA is projected to be a net negative for the U.S. economy and jobs. In fact, the pact's chief negotiator, Ambassador Karan Bhatia, offered a frank assessment while he served as President George W. Bush's deputy U.S. trade representative. In an October 2006 speech to a Korean audience, Bhatia said that it was a "myth" that "the U.S. will get the bulk of the benefits of the FTA." He went on to say, **"If history is any judge, it may well not turn out to be true that the U.S. will get the bulk of the benefits, if measured by increased exports."** He added that, **in the instance of Mexico and other countries, "the history of our FTAs is that bilateral trade surpluses of our trading partners go up," meaning that the U.S. trade deficit with those countries increased.**¹

A study by the Economic Policy Institute examined the U.S. historical experience with major changes in bilateral trade policy – namely changes in trade flows with Mexico and China after NAFTA implementation and Chinese World Trade Organization (WTO) accession, respectively. It used this as a basis to determine the likely impact of the Korea FTA on trade flows and jobs.² **EPI found that**

implementation of the Korea FTA would boost the U.S. trade deficit with Korea by \$13.9 billion over the next seven years.³ This rise in the trade deficit, in turn, would cost the U.S. economy about 159,000 net jobs.⁴ This is equivalent to losing 90 percent of the manufacturing jobs in Detroit.⁵

Public Citizen conducted a similar exercise in our report “Lies, Damn Lies and Export Statistics: How Corporate Lobbyists Distort Record of Flawed Trade Deals,” available at: <http://bit.ly/bx3JJn>. Examining the relative export growth record to the broader set of America’s 17 FTA partners, we found that **American exports to FTA countries have on the whole grown at less than half the pace of U.S. exports to countries with which we do not have such pacts. If the difference between the FTA and non-FTA export growth rates for goods for each year were to be put in dollar terms, the total U.S. FTA export “penalty” would be \$72 billion over the past decade.**⁶

The U.S. International Trade Commission (USITC), an independent federal body that analyzes the likely effects of trade agreements for Congress and the executive branch, made projections of the effects of the Korea FTA based on a mathematical model of the global economy (a computable general equilibrium [CGE] model). **The USITC found that the Korea FTA would result in an increase in the total U.S. goods trade deficit of between \$308 million and \$416 million.**⁷ Imports are projected to increase by \$5,100 million to \$5,692 million, and exports will increase by \$4,792 million to \$5,276 million.

The December 2010 supplemental deal – which extended the time period for but did not eliminate the tariff phase-out for certain autos and trucks – does not alter these findings. That is because the USITC model looks at the change in trade flows when the agreement is fully implemented and tariffs are fully phased out. Given that the supplemental agreement did not alter ultimate tariff elimination, but only altered timelines for cuts, it does not alter the USITC findings of an increased U.S. trade deficit.

In announcing his intentions to send the Korea FTA to Congress, Obama said, “I am very pleased that the United States and South Korea have reached agreement on a landmark trade deal that is expected to increase annual exports of American goods by up to \$11 billion and support at least 70,000 American jobs.”⁸ A fact sheet that accompanied the release said, “With the U.S. International Trade Commission (ITC) estimating that the tariff cuts alone in the U.S.-Korea trade agreement will increase exports of American goods by \$10 billion to \$11 billion, advancing this agreement will secure the tens of thousands of American jobs supported by those exports.”⁹

“If you want a trade policy that helps employment, it has to be a policy that induces other countries to run bigger deficits or smaller surpluses. A countervailing duty on Chinese exports would be job-creating; a deal with South Korea, not.”

- Paul Krugman, “Trade Does Not Equal Jobs,”
The New York Times, Dec. 6, 2010

bilateral exports by an exports-to-jobs ratio without including the estimated increase in imports. A recent International Trade Administration report estimated that every \$150,000 in U.S. exports supports one American job.¹² Applying this exports-to-jobs ratio to the ITC figure yields an estimate of 66,667-73,333 jobs. This notably does not include the other side of the calculation – U.S. jobs lost to imports.

It is misleading to discuss just exports when examining the potential economic and jobs impact of trade agreements. Just as greater exports tend to support more jobs, greater imports tend to eliminate jobs – all else being equal. **The 70,000 figure ignores the USITC’s import estimates entirely. If we were to**

President Obama’s use of the term “support” is critical, as noted in a *New York Times* story, “Few New Jobs Expected Soon from Free-Trade Agreement with South Korea.”¹⁰ At issue is the net total job impact. However, the figure Obama cites likely only reflects the ITC’s projected gains of \$10 billion to \$11 billion in U.S. exports to Korea.¹¹ It is likely that Obama’s jobs number was then derived by multiplying the estimated gain in

account for the effects of imports, use this same method of jobs calculation and consider the USITC's estimate of the effect of the Korea FTA on the U.S. global trade balance (available on Table 2.3 on page 2-14 in the USITC report), we would find that the Korea FTA would cause a net loss of U.S. jobs, since the trade deficit will increase by \$308-416 million. Even if only the USITC's projections on the bilateral trade flows with Korea were to be considered, more than 60 percent of the job gains from exports would be wiped out from job losses due to increased imports from Korea.

Given that the fundamental question is what the Korea FTA would mean for America's trade balance and thus jobs, it is worth understanding the seemingly conflicting data in the USITC report. At first glance the USITC study seems to suggest that the U.S. trade balance in goods (also known as merchandise) will improve by \$3.3-4.0 billion because this is the projected change in the bilateral trade balance with Korea. However, due to the way that bilateral trade pacts affect global trade flows, the Korea FTA's results for overall U.S. trade balance in goods are dramatically different from the change in the bilateral balance with Korea. Chapter 2 of the USITC report explains: "The last row in table 2.3 reports the simulated changes in total U.S. trade in sectors analyzed in this simulation. Total U.S. exports of these commodities is expected to be higher by \$4.8-5.3 billion, and total imports of commodities in this analysis is expected to be higher by \$5.1-5.7 billion."¹⁴ **Subtracting the import figures from the exports figures reveal that the USITC study predicts the total U.S. trade deficit in goods will increase by between \$0.3 billion and \$0.5 billion under the FTA.** This finding in sum is that the effect of *trade diversion* on U.S. exports is greater than the effect on U.S. imports, so the U.S. trade balance with the world (including Korea) will worsen after the FTA goes into effect, but the balance with Korea alone improves. **The bottom-line USITC finding of an increased U.S. trade deficit contradicts Obama's stated purpose for passing the FTA – to promote his goal of doubling exports to create two million jobs.**

The USITC study of the Korea agreement indicates that jobs may be lost in many high-wage industries, including auto manufacturing and electronics manufacturing. The average hourly earnings of workers in the electronic equipment manufacturing industry, projected to lose a significant number of jobs, were \$30.38 in 2008.¹⁵ This was 40.5 percent greater than the average hourly earnings of all workers employed in the private sector.¹⁶ Table 1 shows what is driving these declines in employment in these industries: large rises in the trade deficit in these sectors, totaling up to \$2.3 billion for motor vehicles and parts, other transportation equipment, electronic equipment, metal products, textiles, apparel and iron-containing metals.

| Table 1: USITC Estimates of Trade Balance Effects of Korea FTA, Selected Industries | | |
|---|--|-----------|
| | Change in U.S. global trade balance (millions of dollars) ³ | |
| | Low | High |
| Motor vehicles and parts | (\$531) | (\$708) |
| Other transportation equipment | (\$340) | (\$293) |
| Electronic equipment | (\$790) | (\$762) |
| Metal products | (\$169) | (\$187) |
| Textiles | (\$169) | (\$190) |
| Apparel | (\$56) | (\$74) |
| Iron-containing metals | (\$65) | (\$75) |
| Total | (\$2,120) | (\$2,289) |

Table 1, above, displays the USITC's estimates of the trade balance impact upon a few sectors of the U.S. economy where it projects the FTA will cause deficits: motor vehicles, electronic equipment, "other transportation equipment," iron, metal products, textiles and apparel. The USITC developed ranges for the statistically likely FTA effects, which are the "low" and "high" estimates in Table 1.

The auto manufacturing industry may lose a significant number of workers due to the FTA. Indeed, the Korea Automobile Manufacturing Association (KAMA) celebrated the December 2010 supplemental deal in the following terms: "The deal wiped off uncertainties in the world's largest automobile market and is forecast to drive up South Korean automakers' market share in

the U.S. ... Small and mid-size auto parts makers will also benefit from the elimination of tariffs.”¹⁷ The USITC study projected that once tariffs are phased out, the sizable bilateral trade deficit with Korea in autos and auto parts (Korean sent 500,000 autos here in 2010 while the U.S. exported less than 6,000 to Korea¹⁸) would increase by up to \$1.3 billion.¹⁹

Koreans have not been purchasers of foreign cars. Given both strong “Buy Korean” social preferences and various non-tariff barriers, total import penetration is four percent. To try to expand U.S. exports to Korea, the supplemental negotiations concluded in December 2010 included a four-year waiver of Korean auto fuel efficiency and emission standards for U.S. imports as well as a waiver of Korean auto safety standards for up to 25,000 U.S. autos per U.S. Big Three maker – if there were demand for such cars. (That is to say that there is no guaranteed access for 75,000 additional U.S. cars.) Other Korean policies identified by the industry and the United Auto Workers as posing significant non-tariff barriers were not waived.

Further, the low 35 percent domestic content rule for vehicles to obtain duty-free treatment was not altered, meaning Korean assembled vehicles containing 65 percent Chinese and other inputs would gain duty-free entry into the U.S. market. (Korea’s FTA with the European Union requires 55 percent domestic content to obtain favorable tariff treatment and NAFTA requires 50 percent.) The elimination of U.S. auto and truck tariffs and the low rule of origin requirements raise the question of whether Korean auto firms now producing cars in the United States would continue their operations. The average hourly earnings of American workers in the auto industry was \$23.61 in 2008, 9.2 percent greater than the average hourly earnings of all workers employed in the private sector (\$21.62).²⁰ According to the U.S. Bureau of Labor Statistics (BLS), total hourly compensation per worker, which includes both wages and benefits, was \$36.35 for American workers in the auto sector and \$23.30 for Korean workers in the auto sector in 2007, so compensation for American auto workers is about 56 percent higher.²¹

Interestingly, the USITC predicted that, were the Korea FTA implemented, there would be an absolute decline in the total value of exports in some manufacturing sectors, including electronic equipment, other transportation equipment and iron-containing metals, not just a worsening of the balance. For example, total U.S. exports of electronic equipment are expected to decline by \$293 million to \$381 million.²² This is a particularly troubling development, since high-tech jobs are often touted as being the “jobs of the future.”

The unfavorable U.S. employment effects of the Korea FTA projected by the USITC model can be thought of as the *minimum* level of employment displacement and trade deficit increase that the pact might bring about, given that past USITC projections have been overly optimistic. For example, a 1999 USITC study using roughly the same model estimated that China’s WTO accession tariff offer would increase the U.S. trade deficit with China by only \$1 billion dollars.²³ In reality, the trade deficit with China skyrocketed by \$167 billion between 2001 and 2008.²⁴ Although China’s WTO accession alone (and the favorable trade treatment that came with it) likely did not cause the entirety of the huge rise in the deficit with China, it almost certainly contributed more than the ITC’s projected \$1 billion dollars.

Lack of currency manipulation disciplines mean agriculture could also lose out

Proponents of the Korea FTA are advocating for its congressional passage by highlighting prospective gains for the U.S. agricultural sector related to tariff cuts. However, especially given Korea’s past history of significant currency manipulation, it is worth noting that if Korea again devalued its currency, it could effectively cancel the benefits of the tariff cuts. Unfortunately, despite calls from various U.S. economic sectors to include safeguards against such devaluations,²⁵ the Korea FTA does not provide for penalties or adjustments if one party deliberately undervalues its currency. In other words, the new

market access in Korea being promised by various government officials and agribusiness trade associations aimed at persuading farm state legislators to support the FTA could well turn out to be completely hollow.

Historically, Korea has been a chronic currency manipulator. Korea is one of only three countries (China and Taiwan being the others) that have ever been placed on the Treasury Department's list of currency manipulators.²⁶ During the mid to late 1980s, the Korean won was undervalued against the dollar by about 60 percent, meaning that all U.S. goods exported to Korea faced a barrier equivalent to a tariff of about 60 percent.²⁷ Korea's deliberate effort to keep its currency undervalued during this time prompted the Treasury Department to place it on the 1988 currency manipulators list.²⁸ In the early 1990s the value of the Korean won shifted so it was no longer undervalued, but in the late 1990s Korea rapidly acquired foreign exchange reserves and the won again became severely undervalued against the dollar by about 50 percent.²⁹

If Korea again reverts to strategically undervaluing its currency to boost exports and reduce imports following implementation of the FTA tariffs cuts, for instance by again devaluing by 50 percent, then the FTA tariff cuts combined with the 50 percent devaluation of the Korean won would result in a net effective *increase* in Korean agricultural tariff equivalents of: 12 percent for beef; 25.2 percent for non-beef meat products; 46.7 percent for other animal products; 18.2 percent for vegetables, fruit, and nuts; 10.4 percent for dairy products; and 40 percent for miscellaneous food products.

Such currency devaluation following FTA implementation has happened in the past. A year after NAFTA went into effect, Mexico suddenly devalued its currency by 50 percent.³⁰ The devaluation of the peso negated NAFTA's tariff cuts, as noted by a former World Bank Chief Economist who wrote, "Nonetheless, it must be recognised that the real depreciation of the peso [in 1994], given its magnitude, was a larger influence on trade than was the entry into NAFTA. This is because the total reduction in tariffs at the end of 15 years would average only 10 per cent, in contrast with the 50 per cent real depreciation."³¹ Due to the peso devaluation, American products became much more expensive for Mexican consumers, and U.S. agricultural exports suffered. For example, U.S. exports of beef and pork to Mexico in the first three years of NAFTA were 13 and 20 percent lower, respectively, than beef and pork exports in the three years before NAFTA was enacted.³² Members of Congress should consider the NAFTA experience before making optimistic claims about supposed benefits to the beef and pork industries under the Korea FTA.

FTA Investment Terms a Threat to the Public Interest and Reining in Wall Street

The Korea trade deal's Investment Chapter 11 text includes private investor-state enforcement of extraordinary new substantive FTA-granted property rights with respect to a broadly defined array of investments, including in financial services. **Combining investor-state private enforcement with the Korea FTA's expansive substantive foreign investor and financial service terms would provide Korean firms operating in the United States greater rights than provided to domestic firms and investors under U.S. law** as interpreted by the U.S. Supreme Court. This would violate Congress' requirement that FTAs provide foreign firms "no greater rights."

Investor-state enforcement is not necessary or appropriate between two developed countries with well established rule of law and sound court systems. The ostensible purpose of the mechanism is to provide U.S. investors a stable investment environment, and the ability to adjudicate problems in countries without reliable domestic courts. This system is not even arguably necessary between two stable

democracies with well-functioning court systems. The U.S.-Australia FTA did not include private investor-state enforcement.

The Korea FTA text would allow foreign investors to demand compensation from the U.S. government in foreign tribunals for “regulatory takings” and other claims that would not be allowed under U.S. law. The FTA definition of investment to which the new rights apply extends beyond U.S. law. It includes investment agreements between a government and a foreign firm with respect to natural resources, certain procurement construction activities and more; investment authorizations; enterprises; shares, stock, and other forms of equity participation in an enterprise; bonds, debentures, other debt instruments, and loans; futures, options, and other derivatives; turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts; intellectual property rights; licenses, authorizations, permits, and similar rights conferred pursuant to domestic law; and other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges. Moreover, the FTA text’s “denial of benefits” language provides a loophole that could allow Korean subsidiaries of U.S. firms to use their status as “Korean entities” to challenge U.S. laws in foreign tribunals.

Past U.S. FTAs with investor-state enforcement have been with developing countries, except for Canada under NAFTA. This has reduced the prospects for challenges of U.S. laws somewhat, given relatively few investors from such countries operate within the United States. In contrast, the Korea FTA would be the first FTA since NAFTA with a major capital exporter that includes investor-state arbitration. This creates a much greater likelihood that U.S. state and federal laws would be challenged in foreign tribunals, exposing U.S. taxpayers to potential large new liabilities and threatening to undermine important public interest policies. According to Uniworld, the leading proprietary source on Foreign Direct Investment, there are roughly 80 Korean corporations with around 270 establishments now in the United States.³³ There are also hundreds of U.S. establishments in Korea that the FTA would newly empower to challenge Korean public interest laws in foreign tribunals.

To date, Canada under NAFTA is the only other developed, capital exporting country with which the United States has such an investment agreement. Canadian firms have used NAFTA’s investor-state system to attack an array of U.S. environmental, health and other policies in foreign tribunals. The United States has to date dodged the bullet on the six of these challenges in which final rulings have been issued, mainly thanks to an array of errors by the challengers. In some of these cases, substantial amounts of U.S. taxpayer dollars were wasted defending lengthy cases that would not have been allowed in U.S. courts. Many millions in outstanding cases remain. This includes a \$340 million challenges to the 1998 U.S. Tobacco Settlement and a Canadian drug firm disputing a patent issue already decided by the U.S. Supreme Court.³⁴

Excluding investor-state from the Korea FTA was of special concern to the bipartisan National Conference of State Legislatures (NCSL), which wrote: *“Since South Korea is a sophisticated and developed trading partner, NCSL does not believe that an investor-state chapter should be negotiated into the U.S.-Korea FTA for fear that similar abuses may arise. Until we have further refined the FTA investor-state language to protect state sovereignty and federalism, we fear that it may be more dangerous to include revised yet still flawed investor-state language in the U.S.-Korea FTA than to forego the provision all together.”*³⁵

The FTA’s Financial Services chapter reflects the pro-deregulation mentality that helped foster the worst financial crisis since the Great Depression. More than other FTAs, it has been justified for its role in pushing financial liberalization and deregulation. Bush administration fact sheets note: “The Financial Services Chapter of the United States-South Korea Free Trade Agreement ... is a

groundbreaking achievement, providing more extensive provisions related to financial services than ever before included in a U.S. FTA.³⁶ Citigroup's Laura Lane, co-chair of the U.S.-Korea FTA Business Coalition, stated that "it is the best financial services chapter negotiated in a free trade agreement to date."³⁷ Does Congress want to support financial services policies celebrated by an administration and firm that wrecked the economy?

The FTA's financial provisions are especially troubling in the U.S.-Korea context. The U.S. Congress and the Korean parliament have implemented new financial regulations that could conflict with the FTA. The FTA's Financial Services chapter reads in the investor-state enforcement mechanism established in the Investment Chapter – thus empowering private investor attacks on domestic financial regulation and capital controls. There are at least 74 financial corporations cross-established in the United States and Korea that would be newly empowered to use the private investor-state enforcement rights in the FTA to attack U.S. and Korean financial policies, even if the U.S. and Korean government might refrain from using FTA government-government enforcement to challenge each other's domestic laws that conflict with the FTA.

The financial services chapter conflates liberalization of the financial sector and deregulation, simply banning many forms of regulation even when rules are applied equally to domestic and foreign firms. Like the WTO, CAFTA and the Peru FTA, the Korea FTA commits its signatory countries to refrain from limiting the size of financial institutions, imposing firewalls between the sort of financial services one firm may offer, banning toxic derivatives, or controlling destabilizing capital flights and floods. At the time that the U.S. Congress has worked to reregulate the financial sector, implementing a trade agreement negotiated pre-crisis that imposes constraints on regulation with the world's 15th largest economy (whose financial firms are operating here) is a breach of faith with the American public.

The FTA includes a "prudential measures" exception that unfortunately fails to protect financial stability measures. The Korea FTA prudential measures clause is much less deferential to regulators than that in NAFTA, but is identical to other FTAs negotiated by the Bush administration. It reads: "a Party shall not be prevented from adopting or maintaining measures for prudential reasons, including for the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed by a financial institution or cross-border financial service supplier, or to ensure the integrity and stability of the financial system. *Where such measures do not conform with the provisions of this Agreement referred to in this paragraph, they shall not be used as a means of avoiding the Party's commitments or obligations under such provisions.*" This self-cancelling language undermines the use of the defense to actually protect a financial regulation: a country would only need to use this defense if its policy did not conform with the FTA. In other words, a country would only be challenged because a foreign firm or government believed it violated an FTA obligation. To restate, this circular defense measure does not provide a reliable safeguard.

Investment terms in Panama agreement will make fighting tax havens more difficult

For decades, Panamanian governments have pursued an intentional tax haven strategy offering foreign banks and firms a special offshore license to conduct business.³⁸ Not only are these businesses not taxed, but they are subject to little to no reporting requirements or regulations. According to the OECD, the Panamanian government has little to no legal authority to ascertain key information about these offshore corporations, such as their ownership.³⁹ Last year, to test how simple it is to set up a shell corporation in Panama, Public Citizen assigned a 20-year old intern with no legal or accounting experience whatsoever, to set up a corporation in Panama over the telephone from the U.S. She could do so in a matter of moments.⁴⁰

Because of Panamanian secrecy policies, precise numbers regarding the amount of the taxes lost to Panama do not exist. However, according to the U.S. Office of Management and Budget (OMB), eliminating tax evasion in tax havens overall could save U.S. taxpayers \$210 billion over the coming decade,⁴¹ while the Senate Homeland Security Committee estimates a savings five times as great.⁴² Since Panama is one of the world's leading tax havens, the country is likely to account for a significant share of those revenue losses, which could be used to meet other urgent policy priorities at home. The OECD reports that the secrecy protections for lawyers in Panama are so high that they could be sent to prison for revealing information about clients, even when that information *is not* protected by attorney-client privilege.

Panama's financial secrecy practices also make it a major site for money laundering from throughout the world. According to the U.S. State Department, "Panama is a major logistics control and trans-shipment country for illegal drugs... major Colombian and Mexican drug cartels as well as Colombian illegal armed groups use Panama for drug trafficking and money laundering purposes... the funds generated from illegal activity are susceptible to being laundered through" Panamanian banks, real estate projects, and more.⁴³

In late November, the Obama administration signed a tax information exchange agreement (TIEA) with Panama that does not require Panama to automatically exchange information with U.S. authorities about tax dodgers, money launderers and drug traffickers. In the TIEA protocol, Panama gave itself until the end of 2011 to make domestic legal changes to facilitate the non-automatic information sharing envisioned by the TIEA – which will only cover responses to specific, case-by-case requests after U.S. authorities have already obtained and provided to Panama a great deal of information about potential wrongdoers. The OECD's tax watchdogs stated that they would not give Panama the peer review seal of approval until there was sufficient time to see how well Panama's recent flurry of new tax reform commitments worked in practice. And certainly – before voting on any FTA – those in the U.S. Congress who have long raised concerns about Panama's financial secrecy will want to be able to verify that newly announced changes in Panama's policy are resulting in real changes in practice.

Finally, the U.S.-Panama FTA contains virtually identical investment and financial services provisions to the Korea FTA. In addition to all the same problems we identified above with respect to the Korea agreement, the Panama FTA would constrain one of the most important tools policymakers have in fighting financial crimes and wrongdoing – restrictions on transfers to and from the countries that provide financial secrecy like Panama. Moreover, the FTA gives the tax haven government of Panama and the 400,000 corporations registered there the new rights to challenge U.S. anti-tax haven policies for cash compensation outside of the U.S. judicial system. These are not speculative threats. Panama has actually threatened WTO cases against other countries' anti-tax haven measures.⁴⁴

Colombia trade deal will worsen human rights

There will never be an acceptable U.S. FTA with Colombia until a Colombian government changes the on-the-ground-reality of the country's horrific labor and other human rights abuses. It is impossible to imagine Congress approving a trade pact with extreme human rights violators Burma or Sudan. Nearly 2,850 Colombian trade unionists have been killed since 1986 – more than the rest of the world combined. Only four percent of unionist murders have been prosecuted. Over 530 unionists have been murdered during the presidencies of Alvaro Uribe (with whom the FTA was negotiated by President Bush) and his successor Juan Manuel Santos (Uribe's former defense minister).⁴⁵ Human rights groups have documented collusion between Colombian governments and murderous paramilitary groups on these and other issues, including forced displacement and murders of Afro-Colombians.⁴⁶ The pact's corporate boosters argue that it is critical to U.S. national security because it will bolster Colombia

against populist governments in the region. This is severely misguided: it is precisely the damage caused by NAFTA-style policies that turns people against the U.S. and leads to the economic instability on which populism feeds. Moreover, once we allow brutal regimes permanent access to our market, we lose whatever leverage we might have had to improve human rights.

The Colombia FTA is a threat to regional and international security: the FTA's agricultural rules will devastate small Colombian farmers, just as NAFTA's did in Mexico.⁴⁷ Displaced *campesinos* would add to the over 4 million Colombians already uprooted by that country's half-century long civil war.⁴⁸ As the Colombian government's own agriculture ministry concluded, the FTA will eliminate 35 percent of the jobs in crucial agriculture sectors like corn, rice, beans and more. As the Colombian Government's Agriculture Ministry stated, under the FTA without agricultural protections, rural Colombians "would have no more than three options: migration to the cities or to other countries (especially the United States), working in drug cultivation zones, or affiliating with illegal armed groups."⁴⁹

The Colombia FTA endangers the environment – targeting the Amazon, the lungs of the planet. The upper Amazon basin in Colombia is among the most bio-diverse areas on earth, but is also very much at risk. Deforestation, horrific pollution, and health disasters from oil production and mining are widespread already. The FTA's special foreign investor privileges empower corporations to pillage the area for timber, mineral and energy resources, and would chill direly needed efforts to protect the Amazon basin.

Conclusion

The Obama administration had a chance to change course on the failed NAFTA-style trade policies of the past by renegotiating the trade deals with Korea, Panama and Colombia to better support jobs and the public interest. They did not take advantage of that opportunity, which now puts the onus on Congress to stand up for America and reject more-of-the-same flawed trade policy.

ENDNOTES

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American Manufacturing Trade Action Coalition



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February 17, 2011

The Honorable Dave Camp, Chairman
The Honorable Sander Levin, Ranking Member
Ways and Means Committee Office
1102 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Camp and Ranking Member Levin:

The American Manufacturing Trade Action Coalition (AMTAC) would like to submit the following comments for the record in conjunction with the Ways and Means Hearing on President Obama's Trade Policy Agenda.

AMTAC is a not-for-profit trade association that represents domestic manufacturers. All of our members share the common objective of preserving and expanding manufacturing in the United States by recapturing lost markets and winning new ones at home and abroad.

Unfortunately, U.S manufacturers face incredible pressure from foreign competitors that benefit from low cost and often illegal offshore production practices. Specifically, our foreign competitors often:

- benefit from a panoply of government-sponsored subsidies and tax incentives,
- operate under lax regulatory and environmental standards,
- pay pennies per-hour wages, and,
- face no import competition in their home markets thanks to the erection of high tariff walls and other non-tariff barriers.

These incentives to manufacture offshore are lucrative and widespread and they significantly tilt the playing field against domestic producers. The end result is that China and many other foreign governments are doing a better job than the United States in attracting manufacturing investment and employment.

This fact, combined with an increasingly inadequate policy response on the part of the U.S. government over the past 40 years has resulted in the forcing of even highly competitive and efficient U.S. manufacturers offshore or out of business altogether. The attendant loss jobs and production is a key reason why U.S. household income has been virtually stagnant since the late 1970s and why private sector-provided benefits such as retirement contributions and health care are endangered for an entire generation of Americans. Moreover, the impact on local, state, and federal governments is one of spiraling debt incurred thanks to a reduction of tax revenues collected from profitable companies and gainfully employed workers. Without immediate fundamental change, America's standard of living is at risk.

Consequently, fixing the outdated and flawed international trade policy currently employed by the United States is an issue that is deserving of substantial focus in the 112th Congress.
 To that end, we note that the U.S. Constitution in Article I, Section 8 delegates Congress the power to craft trade policy. In part, the relevant section reads (bold for emphasis):

Section 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

....

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

....

Instead of outsourcing trade policy to the Executive Branch, it is the constitutional responsibility of Congress to reassert its authority and fix the broken policies that drive American jobs and investment offshore.

To assist with this effort, we have compiled the following information on the critical nexus between the need for common sense solutions to fix America's trade policy and restoring the well-being of our domestic manufacturing base and economy. To that end, this submission goes beyond a description of the problem by providing a detailed analysis of various trade policy issues along with specific remedies.

Performance of the U.S. Economy Tied to Health of Domestic Manufacturing

The United States remains mired its greatest economic crisis since the Depression of the 1930s. Important lessons policymakers must learn from this disaster are that (1) a country cannot borrow its way to sustained prosperity, (2) economic stability and growth depend on wealth creation, and (3) manufacturing is still the key wealth-creating segment of the U.S. economy.

During economic downturns in the last century, the U.S. government would engage in a variety of activities such as increased government spending, creation of tax incentives, and the lowering of interest rates to "stimulate" the economy by boosting consumption. This formula routinely worked to reinvigorate the U.S. economy because America produced most of what it consumed for the better part of the 20th century. When consumption was stimulated, new orders for domestic manufacturing would be generated; this then encouraged capital purchases for production expansion and the hiring needed to boost employment and restore economic growth.

The effectiveness of the government spending stimulus model, however, has been dramatically reduced in the 21st century by offshore leakage. Much of this leakage is quantified in the losses that domestic production has suffered at the hands of imports during the last thirty years. Since we are consuming unprecedented levels of goods produced offshore, the net effect is that an ever-smaller percentage of stimulus dollars spent actually benefits the U.S. economy while an ever-greater percentage flows to America's foreign competitors.

Moreover, the leakage in the government spending stimulus model has significantly reduced U.S. economic growth, especially in the last decade. Leading U.S. economic and manufacturing indicators reinforce this point by showing that during the 21st century:

- For all practical purposes, the current account deficit measures the shortfall in U.S. production of goods and services compared to U.S. demand. Since 2000, the United States has run a current account deficit of \$6.1 trillion, including a \$2.2 trillion deficit

with communist China according to the U.S. Bureau of Economic Analysis (BEA). The current account balance is the measure of all imports of goods, services and capital as compared to the exports of all goods, services and capital.

- The U.S. production shortfall in manufactured goods is the largest force driving the growing cumulative current account deficit. Since 2000, the United States has run a \$5.8 trillion trade deficit in manufactured goods¹ according to the U.S. International Trade Commission. This deficit dwarfs the \$1.7 trillion deficit run in oil and gas.
- The United States has lost more than 5.6 million manufacturing jobs since 2000 according to the U.S. Bureau of Labor Statistics (BLS).
- In fact, the United States employs fewer workers in manufacturing today than it did in April 1941.
- The “total index” of U.S. industrial production as measured by the Federal Reserve has grown a paltry 2.7 percent since 2000 compared to 48.2 percent growth between 1990 and 2000.
- The “total index” of industrial capacity as measured by the Federal Reserve has grown by just 12.6 percent since 2000 compared to 49.1 percent growth between 1990 and 2000.
- The United States is borrowing to buy the goods it is not producing. While U.S. GDP has grown from \$9.95 trillion to \$14.75 trillion since 2000 according to the BEA, outstanding U.S. domestic nonfinancial debt soared from \$18.2 trillion to \$35.5 trillion according to the Federal Reserve.
- In other words, the United States accumulated \$17.3 trillion in public and private debt while our GDP grew by only \$4.8 trillion. U.S. households and the federal government, through new mortgages, credit-card debt, school and medical debt, deficit spending, etc., borrowed 3.6 dollars for every one dollar of expanded GDP.

These statistics show that U.S. manufacturing has been in a slump for the past ten years not seen since the Great Depression. Driven by chronic and dangerously high current account deficits, the almost zero growth in U.S. manufacturing has substantially impaired the ability of our nation to produce wealth.

It is important to note that government deficits can sometimes be offset by domestic sources such as the purchase of U.S. treasury bonds by U.S. citizens. This is not the case with current account deficits, which by their very nature require offsetting borrowing from and/or asset sales to foreigners. Consequently, our massive current account trade deficit has directly resulted in the undermining of U.S. financial independence. As a result, the United States has plunged from being the world’s banker just a generation ago to the world’s largest debtor.

Consequently, if the U.S. economy is to make a full and vibrant recovery we must restore the health of domestic manufacturing. In order to restore the health of manufacturing, we must fix our broken U.S. trade policy.

Americans of all political persuasions agree with this view. A September 2010 Wall Street Journal / NBC News poll revealed that 53 percent of those surveyed said free trade agreements have hurt the United States. This compares to 49 percent in 2007 and 32 percent in 1999. Furthermore, 65 percent of union members say free trade has hurt the United States and so do 61 percent of Tea Party sympathizers.

¹ Measured as Domestic Exports Free Alongside Ship (FAS) minus Imports for Consumption Value

Key Objective: Eliminate the U.S. Trade Deficit

You need look no further than a simple accounting of our trade balance to determine whether U.S. trade policy is working to benefit of our economy. As data provided in the earlier section proves, the U.S. trade deficit is out of control.

There is no doubt that the U.S. trade deficit is a chief cause of our country's current financial crisis. It is a drag on our gross domestic product that undermines middle-class jobs and fosters a debt-driven economy dangerously dependent upon foreign borrowing. Consistent annual trade deficits of \$500+ billion equate to a unilateral transfer of America's wealth. For this reason, many economic leaders and thinkers, from Warren Buffet to Fred Bergsten, have expressed the view that our trade deficit is unsustainable and must be reversed. For example:

"[O]ur trade deficit has greatly worsened, to the point that our country's 'net worth,' so to speak, is now being transferred abroad at an alarming rate. A perpetuation of this transfer will lead to major trouble."

~ Warren Buffet, Chairman, Berkshire Hathaway²

"[T]he United States must now attract almost \$7 billion of capital from the rest of the world every working day to finance its current account deficit and its own foreign investment outflows."

~ C. Fred Bergsten, Director, Peterson Institute for International Economics³

Contrary to popular belief, the largest contributor to the U.S. trade deficit is manufactured goods, not energy. There is no reason why a country with the resources and industrial capacity of the United States should be running huge deficits in nearly every major manufacturing sector including vehicles, electronics, textiles, computers, furniture, steel, and even "advanced technology" products.

We recognize and agree that the 112th Congress should expend a great deal of focus on eliminating the federal budget deficit and debt. But we also believe that the nation's annual trade deficit must be the focus of specific attention in the upcoming Congress. The anti-competitive policies that cripple U.S. manufacturers in the U.S. market and diminish our export opportunities abroad must be identified and reversed.

Recommendation: Congress should commit to erasing the U.S. trade deficit in four years. To track progress in this matter, Congress should insist on knowing whether a new policy initiative will actually worsen or improve the deficit situation. There also should be a complete trade deficit impact analysis made public before any major trade agreement or trade legislation is considered by Congress.

Furthermore, to accomplish the goal of eliminating the trade deficit, Congress should adopt a comprehensive national strategy that includes the following policy mandates:

Key Objective: Eliminate the Value Added Tax Disadvantage

Nearly every major U.S. trading partner (150+ countries) operates a value-added tax (VAT) or similar border-adjusted tax system. The average VAT rate worldwide is 15.5 percent. Of America's seventeen "free trade partners," only Bahrain and Oman do not have a VAT or

² "Squanderville versus Thrifville," *Fortune Magazine*, October 2003.

³ *Testimony before the Hearing on US-China Economic Relations Revisited, Committee on Finance, United States Senate, March 29, 2006.*

equivalent border-adjusted tax system. Because these countries rebate any VAT paid by their producers on exports and impose a VAT on imports, they simultaneously heavily subsidize exports and erect a trade barrier to imports. On the other hand, the United States operates no VAT or similar border tax system. This places U.S. producers at a competitive disadvantage.

Foreign value-added taxes rebated on exports and assessed on imports resulted in a \$518 billion dollar "border tax" disadvantage to U.S. producers and service providers in 2008.

Normally, the GATT/WTO trading regime would ban rebates of national taxes on exported manufactured goods as an impermissible subsidy as it does with rebates of U.S. corporate income taxes upon export. Operating under a Marshall Plan mentality shortly after World War II, however, the United States agreed to a "loophole" that allowed the assessment of these border taxes and their rebates to be permissible within the GATT/WTO system.

AMTAC believes the VAT disadvantage is the greatest contributing factor to America's \$5.8 trillion trade deficit in manufactured goods over the last decade.

In response to growing industry concerns about the blatant unfairness of the VAT loophole, Congress has repeatedly instructed the Executive Branch to negotiate a remedy to the VAT inequity through the GATT/WTO. For example, the Trade Act of 1974, the Trade Act of 1988, and the Trade Promotion Authority (TPA) passed in 2002 all directed the president to revise WTO rules relating to VAT systems as a principle negotiating objective. To date, the Executive Branch has ignored these directives. In addition to the TPA language, legislation was introduced in both Houses during the 111th Congress, which AMTAC strongly supported to negate the VAT disadvantage to U.S. producers.

Recommendation: Congress should pass legislation that requires the U.S. Trade Representative (USTR) to make the elimination of the VAT inequity a top priority and incorporate it into any Doha Round or other multilateral trade agreement that may be reached. USTR should also include a VAT remedy in negotiating any future bilateral free trade agreements and work to revise our existing agreements to eliminate the VAT disadvantage for U.S. producers and service providers. This remedy would simply bar countries from assessing value added taxes on U.S. exports into their markets since the United States levies no similar border taxes. Countries should also be precluded from subsidizing their exports through VAT rebates noting that the United States provides no tax rebates to its manufacturers when they export.

Key Objective: Combat Illegal Foreign Currency Undervaluation

The United States must combat the illegal, mercantilist practice of prolonged currency undervaluation, beginning with the passage of legislation to make such activity actionable under U.S. trade law. Some of America's largest trading partners peg or purposely undervalue their currencies' value in relation to the U.S. dollar. For example, it is estimated that China's currency is pegged at least 15 to 40 percent below its actual value as compared to the U.S. dollar. Absent this peg, the massive \$250+ billion U.S. trade deficit with China should trigger a natural free market reaction of raising the value of the Chinese renminbi (RMB) in relation to the U.S. dollar. Such a rise would normally increase the cost of U.S. imports from China and lower the cost of U.S. exports to China, thus partially correcting the trade imbalance.

China, however, steadfastly has refused to float its currency freely in the market, handicapping U.S. producers versus their Chinese competitors and preventing a much-needed solution to this unfair trade practice. AMTAC strongly supported the U.S. House-passed H.R. 2378, the Ryan-Hunter Currency Reform for Fair Trade Act of 2009. Approved by a bipartisan 348 to 79 vote, this bill would have discouraged illegal currency undervaluation by making it actionable under

U.S. countervailing duty law. Unfortunately, this bill was not considered by the Senate during the recent lame duck session of the previous Congress.

Recommendation: Pass legislation that would make currency manipulation an actionable subsidy under U.S. countervailing duty law.

Key Objective: Reframe the U.S. Free Trade Agreement (FTA) Model

In 2009, the U.S. trade deficit with our various free trade partners totaled nearly \$117 billion with almost \$38 billion, or 32 percent, of the total deficit attributable to manufactured products. During the lifetime of our existing FTAs, the United States has run a cumulative \$1.9 trillion deficit with our free trade partners.⁴

As a first step to remedying this problem, the United States must undertake a thorough, unbiased analysis of our current international trade agreements. The analysis should help determine how our various agreements are affecting key issues such as GDP growth, the trade deficit, household income and the impact on industries essential to our national defense production base.

It is imperative that Congress learn which aspects of our current arrangements are benefiting the U.S. economy and which are detrimental. This will help to define a more pragmatic, economically-sound trade agreement model, while at the same time preventing the replication of provisions that have proven harmful to domestic companies, workers and the economy.

The current “one-way” free trade agreement model adopted by the U.S. government is flawed because it grants foreign trading partners more access to our market than we receive in return to their markets. For the most part, it benefits multi-national corporations who are anxious to shift production out of the United States to countries that provide generous production subsidies and maintain weak or non-existent labor, wage, environmental and safety standards. These countries are quite capable of producing low-cost goods for duty-free export to the United States but have virtually no ability to consume American-made finished products. Many agreements also include third-party loopholes that give further preferential access to the U.S. market for component parts made in countries like China. By providing free access to the U.S. market for producers from low labor cost regions or mercantilist economies, these agreements are fueling record U.S. trade deficits and undermining our manufacturing base.

Recommendation: Congress should conduct a detailed review of the current free trade agreement structure to determine the basis for a new agreement model that produces sustainable economic benefit for U.S. manufacturers, workers and the overall economy. This new FTA model should enhance mutually beneficial trading partnerships with trading blocs like the European Union or large market countries like Japan that not only can produce goods for export but can also purchase a significant amount of U.S. products in return. Furthermore, the possibility of reduced access to the U.S. market must be used as leverage to remove unfair foreign tariff and especially non-tariff barriers. Non-tariff barriers include subsidy, tax, regulatory, and intellectual property barriers. This same possibility of reduced access to the U.S. market also must be used as leverage to discourage foreign exports from evading U.S. trade, tax, and regulatory laws.

As the pending FTAs with Korea, Colombia and Panama are based on the existing flawed model; Congress should reject these agreements or insist that they be renegotiated. (The Korea agreement is discussed in greater detail later.)

⁴ Trade deficit figures calculated from U.S. International Trade Commission statistics for Domestic Exports FAS minus Imports for Consumption Value. Manufacturing defined as IIS 28-96.

Key Objective: Redefine America's Relationship with the World Trade Organization

For most of the last decade, members of the World Trade Organization (WTO) have been negotiating a multilateral trade agreement known as the Doha Development Round. As negotiations proceed, the United States must demand full reciprocity from our trading partners as a basic tenet of any new WTO agreement. **As it currently stands the average U.S. bound tariff for industrial products is 3 percent, while the average worldwide WTO bound tariff for these same products is 30 percent.⁵ The average trade-weighted U.S. tariff in 2009 actually was even lower at 1.37 percent. Clearly, the United States should not make any additional tariff concessions until other WTO members reduce their tariffs and border-adjusted taxes to our level.**

Furthermore, countries under the WTO system are allowed to self-designate their economic status and thereby shield themselves from significant obligations. For example, India and China claim to be “developing nations” for the purposes of the WTO and thus argue that they should not be required to make concessions similar to developed or industrialized nations, like the United States. This flawed system allows export superpowers like China and India to masquerade as poor countries and reap the benefits of greater access to key international markets while continuing to protect their home markets.

If the Doha Round is concluded, there is little doubt that it will be detrimental to U.S. manufacturers and their workers. The latest negotiating text which nearly produced an agreement in June 2008 will injure U.S. industry through drastic, non-reciprocal tariff cuts and numerous provisions granting “special and differential” treatment for developing countries including China. In short, the United States will once again be required to make significant market-opening concessions while the vast majority of our WTO trading partners will be allowed to keep their markets insulated from our exports.

Recommendation: Congress should task U.S. negotiators with communicating that the United States only will provide increased access to the U.S. market on the condition that there is full reciprocity on the part of other WTO members. Furthermore, Congress should mandate that USTR strive to eliminate the ability of WTO countries to self-designate their development status.

Key Objective: Reject the South Korea Free Trade Agreement (KORUS)

The KORUS is a continuation of the flawed U.S. trade policy of negotiating FTAs with countries that can produce low-cost goods for export but that are unable or consistently refuse to buy finished products made in the United States.

With South Korea’s current capabilities as a major producer and exporter of industrial products, its close proximity to China, and its traditional hostility to imports, the agreement will be a major blow to U.S. manufacturers. The U.S. trade deficit in goods with South Korea was \$10.6 billion in 2009, with a \$5.5 billion (52 percent) deficit in motor vehicles and motor vehicle parts and a \$708 million (7 percent) deficit in textiles and apparel.

The KORUS will eliminate U.S. tariffs on 95 percent of current trade in industrial products within three years of implementation of the agreement. Despite this, the agreement does not guarantee reciprocal U.S. access to the South Korean market for key industrial products such as autos and textiles.

⁵ Statement of Senator Charles Grassley at Senate Finance Hearing on WTO negotiations 10/27/2005

According to the U.S. International Trade Commission's analysis of the agreement, "The largest gains for Korean exports to the United States are anticipated in textiles, apparel, and leather goods, and other manufacturing (e.g., chemicals and allied products, electronics, and transportation)." In these sectors, U.S. output is estimated to decline by 1.4 percent as a result of the FTA. Furthermore, the Economic Policy Institute predicts the KORUS agreement will increase the total U.S. trade deficit with Korea by about \$16.7 billion annually and displace approximately 159,000 American jobs within the first seven years after it takes effect.

While the agreement was originally concluded on April 2, 2007, the lack of reciprocity and stiff opposition from a diverse group of U.S. industries have kept the agreement off of the Congressional agenda for almost four years. President Obama, however, revived the agreement with a June 2010 announcement that he intended to resolve all remaining issues with KORUS prior to the G-20 Summit held in Seoul November 11-12 and submit the agreement to Congress in the following months. While the mid-November deadline was missed, U.S. and Korean negotiators reached an agreement on outstanding issues mainly relating to autos on December 3, 2010. The administration likely will submit to Congress legislation to implement the FTA in the coming months, and a vote is expected as early as the first quarter of 2011.

The new deal with Korea failed to address many key issues such as the lack of reciprocity in the textile and apparel chapters in the negotiations.

Recommendation: Members of Congress should reject the agreement due to a lack of reciprocity. Overall, Congress should prioritize fixing U.S. trade policy, stopping manufacturing job loss, and closing the trade deficit before considering any new trade deals including KORUS.

Key Objective: Stop Flawed Trans-Pacific Partnership (TPP)

In early 2009, the United States joined trade negotiations with Singapore, Chile, New Zealand and Brunei, a group then known as the P-4. Australia, Peru, Vietnam and Malaysia have also since joined the negotiations, which are now known as the Trans-Pacific Partnership (TPP). Numerous other countries including Japan, Canada and South Korea are considering membership.

TPP holds the potential of being the most economically devastating free trade agreement into which the United States has ever entered. The key reasons underlying this concern are the inclusion of Vietnam and the potential expansion of the agreement to other significant Asian participants such as China and India.

Communist Vietnam, with a per capita GDP of \$2,800 and its non-market economy, has virtually no ability to purchase finished goods made with our higher wages and strong environmental and labor standards. Vietnam also does not use U.S. components in its industrial supply chain, instead taking advantage of the proximity of China and others for the majority of these inputs. It is folly for the United States to propose a free trade agreement with a country that has a state-controlled economy with no vestige of a free market system. Vietnamese producers have enormous inherent advantages in terms of state sponsored subsidies that allow them to artificially lower their cost of production. A FTA with Vietnam would represent the worst aspects of the failed "one-way" trade policy.

In addition, the TPP is structured to promote expansion to additional countries, as is already happening. It is unclear which or how many countries, including China, ultimately may be involved. As a result, the United States could find itself routinely outvoted and ceding a substantial level of sovereignty over key decisions that affect our economy and workers.

Recommendation: As with the pending free trade agreements, the United States should focus on reforming U.S. trade policy before negotiating any new trade deals like TPP. With respect to TPP specifically, Congress at a minimum should press the Administration to limit Vietnam's benefits under the agreement and ensure that U.S. sovereignty is not diminished.

Key Objective: Halt Unfair Least-Developed Country Initiatives

A recent Congressional initiative has been focused on extending unilateral preferences to all least developed countries (LDCs). The term LDC is used to identify countries designated by the United Nations (UN) as exhibiting the lowest level of socioeconomic development. There are currently 49 countries which meet the specific criteria established by the UN.

These preferences primarily would come in the form of eliminating U.S. duties on imports from these countries, an idea originally introduced for all least developed countries as part of WTO Doha Round negotiations. Making sure that such reform does not undermine existing U.S. production as well as U.S. exports to our NAFTA, CAFTA, ATPA and AGOA trading partners will be of critical importance to ensuring the viability of textile and apparel jobs in the United States.

Bills were introduced in both the House and Senate during the 111th Congress that would grant generous unilateral trade preferences to all LDCs. U.S. Representative Jim McDermott (D-WA) introduced H.R. 4101, the New Partnership for Development Act (NPDA), and S. 1141, the Trade Act of 2009, was introduced by U.S. Senator Diane Feinstein (D-CA) in May 2009. Both bills provided duty-free access to the U.S. market for nearly all products exported from a least developed country. The Senate Finance Committee has also been said to be drafting a similar bill.

While noble in theory, these bills in reality represent a substantial threat both to U.S. manufacturing (especially the domestic textile industry) and to our preference partners in Latin America and Africa. Moreover, several nations that would benefit are already export superpowers in textile and apparel products.

For example, LDCs Bangladesh and Cambodia are respectively the third and eighth largest sources of U.S. apparel imports by volume and the fourth and eighth largest sources by value. U.S. textile and apparel imports from these two countries totaled \$5.9 billion for the 12 month period ending September 2010. Of that total, more than \$5.7 billion was apparel. Furthermore, imports from these two countries continued to grow during the recession when the U.S. market was declining and overall U.S. imports from the world fell 8 percent.

Since Cambodia and Bangladesh do not have significant domestic sources for textile components, the yarns and fabrics used in garments they produce are overwhelmingly supplied by China. China shipped \$2.5 billion in subsidized textile and apparel components to Bangladesh and Cambodia in 2008. With approximately 40 percent of apparel exports from those countries going to the United States, an estimated \$1 billion in Chinese components were included in Bangladesh/Cambodia exports to the United States. That figure only will rise at the expense of U.S. producers if Bangladesh and Cambodia gain even more market share as a result of duty-free treatment.

Beyond extending duty free treatment to a nearly fifty new countries, these legislative proposals seek to weaken the yarn forward rule-of-origin for existing preference programs such as the Andean Trade Preferences Act (ATPA), the Caribbean Basin Trade Preferences Act (CBTPA), and the African Growth & Opportunity Act (AGOA). A weakening of the rule of origin certainly will result in less U.S. components being used under our existing preference programs.

Given that key Members of Congress on both sides of the aisle favor adopting LDC legislation, LDC-preference legislation could be prioritized for early passage in the 112th Congress.

Recommendation: AMTAC urges Members to strongly oppose the U.S.-job destroying LDC legislation.

Any duty free program for LDC's is best handled in the domain of the Doha Round negotiations where the concept was introduced and other WTO countries also share in the burden of providing increased access to their markets. In addition, it remains critical that sensitive products such as textiles and apparel be exempted so that one or two players are not allowed to dominate trade at the expense of current U.S. preference partners and the U.S. textile industry. Finally, there should be no weakening of the rule-of-origin requirements under any of our existing preference programs.

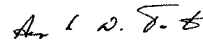
Conclusion

None of the policy recommendations submitted by AMTAC are protectionist or intended to withdraw the United States from the international trading community. Instead, they are common sense initiatives designed to restructure U.S trade policy in manner that simply emphasizes the need for basic fairness, rationality and reciprocity.

With the right policy initiatives the manufacturing sector can function as an engine of growth to rebuild our economy and usher in a greater era of prosperity for the United States. The starting point for such reform is the need to construct a fully reciprocal, fair and transparent trade policy. A rational trade policy will once again allow our manufacturing sector to serve as the engine of the U.S. economy that it has been historically, triggering new investment and encouraging research and innovation. A reinvigorated manufacturing sector will enable the U.S. economy to add critical middle class jobs, while also strengthening our national security. We have reached a tipping point where vital trade policy reforms are needed to ensure the viability of our distressed manufacturing sector. Failure to adopt a much more fair, rational and competitive trade policy will deprive our nation of the essential element necessary to stabilize our economy in the short term and return the nation to prosperity over the long term.

We look forward to further discussing with you the critical need for a 21st century trade policy that adequately addresses the serious concerns facing the domestic manufacturing base, its workers and the national economy as a whole.

Sincerely,



Augustine D. Tantillo
Executive Director

U.S.-China Business Council**US-China Trade Policy: Issues and Solutions**

**Testimony of the US-China Business Council
to the House Committee on Ways and Means
February 9, 2011**

The US-China Business Council (USCBC) is the leading organization that represents American companies doing business in China. Our membership consists of more than 220 companies in manufacturing, services, agriculture, and resource industries. USCBC has a long history of working with the US government to eliminate market access barriers in China so that American businesses and workers can prosper from that country's tremendous economic growth. To this end, we look forward to working with the 112th Congress and continuing to coordinate with the Obama administration to address trade and investment barriers in the world's second-largest economy.

China is a cornerstone for US exporters. It is the only major US export market over the past decade to have provided the 15 percent annual growth rate needed to meet the Obama administration's goal of doubling US exports by 2014. At roughly \$70 billion, China was our third-largest export market for goods in 2009. As of November 2010, US exports have already surpassed this number and are on pace to reach \$90 billion when full-year data is released. If this occurs, then US exports to China will have increased more than 450 percent since 2000, the last full year before China joined the World Trade Organization (WTO). If US exports to Hong Kong—a major through-point for US goods destined for China—are added, the 2010 export figure already surpassed \$100 billion for the first time, without December data.

That's not the end of the story, however. US companies also profit from China's growing domestic market through their investments. Sales in China of products made there by US majority-owned affiliates totaled \$87 billion in 2008, the latest year for which these statistics are available. Local product sales between 2000 and 2008 increased 431 percent. These sales are vital to US companies' operations here at home. The reality of the global marketplace is that we cannot make everything in the United States and be competitive in far away markets such as China because of lead times, transportation costs, and the need for many businesses to be closer to their customers. More than 90 percent of sales by US majority-owned companies operating in China over the last decade were to China or other foreign markets, with a mere 8 percent being exported back to the United States.

The services story is also one of strength, albeit one that needs to get stronger. Services exports to China hit \$15.3 billion in 2009. China was our seventh-largest export market for services that year. Local services sales reached \$11.6 billion in 2008.

Add it all up, eliminate overlaps, and China is probably well over a \$150 billion market for US companies. It is a meaningful market for US companies and for American jobs. The commercial relationship with China has many problems, but the reality of these numbers tells us why getting this relationship right is critical to US interests.

Top Challenges for US Companies in China

Though it has resulted in economic benefits, the US-China trading relationship is not without challenges. Underlying these challenges is a debate within PRC policy circles over foreign involvement in the Chinese economy. While many policymakers there embrace the benefits of market liberalization, others feel that foreign businesses play too large a role and unfairly stunt the development of domestic industry. The result is a cautiously liberalizing economy that is too often defined by protectionist tendencies.

One manifestation of those protectionist trends can be seen in China's policies to support "pillar" industries and build national champions. In USCBC's most recent annual membership survey, respondents described various areas in which China favors domestic competitors, such as in standards setting, government procurement, administrative and business licensing, and enforcement of laws and regulations. Chinese economic policies and practices that run counter to US interests have also appeared in China's innovation policies, intellectual property rights (IPR) protection, investment restrictions, and market access barriers.

On all these fronts, the Obama administration complements the efforts of US industry. The administration's general policy of addressing issues through bilateral and multilateral dialogue and defending US rights when good-faith negotiation fails has proven to be the right strategy when dealing with issues American companies face in China.

Indigenous innovation

A good example of how real progress can be made on critical issues for US industry is last year's advocacy effort on China's indigenous innovation policies. China, like all countries, is interested in fostering innovation to drive economic growth. To achieve that goal, China launched in 2006 its "indigenous innovation" program, which has subsequently appeared in a range of PRC policies and regulations, including those related to IPR, standards, taxation, and government procurement.

In late 2009 and early 2010, China released several key rules to create lists of favored innovative products that would receive preferences in government procurement. This approach runs counter to international best practices, creates market access barriers for US companies, and would ironically undermine true innovation, rather than enhance it. Once on a product list with market protections, a company may have less motivation to continue to innovate since it is guaranteed sales with no further improvements to its products. Managing numerous product lists at the central and local levels is cumbersome, and such periodic lists are quickly outdated as new,

innovative products are developed. The only certain outcome from a product list is discriminatory treatment in the marketplace and substandard technologies. The answer is to do away with product lists and procurement preferences, a firm advocacy point of the US government and the private sector during the past year. In place of product lists, we have encouraged China to follow international best practices for innovation incentives and use non-discriminatory tax, research and development support, and other programs to reach its innovation goals.

The Obama administration efforts, combined with industry's work on the issue, bore fruit during PRC President Hu Jintao's recent visit with China's commitment to delink its innovation policies from its government procurement preferences. Though the value of this commitment will lie in its implementation, the administration's efforts in coordination with industry have provided a platform from which to press China to evolve its innovation policies in a nondiscriminatory way.

Intellectual property rights

China's IPR situation remains a key concern for US companies. China's poor record of IPR protection influences what products foreign companies are able to research, manufacture, and sell in China's market, and counterfeit products made in China often confront US companies in other markets as well. Two-thirds of respondents in USCBC's 2010 survey of China's business environment said that China's inadequate IPR protection impacts their business in some way. In addition, IPR is a component of many other high-profile issues, from the threat of compulsory licensing under the PRC Antimonopoly Law to incorporation of patents into standards.

We should keep in mind, however, that some areas of China's IPR regime—both the legal framework and some areas of enforcement—have improved over the years. The severity and nature of the problems vary considerably depending on the industry and the type of IPR involved. The solutions and approaches that the US government takes must be crafted to tackle these multiple challenges. For companies in certain sectors, such as movies and software, piracy of copyrighted material is without doubt their top problem in China and needs to be addressed. For other companies, China's courts are becoming a more reliable channel for resolving IPR cases.

The Obama administration has given great attention to IPR in its dealings with China. Yet one priority policy action to pursue is the adoption of tougher deterrents in China, such as allowing criminal sanctions to be applied in cases of commercial scale. Counterfeit goods hurt consumers, in China and the United States, by exposing them to substandard and potentially harmful goods. Counterfeits also harm businesses through loss of sales and undermine consumer confidence. An effective deterrent can help to address those problems.

Standards and conformity assessment

Another top area of concern for USCBC companies is China's developing standards system. Though China has made progress in some areas, foreign companies remain concerned about several trends, including barriers to participate in standards-setting activities and the development of China-specific standards and technical policies that effectively block market access for US companies.

China also requires that most products sold in China be tested for compliance by a Chinese certification body, rather than by an internationally accredited third-party certifier or through self-certification, as is common in other countries. This denies market access for US testing and certification service companies and increases the time and cost burden for businesses producing a variety of goods covered under China's conformity assessment regimes.

The Office of the US Trade Representative (USTR) has rightfully focused attention on this issue by creating an annual report for technical barriers to trade. The administration should continue to coordinate with industry to address issues involving standards-setting and conformity assessment in China.

Investment restrictions

As explained in the introduction to this testimony, investments in China are important for many American companies and complement operations here in the United States. But the opportunities for foreign investment in China are uneven across industries. In many sectors, China allows foreign companies to establish wholly foreign-owned enterprises (WFOEs); in fact, 75–80 percent of US investment going into China is in 100-percent American-owned facilities, not joint ventures. In other key sectors, however, foreign companies are limited to minority ownership or face other restrictions. Agriculture, automobile, chemical, express delivery, insurance, securities, and telecom companies all face these limits, for example. China's Catalogue Guiding Foreign Investment in Industry, last revised in 2007, lays out categories where foreign investment is encouraged, restricted, or prohibited in sectors across the economy. China is in the process of revising the catalogue, and USCBC submitted recommendations to key agencies of the PRC government that most restricted or prohibited sectors be further opened to foreign investment. A top US government priority in 2011 should be to ensure that China releases a draft of the proposed revisions to the catalogue for public comment prior to finalization and implementation.

In addition to selectively restricting areas for foreign investment, China factors in "national economic security" during reviews of mergers and acquisitions that involve foreign companies. China's Antimonopoly Law also has provisions that could be used to promote domestic companies at the expense of foreign enterprises.

We should keep in mind that China is also encouraging its domestic companies to invest in the United States and other overseas destinations. Any US governor or mayor will affirm the value of foreign direct investment in creating jobs and economic growth: US states and cities continually organize delegations to China to attract investment to their local economies. We should ensure that China's central and local government officials and company executives understand the mutual interest in maintaining open and fair investment and trading regimes; treatment of foreign companies in China will influence treatment of Chinese companies here.

To solidify this mutual interest, the Obama administration should coordinate with Congress to move forward with negotiations on a meaningful bilateral investment treaty (BIT) with China—one that includes strong national treatment provisions, applies to new and existing investments ("pre-establishment"), and applies to all investments except those specifically excluded in the agreement ("negative list" approach). The Chinese have expressed interest in negotiating a BIT, and doing so provides one of the best opportunities to further open markets for US companies and improve protection for American investments in China.

Market access barriers

Despite the unquestionable growth in US exports to and local sales in China, numerous restrictions remain that limit the products and services foreign companies can provide to the Chinese market. USCBC details our members' top concerns each year in our submissions to the US government in advance of the meetings of the Joint Commission on Commerce and Trade (JCCT) and in our testimony for the administration's annual review of China's WTO compliance record. Some barriers are technical and include China-specific product standards that limit the types of goods that can be sold in China. In other instances, foreign companies cannot receive the necessary licenses to provide their goods or services. Many of these barriers are individual trade issues that the administration continues to pursue under JCCT working groups and other forums.

Foreign companies are particularly restricted in China's services sector. Notably, however, increasing the participation of foreign companies in this sector would benefit China's economy and help it meet its goals of creating employment, promoting domestic consumption, and improving the efficiency of its markets. For example, allowing greater foreign access to China's logistics and legal services industries would have a multiplier effect for businesses across the board by creating a more efficient commercial environment in China. Closer alignment with international standards—and increased market access for foreign conformity assessment bodies—would increase the quantity and quality of product testing and certification and better integrate China into the world economy. Insurance industry reforms and openings would help promote domestic consumption by improving the safety net for Chinese households. Though US officials have raised restrictions in this sector within certain JCCT working groups, both meetings of the JCCT under the Obama administration have resulted in minimal progress for services companies. With services accounting for more than three-quarters of the US economy and about one-third of total US exports, this an area where meaningful progress will greatly benefit American businesses and workers.

One services industry that does not receive sufficient attention is the financial sector. Capital markets play a central role in economic development and further openings will help China achieve its goals of building a more services-based, consumer-driven economy. Though the recent financial market problems in the United States and resulting economic downturn have impacted China's views of financial reforms, we need to resume our advocacy efforts with China on continuing financial reforms, which will ultimately assist in addressing issues such as global imbalances, exchange rate policy, and increasing China's domestic demand.

Government procurement

As noted previously, access to China's government procurement market is a top issue for US companies. USCBC members are particularly concerned about procurement policies and trends that seem designed to promote China's own "national champions" with protected market positions and preferential treatment. Adding another layer to government procurement discrimination in China are "buy local" policies issued by several provincial- and municipal-level governments. There are two developments worth noting that deserve priority advocacy attention.

First, China agreed during President Hu's January visit to submit a revised offer this year to join the WTO Government Procurement Agreement (GPA). In that commitment, China agreed to include purchases by sub-central entities. GPA entry would help US companies gain better access to China's government procurement market, if China's offer is a meaningful one. To be meaningful, the offer should include a more comprehensive list of government entities covered, procurement thresholds closer to international norms, and a timelier implementation schedule than in China's previous offers. It is important to note that although the GPA's principle of national treatment may help address some issues related to procurement, China's indigenous innovation policies are larger than the limited scope of the GPA. Nevertheless, we encourage the administration to continue working with China and other signatories to pursue robust GPA accession commitments from China.

Second, the PRC government is revising its procurement rules in ways that will affect market access for US companies operating in China. The government is considering new draft rules on domestic content requirements and draft regulations that affect the treatment of foreign-invested companies as domestic enterprises. The Obama administration must continue to press China to move toward a nondiscriminatory government procurement regime.

Administrative licensing

Foreign companies in China must often jump a wide variety of bureaucratic hurdles to establish and operate their businesses. Companies report that managing the licensing process in China requires an inordinate amount of their time and resources. These challenges include, but are not limited to, approvals for new or modified products, office licenses and renewals, approvals for different aspects of projects or investments, and licensing for various business administrative functions. Inconsistencies across different agencies, levels of government, and regions create uncertainties that undermine business planning. Often the licensing requirements for foreign entities differ from those for Chinese companies, raising questions about China's commitment to its national treatment obligations.

USCBC's analysis has found that China's campaign for more transparent and efficient government in recent years has yielded some improvements, but there remain many agencies, levels, and regions of government where opacity, inefficiency, and inequity continue. Licensing issues are diverse and vary across industries. The Obama administration pursues these issues on an individual basis through various JCCT working groups. But the process may benefit from more macro-level discussions that analyze the matter in a cross-cutting manner to look for ways to address the overarching issue of how PRC ministries and agencies at all levels manage the issuance and review of administrative licenses.

Transparency

Transparency covers the full extent of a country's rulemaking system, including the solicitation of public feedback during the creation of new laws and regulations, government decision making, and the availability of information on costs and markets. The matter impacts a host of issues that affect companies' daily operations, such as administrative licensing, IPR protection, standards setting, and investment policy. A lack of transparency also exacerbates perceptions of discrimination against foreign companies.

USCBC welcomes efforts by the PRC State Council to improve transparency in PRC government rulemaking, but much work remains. Though the National People's Congress has fully complied with commitments to post new laws for a 30-day public comment period, PRC ministries and agencies under the State Council have a much poorer record. The administration brings focused attention to this issue each year through the US-China Transparency Dialogue, led by the Department of Commerce's Office of the General Counsel. As this issue affects multiple areas important to US companies, US officials must continue to press China to improve government transparency.

Currency—Not a Top Issue for Most US Companies

USCBC supports an exchange rate that better responds to China's global trade flows, and reforming PRC monetary policy is in China's own economic interest. But China's exchange rate has never ranked as a top issue for USCBC members in our annual membership survey and is probably not the significant factor in the US trade deficit that some make it out to be. For example, the renminbi (RMB) appreciated nearly 20 percent between 2005 and 2008 as a result of steady engagement and negotiation. During this period, the US trade deficit with China continued to grow. Clearly other factors drive our bilateral trade deficit with China, as USCBC's analysis has shown. Our report on this topic can be found at http://www.uschina.org/public/documents/2010/currency_trade_deficit.pdf. Focusing on the exchange rate to solve the US trade deficit is the wrong approach.

Some US policy makers think that the United States should enact legislation that imposes tariffs on imports from China to offset currency undervaluation. The application of duties on this basis is of questionable WTO legality and would focus the world's attention on US trade remedy policies and away from China's exchange rate policies. It would also require the Department of Commerce to estimate the "true" exchange rate—a process that will be highly subjective and potentially politicized.

The Obama administration had it exactly right last year when it said it would pursue a multilateral approach to exchange rate issues. China is not the only country with monetary policies that concern other trading partners. Global exchange rate imbalances require a multilateral discussion and solution. US officials should continue to complement G-20 dialogue on this matter with bilateral discussions under the Strategic and Economic Dialogue and in meetings with other concerned trading partners. But tariff legislation will do more harm than good for the American economy.

Recommendations for Action

Listing the problems is one thing; effectively addressing them is another. Often achieving policy results in China is difficult, frustrating, and time consuming. As we consider ways to improve on that record, however, we should be mindful that unilateral actions that might help one group of Americans frequently threaten to adversely affect another group of Americans. Picking winners and losers among ourselves to address problems with China seems counterproductive and usually results in divisive policy options.

USCBC, with its 38 years of experience, believes that the best course of action for our country's overall approach to China consists of a stepped-up advocacy effort involving the US government, the private sector, and a multilateral approach, and the continued use of effective, WTO-consistent trade remedies when good faith negotiations fail.

More effective advocacy

If there were a single agency or official that controlled China's economic policies, it would be easy to structure and target our advocacy efforts. Unfortunately, the bureaucratic owners of these policies are many and diffuse throughout the PRC government. We therefore need to pursue consistent, sustained bilateral dialogue and expand it to include the range of senior officials and agencies that devise and impact trade and industrial policies. The Obama administration increasingly uses this approach and should be encouraged in this process.

The simple fact is that the breadth and depth of the relationship has outgrown the bilateral negotiating and dialogue structure of the past two decades, and the Obama administration is correctly pursuing a path of revamping and expanding the structure to better fit today's reality.

As this structure develops, however, several other features are needed to improve the prospects for success:

- Consistent and supportive engagement at the two highest levels of the PRC government—president and premier—on the need for a level playing field and China moving ahead with further economic reforms and openings. It is important that messaging on these broad concepts is done at the levels above the bureaucratic silos. USCBC was pleased with the attention that President Obama devoted to the economic and commercial issues in advance of and during President Hu's recent visit.
- Close US interagency coordination of each of the dialogues to ensure consistent, sustained engagement and negotiation throughout the year. This may require a more active White House role.
- Private sector advocacy directly to the PRC government. USCBC will continue to press for policy changes that will level the playing field for US companies.
- Multilateral consistency on the issues. US companies are not alone in facing market access barriers in China, and the US government should not be alone in seeking to have those barriers eliminated. Coordinating messaging with other governments can work, as we have seen with some of the modifications that China has made to its indigenous innovation rules. We should build upon that model.
- Finally, US leadership on investment and trade openness. We must not pursue protectionist policies or actions that will undermine our credibility and give China an excuse to continue on their own protectionist path.

Legally sound remedies

When good-faith dialogue fails to resolve issues, USCBC supports using legally sound trade remedies and dispute settlement mechanisms to address concerns. US companies have the right to seek assistance by petitioning the Department of Commerce to apply antidumping (AD) and countervailing duties (CVD) to products they suspect are unfairly supported by PRC government policies. These WTO-legal remedies are intended to provide a fair opportunity for both sides to argue over objectively established criteria. China complains about AD and CVD duties, but

USCBC believes these actions are consistent with a rules-based trading system, if duplicative penalties are avoided.

To that end, we should keep in mind that US antidumping rules for nonmarket economies, which are employed in cases involving goods from China, calculate the normal value of a product. They are not based on any undervalued Chinese costs or prices, but on the value of the costs and prices of that product as if it were produced in a comparable market economy. That comparison between the normal value and the actual delivered US price from the nonmarket economy (which includes any benefit from an undervalued currency) produces the AD margin. As a consequence, US law does not need to change to address concerns about China's exchange rate—the law already provides such a remedy.

The WTO's dispute-settlement process is another tool for the US government and US companies to use when good-faith bilateral negotiations fail. USTR has taken eleven cases to the WTO against China and has won three; four others were resolved by China before WTO action was required; and four are still pending. USCBC has consistently supported WTO cases when well-defined, winnable, and supported by industry and will continue to do so in the future.

Congressional support

The administration is not the sole driver of US-China trade policy. Congress has an important role to play and can help achieve meaningful results in several ways.

First, Congress should increase resources for US trade agencies. To better enforce our trade rights, Congress should increase funding to USTR and other trade agencies so that they can effectively pursue American rights through bilateral engagement and under the WTO. The tremendous growth in China's economy and in the size of our commercial relationship has not been matched by the capacity and expertise needed.

To help US companies better access the opportunities of China's market—particularly for small and medium-sized companies—Congress should also increase funding to the US Foreign Commercial Service so that it can expand its support presence in China. Such a proposal was put forth in the US-China Market Engagement and Export Promotion Act (HR2310), introduced in the last Congress by Representative Rick Larsen and now Senator Mark Kirk. Though our nation is looking for ways to tighten its belt, improving the capacity of our government to promote and protect American businesses and workers in China will yield great returns.

Second, Congress, the administration, and the private sector should better coordinate to reinforce our shared goals on improved market access and leveling the playing field. It is vital that China hear from all three constituencies—the administration, Congress, and the private sector—on the importance of these issues. American companies are on the front lines of dealing with the policies I have mentioned today. Better coordination between the US public and private sectors on these issues will help create a more comprehensive yet focused approach to the US-China commercial relationship.

Finally, members of Congress should also directly engage with PRC government officials and their counterparts in the National People's Congress to raise these concerns. Congressional

delegations that travel to China often meet with high-ranking members of the PRC government. These meetings are an important addition to engagement from the administration and private sector. Holding them will help ensure China has a more comprehensive understanding of our nation's views and concerns.

Conclusion

USCBC companies are committed to the Chinese market but have serious concerns about the policy trends there that favor domestic companies. Our members want solutions to these specific problems, however, not sanctions that would disrupt the relationship.

Addressing the issues directly is the best way to support American businesses and workers. Unfortunately, there is no silver bullet or magic wand that will solve many of these problems easily. Resolution of these issues requires a strong overall message to China's top leadership from the administration, Congress, and business leaders and sustained and expanded engagement across the board on the various specific issues we face.

Our bilateral commercial relationship with China plays an important role in the recovery and future growth of the US economy, and it will be difficult to meet President Obama's goal of doubling US exports by 2014 without it. The administration's approach toward China has begun to show signs of progress, though it will be ultimately measured by how China adheres to its commitments. We must build upon that foundation with China by expanding trade dialogues, promoting US products and services, negotiating a meaningful BIT and GPA accession, and resisting calls for protectionism within our own country that undermine the credibility of our efforts. As challenging as it may be, this relationship is worth the effort.



Intel Corporation



**PREPARED STATEMENT FOR THE RECORD
INTEL CORPORATION**

For the

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

On

“President Obama's Trade Policy Agenda”

Greg S. Slater

February 23, 2011

I. Introduction

Intel Corporation respectfully submits this testimony for the record in conjunction with the Committee's hearing on President Obama's Trade Policy Agenda. Our testimony focuses on the Trans-Pacific Partnership (TPP) trade agreement because of its critical importance to the U.S. economy and the momentum that agreement is gaining.¹ During the hearing Ambassador Ron Kirk, the United States Trade Representative (USTR), made the following significant point: "In just over a year, TPP has become the single most important regional trade negotiation and the platform for economic integration in the world's most dynamic region."

There is no other regional free trade agreement (FTA) that can compare to the impact the TPP agreement will have once finalized. The Asia-Pacific region is a key driver of global economic growth, representing nearly 60 percent of global GDP and roughly 50 percent of international trade. U.S. trade with Asian countries totals nearly \$1 trillion annually. Last year, Intel's revenue from the Asia-Pacific region amounted to 57% or about \$24.8 billion of its total global revenue of \$43.6 billion.

Since the United States has joined TPP negotiations, Malaysia and Vietnam have become TPP members and Japan is very interested in the nine-country trade agreement. The TPP agreement is consistent with the Asia-Pacific Economic Cooperation (APEC) goal of promoting regional economic integration, and as noted by the Administration, it eventually could serve as a foundation for a Free Trade Area of the Asia Pacific.

We are concerned, however, that any Administration efforts to try to meet an artificial deadline imposed by an ambitious negotiation schedule² could undermine the opportunity to maximize market access in the Asia-Pacific region. The TPP agreement should set the gold standard for FTAs, and quality should not be sacrificed for expediency. Ambassador Kirk testified during this Committee's hearing that USTR is "proposing *new and challenging* 21st century issues to our negotiating partners even as other Asia-Pacific countries are clamoring to join TPP talks."

¹ In conjunction with this Committee's earlier hearing on trade in late January, Intel submitted comments on the U.S. Free Trade Agreement with the Republic of Korea (KORUS). In those comments we explained how KORUS will help maintain U.S. competitiveness and explained why it should receive prompt Congressional approval. See Prepared Statement for the Record of Intel Corporation On "Pending Free Trade Agreements with Colombia, Panama, and South Korea and the Creation of U.S. Jobs," House Committee on Ways and Means (Feb. 7, 2011).

² There have been indications the Administration would like to conclude the TPP agreement by the end of 2011 when the U.S. is done hosting of the member economies that constitute the Asia Pacific Economic Cooperation.

Yet, while negotiations are proceeding relatively quickly, to date Intel has not seen sufficient effort on USTR's part to effectively address emerging non-tariff barriers. The digital economy presents many new business opportunities, but also raises new obstacles to U.S. exports that are key to maintaining good quality jobs at home. We discuss several of these emerging barriers below and make recommendations on how to minimize their potential impact.

II. Substantive Issues for Consideration in the TPP Agreement

1. Comments on the TPP Intellectual Property Chapter

Advanced and stable intellectual property (IP) regimes enable innovation, technological progress and additional jobs in the digital services sector. Strong IP rights that are consistently enforced drive private sector innovation and investment, and bring clarity and certainty to technology transfer transactions.³ Without IP rights, there is nothing to sell, give, or license.

Intel is concerned about the lack of robust IP laws and enforcement mechanisms in many countries in the Asia-Pacific region. Countries with predictable and robust IP laws and enforcement infrastructures encourage private enterprises to disseminate technology more quickly.⁴ By contrast, countries with weak IP enforcement regimes often are denied access to innovation, hurting both consumers and their economies. Absent a reliable IP system, the incentive to make technology investments in regions where intellectual capital is regularly impaired is drastically reduced.

To address these issues more effectively, USTR has strengthened the IP enforcement provisions in bilateral free trade agreements. For instance, the pending Korea / U.S. Free Trade Agreement ("KORUS FTA" or "KORUS") contains strong provisions on IP enforcement that include (i) criminalization of end-user piracy and counterfeiting (Art. 18.10.26); and (ii) except in exceptional circumstances, guarantees of authority to seize and destroy not only counterfeit goods but also the materials and equipment used to produce them (Art. 18.10.27). We understand the strong IP provisions of KORUS will serve as a solid foundation for the TPP agreement.

³ See generally Robert M. Sherwood, "Intellectual Property Systems and Investment Stimulation: The Rating System of Eighteen Developing Countries," *The Journal of Law & Technology*, 37 IDEA 261 (1997).

⁴ See *id.*; Robert M. Sherwood, "Symposium: Some Things Cannot be Legislated," 10 *Cardozo J. Int'l & Comp. Law* 37 (Spring 2002).

Although we support the U.S. government's efforts to promote better enforcement of IP rights internationally, and in the TPP agreement specifically, more needs to be done to ensure that the IP rights recognized by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are not eroded. The best enforcement mechanisms provide little value if the IP rights being enforced remain weak in the countries of concern.

a. *Preventing Erosion of IPR*

In the name of the "public interest," some countries are calling for compulsory licensing of environmental technologies (most of which are owned by U.S. companies) to enable broader and/or cheaper access to those critical technology solutions developed to address climate change and energy issues.⁵ This trend may migrate over to other technologies. Providing free or reduced cost to IP access may yield benefits in the short term, but such a result is far from certain and would not be beneficial in the long term as it would damage the incentive for further innovation. Granting patent licenses to entities outside the innovation chain prevents participating entities from recouping their investments. It also cuts off long-term access to technology improvements as it discourages private sector investment.

As reflected in the language and drafting history of TRIPS, compulsory licensing should only be applied in extraordinary circumstances and as narrowly as possible to limit its economic impact.⁶ It would be very beneficial for the IP chapter in the TPP agreement to include preamble language to reinforce this reality and make it clear that compulsory licensing is limited by significant procedural *and* substantive restrictions found in TRIPS Article 31.

⁵ For instance, in 2007 the European Parliament called for a study on opening and amending TRIPS to provide compulsory licenses to IPR for "environmentally necessary" technology. European Parliament resolution of 20 November 2007 on trade and climate change (2007/2003(INI)); available: <http://www.europarl.europa.eu/sides/getDoc.do?Type=TA&Reference=P6-TA-2007-0576&language=EN>. In 2008, the Indian Environment Minister Shri Raja wanted a climate change agreement "'paralleling' what he call[ed] 'the successful agreement on compulsory licensing of pharmaceuticals', which has undermined supply, quality and trade." Tim Wilson, Op-Ed, "Attacking Patents Is A Way To Halt Progress On Climate Accord" (*The China Post*, 8/29/08); see also Shyam Saran, "Treat Climate Change Tech As Public," *The Times Of India* (1/27/08). The UN Assistant Secretary General for Economic Development has noted: "Reform to the current IPRs regime will need to be addressed to make possible the extensive use of technological solutions to address climate change." Jomo Kwame Sundaram, "The Climate Change Challenge," *UN Chronicle*; available: www.un.org (1/26/08). See also Tim Wilson, "The Debate Surrounding Patents And Low Carbon Technology Is Heating Up," (4/20/09).

⁶ Consistent with TRIPS, the KORUS FTA acknowledges that "[e]ach Party may provide *limited* exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties." (Art. 18.8.3; emphasis added) That agreement, however, does not specifically reinforce the significant procedural and substantive restrictions on compulsory licensing found in TRIPS Article 31, and we encourage the TPP negotiating parties to do so given recent requests by some countries for broader IP flexibilities and patent exemptions than TRIPS allows.

We also note that indirect methods of weakening IP rights are no less harmful. For example, China and India recently promulgated draft measures that would condition market access on the disclosure of certain proprietary information and/or on relevant IP being of local origin. Any discriminatory treatment of foreign IP impairs the flow of technology and can damage national efforts to build innovative capacity. Society at large benefits the most when the best available technology (whether domestic or foreign) spreads quickly throughout the economy, supporting enhanced growth across all sectors. The key to effective innovation lies in an open, collaborative, and fair approach to IP rights.

In contrast, government regulations favoring resident enterprises by purposely shielding them from competition obstruct adoption of the best technologies and thus undermine the incentive to innovate. Thus, notwithstanding any protections available under TRIPS, we recommend that USTR consider including language in the IP chapter of the TPP agreement that expressly prohibits the parties from using their regulatory powers to link market access to the transfer of IP rights in any form (e.g., requiring IP to be registered locally).

b. *Achieving a Balanced IP Policy in the Digital Economy*

To further the interests of the digital economy, Congress, the U.S. Department of Commerce, the USTR and others must continue to provide global leadership that encourages IP policies that support balanced and sustainable global growth. By first aligning with like-minded partners in the Asia-Pacific region, the U.S. certainly is better positioned to influence emerging powers into developing IP frameworks that advance innovation driven economies. The U.S. government, however, also needs to fully understand and appreciate the balancing act involved in safeguarding IPR related to the digital economy. The U.S. must ensure that increased enforcement does not stifle innovation by imposing unwarranted regulatory burdens or liabilities on device manufacturers who are not intentionally undermining IPR as content flows through their products.

Specifically, Intel and many other entities in the technology community oppose the imposition in trade agreements of secondary liability for manufacturers of digital devices that are used to violate copyright. Intel and the technology community are pleased that in the final draft of Anti-Counterfeiting Trade Agreement, USTR removed the secondary liability provision. We assume the TPP will have no such provision.

IT companies operate under a patchwork of varying national intellectual property laws. In general, these laws, including U.S. law, foster innovation and economic growth by a careful balance of two key concepts: provide sufficient IP protection to incent investment in new technology and at the same time foster innovation by recognizing that technology is inherently neutral. While U.S. law depends on the interplay of liability and fair use, other countries achieve that balance in different ways. Thus, in crafting international trade and IP agreements such as the TPP agreement, one must be mindful not to blindly impose parts of U.S. IP enforcement provisions on other countries' IP systems. This is particularly important where those systems are working to promote innovation and growth like the U.S. system.

2. Comments on the TPP Telecommunications Chapter

We note two major trade impediments involving telecommunications and digital services. First, some countries are imposing barriers to foreign companies providing telecommunications services by requiring that a domestic telecommunications company operate in conjunction with the foreign telecommunications company. For instance, in China, a foreign company must select a domestically owned and licensed telecom company as a joint venture (JV) partner before providing telecommunications or digital services (such as managing an applications store), and the foreign company cannot own more than 50 percent of the JV.⁷ These types of requirements, which the TPP agreement should expressly prohibit, impair innovation by forcing the creation of JVs in circumstances where the business model may not be desirable due to competitiveness concerns related to the technologies involved.

Second, some countries refuse to timely auction or license spectrum that already has been allocated for commercial services. Spectrum is an essential ingredient to enabling the development of a robust IT infrastructure that provides the backbone of a digital economy. Telecommunications service commitments made in trade agreements often are weak because of the significant negotiation leeway granted to Parties under the WTO General Agreement on Trade in Services, including the Annex on Telecommunications.⁸ Moreover, when spectrum allocation is discretionary, it is easy for a government to conceal restrictions on technology choices when issuing licenses. Thus, we urge USTR to consider mandating in the TPP

⁷ In China, business-related internet services are categorized as value added services which can only be lawfully performed by obtaining the required approvals and a license from the government. The license must be obtained from the Ministry of Industry & Information Technology.

⁸ General Agreement on Trade in Services, Annex on Telecommunications; *see also* WTO Chairman's Note, market Access Limitations on Spectrum Availability, S/GBT/W/3 (3 February 1997).

agreement the timely assignment of spectrum that already has been allocated for commercially services.⁹

USTR also has requested comment on the market access definitions for services such as IM, social networking, search, etc. We agree with the initial USTR proposal that the concept of “information services” would cover most of the current and future technologies that likely would be developed. We do not think, however, that services such as WiMax and LTE would probably be included under this definition. Thus, an alternative approach might be to cover all information and communications technology services except for those telecommunications services provided on a monopoly basis not subject to competition (essentially excluding from coverage only “old line” telecom services).

Finally, USTR has requested industry comment on spectrum transparency issues, such as requiring an inventory of existing spectrum, similar to efforts undertaken by the FCC and NTIA in the U.S. Although we would not be opposed to such an effort, our experience in various jurisdictions has indicated that such an exercise often is not fruitful, as completing an inventory of spectrum takes a long time to accomplish and the data often is suspect. Thus, we would not recommend that USTR make such a provision a priority in TPP negotiations.

3. Comments on the TPP E-Commerce Chapter

The e-commerce chapters of free trade agreements over the last five years or so have all contained the fundamentals needed for e-commerce to flourish, including non-discriminatory treatment of foreign digital goods and tariff/duty protection for digital products imported or exported by electronic transmission or fixed on a medium.¹⁰ The latest e-commerce provisions of FTAs continue to enable e-commerce by ensuring technology choice while recognizing legitimate exceptions such as law enforcement activity and harm to the network.¹¹

⁹ Note that US policy with regard to the so called Advance Wireless Spectrum (in particular licensing the 2.6 and 700 bands in a technology neutral fashion well before the rest of the world) has enabled the US to regain the lead in mobile technology.

¹⁰ See, e.g., United States – Bahrain Free Trade Agreement, Chapter 13 (2006); Australia-United States Free Trade Agreement, Chapter 16 (2005).

¹¹ For example, the KORUS FTA requires each Party to recognize the right of consumers to “run applications and services of their choice, subject to the needs of law enforcement” (Art. 16.7(b)); “connect their choice of devices to the Internet, provided that such devices do not harm the network and are not prohibited by the Party’s law” (Art. 15.7(c)); and “have the benefit of competition among network providers, application and service providers, and content providers” (Art. 15.7(d)).

We recommend, however, that USTR further expand this principle by including in the TPP agreement two additional provisions. First, we support a provision expressly allowing the free transfer of data across borders in conjunction with relevant service commitments made by each TPP party (e.g., computer and related services), assuming appropriate privacy protections are included. This provision will become increasingly important as countries begin to allow foreign direct investment related to digital services, but at the same time may decide to interfere with associated data flows. Second, we support a provision that expressly prohibits any requirements to locate IT infrastructure (e.g., servers) within a country as a condition of providing digital services. Efforts to sever treatment of the data from service commitments or to require in-country infrastructure often have protectionist purposes even when security or privacy concerns are raised. As noted below, legitimate security and privacy concerns can be addressed in more effective and less trade restrictive ways.

4. Privacy Rights

Industry supports USTR's current direction in exploring the possible value of referencing APEC's Cross-Border Privacy Rules in the TPP agreement as one way to address privacy rights without interfering with international data flows among TPP participants.¹² Since the APEC Ministers endorsed the Privacy Framework in 2004, the Department of Commerce, in conjunction with other federal agencies and the private sector, has taken a leadership role and made great progress to develop a system of Cross-Border Privacy Rules that would ensure accountable cross-border flows of information while ensuring both the protection of consumers and allowing for the benefits of ecommerce. As the U.S. hosts APEC this year, we encourage the U.S. government to continue its active leadership within APEC with the goal of ensuring adoption of the cross-border privacy rule system in 2011 during the U.S. host year.

5. Information Security Concerns and Cybersecurity Best Practices

The interdependent network of information system infrastructures that includes the Internet, telecommunications networks, computer systems, embedded processors and controllers, and digital information is collectively known as "cyberspace." Security enables this global digital infrastructure by creating a trusted, robust, and interoperable environment in which

¹² Although the KORUS FTA acknowledges the importance of protecting personal information (Art. 15:8), it does not provide any other guidance on how to achieve that objective. In theory, therefore, Korea could take an overly stringent approach to protecting privacy rights that would disadvantage U.S. industry. The TPP agreement should solve this issue.

economic transactions and activities can occur. Industry and government have an equal incentive to ensure and increase “cybersecurity.” Industry seeks a secure cyber infrastructure that will encourage commercial activities and the continued growth of the global digital infrastructure. Governments want to (1) ensure that cyberspace’s benefits continue to accrue to their economies and citizens, and (2) prevent criminals from using cyberspace to undertake fraud, espionage, crime, and terrorist activities - activities that traditionally occurred offline.

Various forms of security related technologies are used to safeguard telecom and other IT equipment. Encryption is now ubiquitous in widely available information technology products. If the public and private sectors do not cooperate in addressing legitimate security concerns, global trade in digital products and equipment easily can be disrupted as occurred last year when the Government of India issued a number of telecom regulations and license amendments without broad consultation with affected industries.

Fortunately, governments, infrastructure owners, operators and users, and the information technology industry have a variety of tools to address information security and cybersecurity risks and challenges. These tools include technology standards, training, guidelines and best practices on information sharing, risk management, etc. As governments seek to address risks in cyberspace, it is important that their national cybersecurity measures properly reflect the borderless, global, interdependent cyber infrastructure. Internationally harmonized cybersecurity measures will promote interoperability, minimize “weak links” that result in vulnerabilities, lower costs for businesses that can deploy security measures globally, and free up vendors’ resources to continue to invest and innovate. As noted in the Administration’s Cyberspace Policy Review, “International norms are critical to establishing a secure and thriving digital infrastructure.”

Given that joint action from government and industry is necessary to address evolving security challenges in the global environment, industry and governments should work together to develop international standards, policies and practices that take into account the dynamic, changing, and complex cyber environment; leverage current and emerging industry leadership initiatives and resource commitments; and adapt at cyberspace speed to emerging technologies, business models, and threats. This type of critical cross-border cooperation should be emphasized in the TPP agreement, even if just as a non-binding principle or preamble.

Cybersecurity measures that are adopted by a country without reliance on international policies and practices or technical assistance derived from a robust private/public partnership create uncertainty and inhibit the growth of e-commerce. For instance, according to various sources, the building of a telecommunications infrastructure in India has recently slowed because that government, without an official consultation process, attempted to mandate contractual terms between telecommunications equipment vendors and Internet Service Providers for security reasons.

Several WTO trade agreements exempt governments from honoring their commercial obligations to ensure open trade and protect of IP rights if their actions can be justified based on national or essential security reasons. The problem is that those exemptions are not well-defined, especially in the TBT agreement,¹³ and that lack of specificity creates a potential for their misuse. This should not occur, especially considering the importance of commercial security to the private sector as an enabler of e-commerce. The TPP agreement presents a golden opportunity to address these emerging challenges for the first time. In this regard, we recommend that the U.S. government consider the following:

- Require TPP parties, which rely on national or essential security interests to justify technical regulations that undermine IP rights and/or impair trade in commercial IT products, to explain in detail the nature of and reasons for the claimed security interests;
- Require TPP parties to adopt (1) relevant international standards (e.g., Common Criteria, and efforts to modernize same) and (2) cybersecurity policies and practices that are developed in appropriate fora by private and government stakeholders who value both trade and legitimate security interests (e.g., “Encryption Best Practices” recently adopted by the six governments of the World Semiconductor Council);¹⁴ and

¹³ Pursuant to Article 2.2 of the TBT Agreement, WTO members may enact technical regulations that act as trade barriers if they are no more restrictive than necessary to fulfill legitimate national security requirements, which are not defined in that WTO agreement. A WTO member also may ignore their intellectual property commitments under the TRIPS agreement by either (i) taking any action “which it considers necessary for the protection of its essential security interests” as being related to war, emergencies in international relations, fissionable materials and the traffic in arms, ammunition and implements of war (which interests are more narrowly defined than the TBT agreement exemption); or (ii) honouring their commitments under the United Nations Charter for the maintenance of international peace and security. TRIPS Agreement, Article 73. The General Agreement on Tariffs and Trade (GATT), which among other commitments prevents WTO members from discriminating against foreign goods in favour of like domestic goods, has a similar essential security exemption as the TRIPS agreement. GATT Art. XXI. See also General Agreement on Trade in Services, Art. XIV *bis*.

¹⁴ Those encryption best practices ensure that any necessary national regulation affecting widely available IT products that typically contain cryptographic capabilities is (1) limited to narrowly specified legitimate concerns (e.g., export controls on munitions to targeted countries); and (2) does not discriminate against foreign IT goods or require the transfer of IP. See Joint Statement of the 14th Meeting of the World Semiconductor Council, Free and Open Markets, Seoul Korea (May 27, 2010). There also is emerging APEC work product “to develop options for effective cyber security initiatives against cyber threats,” which may be useful once fully developed. See Draft

- Require TPP parties to engage in a multilateral discussion on how the national and essential security exemptions in various WTO agreements may be more clearly and narrowly defined when applied to widely available commercial IT products that are traded between the parties, with the goal of developing a common statement of understanding among TPP parties that is similar to the WSC encryption best practices.

If implemented, these recommendations will help drive a consensus among all stakeholders on how the aforementioned WTO exemptions should be applied to our digital infrastructure and ensure that any legitimate national or essential security concerns pertaining to that infrastructure are addressed in a manner that is the least trade restrictive possible.

6. Comments on the TPP Technical Barriers to Trade Chapter

Technology regulations and standards can be significant enablers or impediments to the digital economy given the need for diverse devices to be interoperable and communicate with each other. For example, technology standards are critical because they allow devices that share common protocols, such as fax smart phones and laptop computers, to communicate with each other and even to be built in the first place.¹⁵ The international standards used to build these devices are revised and improved over time, enabling more capable products and faster communication networks. In contrast, by promulgating a technical regulation or standard that favors local technologies, a country can protect its market from foreign digital products.

For this reason, the WTO Technical Barriers to Trade (“TBT”) Agreement strongly favors the use of international voluntary standards and contains a notice and comment provision that allows WTO members to provide input on draft national technical regulations and standards¹⁶ supported by the central government.¹⁷ This commitment is often ignored, however,

Okinawa Declaration, “ICT as an Engine for New Socio-economic Growth,” The Eighth APEC Ministerial Meeting on the Telecommunications and Information Industry (TELMIN 8) (30-31 October, 2010, Okinawa, Japan).

¹⁵ A recent study (<http://ssrn.com/abstract=1619440>) documented 251 technical interoperability standards implemented in a modern laptop. Many of these standards enable companies with different areas of competence (e.g., display, storage, microprocessors, memory), based in different parts of the world, to contribute to the design and manufacturing of a complex yet cost effective product.

¹⁶ In contrast to voluntary international standards, prescriptive technical regulations and national standards constrain product designs and/or limit the type of technologies allowed. For example, if energy efficiency requirements apply to all components of an electronic good, rather than the overall performance of that good, flexibility to achieve the same efficiency goals in the most cost effective and innovative manner is severely restrained. When prescriptive regulations affect a particular product, and vary significantly across geographies, they can readily chill innovation and create major compliance and cost barriers by reducing economies of scale. The WTO TBT Agreement generally requires that its members use performance-based regulations and avoid prescriptive regulations. The OECD and APEC also stress the same principle. However, there is an emerging trend in some

and, even if adhered to, is not very effective in terms of preventing on a timely basis discriminatory technical regulations and standards that can impede the sale of IT products.

KORUS allows U.S. stakeholders, including private parties, to participate and comment on an equal basis with national stakeholders in regulatory proceedings and standards development that are required to be notified under the TBT Agreement. We strongly support this public participation right, which goes beyond the provisions in the TBT Agreement requiring only equal treatment for governments, not citizens or industry. The TPP agreement, however, should go even further than KORUS to minimize the potential for discriminatory standards to be used against U.S. exports.

Specifically, we recommend that the TPP agreement make clear that signatory governments generally should not be involved in dictating or directing the development of IP rights policies in conjunction with standard setting activities, which should be developed according to market forces. Additionally, the TPP agreement should make clear that the TBT Agreement does not generally allow the national standards of signatory governments to significantly deviate from international standards even for legitimate reasons,¹⁸ and in any such cases, the burden should be on them to justify any deviations. Lastly, TPP member parties should not be able to modify international standards to favor local technologies (and thus gain a presumption of compliance with the TBT Agreement), and then later propose those national modifications for acceptance as new international standards.¹⁹

7. Comments on the TPP Due Process Chapter

A number of U.S. companies have faced significant due process issues overseas when subjected to antitrust investigations initiated by foreign regulators, often at the request of their domestic competitors. For these reasons, KORUS took a great step forward in establishing due process provisions in a trade agreement. Nevertheless, the following essential elements are missing from the KORUS due process chapter and should be included in the TPP agreement:

countries to pursue national technology standards and enact prescriptive regulations in the technology sector as they develop their own high tech industry to increase domestic innovative capabilities.

¹⁷ WTO Agreement on Technical Barriers to Trade, (Art. 2.9; Annex 3.L).

¹⁸ TBT Agreement, Art. 2.4 & Annex 3.F.

¹⁹ See *id.* Art. 2.5.

1. Each Party shall ensure that investigations are conducted and decisions are made in a reasonable, transparent, consistent, and determinable time frame. Each Party shall afford respondents the opportunity to engage with the competition authorities at key stages of the investigation with respect to significant legal or practical issues, and afford respondents adequate time to review all relevant evidence and offer defenses.

2. Each Party shall provide for the protection of business secrets and other information treated as confidential under the laws of the reviewing jurisdiction. A Party's authorities shall not rely on any confidential information obtained from complainants or third parties to which a respondent has not had a timely opportunity to review and respond.

3. Each Party shall respect the right against self-incrimination and allow attorneys for respondents to attend interviews of their client companies and on-site inspections of those companies subject to enforcement actions.

4. Each Party shall ensure that the authority bears the burden of proving violations of the competition laws.

5. Before rendering a decision, each Party's authorities shall provide to respondents all relevant evidence, including copies of transcripts of hearings, witness interviews, and statements. Each Party shall have an affirmative obligation to record any exculpatory evidence obtained in the course of its investigation and provide it to respondents. All evidence should be provided sufficiently in advance of any decision to allow respondents an adequate opportunity to make use of the material in its defense.

6. Each Party shall assure that the person or persons responsible for rendering a final decision are independent of the investigational and prosecutorial staff and do not themselves perform an investigational or prosecutorial function.

7. Each Party shall ensure that all final administrative decisions finding a violation of its competition laws are in writing and set out any relevant findings of fact and the reasoning and legal and economic analysis on which the decision is based in sufficient detail to fully explain the basis decision.

These additional due process protections ensure that companies, not just their products, will be protected from bias or misguided actions by regulatory officials in a number of Asia-Pacific countries that have new antitrust regimes.

III. Conclusion

Intel appreciates the opportunity to comment on the TPP agreement. It is our hope that this monumental agreement will be used to establish state-of-the-art provisions that eliminate emerging trade barriers which have the potential to undermine our economic recovery. We look forward to working with the U.S. government to modernize trade rules so that American exports can be increased and U.S. innovation and jobs can be preserved.



Statement for the Record of Patrick L. Thomas
Vice President, UPS Corporate Public Affairs

COMMITTEE ON WAYS AND MEANS
Hearing on President Obama's Trade Policy Agenda

February 9, 2011

UPS appreciates the opportunity to submit comments to the Ways and Means Committee on the importance of global trade. As the world's largest logistics and transportation company, UPS knows the importance of trade to the U.S. economy. On average, UPS delivers 15.1 million packages and documents each day, more than six percent of the U.S. gross domestic product (GDP). UPS serves every address in the U.S. and more than 220 countries and territories worldwide with approximately 400,000 employees. Every 22 packages per day that cross an international border supports one job in UPS's global package operation.

With reduction of barriers to trade, UPS offers U.S. companies, both small and large, the tools to take their products and services global. In other words, trade means more opportunities for the U.S. economy.

Our mission is to enable our customers to reach their target markets, as our customer's businesses grow so does ours. To this end, UPS is pleased to work with Congress and the Administration to ensure U.S. companies have the opportunity to compete globally on a level playing field.

Trade Liberalization

Free trade agreements (FTAs) increase market opportunities and grow competitiveness on a global scale. It is our experience that this is particularly true for U.S. FTAs and their impact on the market reach and competitiveness of U.S. companies. UPS's export volume has increased 28 percent to countries with which the U.S. has brokered FTAs.

UPS supports the pending FTAs with South Korea, Panama and Colombia. These agreements will increase market access, modernize and expedite customs procedures and help to level the playing field, especially when competing against foreign state postal operators.

UPS is encouraged by our Nation's efforts to negotiate a Trans-Pacific Partnership (TPP) Trade Agreement. With multilateral trade between the U.S. and Asia growing at a

substantial pace, the need for a TPP is of great significance and opportunity to our customers. A successful TPP will address trade facilitation concerns as a key component in improving market access. Our industry often finds that, in addition to tariffs, non-tariff barriers routinely hinder efficient access to international markets. To make matters worse, regulations and changes in protocol and standards are often unpredictable. Well-crafted and enforced trade agreements help solve those problems.

Services must be included in all trade negotiations and agreements. Services are the backbone of the U.S. economy, providing 78 percent of our Nation's economic output. Transportation, logistics and distribution services such as those provided by UPS, are imperative to commerce and an integral aspect to the international reach of U.S. businesses.

Trade Facilitation

A recent UPS survey of its customers found that the top reasons for not exporting include the complicated nature of customs compliance, tariffs, duties and taxes and bureaucratic obstacles of the associated forms and required documentation. These regulatory barriers combine to discourage companies from expanding their business abroad and creating jobs at home.

It is crucial that the U.S. pursue policies of trade facilitation that will remove barriers to entry and improve the efficiency of the global economy. The U.S. Government should work multilaterally and bilaterally to encourage the modernization of practices that expedite the customs clearance process with our trading partners.

When shipments are unable to clear customs quickly, global trade decreases. Each additional day a shipment spends in transit, decreases international trade by at least one percent. A one-day improvement in transit time in the U.S. could result in \$28.9 billion per year in increased international trade.

With 96 percent of consumers living outside of the U.S., many in developing nations, it is important to help build international economic and market capacity. UPS and the express delivery industry has partnered with the World Bank in order to improve efficiency and ensure predictability for our customers. Our efforts include automating their customs processes which will not only make them more efficient, but will increase transparency and eliminate the element of corruption. These improvements allow foreign consumers better access to goods and give exporting companies reliable access to important emerging markets.

Trade Promotion and Access to Capital

In addition to removal of trade barriers, the U.S. Government needs to ensure that its companies are not at a competitive disadvantage to foreign companies concerning trade

promotion activities. Strong public-private partnerships are paramount to helping more American companies engage in trade. The federal government should continue to enhance the resources available to trade promotion agencies such as the U.S. Commercial Services (USCS) and the Export-Import bank which have a proven track record of helping businesses reach new markets.

For example, in 2007, UPS developed a strategic marketing partnership with the USCS to promote federal trade programs to our customers. This effort proved so successful that in 2010, UPS launched with USCS the New Market Exporter Initiative – Beyond One Campaign. The objective of this initiative is to leverage UPS's partnership with the USCS to help single-market exporters sell to additional international markets. Over the last three years of this partnership, UPS has counseled more than 18,000 customers regarding the Commercial Service's offerings. UPS and the Commercial Service have convened more than 70 export-related seminars. The USCS is able to help identify potential markets for many of our customers, and we add our shipping and logistics expertise.

In response to the 2010 National Export Initiative, UPS and USCS are developing a suite of special programs to help further boost exports. These programs include a UPS landing webpage and industry specific pages, special pricing on bundled services, and assigning personnel specifically to handle companies looking to expand to new markets. Even with these efforts and the work done by the USCS, businesses still face numerous challenges to exporting. UPS works with companies to overcome these hurdles; however the government has a role to play in easing these burdens, too.

U.S. companies face additional challenges securing financing for exports. At UPS, we realize the importance of access to credit which is why UPS's financing arm, UPS Capital Corp., is a leading user of Export-Import Bank loan programs. In 2009, UPS Capital funded over \$88 million dollars in loans backed by the Ex-Im Bank. UPS Capital is also working with the Small Business Administration (SBA) to develop an offer of Export Working Capital loans. These short term transactional loans allow small businesses to finance the goods they are exporting.

Bilateral Investment Agreements

Openness to foreign investment has provided significant benefits to the U.S., and to other countries regardless of their level of development. The U.S. has concluded approximately 50 Bilateral Investment Treaties (BITs) that promote open and transparent investment climates abroad, while ensuring that U.S. investors receive the same non-discriminatory treatment given to foreign investors in the U.S. Investment chapters in our recent free trade agreements provide similar treatment. The record clearly suggests that U.S. investment abroad stimulates additional exports from the U.S. Therefore, it is critical that we preserve the attractiveness of the U.S. to foreign investors.

UPS would like to thank the Committee for holding this important and timely hearing. We commend the Committee's pursuit of promoting American exports and focus on growth through trade. UPS strongly supports all efforts to increase global trade and stand committed to assist in achieving these goals.

