SECOND IN A SERIES OF THREE HEARINGS ON THE PENDING, JOB-CREATING TRADE AGREEMENTS: PANAMA TRADE PROMOTION AGREEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

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

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

MARCH 30, 2011

Serial No. 112–TR2

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

70–866 WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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SECOND IN A SERIES OF THREE HEARINGS ON THE PENDING, JOB–CREATING TRADE AGREEMENTS: PANAMA TRADE PROMOTION AGREEMENT

WEDNESDAY, MARCH 30, 2011

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

The subcommittee met, pursuant to call, at 2:10 p.m., in Room 1100, Longworth House Office Building, the Honorable Kevin Brady [chairman of the subcommittee] presiding.

[The advisory of the hearing follows:]

HEARING ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

Brady Announces Second in a Series of Three Hearings on the Pending, Job-Creating Trade Agreements: Panama Trade Promotion Agreement

March 23, 2011

Congressman Kevin Brady (R–TX), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the pending trade agreement with Panama. This hearing is the second in a series of hearings on the pending trade agreements with Colombia, Panama, and South Korea. **The hearing will take place on Wednesday, March 30, 2011, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 1:30 P.M.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. 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. A list of invited witnesses will follow.

BACKGROUND:

In 2007, the United States signed a trade agreement with Panama, which still awaits Congressional consideration. On January 25, 2011, the Ways and Means Committee held its first hearing on this agreement, along with the pending Colombia and South Korea trade agreements.

The Panama trade agreement was also discussed at the Ways and Means Committee hearing with the United States Trade Representative, Ambassador Ron Kirk, on February 9, 2011. At that hearing, Ambassador Kirk noted Panama's important steps in addressing certain labor and tax issues considered outstanding. In his testimony, as well as in response to Chairman Camp's request that Ambassador Kirk set forth a concrete timeline for Congressional consideration of the Panama trade agreement within the first six months of the year, Ambassador Kirk said that the President directed him to immediately intensify engagement with Panama, like Colombia, to resolve outstanding issues as soon as possible. Ambassador Kirk soon after held consultations with the Panamanian government.

The U.S.-Panama Trade Promotion Agreement would open new markets to U.S. exports and, in turn, benefit American businesses, farmers, workers, and consumers. The independent U.S. International Trade Commission (ITC) estimates that implementing the agreement would increase U.S. exports of key products to Panama by up to 145 percent. Under the agreement, over 88 percent of U.S. exports of consumer and industrial goods and over 50 percent of U.S. agriculture exports would immediately become duty-free. Such benefits will be long-lasting. Indeed, since 2000, U.S. exports to the 13 countries with which we have implemented trade agreements have grown nearly twice as fast as our worldwide exports.

The agreement also increases access to the Panamanian services market. Services already account for 76 percent of Panama's GDP and promise further growth as Panama increases its role as a Latin American and global trade and logistics hub, creating new opportunities for U.S. businesses and workers.

Concerns have been raised about Panama's refusal to provide the United States with certain information needed to enforce U.S. tax laws. In November 2010, the United States and Panama signed a Tax Information Exchange Agreement to address those concerns. In announcing the agreement, Treasury Secretary Timothy Geithner said that it "usher[ed] in a new era of openness and transparency for tax information between the United States and Panama." Panama has also made several changes to its labor laws.

Panama has already concluded trade agreements with major trading partners and U.S. export competitors, such as Canada and the European Union, which remove barriers to exports from those countries. Failure to implement our own trade agreement with Panama could thus severely disadvantage U.S. exporters and in turn jeopardize U.S. job creation.

In announcing this hearing, Chairman Brady said, **"Opening up dynamic new markets like Panama for American goods and services must be a priority for robust U.S. long-term growth. That is why we need to move forward with the U.S.-Panama trade agreement to create good U.S. jobs and increase the competitiveness of U.S. exporters, as well as to preserve U.S. influence and leadership in our hemisphere. We will lose this opportunity if the United States sits on the sidelines while Panama continues to grow and implements trade agreements with our major competitors. American workers, farmers, ranchers, manufacturers, service providers, and other exporters will simply be left behind. We need a concrete plan now from the Administration for moving forward with the Panama agreement to allow Congressional consideration of all three pending trade agreements by July 1."**

FOCUS OF THE HEARING:

The focus of the hearing is on Congressional consideration of the pending trade agreement with Panama. The hearing will address the economic benefits this agreement will bring to American businesses, farmers, workers, consumers, and the U.S. economy. In addition, the hearing will examine the national security and geopolitical implications of the agreement, as well as Panama's tax transparency.

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 or WordPerfect document, in compliance with the formatting requirements listed below, **by the close of business on Wednesday, April 13, 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) 225–6649.

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 or WordPerfect 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 at *http://www.waysandmeans.house.gov/*.

Chairman BRADY. Good afternoon.

I would like to welcome you all here, including the Panamanian Ambassador.

This is the second in a series of three hearings: Panama, Colombia, and South Korea. It is no secret that I strongly believe we should consider all three pending agreements by July 1st. There are bipartisan calls in Congress to do that. And we are hopeful the President moves forward with all three.

He has already talked about and made the case why we should move the Panama and Colombia agreements now. As you know, on his recent trip to Latin America, the President noted that we export three times more to Latin America than to China because of our trade agreements across the region. He also stated, “Our exports to the region will soon support more than 2 million U.S. jobs.”

And yet, even though the President explained why we need to move forward with the agreements, we wait. In the case of Panama, it has been almost 4 years.

Not only has the delay caused American companies, workers, farmers, and ranchers to miss opportunities to sell more to Panama, we also run the risk of falling behind. Panama has concluded trade agreements with our major competitors, such as Canada and the European Union, and more are in the pipeline. If these agreements go into effect before ours, we will face even greater competitive challenges.

And the opportunities lost to these competitors could be gone for a very long time. Panama is experiencing an infrastructure building boom due to $5.25 billion investment in the expansion of the Panama Canal and Panama’s growing role as a logistics hub for Latin America. If U.S. companies lose out on those infrastructure contracts, they cannot hope to bid again later. These contract opportunities will be lost for good.

Panama’s expansion as a logistics hub also offers unique opportunities for American service providers in addition to our manufacturers. Services already make up over 75 percent of Panama’s economy. This sector will swell as Panama develops greater capabilities in information technology, finance, and insurance. U.S. service providers are well-positioned to meet this growing demand, but their market access depends on having our agreement in place.

The economic reasons for the Panama agreement are, by themselves, significant, but the need to strengthen our relationship with

Panama and engagement in the region is just as compelling. I was heartened by the President's trip to Latin America and his words about the importance of Latin America to the United States, but we need to provide tangible evidence of our commitment.

Panama is obviously a vital ally in terms of port and maritime security. It is also an important partner in combatting drug trafficking and terrorism. And, of course, there is the Panama Canal. The United States is the largest user of the Canal, and Canal security is paramount to our national security and broadly to open sea routes. Panama's cooperation in maintaining security of the canal has been vital to our security in the region.

The significance of our relationship with Panama is obvious. Now is the time for action and for the President to send the Panama agreement to Congress.

Ambassador, I was encouraged by your positive remarks regarding the status of the Panama agreement in our last hearing, but we have yet to hear from the Administration a defined timetable for bringing this agreement into force.

But, in the meantime, Panama has made extraordinary strides in meeting U.S. demands. First of all, the Panamanian legislature approved the agreement to include the provisions of the bipartisan May 10th, 2007, deal back in July of 2007. Then there were concerns raised regarding Panama's tax transparency, and, in response, Panama signed a TIEA with us in November and passed all implementing legislation. Concerns have been raised about Panama's labor law, and Panama has implemented substantial labor protections and is undertaking even more just this week in its legislature.

In my opinion, the substantive action by Panama is more than enough to allow congressional consideration of the agreement.

Ambassador Sapiro, I want to ask you again, just as I did 2 weeks ago at our previous hearing, to present us a specific timetable as to how the administration plans to proceed. In addition, I would call again on the administration to begin the technical drafting with us on the Panama and Colombia agreements, just as we have begun with the South Korea agreement.

I would like to welcome all of our witnesses today and thank them for being with us. I look forward to the testimony.

At this time, I will yield to Ranking Member McDermott for the purposes of an opening statement.

Mr. MCDERMOTT. Thank you very much, Mr. Chairman.

At our last hearing on the Colombia Free Trade Agreement, I expressed my disappointment that we were not holding a mock markup on the Korean Free Trade Agreement. I am even more disappointed today that 2 weeks have gone by and the Republican leadership is still blocking the Korean FTA. This Korean FTA is done. It has the support of business, labor, Democrats, Republicans, and the administration.

We should have had a mock markup of the Korean Free Trade Agreement weeks ago. Every week that the Republicans wait costs Americans jobs and jeopardizes our global competitiveness. Every week the Republicans wait is more pain on American families and hurts our geo-strategic interests with Korea and across Asia.

While we are here to talk about Panama, the Republicans are silent on helping middle-class Americans with renewing trade adjustment assistance programs, the Andean preference programs, and the general system of preferences. The Republicans are also doing nothing on the miscellaneous tariff bill or on currency legislation. They have decided that we can't do anything on trade until Colombia FTA is ready. That makes them really important.

And if stopping the entire legislative agenda on trade is not enough, the Senate Republicans have announced they intend to block the appointment of trade-related officials, even Cabinet secretaries, until the Colombia Free Trade Agreement is passed.

While I wish we were moving the Korean Free Trade Agreement and a real job agenda forward, we are here talking about Panama's FTA today. The administration's work on the Panama FTA, like its work on the Korean FTA, is an example of how to do a trade agreement right.

There were legitimate and serious concerns with Panama's status as a tax haven and with the fact that Panama's labor laws fell short of international standards. Rather than ignoring those concerns, the Obama administration addressed them. For example, the United States and Panama finally signed a tax information exchange agreement last November after 8 years of negotiation. And Panama has made a number of changes to its labor laws already.

Still, Panama needs to ratify that tax agreement and make a few important changes in labor laws. Panama is our partner and understands what it needs to do. It is willing to make the necessary changes to the laws, and it is expected to do so very soon.

Congress would undermine the administration's effort to resolve the outstanding issues if it were to consider the FTA before Panama takes action. On the flip side, once Panama takes action, the Panama FTA should be submitted to Congress without delay, not held hostage to unrelated issues that are outside Panama's control.

Panama and Korea FTAs provide a clear roadmap for the Colombia FTA. Rather than setting artificial deadlines and ignoring serious breaches, such as labor-related violence and impunity, those issues should be resolved before the agreement moves forward.

Many Republicans criticize the administration for taking the time to get the substance right on all three of these trade agreements. They want to just get them done with quickly, rather than get them done right. They wanted to pass the Korea deal before the auto provisions were fixed. They wanted to ignore the fact that Panama was a tax haven. And they want to ignore the fact that murdering union organizers and human rights activists in Colombia goes unpunished. I don't understand that, and I really don't think the American people do either.

The American people expect us to work to lift the labor standards of our trading partners, to insist that our trading partners not operate as tax havens, and to ensure that our trade agreements do all they can to ensure two-way trade, as the administration did with the Korean auto deal.

In my view, this is the best way to rebuild strong and lasting support for trade agreements, and I hope my Republican colleagues will support that effort.

The rules require a week's notice for a hearing, so I just want to encourage the Republicans to schedule this mock markup for the Korean Free Trade Agreement for next Wednesday.

I yield back the balance of my time.

Chairman BRADY. Today, we will have two panels of witnesses. The first panel is compromised of our witness from the administration, Ambassador Miriam Sapiro, Deputy U.S. Trade Representative from the Office of the U.S. Trade Representative.

Ambassador Sapiro, welcome again. And we look forward to your testimony. As always, I am going to ask you to keep your testimony to 5 minutes. And your written statement—that goes for all the witnesses—will be made part of the record. And you are recognized for 5 minutes.

Ambassador.

STATEMENT OF AMBASSADOR MIRIAM SAPIRO, DEPUTY U.S. TRADE REPRESENTATIVE, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Ms. SAPIRO. Thank you. And good afternoon, Chairman Brady, Ranking Member McDermott, Members of the Committee. It is a great pleasure to be back here and to testify today about the U.S.-Panama Trade Promotion Agreement.

Two weeks ago, I highlighted the importance of a robust trade policy that creates jobs for America's workers and advances the President's goal of doubling exports by the end of 2014. We would like to see all three pending agreements, once their outstanding issues have been addressed, approved by Congress as early as possible this year.

Earlier this month, we notified the full committee that we are ready to begin work on the text of the implementing bill for the Korea FTA as soon as you are able to schedule those sessions. We are working to advance the Panama agreement, too, within the broadest possible bipartisan and stakeholder support so that its true importance to the United States will be apparent to all.

Panama is one of the fastest-growing economies in Latin America, expanding by over 6 percent in 2010. Its strategic location as a major shipping route is clear. Approximately two-thirds of the 14,000 annual transits through the Panama Canal are bound to or from U.S. ports.

Currently, the U.S. market is already largely open to imports from Panama. This agreement will level the playing field by giving American workers, farmers, ranchers, and businesses greater reciprocal access to Panama's growing market, including nearly $10 billion in new infrastructure projects and an $18 billion services market.

As important as these benefits are, President Obama has made it clear that any trade agreement we present to Congress must be consistent with our key values and in the clear interests of Americans. The administration has therefore been working very hard with Congress and with stakeholders since they came into office to identify specific steps that Panama could take to improve its protection of internationally recognized labor rights.

As a result of this work, Panama has taken several steps to address our concerns. With respect to enforcement of its labor laws, Panama has issued executive decrees to address the misuse of subcontracting and temporary work contracts, to strengthen collective bargaining and the right to strike, and to prevent employer interference in union activities. In addition, Panama's Labor Ministry has issued a resolution to increase labor inspections in the maritime sector and to ensure that maritime workers are aware of their rights and the means to address any problems.

As Panama has strived to improve its tax transparency practices, we have worked with its government to address impediments in its domestic law that have prevented the conclusion of a tax information exchange agreement, known as a TIEA, with the United States. Such an agreement was signed in November and is consistent with internationally agreed standards as established by the OECD. We expect that Panama will ratify the TIEA in the near future.

On February 9th, Ambassador Kirk announced that we would intensify our efforts and our discussions with Panama to complete remaining work. And we have done so. I am pleased to announce that Panama is now in the process of completing work on the last few steps.

The government introduced legislation this week to ensure that companies in the Baru Special Economic Zone will no longer be exempt from key labor rights provisions. Also pending before Panama's National Assembly is legislation to ensure labor rights are respected in export-processing zones and to eliminate restrictions on collective bargaining in companies less than 2 years old. Last evening, both pieces of legislation passed their second reading.

Once all of the outstanding issues are addressed, the administration will be ready to prepare the agreement for congressional consideration. Together, we will ensure that American workers enjoy a level playing field with a trading partner that has adopted strong worker protections and sound tax transparency policies.

I also want to update you briefly on our efforts to intensify our work with Colombia to address outstanding concerns regarding the protection of internationally recognized labor rights, the prevention of violence against labor leaders, and impunity from prosecution. I am pleased to say that this afternoon I will resume high-level discussions with senior advisors from President Santos' administration on how best to advance these goals.

In the meantime, I ask you to keep faith with America's workers by renewing trade adjustment assistance as soon as possible. I urge you also to renew the GSP and the ATPA programs for as long as possible.

We look forward to working with all of you on the aspects of our trade agenda in a manner that builds bipartisan support and that creates new opportunities for the Americans that we serve.

Thank you.

[The prepared statement of Ms. Sapiro follows:]

Statement by Ambassador Miriam Sapiro
Deputy United States Trade Representative

Before the House Committee on Ways and Means
Subcommittee on Trade

Washington, DC
March 30, 2011

Chairman Brady, Ranking Member McDermott, Members of the Committee, I am pleased to have the opportunity to appear before you to discuss the United States-Panama Trade Promotion Agreement.

When I testified before this Committee a few weeks ago on the United States-Colombia Trade Promotion Agreement, I described the Obama Administration's commitment to a robust trade policy that reduces barriers, boosts exports and creates jobs for America's workers and their families. Today I want to reinforce this commitment, as well as report on our progress toward achieving these goals.

As set forth in President Obama's 2011 Trade Policy Agenda, the Office of the United States Trade Representative is moving forward with a comprehensive strategy to open markets, eliminate barriers to U.S. exports, and vigorously enforce our rights under existing trade agreements. We are forging ahead on a variety of important trade initiatives. A team is in Singapore this week to continue negotiations on the Trans-Pacific Partnership Agreement. We are also continuing our efforts to secure an ambitious and balanced outcome in the Doha Round. And, as the President underscored when he spoke to President Medvedev last week, we continue to support Russia's accession to the World Trade Organization (WTO), including by working with you on legislation to end application of Jackson-Vanik to Russia and grant it Permanent Normal Trade Relations this year. All of these efforts have buttressed the Administration's

National Export Initiative. From January 2010-January 2011, exports of goods and services totaled $1.86 trillion, an 18 percent increase over the level of exports in 2009. We remain on pace to meet the Administration's goal of doubling U.S. exports by 2015.

As I testified earlier, the three pending free trade agreements (FTAs) are central to these efforts. Our goal remains to have all three agreements, with their outstanding issues addressed, approved by Congress as early as possible this year. Earlier this month, we notified the full Committee that we are ready to begin collaborative work on the text of the implementing bill for the Korea FTA as soon as you are able to schedule those sessions.

We have also shared publicly information about our ongoing work on issues related to the Panama and Colombia agreements. With the Korea agreement as a model, we are seeking to advance the Panama and Colombia agreements with the broadest possible bipartisan and stakeholder support once the outstanding issues are resolved.

The Panama FTA is important to the United States. Panama is one of the fastest growing economies in Latin America, expanding by 3 percent in 2009 despite the global recession and by over 6 percent in 2010. In 2010, Panama purchased $6.1 billion of U.S. goods, up $1.8 billion, a 40 percent increase from 2009. Panama's strategic location as a major shipping route also enhances the importance of the Agreement. Approximately two-thirds of 14,000 annual Panama Canal transits are bound to or from U.S. ports, and about 10 percent of U.S. international trade passes through the Canal. Currently Panama is in the midst of a $5.25 billion expansion of the Canal, and has identified almost $10 billion in additional infrastructure projects in coming years.

The Agreement, if approved by Congress, will level the playing field by giving American workers, farmers, ranchers, and businesses greater access to Panama's growing market. Currently the U. S. market is already largely open to imports from Panama, with 98 percent entering duty-free under our normal trade relations tariff rates, as well as under the Caribbean Basin Initiative (CBI) trade preference program.

The current average trade-weighted tariff faced by U.S. exporters of consumer and industrial goods to Panama, however, is 7 percent. In some cases, tariffs are as high as 81 percent. The Agreement will eliminate over 88 percent of those tariffs upon entry into force. A majority of all products in key industrial sectors will gain immediate duty free access to the Panamanian market. These include, for example, information technology products, agricultural and construction equipment, infrastructure and machinery products, transportation equipment, autos and auto parts, chemicals (including pharmaceuticals, fertilizers, agro-chemicals, and plastics), environmental products, and medical and scientific equipment. In addition, trade in all textile and apparel goods meeting the Agreement's origin requirements will become duty free immediately, providing new opportunities for U.S. fiber, yarn, fabric and apparel exporters.

U.S. agricultural goods exported to Panama currently face an average tariff of 15 percent, with tariffs on some products as high as 260 percent. More than half of current U.S. farm exports to Panama will become duty-free immediately, while other products will gain duty-free access through tariff rate quotas, with out-of-quota tariffs reduced over time. Commodities that will be duty-free immediately include, for example, high-quality beef, frozen turkeys, sorghum, soybeans and soybean products, wheat, peanuts, whey, cotton, table wine, most fruit and fruit products, most frozen and processed vegetables, most tree nuts, and many processed products.

Products such as standard beef cuts, chicken leg quarters, pork, corn, rice and dairy products will receive duty-free access for specific volumes of product immediately while the out-of-quota tariffs are reduced over time. Duties on most other agricultural goods will be phased out within 5 to 12 years and, for a few of the most sensitive products, within 15 to 20 years.

The Agreement also provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, and will provide greater access to Panama's roughly $18 billion services market. In addition, the Agreement includes provisions that will ensure that Panama observes fundamental transparency principles, including in relation to customs administration, technical barriers to trade, government procurement, investment, cross-border trade in services, financial services, telecommunications and dispute settlement.

As important as these benefits are, the President has made it clear that our agreements must be enforceable, reflect high standards, and be in the clear interests of our workers, farmers, ranchers and businesses. And, as we have repeatedly said, they must be consistent with our values as Americans.

Since this Administration began in 2009, we have held discussions with Panama regarding our concerns over labor and tax transparency issues. We worked with Congress, stakeholders and the Government of Panama to identify specific steps Panama could take to improve its protection of internationally recognized labor rights and to address impediments in its domestic law that had prevented the conclusion of a Tax Information Exchange Agreement (TIEA) with the United States.

As a result of this work, Panama has implemented several administrative actions to improve enforcement of its labor laws in several key areas. Specifically, Panama has issued executive decrees to address misuse of subcontracting and temporary work contracts, to strengthen collective bargaining and the right to strike, and to prevent employer interference in union activities. In addition, Panama's Labor Ministry has issued a resolution to increase labor inspections in the maritime sector, and to ensure that maritime workers are aware of their rights and can file complaints with the Labor Ministry. Panama has introduced legislation to eliminate certain restrictions on labor rights in free trade zones and to extend full collective bargaining rights to workers in companies that have been operating for less than two years. Finally, Panama also has agreed to propose changes to a 2010 law creating a special economic zone in the region of Barú, which would extend full collective bargaining rights to workers as well as important protections for temporary workers.

On the question of improving tax transparency, on November 30, 2010, Panama signed a TIEA with the United States which is consistent with internationally agreed standards. Panama also has enacted a number of changes to its domestic laws which will enable it to fully comply with its obligations to the United States under the TIEA.

Many Members of Congress have made clear their desire to move ahead quickly on the Panama FTA, and it is with a shared sense of urgency that we have been working expeditiously and thoughtfully to see the outstanding issues resolved. We know that other countries are moving ahead on trade agreements with Panama, including Canada. Panama has also joined with its neighbors in Central America to negotiate an agreement with the European Union.

As Ambassador Kirk testified on February 9 before the full Committee, at the President's direction we have intensified our engagement with Panama with the objective of resolving the outstanding issues as soon as possible this year and bringing this Agreement forward. A day later, Ambassador Kirk met with Vice President Varela to assess progress and next steps. Thereafter, at the end of February, our respective teams met to review the outstanding issues in detail. I then met with Vice Minister Alvarez de Soto to confirm this review and chart the path ahead.

I am pleased to announce that Panama is now in the process of completing work on the last few steps. Once the outstanding issues are addressed, the Administration will be ready to prepare the Agreement for Congressional consideration. I have been in regular contact with Vice Minister Alvarez de Soto since our meeting and also met with Panamanian Ambassador Mario Jaramillo to encourage Panama's continued progress. We believe that Panama can take the remaining steps fairly quickly. Once that happens, we will have succeeded in addressing many of the concerns that Members of Congress have raised, putting us in a stronger position to move forward with an Agreement that can gain greater bipartisan support. Our goal remains to ensure that American workers enjoy a level playing field with a trading partner that has adopted strong worker protections and sound tax transparency policies.

Let me also review briefly our efforts to move the Colombia agreement forward since I last testified. We have been working intensively with the Colombian Government, especially during the past few weeks, to address in detail improved protection of internationally recognized labor rights, including protections against violence targeting labor leaders, and prosecuting the perpetrators of such violence, so that we can be in a position also to advance that agreement for your consideration. We remain encouraged by actions the Santos Administration has already taken, and we continue to make important progress in our discussions. We will continue to work closely with President Santos' senior advisers in an effort to address each of the outstanding issues as quickly as possible and, if successful, prepare the Colombia agreement for Congressional consideration.

Finally, I would like to take this opportunity once again to urge renewal of the Generalized System of Preferences (GSP) and Andean Trade Preference Act (ATPA) programs, which have expired. These programs provide important benefits to many of our other trading partners, including Colombia, and merit renewal for as long as possible. While Panama, as a CBI beneficiary, still enjoys preferential access to the United States under that program, other developing countries need GSP and ATPA renewed now. Meanwhile, here at home, the enhancements to the Trade Adjustment Assistance program that were contained in the Recovery Act have also expired, leaving thousands of American workers without the opportunity to receive training on new job skills for the future. A long-term extension of the expanded program would help many who are facing layoffs and seeking re-employment in a persistently challenging job market. I encourage this Committee promptly to renew all of these important programs.

The Administration remains committed to a robust trade policy that will sustain our economic recovery and future prosperity by helping our businesses grow and support more and better jobs for Americans. The Panama FTA is an important part of these efforts. We look forward to working with you on this and the other pending agreements in a manner that builds public and bipartisan support for trade, and the economic growth and jobs that it supports and sustains.

Chairman BRADY. Ambassador, thank you.

For planning purposes for the lawmakers, witnesses, and the audience, we will be recessing now so that Members can attend the bipartisan classified briefing on Libya conducted by the Administration's Cabinet.

We will reconvene promptly at 3:30. And, Ambassador, thank you for your willingness to hang tight with us. And then we will go to questions. And then, at 4:15, we will bring the second panel forward. Again, Ambassador, thank you for your flexibility today.

So we will recess until 3:30.

[Recess.]

Chairman BRADY. Thank you. The hearing will convene. Thank you again for your patience.

The chair recognizes Ranking Member McDermott.

Mr. MCDERMOTT. Madam Ambassador, I have a practical question. We are trying to ramp up exports in this country. And there is a certain feeling that public employees are of no use to the people of America, that we really could get rid of the government and we would still have a system that functioned.

And I would like you to explain what goes on when somebody wants to export something from the United States of America to any country. Can they just walk down to a boat and throw it up on the boat and away it goes? Or do they have to get documents from public officials?

I am thinking in terms of the government shutdown that we are moving toward here shortly. Some people are acting as though that doesn't mean anything. And I remember a call I got in 1995 from a guy who was trying to export grass seed to Saudi Arabia and was going to lose a $500,000 line of credit because he couldn't get one simple export document from the Department of State.

I would like to hear what actually goes into exporting things and what role government employees play in that.

Ms. SAPIRO. Thank you, Congressman.

We are also keeping an eye on the possibility of a shutdown with some concern, as we are working intensively to be able to resolve the outstanding issues with respect to both Panama and also Colombia and hopefully be in a position to present these agreements to the Congress for their consideration.

So we hope very much, for a variety of reasons—and this, obviously, is just one small part of the government, but it is an important priority right now at USTR. So we certainly are keeping an eye on the budget talks and hope that they will be successful so that we will be able to keep working on these FTAs at an intensive pace.

You are quite right, Congressman, that exporting a commodity, for example, from the United States is not as simple as putting it on a boat headed toward Panama or any other country. One of the many benefits of a free-trade agreement is the ability to streamline that process and to make it easier for our exporters, whether they be farmers or ranchers or businesses, to be able to take advantage of the tremendous opportunities that we see in markets in Latin America and elsewhere.

So we, like you, are keeping an eye on the budget talks and hope very much that there will be a resolution soon.

Mr. MCDERMOTT. What do you mean, to streamline the process? What are you thinking? I mean, now we have a free-trade agreement, so if I want to ship something to Oman or Israel or someplace, I just take it down and put it on the ship, right? It is a free-trade agreement; I can send it anywhere I want anytime I want, right?

Ms. SAPIRO. Well, there are customs rules and forms. And what we do through our free-trade agreements is try to standardize those so that it is easier to have convergence between our systems and the system of the foreign trade partner. So we do a variety of things to make sure that, actually, at the border the process is facilitated; we call it customs facilitation.

We also want to make sure that, for example, with respect to an agricultural commodity, that this is something that the other country has already agreed to accept, that it meets certain SPS—sanitary and phytosanitary standards.

And so, as you know, a tremendous amount of effort goes into making sure that the process works as smoothly as possible. But it is complex, and these free-trade agreements do play a role in simplifying the procedures and ensuring common standards in both countries so that we can boost our exports and we can meet the target that the President has set for us.

Mr. MCDERMOTT. What does it mean to the country if the government shuts down, if the ports shut down their ability to move goods for a week or a month?

Ms. SAPIRO. It could certainly be challenging, quite challenging.

Mr. MCDERMOTT. Is that all you think, is just challenging? There would be no economic consequences of that?

Ms. SAPIRO. I believe that there would be. And, as I mentioned, I am concerned about it with respect to the specific issue of the work we are trying to accomplish at USTR but, also, obviously, the broader implications for our economy.

Mr. MCDERMOTT. Thank you.

Chairman BRADY. The chair recognizes Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman.

And thank you, Ambassador.

Is it correct that we have been attempting to get a tax exchange agreement with Panama since 2002?

Ms. SAPIRO. That is correct, Congressman.

Mr. DOGGETT. And as of today, we don't have an agreement that is ratified.

Ms. SAPIRO. We signed—the Department of Treasury——

Mr. DOGGETT. Right.

Ms. SAPIRO [continuing]. Secretary Geithner, did sign the TIEA——

Mr. DOGGETT. Yes, I read his announcement about it. But the Panamanians have not ratified it.

Ms. SAPIRO. The Panamanians have informed us that they are taking steps to ratify that, and——

Mr. DOGGETT. Well, they have had it——

Ms. SAPIRO [continuing]. They expect to—if I may finish, sir——

Mr. DOGGETT. Surely.

Ms. SAPIRO [continuing]. They expect to do that soon.

Mr. DOGGETT. Well, they have had it there since November. When you say "soon," they will be completing their current session in April. Will they have it ratified in April?

Ms. SAPIRO. I have every reason to believe that Panama will ratify the TIEA as part of its broader efforts to remove itself from the OECD list of gray zones, and that they will do it promptly.

Mr. DOGGETT. All right. And so, are you expecting them to complete it before they recess at the end of April?

Ms. SAPIRO. I have every reason to believe that they will do it before they recess.

Mr. DOGGETT. Great. Because if we were to seek information from them today, we would be in no better position than we were in 2002, would we, without the ratification of that agreement?

Ms. SAPIRO. That is an interesting question, Congressman. They have taken steps to enact laws with respect to bearer shares. And, also, they have enacted a law that they call "Know Your Client," which enables them to exchange information with other governments that they had not previously been able to.

So I would have to look a little bit further into that to give you a more precise answer to your question.

Mr. DOGGETT. Okay, I welcome you doing that, because I don't believe, without an information exchange agreement, that unless we wanted to go into Panamanian courts and attempt to enforce our rights there, that we would be in any different position than 7 years through which the Panamanians have drug this thing out.

And you mentioned their desire to get out of the gray zone with OECD. They do not have a tax information exchange agreement with any country other than ours, do they?

Ms. SAPIRO. My understanding, Congressman, is that they have negotiated almost a dozen treaties already. Most of them are called double-taxation treaties——

Mr. DOGGETT. Right, those are tax treaties. But they don't—and they incorporate a tax exchange provision similar to this, but we chose not to go that route since they apparently have little, if any, taxes on foreign entities in Panama, correct?

Ms. SAPIRO. I would have to refer that question, Congressman, to the Department of the Treasury because of its relationship to our Tax Code and tax policies.

Mr. DOGGETT. You don't know what the status is, then, with reference to OECD that you referenced earlier.

Ms. SAPIRO. What I was suggesting we respectfully ask the Department of Treasury to address is the decision to pursue a TIEA rather than a double-taxation treaty.

With respect to the OECD list, my understanding is that, when a country negotiates and signs a total of 12 tax transparency agreements, which I believe can be defined either as double taxation or as a TIEA as long as they deal with the transparency question, then such a country is removed from the list. My understanding, in addition, is that Panama has come very close because it has already signed a total of 11 agreements and has already negotiated an additional 4 agreements that await signature. So I would anticipate that they may well be off the list in the near future.

Mr. DOGGETT. Do those agreements require ratification?

Ms. SAPIRO. I can't speak to the nature of those agreements with other countries. I do know that, in the case of the TIEA, the Department of Treasury concluded it as an executive agreement. Panama does need to go through a ratification process, which it has, I am pleased to say, already started.

Mr. DOGGETT. Okay. And one last question in a different area: From your experience there at USTR, are you aware of any experience that would suggest that public interest representatives, to the modest extent that they have been involved in industry trade advisory committees, have ever caused a problem for USTR or any of its goals?

Ms. SAPIRO. We share, Congressman, your goal of ensuring that there is broad representation across the ITACs, the advisory committees. And we have been working closely with your staff on some concrete recommendations in order to achieve that goal. We already have an unprecedented formal and informal way of ensuring that we include a broad range of voices in our policies——

Mr. DOGGETT. That wasn't my question, though. I just wanted to know if you have experienced any problem——

Chairman BRADY. If I may, since time has expired, perhaps, Ambassador, if you could complete your response in writing to Mr. Doggett.

Ms. SAPIRO. I would be happy to do that.

Chairman BRADY. Thank you.

Ms. JENKINS. is recognized.

Ms. JENKINS. Thank you, Mr. Chairman.

And thank you, Ambassador, for being back to join us again.

As you know, when the U.S.-Panama agreement goes into effect, more than half of current U.S. farm exports will become duty-free immediately. The American Farm Bureau estimates that U.S. farm exports to Panama will then exceed $195 million, doubling our U.S. exports. And as you well know, many of the items that will benefit are processed or semi-processed products, such as high-quality beef, chicken, pork, soybeans, and wheat.

Now, in Kansas, we raise a lot of high-quality beef, chicken, pork, soybeans, and wheat. In fact, we pride ourselves on feeding the world. So I am anxious to see these agreements, as well as the agreements with Colombia and South Korea, approved as soon as possible.

But my question is, how does reducing tariffs on these products prevent U.S. agriculture exports from losing market share to exporters from other countries like Canada, Brazil, and Argentina, as they have done in the case of Colombia? And how will this agreement ensure U.S. competitiveness in years to come?

Ms. SAPIRO. Thank you very much, Congresswoman, for that question. I am very glad that you didn't ask me to compare beef from Kansas to beef from Texas. I was very——

Chairman BRADY. And you know the answer to that.

Ms. JENKINS. Yeah, we tried that the last time.

Ms. SAPIRO. I remember. And, fortunately, none of you asked me for my opinion, so I am going to stay neutral. I enjoy beef from all States in our country that produce it.

But, no, you are quite right to point out the benefits to our agriculture sector from this agreement. It is not currently a two-way street, because much of what Panama exports to us comes in duty-free because it is a CBI beneficiary, whereas our farmers and ranchers face tariffs on their exports to Panama.

So when this agreement is in force, they will benefit greatly, especially in the beef area. The high cuts of beef are going to be duty-free immediately, and additional beef exports will become duty-free over time. So this is an important agreement for your State, in particular.

Ms. JENKINS. Okay. Thank you for that.

As we have seen with Colombia, it is clear that U.S. agriculture producers and exporters will lose valuable markets if these trade agreements are not passed, which will most certainly hurt farmers, ranchers, and other workers in the agriculture sector.

And while the agriculture industry has been one of the few bright spots in our economy, a further delay in implementing these pending agreements will impact not only that industry but also rural America as a whole. In places like my little hometown of Holton, Kansas, a strong agriculture industry is the basis of our economy. And that includes businesses ranging from those that sell and repair equipment, to the Holton Country Mart, Ron's IGA, and Barbara's Beauty Bar.

Can you explain to us what the effect is likely to be on all of those businesses and small communities like my little hometown if we don't pass these agreements?

Ms. SAPIRO. This agreement will benefit U.S. exporters, whether they are large, established companies or small and medium enterprises struggling to get a foothold.

One of the things that the President feels very strongly about is making sure that we have a national export initiative that cuts across all sectors of the economy as well as embraces the SMEs that sometimes can otherwise get left out. So USTR, for example, works closely with SBA and also with Ex-Im and other parts of our government, especially the Department of Commerce, to make sure that we are not overlooking the smaller companies and that, whether they are small farms or they are service providers, if they want to establish a market overseas, that we have the ability to help them do that.

And we would very much like to see the small and medium enterprises across our country reach out to more markets. And for those companies that already are in a market, they typically have only one customer. We would very much like to work with them and see if we can't double, triple, or quadruple the number of customers they have as well as the number of countries that they are exporting to.

Ms. JENKINS. Well, thank you. And I just hope you will be mindful of the effect that these trade agreements have on rural America. We all struggle with the whole issue of rural economic development, and these free-trade agreements will have such a compounding effect in many small, rural communities all across this Nation. They are critical.

So, with that, I would yield back. Thank you.

Chairman BRADY. Thank you.

The chair recognizes Mr. Smith.

Mr. SMITH. Thank you. And I appreciate the opportunity to have a dialogue here.

I would like to begin by associating my concerns with my colleague from Kansas, knowing that we probably have a good partnership in producing high-quality beef, among other products—I guess we will leave it at that.

Now, in technical respects, what would you say are the major differences between the South Korea Trade Agreement and the Panama Trade Agreement?

Ms. SAPIRO. I would say that both agreements embrace high standards across the board. The Panama agreement, in particular, I think, will benefit the relationship because of the infrastructure projects that Panama is already beginning with respect to the

Canal and the additional infrastructure projects that we see coming down the road.

There is also a growing market for service providers. And, frankly, Panama has a growth rate that I am envious of. It is one of the fastest-growing economies in Latin America and Central America today.

So I think there is great potential for our exporters from Nebraska, from Kansas, from Texas, from other States to really make the most of this agreement once it——

Mr. SMITH. Right. I mean, you suggested that there are high standards in both agreements. Are there not high enough standards, then, to buy in here so that we can get this passed?

Ms. SAPIRO. We are working very hard, as I mentioned, to be able to present these agreements to Congress for your consideration.

With respect to the labor chapter of the Panama agreement, there were some concerns, which are now being addressed, with regard to their enforcement in certain sectors, such as maritime, construction, and a few other sectors as well. I am pleased to say that Panama has been addressing those concerns and is even now taking legislative action that, once completed, will put it in a very good position to be able to easily implement the labor chapter.

Mr. SMITH. Is it conceivable that we could get this passed by July 1st?

Ms. SAPIRO. We are working very hard, and so is Panama. The ball is really in their court right now. And I am very encouraged by the actions that they took as late as last evening. So I think they are working at a quick clip. And we are doing everything possible that we can to support them doing that, because this is an agreement that is important to many exporters in this country.

Mr. SMITH. And, finally, do you feel that there might be some downside to delaying?

Ms. SAPIRO. Our market share in Panama has been remarkably stable over the last few years. Our closest competitors are Canada and Europe, and their share is currently a lot lower than ours.

But we are not sitting back, I assure you, Congressman, we are not sitting back and celebrating those statistics. We are working very hard because we share your sense of urgency. This agreement and the other agreements are important to Americans who export.

So we are doing everything possible to work with Congress, to work with our stakeholders, to address the issues that had been identified earlier and that we believe the Panamanian Government is now taking steps to address, and believe that they will do so fairly soon.

Mr. SMITH. Okay. All right.

Thank you, Mr. Chairman. I yield back.

Chairman BRADY. Thank you.

Mr. Buchanan.

Mr. BUCHANAN. Yes, thank you, Mr. Chairman, for holding this.

And, Ambassador, I appreciate your coming.

I represent part of Florida, but being the only Ways and Means member in Florida, we have 14 ports; exports are a huge part of our business there. I know, in my port, it is the closest port to the

Panama Canal. We think we can create 20,000 more jobs just out of our port in Manatee County.

I have been down there; we have met with the Ambassador at the port. I have been down to Panama. I met with the President down in Panama. But it just seems like it has gone on for 4 years, not just this administration but the last 2 years before that.

They seem like they have jumped through a lot of hoops. They love America. They want to do business. They have done a full-court press in terms of this trade agreement. And it seems like it is just some special interests, you know, on our side that are driving the agenda.

And we keep moving the goal post. I mean, you talk about human rights, and I know that is important to everybody, but, at the same token, you could throw that out anyplace, anytime, anywhere. And, obviously, the unions are concerned.

But I can tell you, for States like Florida and Texas, we need to have Panama on line in a bigger way. And we are really losing our credibility, frankly, down there. I have been in business 30 years; I am not a career politician. But if it takes 4 years to get something done, there has to be a question of good faith on our part. And it is really more of a political agenda than it is about doing what is right.

So I don't want to ramble on, but I want to get your comments on that.

Ms. SAPIRO. Thank you, Congressman, for your question.

We share your sense of urgency, and we do want to see this done as quickly as possible. Since we took office in 2009, we have been working with the Panamanian Government to identify the issues of concern. And some of it was with respect to enforcement in the subcontracting area, with respect to temporary workers, and I mentioned maritime workers.

They have been working diligently to address the issues that they could through administrative decrees. There are a few issues that they needed to address through legislation, and they are now in a position where they can move that legislation forward. And I believe they will be able to do so fairly quickly.

One of the laws refers to Baru, which is the special economic development zone where they had had certain exemptions from core labor provisions. And they are now taking steps to remedy that.

Mr. BUCHANAN. What timeframe do you feel like, realistically, we are talking about given where we are with Korea? Korea looks like that is going to get done, we are going to get something here to the Congress. But in terms of Panama, you know, can we get that done before June. Will you get it back to us? I mean, what timeframe are we on?

Because I am concerned, if it gets past this summer and August recess, this thing is going to get much more political and it is not going to get done. Then we drag it on another year and a half. And I just think it is the wrong direction.

Do you have a sense, what would be your commitment or your sense of when we can get this done?

Ms. SAPIRO. Congressman, we would like to see Panama take these final steps as soon as possible, and I have every reason to believe that they are doing so. I believe we are pushing on an open door, as the saying goes, and that they are working rapidly.

The fact that the Baru legislation and the other piece of legislation dealing with export-processing zones and some restrictions in place on companies that are less than 2 years old, these two pieces of legislation are now moving very quickly through their national assembly. So I am hopeful that they will be able to——

Mr. BUCHANAN. Well, I came here in 2007, and we have been talking about Panama ever since I have been here. And I think it is really a shame that we are not finding a way to, you know, put this thing together. And I would be very, very disappointed if this thing ran on, because it would affect a lot of jobs. Florida has 12 percent unemployment; the country has 9 percent. We need those good-paying jobs. We need to get this deal wrapped up with Panama. We needed it yesterday.

It would be great if we could do it with Korea. I think the mindset is, for one reason or another, you are not going to do it that way. But we need to get this done. It means a lot of jobs to Florida. Export opportunities for Florida companies, small and large, are huge. And I hear that from so many people all over the State. I can't tell you the level of frustration among the business community in Florida at our lack of ability to get this thing wrapped up.

Ms. SAPIRO. We share your concern and fully appreciate how important this agreement is, in particular, to Florida.

Mr. BUCHANAN. Okay. Are you going to give me a timeframe? Are you going to tell me when we are going to get it done?

Ms. SAPIRO. We are working quickly. The ball right now is in Panama's court.

Mr. BUCHANAN. How about May?

Ms. SAPIRO. I don't want to give you a date and be wrong. Let me just assure you that we share your sense of urgency and we are working, sometimes around the clock, to encourage Panama to take these final steps. And we believe they will do so.

Mr. BUCHANAN. We really need it for jobs.

I appreciate the opportunity. Thank you, Mr. Chairman. I yield back.

Chairman BRADY. Thank you.

She is dying to say it will be here by July 1st for consideration, so we will just assume that that is the answer.

And, obviously, the reason you get bipartisan support for moving all three is, together, they represent $13 billion in new sales for American companies and farmers and workers. And, you know, in this economy, every customer counts, every sale counts, every job counts. And so the goal of continuing to move all three is because, together, all three are very important to our economy.

Let me ask you, on labor issues, you made reference to Panama having laws made more than a dozen changes to its labor—first, it reopened the agreement, signed and included the bipartisan May 10th agreement on labor, environment, and there were other issues. It has made more than a dozen changes to its labor code; is in the process of moving legislation, as you said, to address other issues. So, clearly, Panama is making additional commitments, and impressive commitments, on labor.

But on tax information and transparency issues, my understanding is that, since 2002, Panama has been a committed jurisdiction, according to OECD, which means they are cooperative regarding tax information. We have had a longstanding mutual legal assistance treaty that covers the exchange of tax information if the question is effectively tied to illegal activities.

Panama has signed a TIEA, has begun to implement it, is in the process of creating a new international tax unit, a unit for international exchange of tax information. It is enhancing its cooperation with double-taxation agreements with 15 countries, sharing tax information. Secretary Geithner recently remarked, with the signing of the TIEA, "this ushers in a new era of openness and transparency for tax information between the United States and Panama."

So, in your view, is Panama taking impressive strides to improve tax transparency?

Ms. SAPIRO. Panama has taken very important steps in the right direction. And I believe that they will follow through on what they have promised to do with respect to the TIEA and with respect to completing the other taxation treaties that will then enable them to be off of the gray list.

We are truly encouraged by their progress, no doubt in part not just because of the FTA but because of the emphasis that the G–20, with U.S. leadership, has put on the need to fight tax havens around the world.

So Panama, for its own reasons, is taking very important steps. And we do welcome what they have done. And we do believe that they will quickly be able to finish their work, both with respect to tax transparency issues and also with respect to the labor code changes that are important to see done.

Chairman BRADY. Thank you, Ambassador. Panama really is a key trading ally, and the improvements they have made and commitments they have made are impressive. And, again, our goal is to accelerate the passage and implementation of all three agreements, and look forward to working with you to do so this summer.

So thank you again for being with us today.

Ms. SAPIRO. Thank you, Mr. Chairman.

Chairman BRADY. At this point, since votes have been called and it is a fairly long series of votes, we will recess this hearing until immediately after the last vote and proceed with the second panel.

Thank you.

Chairman BRADY. The subcommittee will reconvene.

I would like to welcome our second panel. And thank you for your patience today. We don't always control our voting schedule nor the classified briefings, but thank you. We know how busy—Mr. McDermott and I know how busy your lives are, so thank you for sharing time with us today.

Our first witness will be Doug Oberhelman, chairman and chief executive officer of Caterpillar, Inc. He is also testifying on behalf of the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, and the Latin American Trade Coalition.

After him, we will hear from Mr. Gary LaGrange, president and chief executive officer of the Port of New Orleans.

Our third witness will be Mr. Doug Wolf, President of the National Pork Producers Council and also owner and operator of Wolf L&G Farms.

Fourth, we will hear from Mr. Jasper Sanfilippo, president and chief operating officer of John B. Sanfilippo & Son, Incorporated.

And, last, we will hear from Mr. Hal Shapiro, who is a partner at Akin Gump Strauss Hauer & Feld.

Before we begin, I understand that our colleague Mr. Schock, who has been a tremendous advocate in the trade area, would like to give further introduction to Mr. Oberhelman, who is from his district.

Mr. Schock.

Mr. SCHOCK. Thank you, Chairman Brady.

I have the great pleasure this afternoon to introduce to the committee a great friend of my hometown from Peoria, the chairman and CEO of Catepillar, Doug Oberhelman.

Doug joined Caterpillar fresh out of college as a financial analyst. And, over his 35-year career, he has held a variety of positions, including senior finance representative based in South America, district manager for the company's North American Commercial Division, and managing director and vice general manager for strategic planning at Caterpillar Japan, Limited, in Tokyo, Japan.

He was elected as vice president and chief financial officer in 1995. In 1998, he became vice president with responsibility for Caterpillar's engine business. He became a group president and member of Caterpillar's executive office in 2002. And, as group president, he had responsibility for a vast number of functions, from financial products to HR to remanufacturing, just to name a few.

In October 2009, he was named vice chairman and CEO-elect. During this time, he led a team that developed the future strategic plan for the company. And, in 2010, Doug was elected chairman and chief executive officer.

In addition to his work at Caterpillar, he serves as a director for the boards of Eli Lilly and Company, World Resources Institute, Wetlands America Trust, and The Nature Conservancy's Illinois chapter. He is also a member of the board of directors of the Association of Equipment Manufacturers and the Manufacturing Institute. In addition, he is vice chairman and a member of the executive committee of the National Association of Manufacturers.

On a personal note, Doug and Caterpillar have been great citizens of Peoria and the State of Illinois. They take their corporate citizenship responsibility seriously and have provided a foundation for employment in Peoria, Illinois, and our country for decades. In fact, Caterpillar employs 23,000 of its 104,000 employees worldwide in Illinois, with many living and working in the Peoria area. And if you have ever traveled to Peoria—I would encourage to you do so, if you haven't—there is no doubt that their positive presence is felt and seen all over our community.

The truth is, Caterpillar has been an integral part of our country since the company's founding. Cat is the world's largest manufacturer of construction and mining equipment, diesel and natural gas engines, industrial gas turbines, and diesel electric locomotives.

Cat products touch every continent, serving 180 countries. So there may not be a better representative to have before us today to attest to the success of open markets and free trade than Caterpillar.

Once against, Mr. Oberhelman, I appreciate your willingness to testify before our committee. And I look forward to the conversation this committee will have you with about the significance of the U.S.-Panama Free Trade Agreement.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Schock.

We also have another key leader of the House Ways and Means Committee, Dr. Boustany, whom I have asked to say a few words to introduce his home State witness, Mr. LaGrange.

Doctor?

Mr. BOUSTANY. Well, Chairman Brady, thank you. It is a great privilege to introduce a real leader in the State of Louisiana.

Gary LaGrange has served as president and CEO of the Port of New Orleans since 2001. And, under his direction, we have seen a tremendous expansion of the port activities, despite a number of adversities, including something called Hurricane Katrina. In fact, Gary, with his leadership on the ground, got that port back up and operational within 2 weeks of the hurricane coming through, which was vital to getting New Orleans relief and moving the city forward in a recovery effort.

Gary has overseen a number of many expansions since taking his lead position at the Port of New Orleans, but he has also held a number of leadership positions at the State and national level, as well, including chairman of the National Waterways Conference; he serves on the board of the Waterways Council, as well. He is past chairman of the American Association of the Port Authorities, which is an alliance of 350 ports in the Western Hemisphere; serves on the board of Gulf Ports Association of the Americas and is past chairman and past president of the Gulf Intracoastal Canal Association.

He also was named to the Federal Reserve Bank of Atlanta's Advisory Council on Trade and Transportation. And Gary has also received international recognition, in that he was named to the Hall of Fame by the International Maritime Association at the United Nations.

Gary has been a great leader on maritime issues and international trade.

And it is a real privilege, Gary, to have you here today. Thank you.

Chairman BRADY. Thank you, Dr. Boustany.

And, welcome, Mr. LaGrange.

We welcome all of you, look forward to your testimony. I would also ask our witnesses to keep their testimony to 5 minutes.

Mr. Oberhelman, your written statement, like all those of the witnesses, will be made part of the record. And you are recognized for 5 minutes.

STATEMENT OF DOUGLAS R. OLBERHELMAN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CATERPILLAR, INC., ON BEHALF OF CATERPILLAR, INC., THE U.S. CHAMBER OF COMMERCE, THE NATIONAL ASSOCIATION OF MANUFACTURERS, THE BUSINESS ROUNDTABLE, AND THE LATIN AMERICA TRADE COALITION

Mr. OBERHELMAN. Thank you, Chairman Brady and Ranking Member McDermott, Congressman Schock, for that very warm welcome and support of our initiatives, including trade and beyond trade, for Caterpillar. We really appreciate that from all of you.

In recent months, Caterpillar has been identified in the press as the company leading the charge to ensure that the Obama administration and Congress enact all three—I repeat all three—pending free-trade agreements, not just Korea but also Colombia and Panama. I would like to begin by saying, that is a fair characterization and one we are quite proud to accept. In fact, our support for expanding trade goes beyond the pending free-trade agreements. We also strongly support completing the WTO Doha round, finishing the Trans-Pacific Partnership, and bringing Russia into the WTO as well.

But for today's purposes, I want to focus on the pending Latin American agreements, with special emphasis on Panama.

You may have seen Politico.com today. We ran an ad; it features four of our machines. All four were made in the State of Illinois. It appears there is a generator set off to the side, which was made in the State of Indiana. And, with any luck at all, the ocean freighter passing through the canal would have auxiliary power from Caterpillar made in Indiana, as well. So, just a reminder of how important this really is, and I would like to add this to the record, if I could.

Caterpillar and the organizations I represent strongly support the U.S.-Panama Free Trade Agreement, as well as Colombia and Korea, because they promote sustainable economic growth, both at home and abroad.

In Latin America, we now have agreements with Mexico, Chile, Central America, the Dominican Republic, and Peru. I am pleased to report that Caterpillar exports have dramatically increased following the approval of these free-trade agreements. Since the agreements have gone into effect, Caterpillar exports last year are up fivefold to Mexico, threefold to Chile, and up by more than 60 percent to Peru.

Others have benefited, as well, and not just from the Latin agreements, but from all of them. Allow me to explain: It is no secret that the United States consistently runs a trade surplus in services and agriculture. But what the public and many policymakers don't realize is that the U.S. also runs a trade surplus in manufactured goods, but only with the 17 countries, as a group, that have implemented free-trade agreements with the United States.

The important fact is that free-trade surplus gets lost in the discussion because there is a large trade imbalance for manufactured goods from non-free-trade-agreement partners, but the message about the success of free-trade agreement is—excuse me—is too important to get lost.

It is proof that American manufacturers can compete with anyone, provided they have open markets and a level playing field. That is exactly what trade agreements like the ones with Panama, Colombia, and Korea will provide.

In addition to helping U.S. manufacturers of industrial goods, the Panama Free Trade Agreement will substantially improve market access for American farm products, including pork, consumer goods, and services. It will bolster the rule of law, investor protections, internationally recognized workers' rights, transparency, and intellectual property protections.

Some dismiss Panama as a small country that should not be a U.S. trade priority. Others take trade with Latin America for granted. We think that is incredibly shortsighted. Last year, Caterpillar exported more products to Panama than Korea. We exported more products to Colombia than India or Germany. And, as a region, last year, Caterpillar exports to Latin America increased 58 percent, which is more than any other region of the world. Today, 6 of our 10, at Caterpillar, largest export markets are in Latin America. They are great friends of the United States, as well.

We are pleased that Congress and many in the administration now recognize the importance of trade with Latin America. To demonstrate that commitment, we hope the first order of business will be passing the agreements with Colombia and Panama as well as the agreement with Korea.

I would be remiss if I didn't also emphasize the other reasons to support the Panama trade agreement. Most importantly, Panama, like Colombia and Korea, is an ally and friend to the United States. It has major ports to both the Atlantic and Pacific, and the Canal is a major transit point for world trade.

Panama is a good place to invest. One-third of its population speaks English, it is a fully dollarized economy, and it is strategically located, which makes it a good place to locate logistics and customer support operations, which we have done. At Cat, we are pleased with the success of our investments in Panama and with the high quality of our Panamanian workforce.

For Caterpillar, the Canal expansion is particularly exciting. The expansion is one of the biggest public works projects in the world in years. We are doing our best to earn business associated with the Canal and all other infrastructure projects being built in Panama.

If we can sell our U.S.-produced products to Panama duty-free, it will help our customers provide us with a competitive edge over products made elsewhere, like China and Japan. In practical terms, the agreement means that Panama's 10 percent duty on off-highway trucks built in Decatur, Illinois, motor graders built in Arkansas, scrapers built in Decatur, and diesel engines in Indiana would be eliminated.

What does the U.S. have to do in return, as it relates to mining and construction equipment? The answer is——

Chairman BRADY. Mr. Oberhelman, I apologize——

Mr. OBERHELMAN. That is okay.

Chairman BRADY [continuing]. Since you have waited and been patient all day. I would like to give you some time during my questioning to be able to——

Mr. OBERHELMAN. I understand fully.

Chairman BRADY. No, thank you. You all are so very kind.

[The prepared statement of Mr. Oberhelman follows:]

Hearing of the U.S. House of Representatives
Committee on Ways and Means Subcommittee on Trade

"Second in a Series of Three Hearings on the Pending, Job-Creating Trade Agreements: The U.S.-Panama FTA"
Wednesday, March 30, 2010
1100 Longworth House Office Building

Testimony by Mr. Doug Oberhelman
Chairman and CEO, Caterpillar, Inc.
Peoria, Illinois

on behalf of

Caterpillar
U.S. Chamber of Commerce
National Association of Manufacturers
Business Roundtable

and the

Latin American Trade Coalition

Caterpillar Washington Office
1425 K Street, NW, Suite 400, Washington, D.C. 20005, (202) 466-0672

Chairman Brady, Ranking Member McDermott, Members of the Subcommittee:

I'm Doug Oberhelman, Chairman and CEO of Caterpillar, Inc. Today, I have the honor to testify in support of the U.S.-Panama Free Trade Agreement (also known as the "Panama FTA" or "FTA") on behalf of Caterpillar, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Business Roundtable. Caterpillar is also pleased to co-chair the Latin American Trade Coalition, a broad-based group of 1,200 U.S. companies and associations that directly employ more than 10 million American workers — all of which have joined together to press for approval of the Panama and Colombia FTAs.

In recent months, Caterpillar has been identified in the press as the company leading the charge to ensure that the Obama Administration and Congress enact all three pending Free Trade Agreements (FTAs) — not just the Korea FTA, but the Colombia and Panama FTAs as well. That's a fair characterization, and one we are proud to accept.

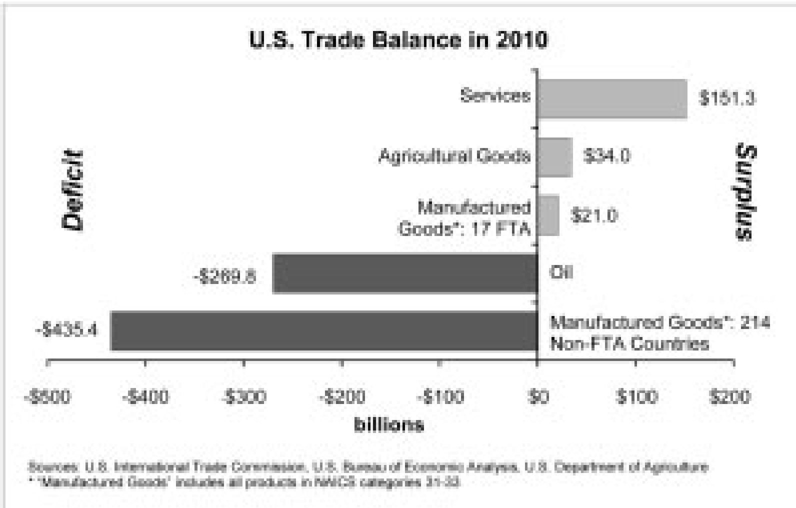
In fact, our support for expanding trade goes beyond the pending FTAs. We also strongly support completing a balanced and ambitious World Trade Organization Doha Development Agenda, finishing the Trans Pacific Partnership, and bringing Russia into the WTO in a commercially meaningful way so it plays by the same rules as everyone else. We also support renewal of the Andean Trade Preference Act and the Generalized System of Preferences.

But for today's purposes, I want to focus the pending Latin American FTAs, with special emphasis on Panama. Caterpillar and the companies that I represent strongly support the Panama FTA as well as the Colombian and Korean FTAs because they promote sustainable economic growth — and the creation of good jobs — both at home and abroad.

In Latin America and the Caribbean, the United States now has FTAs with Mexico, Chile, Central America, the Dominican Republic, and Peru. I'm pleased to report that Caterpillar exports have dramatically benefited from these FTAs. Since the FTAs have gone into effect, Caterpillar exports last year have risen five-fold to Mexico, three-fold to Chile, and by more than 60% to Peru. Others have benefited as well, and not just from the Latin American FTAs but from all of them.

Allow me to explain. It is no secret that the United States consistently runs a trade surplus in services and agriculture. However, the public and many policymakers too often fail to realize that the United States also runs a trade surplus in manufactured goods with our 17 FTA partners. The United States had a combined trade surplus of $21 billion in manufactured goods trade with our current FTA partners in 2010, 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 is nearly $70 billion. During that same period, our manufacturing goods deficit with countries with which we do not have trade agreements accumulated to $1.3 trillion (see graph on next page).

But the message about the success of FTAs is too important to get lost. It is proof that American manufacturers can compete with anyone — provided they have open markets and a level playing field. That's exactly what trade agreements like the ones with Panama, Colombia, and Korea will provide.



In addition to helping U.S. manufacturers of industrial goods, the Panama FTA will substantially improve market access for American farm products, consumer goods, and services. For Caterpillar, the agreement means that Panama's 10% duty on off-highway trucks, motor graders, wheeled scrapers and diesel engines will be eliminated. The agreement will also bolster the rule of law, investor protections, internationally recognized workers' rights, transparency and intellectual property protections.

Some dismiss Panama as a small country that should not be a U.S. trade priority. Others take trade with Latin America for granted. We think that's incredibly short-sighted. Last year, Caterpillar exported more U.S. products to Panama than Korea. We exported more products to Colombia than India or Germany. In fact, Caterpillar exports to Latin America increased 58% last year — a faster rate of growth than we saw to any other region of the world. Today, six of Caterpillar's ten largest export markets are in Latin America.

Nor is Caterpillar the only company benefiting from booming exports to Latin America. U.S. exports to its FTA partners in Latin America and the Caribbean surpassed $200 billion in 2010 — a sum larger than U.S. exports to China, Japan, and Korea combined.

Beyond the purely commercial benefits, the Panama FTA will also strengthen the century-old U.S.-Panama geostrategic partnership. From the time of the Panama Canal's construction, the United States and Panama have made common cause on issues from security to commerce. The United States is either the origin or the destination for over half of all cargo passing through the canal.

With one-third of its population speaking English fluently and a fully dollarized economy, Panama is a great place to do business. At Caterpillar, we are pleased with the success of our investments in Panama and with the high quality of our Panamanian workforce.

Panamanian President Ricardo Martinelli has continued to strengthen his country's ties with United States at a time when a number of countries in the region are taking a different course. President Martinelli has called the FTA his administration's "number one priority." Panama's legislature displayed similar enthusiasm with a strong vote in favor of the FTA just weeks after its signing, and the agreement incorporated new labor and environmental provisions reflected in the May 10 (2007) Bipartisan Agreement on Trade. Both the Panamanian administration and the legislature have been responsible partners in working to meet the additional requests that have subsequently been raised by the U.S. Congress and Administration. Notably, the Panamanian government signed a Tax Information Exchange Agreement with the United States on November 30, 2010.

We are pleased that Congress and many in the Administration now recognize the importance of trade with Latin America. To demonstrate that commitment, we hope the first order of business will be passing the trade agreements with Colombia and Panama as well as the agreement with Korea.

Opening Markets

From the perspective of the business community, the FTA's chief virtue is that it further opens Panama's market to products and services made by American workers, farmers, and companies. Panama's purchases of U.S. manufactured goods and farm products reached $5.58 billion last year, and the $5.69 billion U.S. merchandise trade surplus with Panama in 2010 was among the largest with any country. Goods exports to Panama from Illinois — where Caterpillar is headquartered — have grown quickly in recent years, from $29 million in 2005 to surpassing $117 million in 2010, led by rapid growth in exports of machinery. The United States is far and away Panama's largest trading partner, accounting for 30% of Panama's imports and 39% of its exports.

Trade barriers can take many forms. One of the most onerous trade barriers is inadequate infrastructure. After all, if you can't physically get your products to market, the magnitude of the tariffs doesn't really matter.

This is one reason why the expansion of the Panama Canal — one of the biggest public works project since the Three Gorges Dam in China — is so exciting for Caterpillar. With many newer, larger ships unable to use the canal — which is already at capacity — it takes longer than it should for some U.S. exports to reach overseas markets. An expanded canal will allow many American manufacturers to be more competitive by shortening their supply chain and reducing inventories.

We are also excited about construction of a new metro system in Panama City and the Petaquilla mine, which will be the 5th largest copper mine in the world. We are doing our best to earn the business associated with the canal and all the other infrastructure projects being built in Panama. If we can sell all our U.S.-produced products to Panama duty-free, it will help our customers and provide us with a competitive edge over products made in other parts of the world.

U.S. export success in Panama comes despite a fundamental imbalance in the proverbial playing field. The United States unilaterally opened its market to Panama and its neighbors through the Caribbean Basin Initiative in 1983 and expanded that access through successive acts with the support of strong bipartisan majorities in Congress. Currently, under the Caribbean Basin Trade Partnership Act (CBTPA), fully 96% of all imports from Panama already enter the U.S. market duty-free. By contrast, Panama's average applied duty on imports of manufactured goods is 7.1%, and agricultural products face even higher tariffs. In other words, Panama enjoys virtually free access to our marketplace, while U.S. products continue to be taxed at steep rates when entering Panama.

Critically, the FTA will cut Panama's tariffs on U.S. products, and as a result it will transform an imbalanced trade relationship into a more mutually beneficial, reciprocal partnership. The day the agreement enters into force, 88% of Panama's tariffs on U.S. consumer and industrial goods and a majority of the tariffs on U.S. farm exports will be eliminated. In turn, the agreement locks in Panama's access to the U.S. market, creating a new level of certainty for investors and traders in that country.

The unilateral preferences have always been subject to re-authorization by Congress with no guarantees that they would be continued. As you know, Colombia recently lost its own preferential access to the U.S. market with the lapse of the Andean Trade Preference Act in February, generating hardship for many Colombians. Without the extension of these preferential programs, Panama also risks losing a significant part of its exports, resulting in lost jobs and a lower standard of living.

The FTA makes Panama's favorable access to our markets permanent and provides additional benefits in the form of improved market functioning and enhanced economic growth. In other words, the FTA will provide continuity in a long-term U.S. policy with regard to Panama — one that boosts economic development and reinforces democratic consolidation.

Manufacturing: The Panama FTA offers immediate opportunities for the U.S. manufacturing sector. The fastest-growing product categories among U.S. manufactured exports to Panama have been sophisticated machinery, organic chemicals, and sound equipment. From 2005 to 2010, 42 states increased their exports of manufactured goods to Panama, all of which occurred despite sometimes steep tariffs on U.S. exports. The Panama FTA promises to not only accelerate this growth by reducing the landed cost of U.S. goods to Panama considerably, but it will open up opportunities in new product categories. The benefits of the agreement are significantly front-loaded. When the agreement goes into effect, 88% of U.S. exports of consumer and industrial goods will become totally duty-free immediately. The remainder will be duty-free within ten years.

For Caterpillar, the world's largest producer of earthmoving equipment, expanding the Panama Canal is an important opportunity. If we can sell our U.S.-produced products throughout Panama duty-free, it will provide us with a competitive edge over products made in other parts of the world. Consider Panama's significant tariffs on manufactured goods. Panama's tariff on off-highway trucks and diesel engines is 10%. For other Caterpillar-type products tariffs range from 3% to 5%.

For other manufactured products, Panama's tariffs are even higher. Panama's tariff on autos is 15%. For furniture, the tariff is 15%. For computers, Panama's tariffs are anywhere from 5% to 15 %. By eliminating these duties, the FTA will provide the average Panamanian consumer with a higher standard of living by offering more product choices at lower prices.

What does the United States have to do in return? For mining and construction equipment, like off-highway trucks and bulldozers: absolutely nothing. The U.S. tariff on these products is already at zero, and that won't change.

Agriculture: The FTA will provide new market opportunities for a wide range of U.S. agricultural products. Upon implementation, over half of these products will be duty free, with tariffs on most remaining U.S. farm exports phased out within 15 years. The agreement is comprehensive in its coverage, providing commercially meaningful access for U.S. agricultural priorities while taking into account both U.S. and Panamanian agricultural sensitivities. The agreement also creates a mechanism for sanitary and phytosanitary cooperation and should ease related non-tariff barriers to U.S. agricultural exports to Panama. The American Farm Bureau Federation expects exports to grow by $195 million per year upon full implementation. Every additional billion dollars worth of agricultural exports creates 9,000 new jobs. In other words, the FTA could directly generate nearly 2,000 farm jobs.

Government Procurement: Panama is currently negotiating accession, but is not yet a party, to the World Trade Organization's Government Procurement Agreement. If approved, the Panama FTA will guarantee U.S. firms the opportunity to bid for Panamanian government contracts on a level playing field. Guaranteed and favorable access to these procurement opportunities is important to a broad range of U.S. businesses.

Services: Service providers will also benefit significantly from the agreement. Panama's service sector is a growing market and accounts for 80% of Panama's GDP or $13.6 billion, while 67% of its labor force is employed in service industries. The Panama FTA's services commitments cover both the cross-border supply of services and the right to invest and establish a local service presence and are strengthened by a set of detailed disciplines on regulatory transparency, which is fundamental to meaningful services market access.

Panama agreed to exceed commitments made in the WTO, and to dismantle significant services and investment barriers, such as lifting restrictions on investment in retail trade, ensuring access to contracts related to the Panama Canal, and providing new access in professional services that previously had been reserved exclusively to Panamanian nationals. These commitments and improvements in Panama's services regime will allow U.S. firms to take full advantage of the benefits of the agreement across all sectors, including express delivery, logistics, energy, audiovisual, computer, construction, wholesaling, health, education, and environmental services.

The Rule of Law

Intellectual Property: The agreement will strengthen protection and enforcement of U.S. trademarks, patents, and geographic indicators, internet domain names and copyrighted works, creating new opportunities for U.S. innovation-based and creative industries in Panama. In specific terms, the Panama FTA includes strong intellectual property enforcement mechanisms and penalties provisions, including the criminalization of end-user piracy and counterfeiting and the authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. The agreement also provides necessary mechanisms to fight the problem of trans-shipment of counterfeit goods with specific provisions that are aimed at goods-in-transit.

Investment Protections and Dispute Settlement: U.S. direct investors in Panama will benefit from the strong investment chapter in the agreement, particularly the sections dealing with investment protections and dispute settlement. Both the Colombia and Panama FTAs incorporate many of the basic protections that Americans and foreign investors already enjoy in the United States, from protections found in the Due Process, Equal Protection and Takings Clauses of the U.S. Constitution to the Administrative Procedure Act's protection against "arbitrary and capricious" regulatory action and a host of other federal and state laws.

The FTAs' dispute settlement procedures are open to the public and allow interested parties to provide their input. As such, these trade agreements provide an opportunity for the partner countries to improve their investment climate by undertaking legal and judicial reforms and resolving investment disputes.

Increased Transparency: The agreement's dispute settlement mechanisms provide for open public hearings, public access to documents, and the opportunity for third parties to submit views. Transparency in customs operations will aid express delivery shipments, and will require more open and public processes for customs rulings and administration. For customs procedures, Panama committed to publish laws and regulations on the Internet and, to the extent possible, will publish proposed regulations in advance and allow interested parties an opportunity to comment on the proposals. Moreover, transparency in these areas is an essential tool in combating corruption and promoting habits of transparency in government.

Growth, Income, and Jobs

The Panama FTA is a great step forward in the evolution of our trading relationship with Panama from one based on unilateral trade preferences to reciprocal market access. As such, the economic, employment, and pocketbook impacts of the agreement are quite positive. Indeed, the FTA is expected to make valuable contributions to economic growth, incomes, and employment opportunities in cities and states across the country.

Both Texas and Florida surpassed $1 billion in exports to Panama in 2010, while nine states, including Illinois, had exports to Panama in excess of $100 million. Nineteen more enjoyed exports of at least $10 million. Fully 45 states saw their exports to Panama at least double between 2005 and 2010. This market is growing more important every year for producers all across the United States.

It's not only workers at large companies like Caterpillar who benefit from increased trade. Panama is also a great market for U.S. small business. In 2008 (the latest year for which data are available), more than 8,600 U.S. companies exported their products to Panama. Of this total, 7,275, or 85%, were small and medium-sized enterprises. These so-called SMEs exported $1.65 billion worth of merchandise to Panama in 2008. This represented 36% of all U.S. merchandise exports to Panama, well above the 30.2% share of U.S. exports that our smaller companies contribute globally.

With its economy overwhelmingly based on services, Panama's economy complements the strengths of the U.S. economy. Panama has no significant textile or apparel industry, and its agricultural exports (mostly tropical products) largely do not compete with U.S. farm and ranch products.

Additional Benefits

In addition to contributing strongly to the expansion of trade and economic relations between the United States and Panama, the FTA will lend a helping hand for a close ally in Latin America and will enhance U.S. efforts to strengthen democracy in the region. The embrace of democratic norms throughout the hemisphere over the past 25 years has been remarkable. But in some countries, populist economic policies and weak political parties, among other factors, have recently endangered this progress. The recent surge in populism shows that democratic elections do not by themselves guarantee the rule of law.

While questions of the rule of law in the region may legitimately be addressed in a number of ways, we believe that ambitious and comprehensive free trade agreements would do a great deal to enhance the rule of law and transparent governance in the region. While the commercial benefits are substantial, they go beyond just opening overseas markets for America's workers, farmers and companies. These agreements assist in the creation of a transparent, rules-based economic environment, which is a critical element in the success of democratic institutions and market-based economic policies.

The commercial benefits of recent free trade agreements have surpassed all expectations. Consider the U.S.-Chile Free Trade Agreement, which was implemented on January 1, 2004, and immediately began to pay dividends for American businesses and farmers. While the U.S. International Trade Commission (USITC) had forecast total export growth of 18-52% over the first 12 years of the agreement's implementation, U.S. exports to Chile quadrupled over just seven years (2003-2010). This outcome is eight times as robust as the USITC's most optimistic scenario. Given the similarities between the Panama FTA, Colombia FTA, and the U.S.-Chile Free Trade Agreement, we may surely expect impressive benefits from this new agreement as well.

While exports are important, we are also pleased to report that imports from Chile have also increased. As we all know, free trade is about more than just exporting — it is about providing more choices at lower costs for consumers, which leads to a higher standard of living. Sometimes, as is the case with Chile, free trade is about having access to fresh grapes in the winter and more crushed grapes (i.e., wine) year-round. With Panama and Colombia, our consumers will benefit from more access to tropical fruits, seafood, flowers, and high-quality coffee among other products.

Conclusion

Mr. Chairman, Representatives, earlier today I spoke at the U.S. Chamber of Commerce. My message was straightforward. American companies and workers can successfully compete in world markets providing we are: (1) willing to address our fundamental competitive challenges, (2) tackle those issues with a sense of urgency, and (3) hold leaders accountable for results. I believe these principles apply to individuals, businesses, and nations.

In many ways the trade agreements with Panama, Colombia, and Korea provide a chance to demonstrate what I mean. Opening foreign markets is a fundamental competitive challenge if the United States is going to increase exports and generate more American jobs. We need to open those markets with a sense of urgency, before our competitors in Asia, Europe, South America, and Canada leapfrog us with their own trade agreements.

This brings me to the issue of accountability. I trust that the time for avoiding eye contact on tough issues and coming up with excuses for inaction is over. We need to work together to improve U.S. competitiveness, open foreign markets and create U.S. jobs. If we succeed, accountability is a concept we will all embrace. But, if "business as usual" becomes our guiding principle, accountability is something we will all fear.

Let's not take any chances. I urge you to act now to pass the Panama, Colombia, and Korea FTAs. These agreements promote U.S. exports and support American jobs. More importantly, they also promote understanding and improve living standards of citizens in both countries.

That concludes my remarks. At this time I would be pleased to answer any questions. Thank you very much.

Chairman BRADY. Mr. LaGrange.

STATEMENT OF GARY P. LAGRANGE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, PORT OF NEW ORLEANS

Mr. LAGRANGE. Thank you, Mr. Chairman. We certainly appreciate the opportunity to be here and speaking on behalf of all of the ports in the United States, some 160 strong, not just New Orleans.

In recent studies completed by Parsons Brinckerhoff, Booz Allen Hamilton, the AT Carney Group, and the Marbridge Group—four different studies—all studies pointed out that, with the expansion of the Panama Canal by 2014, we can expect incremental increases in containers coming through the Canal at a rate of about 25 million new TEUs by the year 2028.

The Port of New Orleans firmly and publicly supports the U.S.-Panama agreement to enhance trade and investment activities with Panama. Panama has been a longstanding strategic partner of the United States, and, as a strong ally of our country, the U.S.-Panama agreement will further strengthen our economic relationship with an important regional partner and protect our critical strategic interests associated with the Canal.

Through its direct facilitation of trade and commerce, the Port of New Orleans is one of the primary economic engines of the gulf coast, along with Houston and the Port of Houston, of course, and serves as a key gateway to the mouth of the Mississippi River system for international and domestic trade. Three hundred and eighty thousand jobs are accountable because of the Port of New Orleans alone. That is direct employment, by the way.

Approximately $37 billion in national economic benefits comes from the transportation and the manufacturing of goods that flow through the port. As a container and general cargo port, the Port of New Orleans serves approximately 30 States in mid-America, the Midwest, and up the Ohio River Valley on a navigable waterway that consists of 14,500 miles. The port is also the home of six Class I railroads, which came in the early part of last year when they realized the connectivity due to the waterway.

Mr. Chairman, the continuing development of the American export market would be enhanced through the implementation of the U.S.-Panama agreement. International agreements that help facilitate trade are a significant benefit to our Nation's ports. According to the American Association of Port Authorities, United States ports are responsible for moving 99 percent of all of our overseas cargo in America. And more than 13 million Americans are working in port-related jobs. The completion of the pending agreement with Panama will increase the cargo movement through these ports and improve employment opportunities for American workers.

With respect to Panama, American ports play an integral trade role, which would be expanded even more under the pending agreement. The United States is a dominant trading partner for Panama. In 2009, the United States exports to Panama were valued at $4.3 billion, and almost 30 percent of Panama's imports came from the United States. As exports increased from the United States to Panama, the Port of New Orleans and other U.S. ports will be called upon to help meet the increase transportation needs.

A review of the agricultural product trade provides—and I am going to yield to my colleagues up here some insight as to how the U.S.-Panama agreement would contribute to domestic economic growth. For example, the U.S. Farm Bureau estimates that U.S. agricultural exports alone could be increased by more than $195 million annually with the implementation of the pact.

Such exports, the United States International Trade Commission has predicted that the largest growth will accrue in U.S. exports for rice to Panama, which are expected to increase by approximately 145 percent. Other U.S. export gains could be expected in the oil, machinery, and other key market areas that already contribute to a robust trade with Panama. In fact, estimates show that, when the U.S.-Panama agreement is fully implemented, U.S. exports to Panama of passenger vehicles would increase by 43 percent; U.S. exports of beef and pork, 94 and 96 percent, respectively.

Significantly, when discussions concern Panama, they must necessarily address the impact of the expansion of the Panama Canal, as mentioned earlier, on international trade. A significant amount of commercial vessel traffic passing through the Canal is engaged in trading activities with the United States.

Furthermore, the Port of New Orleans, in collaboration with other river ports, ocean-going, and inland waterway vessel operators, manufacturers, agricultural interests, and other groups have been working strenuously to ensure that product dimensions in the lower Mississippi River navigation channel are properly maintained by the Army Corps of Engineers to meet the commercial vessel transportation needs of the United States in the future.

Currently, over 500 million tons of cargo moves from the inland waterways of America through New Orleans, and that is why we have to keep that plug open in the bathtub.

I want to thank you for your time on behalf of all of American and United States ports, Mr. Chairman. It has been a pleasure to be here. And I really appreciate all of you taking this matter so seriously as you are. It is a huge shot in the arm at a time that we all need it.

Thank you.

[The prepared statement of Mr. LaGrange follows:]

Gary P. LaGrange
President and CEO
Port of New Orleans

Testimony before the
Subcommittee on Trade
House Committee on Ways and Means

Hearing on the Pending Trade Agreement with Panama

March 30, 2011

Mr. Chairman and Members of the Subcommittee:

As the President and Chief Executive Officer of the Port of New Orleans, I appreciate the opportunity you have provided me today to highlight the trade, economic and other benefits that our country would realize through implementation of the pending United States-Panama Trade Promotion Agreement (U.S.-Panama Agreement).

Mr. Chairman, the Port of New Orleans firmly and publicly supports the U.S.-Panama Agreement to enhance trade and investment activities with Panama. Panama has been a long-standing, strategic partner of the United States, and as a strong ally of our country, the U.S.-Panama Agreement will further strengthen our economic relationship with an important regional partner and protect our critical strategic interests associated with the Panama Canal.

Through its direct facilitation of trade and commerce, the Port of New Orleans is one of the primary economic engines for the Gulf Coast, and serves as a key gateway at the mouth of the Mississippi River system for international and domestic trade. About 380,000 jobs in the United States depend on the cargo that is handled by the Port of New Orleans. Some $37 billion in national economic output is derived from the transportation and manufacturing of goods that flow through the Port. As a container and general cargo port, the Port of New Orleans serves approximately 30 states in the American Midwest through the 14,500-mile inland waterway system, and is a port hub for six Class One railroads and the interstate highway system. As a result, the Port is one of America's most intermodal ports – in addition to excellent rail access, the Port is served by approximately 50 ocean carriers, 16 barge lines, and 75 trucking lines. Within the past 10 years, the Port has invested more than $400 million in new state-of-the-art wharves, terminals, expanded marshalling yards, multi-purpose cranes, and transportation infrastructure. Needless to say, because of its geographic location and modern facilities, the Port of New Orleans is well-positioned to provide key access for American exports to the global market.

Mr. Chairman, the continuing development of that American export market would be enhanced through the implementation of the U.S.-Panama Agreement. International agreements that help facilitate trade are of significant benefit to our Nation's ports. Generally, according to the American Association of Port Authorities, U.S. ports are responsible for moving 99 percent of America's overseas cargo, and more than 13 million Americans are working in port-related jobs. The completion of the pending agreement with Panama will increase the export and import cargo moving through these ports and improve employment opportunities and security for port industry workers. Job creation will not be limited to the maritime industry, as the Colombia, South Korea and Panama trade agreement implementation is expected collectively to create more than 200,000 new jobs in numerous fields.

With respect to Panama, American ports play an integral trade role which could be expanded even more under the pending U.S.-Panama Agreement. The United States is the dominant trading partner of Panama. In 2009, total United States exports to Panama were valued at $4.3 billion, and almost 30 percent of Panama's imports came from the United States. As exports increase from the U.S. to Panama, the Port of New Orleans and other U.S. ports will be called upon to help meet the increased transportation demands.

A review of the agricultural product trade provides some insight as to how the U.S.-Panama Agreement would contribute to domestic economic growth. For example, the U.S. Farm Bureau estimates that U.S. agricultural exports alone could increase by more than $195 million with the implementation of the Panama pact. Of such exports, the U. S. International Trade Commission has predicted that the largest growth will accrue in U.S. exports of rice to Panama, which are expected to increase by approximately 145 percent. The Port of New Orleans and several other ports in southeastern Louisiana are the primary export points for our Nation's agricultural products. Rice also happens to be one of Louisiana's top agricultural exports. Therefore, there is no doubt that increased agricultural exports from the implementation of the U.S.-Panama Agreement would have a beneficial economic impact on the Port of New Orleans.

Other U.S. export gains could be expected in the oil, machinery, vehicles, medical equipment and other key product areas that already contribute to a robust trade with Panama. In fact, estimates show that when the U.S.-Panama Agreement is fully implemented, U.S. exports to Panama of passenger vehicles would increase by 43 percent, while U.S. exports of beef and pork would increase by 94 percent and 96 percent respectively.

Significantly, when discussions concern Panama, they must necessarily address the impact of the expansion of the Panama Canal on international trade. More than 60 percent of the current vessel traffic passing through the Panama Canal originates from or is enroute to ports on the Gulf and East Coasts of the United States. With the expected completion of the Panama Canal expansion project in 2014, the Port of New Orleans has undertaken a number of specific measures to handle increased commercial vessel traffic. In particular, the Port is working on a $250 million project to expand the size and capabilities of its primary container terminal on the Mississippi River, the Napoleon Avenue Container Terminal. The first stage of that project is underway and includes the installation of two new container gantry cranes and the addition of five acres of marshalling area, both scheduled for completion in September. Altogether, the Port has invested approximately $108 million in construction projects to be started or completed during this fiscal year, including the container yard improvements, a new dockside refrigerated warehouse and terminal, the complete refurbishment of the Julia Street Cruise Terminal, improvements to the Port's breakbulk facilities, and the construction of a new modern dredge. Furthermore, the Port, in collaboration with river ports, oceangoing and inland waterway vessel operators, manufacturers, agricultural interests, and other groups, has been working strenuously to ensure that project dimensions of the Lower Mississippi River navigation channel are properly maintained by the Army Corps of Engineers to meet the commercial vessel transport needs for United States exports. This Lower Mississippi River navigation channel maintenance will be even more vital when the Panama Canal enhancement project is completed in order to ensure access for larger commercial vessels to the Port of New Orleans and its distribution network.

And Mr. Chairman, there are two trust funds that are important to our marine transportation system and relevant to our discussions concerning the U.S.-Panama Agreement. In order to ensure that the United States is fully prepared to handle the increased flow of trade that the U.S.-Panama Agreement and the widening of the Panama Canal will generate, we must also invest in our inland waterways infrastructure that is vital to the efficient delivery of cargo throughout the United States. Improvements to the process of funding for the Inland Waterways Trust Fund (IWTF) and the expenditure of funds from the IWTF on critically important locks and dams must be made to fully realize the benefits of the higher volumes of trade that will be moving through our river system.

Relevant to the competitiveness of United States exports in international trade, it is critically important that our Nation's ports are able to adequately handle the deep draft commercial vessels that are the principal "vehicles" for the facilitation of international commercial trade. To that end, the House Ways & Means Committee previously worked to establish the Harbor Maintenance Trust Fund (HMTF) in 1986 to provide funding for the maintenance and operation of our Nation's ports and harbors. However, since that time, almost $6 billion has accrued in the HMTF account and has not been otherwise used for its intended trade facilitation purposes. The Port of New Orleans and other port and maritime interests from around the country look forward to working with you and your colleagues in the effort to increase the use of HMTF funding to facilitate international trading activities.

Mr. Chairman, the U.S.-Panama Agreement represents an opportunity to increase the exports on which America's ports rely. The Port of New Orleans supports the immediate implementation of this important trade agreement in order to enhance our Nation's business and economic activities, and to further strengthen our relationships with Panama, our vital strategic partner in Latin America.

Mr. Chairman, thank you for allowing me to appear before you today, and I look forward to any questions that you or the Subcommittee members may have.

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Chairman BRADY. Thank you for joining us.
Mr. Wolf.

STATEMENT OF DOUG WOLF, PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL

Mr. WOLF. Good afternoon, Chairman Brady, Ranking Member McDermott, and distinguished Members of the Subcommittee on Trade. I am Doug Wolf, president of the National Pork Producers Council and a pork producer from Lancaster, Wisconsin. I appreciate the opportunity to appear before the committee today.

The future of the U.S. pork industry and the future of America's family hog farms like mine depend on continued expansion of exports. I am highly dependent on exports as a revenue source. Without industry wide exports, the price I would receive for my hogs would not allow me to remain in business. In fact, for every hog marketed in 2010, approximately $56 was due to export revenue.

The U.S. is now the low-cost producer of the safest, most nutritious pork in the world, which has established us as the number-one global exporter. Last year, nearly 20 percent of the pork produced in the United States was exported, compared with only 6 percent in 2000. In 2010, the United States exported more than 1.9 million metric tons of pork, valued at $4.8 billion.

There is no disputing that trade agreements have been a major factor in the rapid growth in U.S. pork exports over the last two decades. For example, since the year before NAFTA was implemented in 1994, U.S. pork exports to Mexico have increased 780 percent, now valued at $986 million. Similar growth has been seen with Australia, CAFTA, and Peru trade partners.

Increasing pork exports is important to many more Americans than just pork producers. The U.S. pork industry supports an estimated 550,000 domestic jobs; 110,000 of these result from U.S. pork exports. Just last year, U.S. pork exports grew by almost $500 million.

The USDA estimates that each $1 billion in additional agricultural exports generates approximately 8,400 new U.S. jobs. For the meat sector, however, USDA puts the job-creating number at more than 12,000. So the increase in pork exports last year created an additional 6,000 new jobs.

According to Iowa State University economist Dermot Hayes, the Panama trade promotion agreement, when fully implemented, will increase U.S. live hog prices by 20 cents per animal and create approximately 213 full-time positions in the pork industry. We market over 100 million hogs annually in the United States. That means that this agreement will generate over 20 million additional dollars in the U.S. pork industry.

I think it would be in the interest of the committee to also know that Dermot Hayes, Dr. Hayes, found that both the Colombia and Korean FTA, combined, would increase live hog prices by $11.15 per animal and create over 10,000 direct pork-industry jobs.

If we fail to implement the FTA with Panama, and Canada implements an FTA with Panama, Dr. Hayes says the U.S. will be out of the Panama market in 10 years. Likely, we will be out of the Korean market in 10 years and the Colombian market in 10 years if the U.S. fails to implement these agreements because of FTAs that those nations have concluded with the EU and Canada respectively.

The Panama trade promotion agreement will create important new opportunities for U.S. pork producers by providing immediate duty-free treatment of certain pork products while other pork products will receive immediate expanded market access through tariff-rate quotas. In addition to favorable market access provisions, significant sanitary and technical issues have been resolved that ensure that U.S. pork exports will not be blocked by unnecessary sanitary barriers.

Pork producers are joined by virtually all U.S. food and agriculture producers in supporting the Panama FTA. By a letter dated February 14th, 2011, which is included in our submitted statement, 50 agricultural trade associations expressed strong support for the Panama agreement. Plain and simple, the Panama FTA is good for pork producers, good for U.S. Agriculture, and good for the United States.

At this time of very tight budgets, America's pork producers are not asking for U.S. tax dollars. We are simply asking for the opportunity to compete. The National Pork Producers Council calls on the Obama administration to send up the implementing legislation soon, and urges Congress to approve the Panama trade promotion agreement and other pending FTAs before the end of the summer.

Thank you.

[The prepared statement of Mr. Wolf follows:]

Statement Of

the

National Pork Producers Council

Before the

U.S. House of Representatives
Subcommittee on Trade
of the Committee on Ways and Means

On the

Panama Trade Promotion Agreement

March 30, 2011

The National Pork Producers Council is an association of 43 state producer organizations, representing the federal and global interests of 67,000 U.S. pork operations, which annually generate approximately $15 billion in farm gate sales and add nearly $35 billion to the U.S. gross domestic product.

The future of the U.S. pork industry and of America's family hog farms depend on the continued expansion of exports. Demand in the United States for pork continues to grow, but demand in global markets for pork is growing much faster. The United States must take the steps necessary to increase our access to those overseas markets or we will start to lose even the shares of those markets we currently have.

In short, there is no standing still when it comes to trade. If we do not implement the trade agreements we have negotiated, such as the Panama Trade Promotion Agreement, and fail to move ahead with new ones, we will forfeit those sales to foreign competitors who are aggressively negotiating free trade deals of their own.

In 2010, nearly 20 percent of the pork produced in the United States was exported compared with only about 6 percent 10 years ago. In 2010, the United States exported more than 1.9 million metric tons of pork, valued at $4.8 billion. Virtually all of this trade today is the direct result of U.S. efforts over the years to tear down foreign import barriers through bilateral, regional and multilateral trade agreements.

There is no disputing that free trade agreements have been a major factor in the rapid growth in U.S. pork exports over the last two decades. Since the year before NAFTA was implemented in 1994, U.S. pork exports to Mexico have increased 780 percent to $986 million last year; since the year before the Australia FTA was implemented, our exports to that country have grown by 1,300 percent to $148 million; since the year before the Central America FTA was implemented, U.S. pork exports to the CAFTA countries have increased by 313 percent to $119 million; and in the two years since the Peru FTA took effect, our pork exports to that South American country have almost doubled to $1.2 million.

The United States is now the lowest-cost pork producer in the world, and we have established ourselves as the No. 1 global exporter. But we will not stay in that position, even as the lowest-cost producer, if competitor countries cut trade deals in key markets and the U.S. does not. How could we possibly compete in a foreign market if we face tariffs that may almost double our price to consumers and our competitors are free of those tariffs? This is what is happening and will continue to happen if we sit on the sidelines as other nations implement free trade deals.

But increasing pork exports is important to more Americans than just pork producers. The U.S. pork industry supports an estimated 550,000 domestic jobs, 110,000 of which are the result of U.S. pork exports. And the industry generates more than $97 billion annually in total U.S. economic activity. For each 1 percent increase in the size of the U.S. pork industry, the U.S. economy creates 920 full-time pork industry jobs and 4,575 jobs in total. And for each additional 1 percent of U.S. pork production that is exported, live hog prices increase by approximately $3 per hog, making the total value of exports worth $56 per hog. Higher prices eventually stimulate additional pork production, and the industry expands to meet the new opportunity, thus creating more jobs. Just last year, U.S. pork exports grew by almost $500 million. The U.S. Department of Agriculture estimates that each $1 billion in additional agricultural exports generates approximately 8,400 new U.S. jobs. For the meat sector, however, USDA puts the job-creating number at more than 12,000. So, the increase in pork exports last year created about 6,000 new jobs.

According to Iowa State University economist Dermot Hayes, the Panama Trade Promotion Agreement would increase U.S. live hog prices by $0.20 per animal and create approximately 213 full-time positions in the pork industry and in supporting sectors.

As an aside, Hayes found that the Colombia FTA would increase live hog prices by about $1.15 per animal and create 919 new jobs, and the FTA with South Korea would increase live hog prices by nearly $10 per pig and create over 9,100 pork industry jobs. NPPC strongly supports all three of the pending FTAs.

Hayes's calculations assume this growth even with Canada and the EU implementing FTAs with Korea and with Canada implementing an FTA with Colombia. But he also found that if foreign FTAs take effect and the United States fails to implement its own FTAs, our pork exports will decline and we will lose jobs. For example, he calculates that under the previous scenario, within 10 years the United States would be completely out of the Korean pork market, currently our sixth best in the world, because the EU is implementing its FTA with Korea. And, according to Hayes, if we fail to implement our FTA with Colombia, we would lose that market in 10 years to Canada, which is moving forward and implementing its FTA with Colombia. Likewise, Hayes says we will be out of the Panama market in 10 years if we fail to implement our FTA with Panama and Canada implements its FTA with Panama. While the United States is the top global pork exporter and the world's lowest-cost producer of pork, it cannot compete with zero tariffs. We must not allow our competitors to have that advantage.

The Panama Trade Promotion Agreement will create important new opportunities for U.S. pork producers. U.S. pork exports to Panama are currently restricted by a very limited quota and out-of-quota duties as high as 80 percent. Under the Agreement, however, pork variety meats will receive immediate duty-free treatment, and other pork products will receive immediate expanded market access through tariff rate quotas.

In addition to the favorable market access provisions, significant sanitary and technical issues have been resolved. By a letter dated December 20, 2006, the Panamanian government confirmed as part of the FTA talks that it would recognize the meat inspection system of the United States as equivalent to its own meat inspection system. This technical agreement ensures that U.S. pork producers will benefit from the Panama Trade Promotion Agreement without being blocked by unnecessary sanitary barriers.

Panama does not currently have an FTA in place with any major pork exporting country, but it (along with other Central American nations) finalized free trade agreements with Canada and the EU in 2010. Once again, we will win if we implement the Panama Trade Promotion Agreement, and we will lose if we do not.

Pork producers are joined by virtually all of U.S. food and agriculture in supporting the Panama FTA – as well as the pending FTAs with Colombia and Korea. By a letter dated February 14, 2011, which is attached, 50 agricultural trade associations expressed strong support for the Panama agreement. Plain and simple: The Panama FTA is good for pork producers, good for U.S. agriculture and good for the United States.

Before concluding, it must be noted that U.S. trade policy does not exist in a vacuum. It is not separate and apart from our business conducted inside the borders. So U.S. domestic policy can and does affect our exports. Currently, we are awaiting from USDA a final rule on the buying and selling of livestock and poultry, which, if implemented as currently drafted, would have a devastating impact on our producers. According to an analysis of the GIPSA rule conducted by Informa Economics, it would cost the U.S. pork industry nearly $400 million annually. Industry analysis of the regulation concludes that it likely will have a chilling effect on innovation and flexibility, leading to a race toward mediocrity. It will create legal uncertainty that will drive costs higher and cause an increase in vertical integration in the livestock sector, driving producers out of the business and possibly affecting supplies. None of that bodes well for our exports. Again, free trade agreements and our position as the world's lowest-cost producer have made U.S. pork exports extremely attractive around the globe. But if we no longer are the lowest-cost producer, our exports will become less competitive with other countries, and all the FTAs in the world won't help us much. NPPC continues to urge USDA to scrap the current GIPSA rule and to write a regulation that sticks to the five mandates it was given by Congress in the 2008 Farm Bill.

At this time of very tight budgets, America's pork producers are not asking for U.S. tax dollars. We receive no subsidies and we seek no subsidies. What we are asking is that our government take actions necessary to keep us competitive in global markets so that we can retain and expand those markets and, in turn, can keep creating new U.S. jobs. NPPC calls on the Obama administration to send up the implementing legislation soon and urges Congress to approve the Panama Trade Promotion Agreement and the other pending FTAs before the end of summer.

February 14, 2011

The Honorable Barack Obama
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

Many of the undersigned food and agriculture organizations first declared their support for the Colombia and Panama free trade agreements (FTAs) in 2007. Four years of trade benefits for U.S. farmers, ranchers and food processors have now been forfeited by our inaction on these agreements, and competitor countries have taken advantage of this lapse to grab U.S. market shares. It is time to bring this situation to an end.

We greatly appreciate Ambassador Kirk's recent statement to Congress that the Administration is committed to intensifying negotiations with Colombia and Panama and to resolving the issues that have prevented you from submitting the implementing legislation to Congress. We urge you to direct U.S. negotiators to move forward with these efforts as quickly as possible.

Colombia and Panama each have undertaken important changes in policies to correct problems identified by members of Congress. There is little debate that those governments have worked hard to address U.S. concerns. We believe that a strong and mutually beneficial relationship between our respective nations may well advance legitimate U.S. objectives in these areas more than continuing to withhold approval of the FTAs. At some point, the current approach could cause us to lose not only the trade agreements but the friendships of those important regional allies.

As you know, each agreement will provide important new market access benefits to U.S. food and agricultural exports that will in turn create U.S. jobs and strengthen rural economies. Many U.S. food and agricultural products will become eligible for duty-free treatment in those countries immediately upon entry into force of the agreements, and virtually all will receive duty-free treatment over specified phase-in periods.

According to the American Farm Bureau Federation, the U.S.-Colombia FTA would result in U.S. agricultural export gains of more than $815 million per year at full implementation, and the Panama FTA would add another $195 million. This extra $1 billion in exports would generate 6,000-8,000 new jobs here at home. But we are already several years behind in implementing the agreements, and those jobs are going elsewhere.

Colombia is on the verge of implementing FTAs with Canada and the European Union, and other major agricultural exporting countries, such as Argentina and Brazil, already have preferential access to that market. Our share of that market in wheat, feed grains and other products is certain to plummet unless we act promptly to correct these inequities. According to USDA, the U.S. share of Colombia's total agricultural imports has already fallen from almost 44 percent in 2007 to 27 percent in 2009.

Mr. President, implementation of these agreements, along with the Korea FTA, will significantly advance your effort to double U.S. exports over five years. On the other hand, because these countries are negotiating agreements with some of our main competitors, the failure to implement the agreements will be a real set-back to that objective. Once again, we urge you to move forward rapidly to finalize the FTAs and submit the implementing bills as soon as possible.

Sincerely,

American Farm Bureau Federation
American Feed Industry Association
American Frozen Food Institute
American Meat Institute
American Peanut Product Manufacturers, Inc.
American Seed Trade Association
American Soybean Association
Animal Health Institute
Blue Diamond Growers
California Table Grape Commission
Commodity Markets Council
Corn Refiners Association
Distilled Spirits Council of the United States
Grocery Manufacturers Association
Idaho Barley Commission
International Dairy Foods Association
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen's Beef Association
National Chicken Council
National Confectioners Association
National Corn Growers Association
National Council of Farmer Cooperatives
National Grain and Feed Association
National Meat Association
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Potato Council
National Renderers Association
National Sorghum Producers
National Sunflower Association
National Turkey Federation
North American Equipment Dealers Association
North American Export Grain Association
Northwest Horticultural Council
Produce Marketing Association

Sweetener Users Association
U.S. Apple Association
U.S. Canola Association
U.S. Dairy Export Council
U.S. Livestock Genetics Export, Inc.
U.S. Wheat Associates
United Egg Association
United Egg Producers
USA Dry Pea & Lentil Council
USA Poultry & Egg Export Council
USA Rice Federation
Western Growers Association

cc: The Honorable Ron Kirk, U.S. Trade Representative
The Honorable Tom Vilsack, U.S. Secretary of Agriculture

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Chairman BRADY. Thank you, sir.
Mr. Sanfilippo.

STATEMENT OF JASPER SANFILIPPO, JR., PRESIDENT AND CHIEF OPERATING OFFICER, JOHN B. SANFILIPPO & SON, INC.

Mr. SANFILIPPO. Good afternoon, Chairman Brady, Ranking Member McDermott, Members of the Subcommittee. I am Jasper Sanfilippo, president and chief operating officer of John B. Sanfilippo & Son. And I am honored to testify before the Subcommittee on Trade regarding the benefits of the pending free-trade agreement with Panama.

My company strongly supports passage of the agreement, which we believe will allow us to reach new customers by removing barriers to trade and investment.

In 1922, John B. Sanfilippo & Son began as a pecan-shelling company in Chicago, Illinois. Over the last 85 years, our company has diversified production to include a wide variety of nuts and other snack products, both through private label and brands like our Fisher Nuts and Orchard Valley Harvest. Headquartered in Elgin, Illinois, we employ over 1,500 people. With facilities located in Gustine, California; Selma, Texas; Bainbridge, Georgia; and Garysburg, North Carolina, JBS is a public company with annual sales of over $600 million.

Our company plays an important role between growers and consumers as we handle nuts throughout the supply chain, from shelling, blanching, roasting, canning, packaging, and distribution. We purchase raw walnuts, almonds, pecans, and peanuts from over a thousand growers from suppliers in California and throughout the lower southern United States, including Florida, Texas, and Kansas.

Our company began as a small storefront operation, but we are now selling to over 50 countries worldwide. Like many American companies, JBS sees exports as one of our greatest opportunities for growth. Today, exports represent about 10 percent of our total sales. Our long-term corporate objective is to diversify globally and increase our sales to about 25 percent. We believe our brand, innovation, and our reputation for quality will help us accomplish this goal.

In addition, we have also implemented a strategy to grow with our domestic partners as they enter new international markets. For example, Walmart, one of our largest retail customers, has a retail presence in 14 international markets, offering a global platform for market penetration that otherwise does not exist in our industry.

Twelve years ago, we began selling to Walmart in Mexico, and today we are exporting to its stores in Central America, Japan, China, and Brazil. In addition to Walmart, we are now selling to Comercial Mexicana and Chedraui, local Mexican retail chains that may not have considered our products if they had not seen them on a Walmart shelf.

International growth has been positive, increasing demand for our 1,000 growers and suppliers. Over the last 15 years, we have increased our staff by 700 people and we have modernized four facilities.

Despite this success, we continue to face barriers to exports. Tariff and non-tariff barriers often affect our ability to compete globally. Tariffs range from 15 percent in Panama to 14 percent in Brazil and to over 50 percent for some products in China. These duties translate to a significant price premium on the retail shelf, often making our products considered a luxury.

We are pleased, therefore, that the United States has negotiated a comprehensive free-trade agreement with Panama. Panama is currently one of our best markets in Central America due largely to the purchasing power of the customers in the country, the lack of currency fluctuations, and the relatively strong recognition of our

Fisher brand. We have been in the market for 11 years and currently export between $500,000 to $750,000 annually.

Under the agreement, duties on our products will be eliminated within 10 years of implementation. Several categories, such as almonds and walnuts, will receive immediate duty-free treatment. This will allow us to price our products competitively in the market and enable us to reach a new class of customers at that lower price. Our experience in the Dominican Republic proves that; since the CAFTA–DR went into effect, our sales have grown around 20 percent annually.

The Panama agreement will also allow us to compete more effectively with our Asian competitors, who often enjoy a price advantage due to currency fluctuations or the cost of labor or other inputs. Likewise, we face increased competition from the EU as it negotiates its own agreements with Panama and Colombia.

The Panama agreement will also eliminate restrictions on foreign investment on multi-brand retailers. Currently, foreign retailers are prohibited from investing in the grocery retail sector. We are hopeful that removing this restriction will allow some of our business partners to open stores in Panama so that we can grow and follow them with their business.

Thank you for the opportunity to present our views before this committee. We strongly believe that free-trade agreements will help our company to compete in global markets. We hope the committee will have the opportunity to consider and pass this agreement this summer.

[The prepared statement of Mr. Sanfilippo follows:]

Testimony

Of Jasper Sanfilippo Jr.
President and Chief Operating Officer
John B. Sanfilippo & Son, Inc.

before Committee on Ways and Means
Subcommittee on Trade

on The Pending Free Trade Agreement with Panama

March 30, 2010

WRITTEN TESTIMONY OF

JASPER SANFILIPPO JR.
JOHN B. SANFILIPPO & SON, INC.

BEFORE THE

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

MARCH 30, 2011

Good afternoon Chairman Brady, Ranking Member McDermott, members of the Subcommittee. I am Jasper Sanfilippo Jr., President and Chief Operating Officer of John B. Sanfilippo & Son Inc., and I am honored to testify before the Subcommittee on Trade regarding the benefits of the pending free trade agreement with Panama. My company strongly supports passage of the Panama Trade Promotion Agreement. We believe this agreement will help make us more competitive in Panama, allowing us to reach new customers by removing barriers to trade and investment, expanding U.S. export opportunities in the region.

Company Overview

Established in 1922, John B. Sanfilippo & Son (JBSS) began as a pecan shelling company in Chicago, Illinois. Over the last 85 years, our company has diversified production to include a wide variety of nut and other snack products. Our products reach consumers through retail, export, industrial, food service, airline catering and contract manufacturing distribution channels. These include private label customers and under our own well-known brands such as Fisher Nuts and Orchard Valley Harvest ®.

JBSS plays an important role in the grower to consumer supply chain as we handle nuts through shelling, blanching, roasting, canning, packaging and distribution. A critical part of our business also rests on our product and packaging innovation, as we strive to be the first in the market to respond to changing consumer tastes in snacks and candies.

We are a vertically integrated business, purchasing raw walnuts, almonds, pecans and peanuts from over 1,000 growers and suppliers in California and the Southern United States including California, Florida, Kansas, and Texas. We also offer the added value on raw imported fruits and nuts such as, cashews, brazil nuts and macadamias by processing and packaging them in the United States for sale domestically and internationally.

Today, John B. Sanfilippo employs over 1,500 people and is headquartered in Elgin, IL. However, given the breadth of our domestic sourcing, the company has processing facilities strategically located in Gustine, California and Selma, Texas; Bainbridge, Georgia and Garysburg, North Carolina. JBSS is a public company with over $600 million in annual sales.

International Growth and the Importance of Exports

Our company began as a small, storefront operation, but over the years our international business has grown significantly. While the majority of our nut products are destined for domestic consumption, we are now selling to over 50 countries worldwide. Like many American companies, JBSS sees exports as the greatest opportunity for growth. Today exports represent 10%, or $60 million of our total sales. Our long-term corporate objective is to diversify globally, with exports increasing to represent twenty-five percent of total sales.

We believe that our brand, our reputation for quality, and product innovation will help us accomplish this goal. In addition, a key component of our export growth strategy has been to align our business with our large domestic partners, and to grow with them as they enter new markets. Walmart, for example, is one of our largest retail customers both within and outside the United States. With a retail presence in 14 international markets, Walmart offers a global platform for market penetration that otherwise does not exist in the nut industry. A longtime supplier to the retailer, JBSS partnered with the company in 1996 to supply its "Great Value" private brand snacks in addition to our branded products.

The impact of this relationship has been mutually beneficial. Walmart is confident that JBSS offers innovative, safe and quality products to meet customer needs. In return, Walmart offers JBSS direct access to consumers who would have otherwise been difficult to reach. In addition, partnering with a well-known retailer helps our company to add credibility to our reputation as we seek new customers in international markets. In some ways, our access through Walmart serves as a calling card to other retailers in foreign markets who often walk aisles to compare product assortment. For example, in addition to Walmart, in Mexico we also now sell to Comercial Mexicana and Chedraui, local Mexican retail chains that may not have considered our products if they had not seen them on a Walmart shelf. A tribute to the value of our partnership, two years ago JBSS initially only had business with Walmart in Mexico. Today exports have grown exponentially to include Central America, Japan, China and Brazil.

As you might expect, the impact of our international growth has been positive for the company and has increased demand for our 1,000 growers and suppliers. Over the last 15 years we have increased our staff by 700 people and modernized 4 facilities. Our sourcing in the United States has also increased to meet this new overseas demand, helping to support farmers and their families.

Opportunities and Challenges to International Growth

As I have discussed, access to international markets are critical for the growth of our company. Our primary strategy is to follow our large domestic customers overseas. In this fashion, we can bring the quality and innovation we pioneered in the United States to customers in new markets. But as successful as we have been with this strategy, we continue to face barriers to exports that impede our ability to grow internationally.

Specifically, tariff and non-tariff barriers often affect our ability to compete against European and Asian competitors. Tariffs range from 15% in Panama to 14% in Brazil to over 50% for some products in China. These additional duties translate to a significant price premium on the retail shelf, making our products a luxury in some markets. Additionally, we are often challenged by packaging and labeling requirements as well as technical sanitary and phytosanitary standards that are often arbitrary and can add cost to business, without adding anything to the quality or safety of the product.

Benefits of the Panama Free Trade Agreement

We are pleased therefore, that the United States has negotiated a comprehensive free trade agreement with Panama. Panama is currently one of our best markets in Central America due largely to the purchasing power of our customers in the country, the lack of currency fluctuation due to dollarization, and the relatively strong recognition of the Fisher Brand. We have been in the market for 11 years, and currently export from $500,000 to $750,000 annually.

We are confident that the free trade agreement will be good for our business. As noted above, we currently face duties of between five and fifteen percent on our nut products. These duties will all be eliminated within ten years of the agreement going into force, and several categories (almonds, walnuts) will receive immediate duty free treatment. The duty reductions will allow us to price our products more competitively in the market and enable us to reach a new class of customers at that lower price point. Our experience in the Dominican Republic proves this point. After the implementation of the CAFTA-DR agreement, we were able to significantly grow our market presence. Since CAFTA-DR went into effect, our sales have grown around 20% annually.

The Panama agreement will also allow us to compete more effectively with our Asian competitors, who often enjoy a price advantage due to currency fluctuations or the cost of labor and other inputs. A similar argument could be made in Colombia as well. Our European competitors would enjoy a price advantage over U.S. exports, should the European Union implement their free trade agreements with Colombia and Panama before the United States.

We are also pleased the Panama agreement will eliminate restrictions on foreign direct investment on multi-brand retail. As you may be aware, foreign retailers are now prohibited from investing in the grocery/retail sector in Panama. Given that a significant portion of our business is in private label products, we are hopeful that removing this restriction will allow some of our business partners to open stores in Panama so we can grow our private label business with them.

Closing

Thank you for the opportunity to present our views before this committee. We strongly believe that free trade agreements will benefit JBSS by removing barriers to exports, helping us compete more effectively with our foreign competitors. We hope the Committee will have the opportunity to consider and pass the agreement this summer. I am happy to answer any questions you may have.

Attachment:
John B. Sanfilippo & Son, Inc.
Production and Distribution Center Locations

Chairman BRADY. Thank you, sir.
Mr. Shapiro.

STATEMENT OF HAL S. SHAPIRO, PARTNER, AKIN GUMP STRAUSS HAUER & FELD, LLP

Mr. SHAPIRO. Thank you, Mr. Chairman.

Chairman Brady, Ranking Member McDermott, Members of the Committee, it is an honor to appear before you today. My name is Hal Shapiro, and I am a partner at the law firm of Akin Gump in Washington, D.C. I formerly served as associate general counsel in the Office of the U.S. Trade Representative and as senior advisor for international economic affairs at the National Economic Council.

I think, but I am not sure, the reason I am here today is because I wrote a book on fast-track and U.S. trade agreements that skyrocketed into the top 4 million of the Amazon.com best-seller list. And, Mr. Chairman, for the record, my wife didn't even make it through the first chapter, so you can imagine how excited I am that someone would actually hear my views on this subject.

Mr. Chairman, when we gather here today at the most promising moment in years to advance the U.S. international trade agenda, our economy is emerging from a deep and painful recession, restoring the confidence needed for the United States to lead market-opening initiatives. President Obama has mobilized his administration through the National Export Initiative in order to double U.S. exports by 2014. At the end of 2010, U.S. exports had grown by 17 percent, and administration officials believe the country is on track to meet the President's challenge.

As this committee well knows, three pending bilateral free-trade agreements—those with Korea, Colombia, and the one we are here today to discuss, Panama—are central elements in the U.S. trade agenda.

The Korea agreement would be the United States' most commercially significant free-trade agreement since NAFTA. The ITC has estimated that the reduction of Korean tariffs and TRQs on goods would annually add $10 billion to $12 billion to U.S. GDP and roughly $10 billion to our exports to Korea. Under the agreement, 95 percent of bilateral trade would become duty-free within 3 years. Thus, swift action on that agreement would be one of the most effective ways to help our economy grow more rapidly.

As Ambassador Sapiro testified earlier today, the administration is also continuing to work with the Governments of Colombia and Panama to resolve all outstanding issues. Ambassador Sapiro explained that U.S. and Panamanian negotiators met in February and agreed upon actions that, when taken by Panama, will ready the agreement for congressional consideration.

Before turning to the specifics of the Panama agreement, allow me, as a former U.S. trade official who has written and taught on the subject, to say that I believe U.S. international trade agreements should serve three aims: They should enhance our national security, they should strengthen our economy, and they should promote our values. And these three aims are best achieved when our agreements have bipartisan input and support. In my view, when work on the Panama agreement is completed, it will satisfy all of these points.

First, in terms of our national security, Panama is an important and dependable ally of the United States in a critical part of the world. The United States and Panama have shared a geopolitical and economic interest dating back to the 1800s and to the opening of the Panama Canal in 1914. Panama has proved to be a steadfast friend to the United States at a time when relations with some countries in Latin America have been uneven. The agreement would serve to make our ties to Panama stronger and more enduring.

Second, in terms of economics, the United States has much to gain from the agreement. Panama has a rapidly growing economy and is one of the few Latin American countries with which the United States has a merchandise trade surplus, the largest in the region. When the Panama agreement enters into force, 88 percent of U.S. merchandise exports will enter Panama duty-free, with remaining tariffs phased out over 5 to 10 years. The ITC has found that the agreement's main effect would be to increase U.S. exports, while causing little growth in U.S. imports from Panama.

Third, the negotiations appear to address elements that should allow the Panama agreement to garner bipartisan support and reflect a wide range of values Members on both sides of the aisle represent. For example, concerns have been raised here and in the past about the transparency of tax information and labor laws in Panama.

On taxes, as we have discussed today, Panama and the United States have entered into a tax information exchange agreement. Panama has not yet ratified that agreement, but I hope it will do so very soon. And Ambassador Sapiro indicated that may occur.

On labor and environment, the Panama agreement does not just seek to lock in existing standards, as some past U.S. agreements have done. Rather, it calls for enhanced standards, subject to strong enforcement mechanisms. Panama has worked hard to make progress in the labor area, and I trust it will continue to do that rapidly.

Panama deserves credit for working diligently with the administration to address these issues. It is my hope that the remaining steps outlined by the administration are taken swiftly and the agreement will forge even closer bonds between the United States and this important strategic partner.

Thank you.

[The prepared statement of Mr. Shapiro follows:]

Statement by Hal S. Shapiro

Before the House Committee on Ways and Means
Subcommittee on Trade

Washington, D.C.

March 30, 2011

Chairman Brady, Ranking Member McDermott, Members of the Committee:

It is an honor to appear before you today. My name is Hal Shapiro, and I am a partner with the law firm of Akin Gump Strauss Hauer & Feld in Washington, D.C. I formerly served as Associate General Counsel in the Office of the U.S. Trade Representative and as Senior Advisor for International Economic Affairs at the National Economic Council. My testimony today reflects my views alone and not those of my firm or any clients.

We gather today at the most promising moment to advance the U.S. international trade agenda in the past few years. Our economy is emerging from a deep and painful recession, restoring the confidence needed for the United States to lead market opening initiatives. President Obama has mobilized his Administration through the National Export Initiative in order to double U.S. exports by 2014. At the end of 2010, U.S. exports had grown by 17 percent, and Administration officials believe the country is on track to meet the President's challenge. This export growth has supported hundreds of thousands of additional American jobs. According to U.S. Government data, every $1 billion in goods exports supports more than 6,000 jobs, and every $1 billion of services exports supports more than 4,500 jobs. Agriculture exports alone support nearly one million American jobs. And, jobs supported by merchandise exports pay 18 percent more than the national average.

As this Committee well knows, three pending bilateral free trade agreements – those with Korea, Colombia, and the one we are here to discuss today, Panama – are central elements in the U.S. trade agenda. U.S. Trade Representative Ron Kirk testified recently before the Senate Finance Committee that the Administration has completed work on the Korea Agreement, and that is indeed good news. The Korea Agreement would be the United States' most commercially significant free trade agreement since NAFTA. The U.S. International Trade Commission has estimated that the reduction of Korean tariffs and tariff-rate quotas on goods alone would add $10 billion to $12 billion to annual U.S. gross domestic product and around $10 billion to annual merchandise exports to Korea. The Obama Administration's work with the Government of Korea to negotiate provisions relating to the automotive sector addressed bipartisan concerns, with both Chairman Camp and Ranking Member Levin supporting that result. Under the Korea Agreement, almost 95 percent of bilateral trade in consumer and industrial products would become duty free within three years of the date it enters into force; thus, swift action on this agreement would be one of the most effective ways to help our economy grow more rapidly.

In addition, Ambassador Kirk also informed the Finance Committee that the Administration is continuing to work with the Governments of Colombia and Panama to resolve all outstanding issues. Ambassador Kirk explained that U.S. and Panamanian negotiators met in February and agreed upon actions that, when taken by Panama, will ready the Trade Promotion Agreement ("TPA") for Congressional consideration.

Before turning to the specific benefits of the Panama agreement, allow me, as a former U.S. trade official who has written and taught on the subject, to say that I believe that U.S. international trade agreements should serve three aims – they should enhance our national security, they should strengthen our economy, and they should promote our values. And, these three aims are best achieved when our agreements have bipartisan input and support. In my view, when work on the Panama Agreement is completed, it will satisfy these aims and it should garner broad bipartisan support.

First, in terms of our national security, Panama is an important and dependable ally of the United States in a critical part of the world. The United States and Panama have had shared geopolitical and economic interests dating back to the late 1800s and to the opening of the Panama Canal in 1914. Panama has proved to be a steadfast friend to the United States a time when relations with some of our relations in Latin American have been uneven. The TPA would serve to make our ties to Panama stronger and more enduring.

In terms of economics, the United States has much to gain from the Agreement. Panama is a country of 3.5 million people with a stable, diversified economy that has experienced significant growth despite the current global economic downturn. Panama's gross domestic product expanded by an annual average of over 9 percent for the five years ending 2008, and it has grown over the past two years despite the global recession. Panama has the highest per capita income in the Central American region.

Panama is one of the few Latin American countries with which the United States has a merchandise trade surplus, the largest in the region. The U.S. goods trade surplus with Panama was $4.1 billion in 2009. U.S. goods exports in 2009 were $4.4 billion. Panama is currently the 40th largest export market for U.S. goods. U.S. imports from Panama in 2009 were relatively small at $304 million. The limited amount of goods Panama sends to the United States reflects the fact that, unlike other Latin American countries, services comprise more than 70 percent of Panama's economy.

Panama's average tariff on U.S. industrial and consumer goods is 7 percent, but tariffs on some of these products are as high as 81 percent. Panama's average tariff on U.S. agricultural goods is 15 percent, but some U.S. agricultural exports face tariffs as high as 260 percent.

When the Panama Agreement enters into force, 88 percent of U.S. merchandise exports will enter Panama duty-free, with remaining tariffs phased out over five or ten years. The TPA includes "zero for zero" immediate duty-free access for key U.S. sectors and products, including agricultural and construction equipment, information technology products, and medical and scientific equipment. Other notable U.S. export sectors, such as motor vehicles and parts, paper and wood products, and chemicals also will obtain improved access to Panama's market as duties are phased out.

The Agreement provides for immediate duty-free treatment for over 60 percent of U.S. agricultural exports to Panama, including high quality beef, certain pork and poultry products, cotton, wheat, soybeans and soybean meal, most fresh fruits and tree nuts, distilled spirits and wine, and a wide assortment of processed products. Duties on other agricultural goods will be phased out within five to 12 years and on the most sensitive products within 15 years to 20 years. The Agreement also includes undertakings on telecommunications, services trade, government procurement, investment, and intellectual property rights.

The U.S. International Trade Commission has studied the Agreement and found that its main effect would likely be to increase U.S. exports, while causing little growth in U.S. imports from Panama. This result would be due to the relatively small amount of goods imported from Panama; the limited production capacity of Panama; and the fact that most imports from Panama – 96 percent by value –

historically have entered the United States duty free through either normal trade relations or preferences provided by the Caribbean Basin Initiative programs or the Generalized System of Preferences, assuming all of these programs are in effect at the time the agreement goes into operation.

With this background in mind, there are some who understandably wish that the Panama Trade Promotion Agreement had already been submitted to Congress for approval. As Members of this Committee recall, the text of the Agreement was originally completed in December 2006 and it was signed in June 2007. Many factors led to delay including, perhaps most extraordinarily, concerns over allegations that a leader of Panama's National Assembly had murdered a U.S. soldier.

Regardless of how we arrived at this point, it is my hope that the Agreement will come before the Congress soon and that it will garner strong bipartisan support and reflect a wide range of the values Members on both sides of the aisle represent.

Concerns have been raised for some time regarding the transparency of tax information and labor laws in Panama. On taxes, Panama and the United States concluded a Tax Information Exchange Agreement in November 2010. The negotiations for this agreement commenced in 2002, but were accelerated in 2009. Secretary of the Treasury Tim Geithner has indicated that this agreement will improve information sharing and cooperation. Panama has not yet ratified this agreement, which it hopefully will do soon.

On labor and the environment, the Panama Agreement does not just seek to lock in existing standards as some past U.S. agreements have done; rather, it calls for enhanced standards subject to strong enforcement mechanisms. Panama has worked with the Administration to institute a number of administrative changes to meet labor provisions of the TPA and core International Labor Organization standards. For example, in June 2009, the President of Panama issued a decree requiring the Ministry to Labor to create a process for receiving complaints, and undertaking inspections, related to union formation. The Decree also requires training for workers regarding union formation.

Panama deserves credit for working diligently with the Administration to address these and other concerns. The Administration has indicated that a work plan is in place to conclude talks, ensure full implementation of commitments, and bring the Agreement before the Congress. It is my hope that the remaining steps are taken swiftly, and this important agreement will forge even closer bonds between the United States and this important strategic partner.

Thank you.

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Chairman BRADY. Thank you very much.

Great testimony all around.

Mr. Shapiro, you outlined the importance of the relationship with Panama. They are working diligently with us and the White House to address labor concerns. The protections, the enhanced labor and environmental standards are subject to strong enforcement mechanisms. In fact, Panama—this agreement has the same enforceable labor and environmental standards as Peru, which passed Congress with very strong bipartisan support, and the Korea agreement and the Colombia agreement. So, thank you for your comments.

Mr. Sanfilippo, Mr. Wolf, you made great points about the importance to small businesses, agriculture, farmers, food and processors in this agreement and the cost of delay and the damage from competitive disadvantage.

Mr. LaGrange, you pointed out the importance of the agreement not just to the Port of New Orleans but to many U.S. Ports.

And, Mr. Oberhelman, thank you for outlining the benefits of all three agreements, both to Caterpillar and broadly to our economy.

I want to give you a chance to make your final point, Mr. Oberhelman, about manufacturing and mining, but let me ask you this. You know, Panama is undergoing an infrastructure boom. Caterpillar isn't selling copy paper that you reorder every quarter. You are selling major pieces of equipment, with, my guess is, service contracts and supply contracts that last for years and years and years.

So, when you miss the opportunity to bid and win contracts on a bridge, on a canal, on a road, on any major project what is the damage? How long does it take you—when you miss that opportunity, how long does it take you to rebid and catch up?

Mr. OBERHELMAN. Yeah, thank you, Mr. Chairman. It is a great point, because, in our case, we will sell a machine, which may live 10 years and actually generate about triple its initial value in parts and service volume, which would be exports from the U.S. over its lifetime in that 10-year period.

We are there in Panama today. Every single day, we see a foreign competitor trying to compete for those trucks, those tractors, whatever it is we sell. If we miss it today, we may not get another round for 3 or 4 years. Obviously, the Canal is kind of a one-time-only, but there is a subway system, there is lots of development going on in Panama, that if we miss this, we may not get another opportunity in Panama. I go back to Peoria or Decatur or Aurora, Illinois, where these plants are located, and I tell our hourly workers, "Sorry, we missed the order. We don't make that tractor today to ship."

Final point: About 90 percent of our heavy volume machines today from Illinois are exported. So those machines——

Chairman BRADY. Run that by me again?

Mr. OBERHELMAN. The machines that run down our assembly lines in Aurora, Decatur, and Peoria, Illinois, between 80 and 90 percent right now are exported. And we put a flag on each side of those machines with the destination they are going, and it is something to be very proud of.

But we talk to our people about that all the time. If we didn't have that order and we lost it to a Chinese or Japanese competitor, we wouldn't make that machine today. So it is important to us, important to our hourly workers, our 23,000 people in Illinois and elsewhere, 47,000 in the United States.

Chairman BRADY. Right. Thank you.

I would note, when I was in Panama City, from my hotel window, I stopped counting at 20 cranes in construction of various buildings, both residential, commercial, looked like civic municipal buildings as well. So it is a tremendous, dynamic market there.

Mr. OBERHELMAN. Yeah. A lot of those cranes are built in Wisconsin. We don't own that company; we know them. Same story would apply. Fairly massive pieces of equipment that generate lots of parts and service for Wisconsin employees, in this case, for those companies.

Thank you.

Chairman BRADY. Is there anything you are not manufacturing in Wisconsin? It sounds like you have the bases covered.

Mr. Schock, do you have a question?

Mr. SCHOCK. Well, I think, for my hometown's sake, Mr. Oberhelman, you did a fine job of clearly articulating why these agreements are so important. I was going to ask you about how significant Latin America is to Caterpillar, but I jotted down some of your statistics. A 58 percent increase in Latin America alone last year—that is huge. And 6 of your 10 largest markets are in Latin America.

I guess, to follow up on your earlier remarks that Chairman Brady asked about, missing the sale, or the potential for that, what are your concerns about the penetration of some of your competitors? For example, China, I know, is pretty aggressive. But I know, when I talk to the ag community, it is Canada's trade agreement right now with Colombia, for example, that is going to risk our wheat market. But I know inaction means that you are put at a competitive disadvantage with some of your world competitors.

Maybe you could speak a little bit about the competitive threats in Latin America with some of your competitors.

Mr. OBERHELMAN. Thank you, Congressman Schock, and I will.

The interesting thing is that, where we have free-trade agreements, we can be the favored price leader among those other competitors that don't have free-trade agreements. It works the other way, as well.

For our mining equipment going to Panama and Columbia, which are huge markets for us, all Illinois-built machines for the most part, if we don't have the free-trade agreement and Japan would, which houses our number-one competitor, the famous Komatsu, we would be price disadvantaged from 5 to 15 percent on every product going in if they sign an agreement with Japan, which we know they are negotiating. And I am very worried about that, because, once we are out of those mines in Colombia and Panama, it is hard to get back in, because we like our customers to standardize on our engines, our parts supply, our technicians and mechanics.

So there is only one way to go in Latin America for us, and that is down, if we don't do free-trade agreements like we have in Peru and Chile and elsewhere that have served us so well over time. We can be the leader and continue to be for a long time in the future, especially that generates jobs for our hourly workers in Illinois.

Mr. SCHOCK. Uh-huh. Very well said.

The only other question I would have—I know how much work you do educating the employees of Caterpillar, which I think is so important as we muster the political support out here in Washington, D.C., in favor of trade agreements.

I am curious, to the other panelists here, if you might speak to, whether it is Mr. LaGrange or whether it is the pork or ag witness, what do you do to help educate your employees or your members on the significance of these trade agreements to their livelihoods?

Mr. LAGRANGE. Well, we work in concert with a number of other entities: our board of trade, the World Trade Center in New Orleans. We also work with a number of entities here at the Washington level through the American Association of Port Authorities, which consists of 164 ports in the United States. It is through those organizations we have educational committees that meet on a routine basis throughout the United States. And we use that as a vehicle or as a mechanism to indicate what the benefits are from a free-trade agreement in terms of what that equates to in total tonnage, in total dollar amounts, and total volume coming in and out of your port.

We know for a fact that the increase, as I alluded to four studies earlier, the increase in cargo incrementally from the Panama Canal alone—there was another subpart to that. With the passage of Colombia and Panama free-trade agreements, that subpart also included an incremental amount of 38 percent in the way of exports being increased from the east coast and gulf coast ports.

So it is a good number and it is one that we seize every opportunity we possibly can to get out and mix with the guy on the street, the businesspeople, through all the other organizations, from the Chamber of Commerce, World Trade Center, Board of Trade, and then again across the country through our other sister ports.

Mr. SCHOCK. That is great.

Mr. WOLF. If I can, in the pork industry, we have always tried to explain the value of our export markets by the increased value to each producer. And it was a little bit hard to get everybody to understand it, until 2008 when H1N1 hit and our export markets were stopped and our prices dropped about 30 to 40 percent. We lost a fair number of producers due to that economic falldown. So it put things in reality of how important these export markets are, so we keep pushing that and use that as our example.

Mr. SANFILIPPO. With us, when we talk to our staff, we really drive home the fact that we need to remain competitive, both domestically and globally. And when we look at our operations and trying to reduce expenses, you know, we will communicate to them the fact that, through our exports, you know, we do have things like tariffs that represent a much higher percent of what we could ever drive out of our manufacturing operations. So they are educated on that.

But they recognize, like we do, that, you know, these things are important and they need to be handled in a different level other than the facility. But, clearly, the more volume that we run through our facilities, the better off they are and the more people we hire.

Mr. SCHOCK. Okay.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Schock.

We just received word that the Colombian Constitutional Court has given its approval to the Colombia-Canada trade agreement. That ruling marked the last procedural step to clear the way for implementation of that agreement on July 1st. This development highlights the urgency that we face.

Colombia—this agreement is a good, solid agreement that levels the playing field for our workers and exporters and respects the rights of workers and cements relationships with a loyal ally and drives home, I think, the point the witnesses made today that the pending trade agreement with Panama offers significant benefits, as well as the pending South Korea and Colombia agreements. Continued delay will only hurt American interests in the region and the ability of American workers, businesses, and farmers to compete in these markets as our competitors move ahead.

I hope the Administration will lay out a clear action plan and timetable for considering the Panama agreement. I strongly believe we should consider all three by July 1st. I hope we can all work together to make that happen.

I want to thank the witnesses today, the Members for their thoughtful questions.

I would note that Members of Congress may submit questions to you for the record. I would encourage you to respond promptly.

Chairman BRADY. Again, thank you so much for your patience today and insight that you provided in this agreement.

But, for now, the committee is adjourned.

[Whereupon, at 6:02 p.m., the subcommittee was adjourned.]

[Submissions for the Record follow:]

Gary P. LaGrange
President and CEO
Port of New Orleans

Testimony before the
Subcommittee on Trade
House Committee on Ways and Means

Hearing on the Pending Trade Agreement with Panama

March 30, 2011

Mr. Chairman and Members of the Subcommittee:

As the President and Chief Executive Officer of the Port of New Orleans, I appreciate the opportunity you have provided me today to highlight the trade, economic and other benefits that our country would realize through implementation of the pending United States-Panama Trade Promotion Agreement (U.S.-Panama Agreement).

Mr. Chairman, the Port of New Orleans firmly and publicly supports the U.S.-Panama Agreement to enhance trade and investment activities with Panama. Panama has been a long-standing, strategic partner of the United States, and as a strong ally of our country, the U.S.-Panama Agreement will further strengthen our economic relationship with an important regional partner and protect our critical strategic interests associated with the Panama Canal.

Through its direct facilitation of trade and commerce, the Port of New Orleans is one of the primary economic engines for the Gulf Coast, and serves as a key gateway at the mouth of the Mississippi River system for international and domestic trade. About 380,000 jobs in the United States depend on the cargo that is handled by the Port of New Orleans. Some $37 billion in national economic output is derived from the transportation and manufacturing of goods that flow through the Port. As a container and general cargo port, the Port of New Orleans serves approximately 30 states in the American Midwest through the 14,500-mile inland waterway system, and is a port hub for six Class One railroads and the interstate highway system. As a result, the Port is one of America's most intermodal ports – in addition to excellent rail access, the Port is served by approximately 50 ocean carriers, 16 barge lines, and 75 trucking lines. Within the past 10 years, the Port has invested more than $400 million in new state-of-the-art wharves, terminals, expanded marshalling yards, multi-purpose cranes, and transportation infrastructure. Needless to say, because of its geographic location and modern facilities, the Port of New Orleans is well-positioned to provide key access for American exports to the global market.

Mr. Chairman, the continuing development of that American export market would be enhanced through the implementation of the U.S.-Panama Agreement. International agreements that help facilitate trade are of significant benefit to our Nation's ports. Generally, according to the American Association of Port Authorities, U.S. ports are responsible for moving 99 percent of America's overseas cargo, and more than 13 million Americans are working in port-related jobs. The completion of the pending agreement with Panama will increase the export and import cargo moving through these ports and improve employment opportunities and security for port industry workers. Job creation will not be limited to the maritime industry, as the Colombia, South Korea and Panama trade agreement implementation is expected collectively to create more than 200,000 new jobs in numerous fields.

With respect to Panama, American ports play an integral trade role which could be expanded even more under the pending U.S.-Panama Agreement. The United States is the dominant trading partner of Panama. In 2009, total United States exports to Panama were valued at $4.3 billion, and almost 30 percent of Panama's imports came from the United States. As exports increase from the U.S. to Panama, the Port of New Orleans and other U.S. ports will be called upon to help meet the increased transportation demands.

A review of the agricultural product trade provides some insight as to how the U.S.-Panama Agreement would contribute to domestic economic growth. For example, the U.S. Farm Bureau estimates that U.S. agricultural exports alone could increase by more than $195 million with the implementation of the Panama pact. Of such exports, the U. S. International Trade Commission has predicted that the largest growth will accrue in U.S. exports of rice to Panama, which are expected to increase by approximately 145 percent. The Port of New Orleans and several other ports in southeastern Louisiana are the primary export points for our Nation's agricultural products. Rice also happens to be one of Louisiana's top agricultural exports. Therefore, there is no doubt that increased agricultural exports from the implementation of the U.S.-Panama Agreement would have a beneficial economic impact on the Port of New Orleans.

Other U.S. export gains could be expected in the oil, machinery, vehicles, medical equipment and other key product areas that already contribute to a robust trade with Panama. In fact, estimates show that when the U.S.-Panama Agreement is fully implemented, U.S. exports to Panama of passenger vehicles would increase by 43 percent, while U.S. exports of beef and pork would increase by 94 percent and 96 percent respectively.

Significantly, when discussions concern Panama, they must necessarily address the impact of the expansion of the Panama Canal on international trade. More than 60 percent of the current vessel traffic passing through the Panama Canal originates from or is enroute to ports on the Gulf and East Coasts of the United States. With the expected completion of the Panama Canal expansion project in 2014, the Port of New Orleans has undertaken a number of specific measures to handle increased commercial vessel traffic. In particular, the Port is working on a $250 million project to expand the size and capabilities of its primary container terminal on the Mississippi River, the Napoleon Avenue Container Terminal. The first stage of that project is underway and includes the installation of two new container gantry cranes and the addition of five acres of marshalling area, both scheduled for completion in September. Altogether, the Port has invested approximately $108 million in construction projects to be started or completed during this fiscal year, including the container yard improvements, a new dockside refrigerated warehouse and terminal, the complete refurbishment of the Julia Street Cruise Terminal, improvements to the Port's breakbulk facilities, and the construction of a new modern dredge. Furthermore, the Port, in collaboration with river ports, oceangoing and inland waterway vessel operators, manufacturers, agricultural interests, and other groups, has been working strenuously to ensure that project dimensions of the Lower Mississippi River navigation channel are properly maintained by the Army Corps of Engineers to meet the commercial vessel transport needs for United States exports. This Lower Mississippi River navigation channel maintenance will be even more vital when the Panama Canal enhancement project is completed in order to ensure access for larger commercial vessels to the Port of New Orleans and its distribution network.

And Mr. Chairman, there are two trust funds that are important to our marine transportation system and relevant to our discussions concerning the U.S.-Panama Agreement. In order to ensure that the United States is fully prepared to handle the increased flow of trade that the U.S.-Panama Agreement and the widening of the Panama Canal will generate, we must also invest in our inland waterways infrastructure that is vital to the efficient delivery of cargo throughout the United States. Improvements to the process of funding for the Inland Waterways Trust Fund (IWTF) and the expenditure of funds from the IWTF on critically important locks and dams must be made to fully realize the benefits of the higher volumes of trade that will be moving through our river system.

Relevant to the competitiveness of United States exports in international trade, it is critically important that our Nation's ports are able to adequately handle the deep draft commercial vessels that are the principal "vehicles" for the facilitation of international commercial trade. To that end, the House Ways & Means Committee previously worked to establish the Harbor Maintenance Trust Fund (HMTF) in 1986 to provide funding for the maintenance and operation of our Nation's ports and harbors. However, since that time, almost $6 billion has accrued in the HMTF account and has not been otherwise used for its intended trade facilitation purposes. The Port of New Orleans and other port and maritime interests from around the country look forward to working with you and your colleagues in the effort to increase the use of HMTF funding to facilitate international trading activities.

Mr. Chairman, the U.S.-Panama Agreement represents an opportunity to increase the exports on which America's ports rely. The Port of New Orleans supports the immediate implementation of this important trade agreement in order to enhance our Nation's business and economic activities, and to further strengthen our relationships with Panama, our vital strategic partner in Latin America.

Mr. Chairman, thank you for allowing me to appear before you today, and I look forward to any questions that you or the Subcommittee members may have.

Port of New Orleans
International Trademark Association (INTA)

Statement Of

the

National Pork Producers Council

Before the

U.S. House of Representatives
Subcommittee on Trade
of the Committee on Ways and Means

On the

Panama Trade Promotion Agreement

March 30, 2011

The National Pork Producers Council is an association of 43 state producer organizations, representing the federal and global interests of 67,000 U.S. pork operations, which annually generate approximately $15 billion in farm gate sales and add nearly $35 billion to the U.S. gross domestic product.

The future of the U.S. pork industry and of America's family hog farms depend on the continued expansion of exports. Demand in the United States for pork continues to grow, but demand in global markets for pork is growing much faster. The United States must take the steps necessary to increase our access to those overseas markets or we will start to lose even the shares of those markets we currently have.

In short, there is no standing still when it comes to trade. If we do not implement the trade agreements we have negotiated, such as the Panama Trade Promotion Agreement, and fail to move ahead with new ones, we will forfeit those sales to foreign competitors who are aggressively negotiating free trade deals of their own.

In 2010, nearly 20 percent of the pork produced in the United States was exported compared with only about 6 percent 10 years ago. In 2010, the United States exported more than 1.9 million metric tons of pork, valued at $4.8 billion. Virtually all of this trade today is the direct result of U.S. efforts over the years to tear down foreign import barriers through bilateral, regional and multilateral trade agreements.

There is no disputing that free trade agreements have been a major factor in the rapid growth in U.S. pork exports over the last two decades. Since the year before NAFTA was implemented in 1994, U.S. pork exports to Mexico have increased 780 percent to $986 million last year; since the year before the Australia FTA was implemented, our exports to that country have grown by 1,300 percent to $148 million; since the year before the Central America FTA was implemented, U.S. pork exports to the CAFTA countries have increased by 313 percent to $119 million; and in the two years since the Peru FTA took effect, our pork exports to that South American country have almost doubled to $1.2 million.

The United States is now the lowest-cost pork producer in the world, and we have established ourselves as the No. 1 global exporter. But we will not stay in that position, even as the lowest-cost producer, if competitor countries cut trade deals in key markets and the U.S. does not. How could we possibly compete in a foreign market if we face tariffs that may almost double our price to consumers and our competitors are free of those tariffs? This is what is happening and will continue to happen if we sit on the sidelines as other nations implement free trade deals.

But increasing pork exports is important to more Americans than just pork producers. The U.S. pork industry supports an estimated 550,000 domestic jobs, 110,000 of which are the result of U.S. pork exports. And the industry generates more than $97 billion annually in total U.S. economic activity. For each 1 percent increase in the size of the U.S. pork industry, the U.S. economy creates 920 full-time pork industry jobs and 4,575 jobs in total. And for each additional 1 percent of U.S. pork production that is exported, live hog prices increase by approximately $3 per hog, making the total value of exports worth $56 per hog. Higher prices eventually stimulate additional pork production, and the industry expands to meet the new opportunity, thus creating more jobs. Just last year, U.S. pork exports grew by almost $500 million. The U.S. Department of Agriculture estimates that each $1 billion in additional agricultural exports generates approximately 8,400 new U.S. jobs. For the meat sector, however, USDA puts the job-creating number at more than 12,000. So, the increase in pork exports last year created about 6,000 new jobs.

According to Iowa State University economist Dermot Hayes, the Panama Trade Promotion Agreement would increase U.S. live hog prices by $0.20 per animal and create approximately 213 full-time positions in the pork industry and in supporting sectors.

As an aside, Hayes found that the Colombia FTA would increase live hog prices by about $1.15 per animal and create 919 new jobs, and the FTA with South Korea would increase live hog prices by nearly $10 per pig and create over 9,100 pork industry jobs. NPPC strongly supports all three of the pending FTAs.

Hayes's calculations assume this growth even with Canada and the EU implementing FTAs with Korea and with Canada implementing an FTA with Colombia. But he also found that if foreign FTAs take effect and the United States fails to implement its own FTAs, our pork exports will decline and we will lose jobs. For example, he calculates that under the previous scenario, within 10 years the United States would be completely out of the Korean pork market, currently our sixth best in the world, because the EU is implementing its FTA with Korea. And, according to Hayes, if we fail to implement our FTA with Colombia, we would lose that market in 10 years to Canada, which is moving forward and implementing its FTA with Colombia. Likewise, Hayes says we will be out of the Panama market in 10 years if we fail to implement our FTA with Panama and Canada implements its FTA with Panama. While the United States is the top global pork exporter and the world's lowest-cost producer of pork, it cannot compete with zero tariffs. We must not allow our competitors to have that advantage.

The Panama Trade Promotion Agreement will create important new opportunities for U.S. pork producers. U.S. pork exports to Panama are currently restricted by a very limited quota and out-of-quota duties as high as 80 percent. Under the Agreement, however, pork variety meats will receive immediate duty-free treatment, and other pork products will receive immediate expanded market access through tariff rate quotas.

In addition to the favorable market access provisions, significant sanitary and technical issues have been resolved. By a letter dated December 20, 2006, the Panamanian government confirmed as part of the FTA talks that it would recognize the meat inspection system of the United States as equivalent to its own meat inspection system. This technical agreement ensures that U.S. pork producers will benefit from the Panama Trade Promotion Agreement without being blocked by unnecessary sanitary barriers.

Panama does not currently have an FTA in place with any major pork exporting country, but it (along with other Central American nations) finalized free trade agreements with Canada and the EU in 2010. Once again, we will win if we implement the Panama Trade Promotion Agreement, and we will lose if we do not.

Pork producers are joined by virtually all of U.S. food and agriculture in supporting the Panama FTA – as well as the pending FTAs with Colombia and Korea. By a letter dated February 14, 2011, which is attached, 50 agricultural trade associations expressed strong support for the Panama agreement. Plain and simple: The Panama FTA is good for pork producers, good for U.S. agriculture and good for the United States.

Before concluding, it must be noted that U.S. trade policy does not exist in a vacuum. It is not separate and apart from our business conducted inside the borders. So U.S. domestic policy can and does affect our exports. Currently, we are awaiting from USDA a final rule on the buying and selling of livestock and poultry, which, if implemented as currently drafted, would have a devastating impact on our producers. According to an analysis of the GIPSA rule conducted by Informa Economics, it would cost the U.S. pork industry nearly $400 million annually. Industry analysis of the regulation concludes that it likely will have a chilling effect on innovation and flexibility, leading to a race toward mediocrity. It will create legal uncertainty that will drive costs higher and cause an increase in vertical integration in the livestock sector, driving producers out of the business and possibly affecting supplies. None of that bodes well for our exports. Again, free trade agreements and our position as the world's lowest-cost producer have made U.S. pork exports extremely attractive around the globe. But if we no longer are the lowest-cost producer, our exports will become less competitive with other countries, and all the FTAs in the world won't help us much. NPPC continues to urge USDA to scrap the current GIPSA rule and to write a regulation that sticks to the five mandates it was given by Congress in the 2008 Farm Bill.

At this time of very tight budgets, America's pork producers are not asking for U.S. tax dollars. We receive no subsidies and we seek no subsidies. What we are asking is that our government take actions necessary to keep us competitive in global markets so that we can retain and expand those markets and, in turn, can keep creating new U.S. jobs. NPPC calls on the Obama administration to send up the implementing legislation soon and urges Congress to approve the Panama Trade Promotion Agreement and the other pending FTAs before the end of summer.

February 14, 2011

The Honorable Barack Obama
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

Many of the undersigned food and agriculture organizations first declared their support for the Colombia and Panama free trade agreements (FTAs) in 2007. Four years of trade benefits for U.S. farmers, ranchers and food processors have now been forfeited by our inaction on these agreements, and competitor countries have taken advantage of this lapse to grab U.S. market shares. It is time to bring this situation to an end.

We greatly appreciate Ambassador Kirk's recent statement to Congress that the Administration is committed to intensifying negotiations with Colombia and Panama and to resolving the issues that have prevented you from submitting the implementing legislation to Congress. We urge you to direct U.S. negotiators to move forward with these efforts as quickly as possible.

Colombia and Panama each have undertaken important changes in policies to correct problems identified by members of Congress. There is little debate that those governments have worked hard to address U.S. concerns. We believe that a strong and mutually beneficial relationship between our respective nations may well advance legitimate U.S. objectives in these areas more than continuing to withhold approval of the FTAs. At some point, the current approach could cause us to lose not only the trade agreements but the friendships of those important regional allies.

As you know, each agreement will provide important new market access benefits to U.S. food and agricultural exports that will in turn create U.S. jobs and strengthen rural economies. Many U.S. food and agricultural products will become eligible for duty-free treatment in those countries immediately upon entry into force of the agreements, and virtually all will receive duty-free treatment over specified phase-in periods.

According to the American Farm Bureau Federation, the U.S.-Colombia FTA would result in U.S. agricultural export gains of more than $815 million per year at full implementation, and the Panama FTA would add another $195 million. This extra $1 billion in exports would generate 6,000-8,000 new jobs here at home. But we are already several years behind in implementing the agreements, and those jobs are going elsewhere.

Colombia is on the verge of implementing FTAs with Canada and the European Union, and other major agricultural exporting countries, such as Argentina and Brazil, already have preferential access to that market. Our share of that market in wheat, feed grains and other products is certain to plummet unless we act promptly to correct these inequities. According to USDA, the U.S. share of Colombia's total agricultural imports has already fallen from almost 44 percent in 2007 to 27 percent in 2009.

Mr. President, implementation of these agreements, along with the Korea FTA, will significantly advance your effort to double U.S. exports over five years. On the other hand, because these countries are negotiating agreements with some of our main competitors, the failure to implement the agreements will be a real set-back to that objective. Once again, we urge you to move forward rapidly to finalize the FTAs and submit the implementing bills as soon as possible.

Sincerely,

American Farm Bureau Federation
American Feed Industry Association
American Frozen Food Institute
American Meat Institute
American Peanut Product Manufacturers, Inc.
American Seed Trade Association
American Soybean Association
Animal Health Institute
Blue Diamond Growers
California Table Grape Commission
Commodity Markets Council
Corn Refiners Association
Distilled Spirits Council of the United States
Grocery Manufacturers Association
Idaho Barley Commission
International Dairy Foods Association
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen's Beef Association
National Chicken Council
National Confectioners Association
National Corn Growers Association
National Council of Farmer Cooperatives
National Grain and Feed Association
National Meat Association
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Potato Council
National Renderers Association
National Sorghum Producers
National Sunflower Association
National Turkey Federation
North American Equipment Dealers Association
North American Export Grain Association
Northwest Horticultural Council
Produce Marketing Association

Sweetener Users Association
U.S. Apple Association
U.S. Canola Association
U.S. Dairy Export Council
U.S. Livestock Genetics Export, Inc.
U.S. Wheat Associates
United Egg Association
United Egg Producers
USA Dry Pea & Lentil Council
USA Poultry & Egg Export Council
USA Rice Federation
Western Growers Association

cc: The Honorable Ron Kirk, U.S. Trade Representative
The Honorable Tom Vilsack, U.S. Secretary of Agriculture

PUBLIC CITIZEN

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Testimony of Todd Tucker
Public Citizen's Global Trade Watch, Research Director
House Ways and Means Committee's Subcommittee on Trade Hearing on the Pending Free Trade Agreements with Panama
March 30, 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 Trade Subcommittee Chairman Kevin Brady (R-Texas) and Trade Subcommittee Ranking Member Jim McDermott (D-Wash.) for the opportunity to testify for the record on the proposed trade agreement with Panama.

Members of Congress and the public were very clear that two problems must be remedied before Congress should even consider a "free trade agreement" (FTA) with Panama. First, Panama needed to clean up its bank secrecy practices and get rid of bearer shares and other money-laundering tools; and second, the FTA must be amended to ensure that Panama-registered corporations cannot use the FTA to attack U.S. anti-tax haven regulations. Neither of these conditions has been even halfway met.

Panama is one of the world's worst tax havens. It is home to an estimated 400,000 corporations, including offshore corporations and multinational subsidiaries. For decades, the Panamanian government has pursued an intentional tax haven strategy. It offers foreign banks and firms a special offshore license to conduct business.[1] Not only are these businesses not taxed, but they are subject to little to no reporting requirements or regulations. According to the Organisation for Economic Co-operation and Development (OECD), the Panamanian government has little to no legal authority to ascertain key information about these offshore corporations, such as their ownership.[2]

Because of this secrecy, precise numbers of the taxes lost to Panama do not exist. However, according to the U.S. Office of Management and Budget, eliminating tax evasion in tax havens overall could save U.S. taxpayers $210 billion over the coming decade,[3] while the Senate Committee on Homeland Security and Government Affairs estimates a savings five times as great.[4] 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.

Even after several years of intensified scrutiny from the G-20, the OECD and the international community, Panama is the only country in the Western Hemisphere to not pass the OECD's peer review process.[5] OECD experts said that sufficient time needed to pass to see how well Panama's recent flurry of tax reform commitments worked in practice, after years of avoiding even minimal transparency commitments. Even the infamous Cayman Islands tax haven was able to pass this test,[6] again confirming Panama's preeminent status as a leading site for tax and regulatory arbitrage.

Panama promised for eight years to sign a Tax Information Exchange Agreement (TIEA). Yet when it finally signed a TIEA with the Obama administration in November 2010, the agreement did not require Panama to automatically exchange information with U.S. authorities about tax dodgers, money launderers and drug traffickers. (The U.S. and Canada have such an automatic system.) Panama also gave itself until the end of 2011 to make a series of domestic legal changes to facilitate the non-automatic information sharing envisioned by the new TIEA. Under this system, Panama will produce information only in response 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.

Moreover, Article 6 of the 2010 TIEA allows Panama to refuse an information request "where the disclosure of the information requested would be contrary to the public policy of the requested Party." Given Panama's longstanding public policy of encouraging tax haven activities, this Article 6 loophole is big enough to drive an offshore economy through.

Panama's recent actions give little hope of the government's good faith in making these changes. In January 2011, Panamanian official Frank de Lima bragged to a reporter that little would change with the TIEA: "We'll maintain competitive advantages like bearer shares (other jurisdictions have eliminated them) and we won't immobilize bearer shares as other jurisdictions have done."[7]

Panama's executive branch recently drafted Know Your Client legislation (Bill Number 275, presented on Jan. 11, 2011), that started off weak and was even further watered down in the National Assembly.

First, lawyers who violate the Know Your Client legislation would see their temporary suspension period from offering registered agent services shrink from one to three years in the Ricardo Martinelli administration's proposal, to as little as three months in the National Assembly-approved legislation (see Article 20).[8] In other words, after a small slap on the wrist, a lawyer could return to offering nontransparent services to anonymous tax dodgers, assuming the laws are enforced in the first place.

Second, the Martinelli proposal would have required resident agents to: 1) identify their clients and verify that identity through a paper trail; 2) ascertain the purpose for the creation of the corporate entity; and 3) share information with the government under certain extenuating circumstances. But the National Assembly scaled this back so that, in order to comply with item No. 2, "the resident agent shall not have the obligation to carry out any proactive step or verification of the information provided by the client." (Article 3, as amended.) In other words, trust, but do not verify.

Moreover, the fines for failing to preserve financial secrecy under the Know Your Client legislation are as much as five times larger than the sanctions for failing to cooperate with the legislation's limited information gathering and cooperation mandates.[9] The Martinelli administration signed the weak bill into law on February 1.[10]

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 the country's policy are resulting in real changes in practice. This would include seeing a sustained record of prompt compliance with U.S. government requests for tax information exchange under the non-automatic TIEA. Financial secrecy legislation has to be comprehensive, and bearer shares must be fully eliminated and immobilized.

Verifying that Panama is actually making these changes will take some time. Usefully, this gives the Obama administration the space to modify the actual terms of the FTA negotiated by the Bush administration that would make fighting tax haven abuses difficult. For instance, the current FTA constrains 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 new rights to challenge U.S. anti-tax haven policies for cash compensation outside of the U.S. judicial system. To read Public Citizen's report about how the Panama FTA's current text would make fighting tax havens difficult, go to http://www.citizen.org/Page.aspx?pid=519.

Corporate use of these investor-state rules is far from hypothetical; there are nearly $9.1 billion in claims in the 14 known investor-state cases outstanding under NAFTA-style deals. And under the *Nations Energy v. Panama* case under the U.S.-Panama bilateral investment treaty (BIT), a tribunalist argued that changes in tax policy could represent violations of BIT rules, which are replicated in Chapter 10 of the U.S.-Panama FTA: "The BIT's broad definition of investment does not allow one to limit indirect expropriation to cases involving property. The formula also covers instances of associated economic rights related to an investment, as in the case of the tax credits … they have been denied a right that constitutes an enormously significant loss in terms of the overall value of the investment."[11]

Corporations should not have the ability to challenge U.S. anti-tax haven policies under an FTA, especially when the government of Panama is given the right under the TIEA to refuse to cooperate with U.S. information requests. President Barack Obama promised during his campaign to reform these FTA foreign investor provisions, and policymakers will be looking to see these changes made before casting a vote on any U.S.-Panama trade agreement.

ENDNOTES

[1] Barney Warf, "Tailored for Panama: Offshore Banking at the Crossroads of the Americas," *Geografiska Annaler*, 84:1, 2002.
[2] See OECD "Peer Review Report," at pages 6-7, paragraph 5. Available at: http://www.oecd.org/dataoecd/0/48/46103294.pdf
[3] Office of Management and Budget, "A New Era of Responsibility: Renewing America's Promise," February 2009, at 122. Available at: http://www.whitehouse.gov/omb/assets/fy2010_new_era/A_New_Era_of_Responsibility2.pdf. Accessed March 6, 2009.
[4] Permanent Subcommittee on Investigations, "Tax Haven Banks and U.S. Tax Compliance," U.S. Senate Committee on Homeland Security and Governmental Affairs, July 17, 2008, at 1. Available at:

http://hsgac.senate.gov/public/_files/REPORTTaxHavenBanksJuly1708FINALwPatEliseChgs926080.pdf. Accessed March 6, 2009.

[5] OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, "Peer Review Report, Phase 1, Legal and Regulatory Framework, Panama," at page 12, paragraph 23. Available at: http://www.oecd.org/dataoecd/0/48/46103294.pdf

[6] OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, "Peer Review Report, Phase 1, Legal and Regulatory Framework, Cayman Islands," at page 8, paragraph 8.

[7] "Se mantienen las ventajas competitivas como las acciones al portador (otras jurisdicciones las han eliminado) y tampoco se inmovilizan las acciones al portador como han hecho otras jurisdicciones". See Edith Castillo Duarte, "Proyecto de ley ofrece garantía a privacidad," *Prensa*, Jan. 31, 2011. Available at: http://mensual.prensa.com/mensual/contenido/2011/01/31/hoy/negocios/2486347.asp

[8] Law 275: original and amended versions here: http://www.asamblea.gob.pa/main/LinkClick.aspx?fileticket=73qHuGsQDLU%3d&tabid=39

[9] For instance, Bill 275's Article 7 reads: "Public functionaries and natural and legal persons in the private sector, who are tasked with managing the information that emerges in the present Law, are obligated to keep this information secret, even after leaving their posts, except when this information is available in public registries. Violations of this article will be sanctioned with a fine of $1,000 to $25,000 balboas per infringer, without prejudice to civil or penal sanctions that may be applicable." Article 20, in contrast, establishes that "Failure to comply with the obligations established in the present Law will be sanctioned by the Fourth Chamber of General Business Affair of the Supreme Court of Justice through the following sanctions: 1. Reprimand. 2. Fine of up to $5,000 balboas. 3. Temporary suspension of the capacity of the lawyer or law firm to offer resident agent services for new legal entities for a period of not less than three months nor more than three years."

[10] See: http://www.asamblea.gob.pa/APPS/LEGISPAN/PDF_GACETAS/2010/2011/26713-C_2011.PDF

[11] *Nations Energy Inc., Electric Machinery Enterprises Inc., y Jaime Jurado v. La Republica De Panamá*, Award, ICSID Case No. ARB/06/19, Dissent, paragraph 61-62. Available at: http://ita.law.uvic.ca/documents/NationsResourcesVPanama_Award.pdf

Statement by Hal S. Shapiro

Before the House Committee on Ways and Means
Subcommittee on Trade

Washington, D.C.

March 30, 2011

Chairman Brady, Ranking Member McDermott, Members of the Committee:

It is an honor to appear before you today. My name is Hal Shapiro, and I am a partner with the law firm of Akin Gump Strauss Hauer & Feld in Washington, D.C. I formerly served as Associate General Counsel in the Office of the U.S. Trade Representative and as Senior Advisor for International Economic Affairs at the National Economic Council. My testimony today reflects my views alone and not those of my firm or any clients.

We gather today at the most promising moment in the past few years to advance the U.S. international trade agenda. Our economy is emerging from a deep and painful recession, restoring the confidence needed for the United States to lead market opening initiatives. President Obama has mobilized his Administration through the National Export Initiative in order to double U.S. exports by 2014. At the end of 2010, U.S. exports had grown by 17 percent, and Administration officials believe the country is on track to meet the President's challenge. This export growth has supported hundreds of thousands of additional American jobs. According to U.S. Government data, every $1 billion in goods exports supports more than 6,000 jobs, and every $1 billion of services exports supports more than 4,500 jobs. Agriculture exports alone support nearly one million American jobs. And, jobs supported by merchandise exports pay 18 percent more than the national average.

As this Committee well knows, three pending bilateral free trade agreements – those with Korea, Colombia, and the one we are here to discuss today, Panama – are central elements in the U.S. trade agenda. U.S. Trade Representative Ron Kirk testified recently before the Senate Finance Committee that the Administration has completed work on the Korea Agreement, and that is indeed good news. The Korea Agreement would be the United States' most commercially significant free trade agreement since NAFTA. The U.S. International Trade Commission has estimated that the reduction of Korean tariffs and tariff-rate quotas on goods alone would add $10 billion to $12 billion to annual U.S. gross domestic product and around $10 billion to annual merchandise exports to Korea. The Obama Administration's work with the Government of Korea to negotiate provisions relating to the automotive sector addressed bipartisan concerns, with both Chairman Camp and Ranking Member Levin supporting that result. Under the Korea Agreement, almost 95 percent of bilateral trade in consumer and industrial products would become duty-free within three years of the date it enters into force; thus, swift action on this agreement would be one of the most effective ways to help our economy grow more rapidly.

In addition, Ambassador Kirk also informed the Finance Committee that the Administration is continuing to work with the Governments of Colombia and Panama to resolve all outstanding issues. Ambassador Kirk explained that U.S. and Panamanian negotiators met in February and agreed upon actions that, when taken by Panama, will ready the Trade Promotion Agreement ("TPA") for Congressional consideration.

Before turning to the specific benefits of the Panama Agreement, allow me, as a former U.S. trade official who has written and taught on the subject, to say that I believe that U.S. international trade agreements should serve three aims – they should enhance our national security, they should strengthen our economy, and they should promote our values. And, these three aims are best achieved when our agreements have bipartisan input and support. In my view, when work on the Panama Agreement is completed, it will satisfy these aims and it should garner broad bipartisan support.

First, in terms of our national security, Panama is an important and dependable ally of the United States in a critical part of the world. The United States and Panama have had shared geopolitical and economic interests dating back to the late 1800s and to the opening of the Panama Canal in 1914. Panama has proved to be a steadfast friend to the United States at a time when relations with some countries in Latin America have been uneven. The TPA would serve to make our ties to Panama stronger and more enduring.

In terms of economics, the United States has much to gain from the Agreement. Panama is a country of 3.5 million people with a stable, diversified economy that has experienced significant growth despite the current global economic downturn. Panama's gross domestic product expanded by an annual average of over 9 percent for the five years ending 2008, and it has grown over the past two years despite the global recession. Panama has the highest per capita income in the Central American region.

Panama is one of the few Latin American countries with which the United States has a merchandise trade surplus, the largest in the region. The U.S. goods trade surplus with Panama was $4.1 billion in 2009. U.S. goods exports in 2009 were $4.4 billion. Panama is currently the 40th largest export market for U.S. goods. U.S. imports from Panama in 2009 were relatively small at $304 million. The limited amount of goods Panama sends to the United States reflects the fact that, unlike other Latin American countries, services comprise more than 70 percent of Panama's economy.

Panama's average tariff on U.S. industrial and consumer goods is seven percent, but tariffs on some of these products are as high as 81 percent. Panama's average tariff on U.S. agricultural goods is 15 percent, but some U.S. agricultural exports face tariffs as high as 260 percent.

When the Panama Agreement enters into force, 88 percent of U.S. merchandise exports will enter Panama duty-free, with remaining tariffs phased out over five or ten years. The TPA includes "zero for zero" immediate duty-free access for key U.S. sectors and products, including agricultural and construction equipment, information technology products, and medical and scientific equipment. Other notable U.S. export sectors, such as motor vehicles and parts, paper and wood products, and chemicals also will obtain improved access to Panama's market as duties are phased out.

The Agreement provides for immediate duty-free treatment for over 60 percent of U.S. agricultural exports to Panama, including high quality beef, certain pork and poultry products, cotton, wheat, soybeans and soybean meal, most fresh fruits and tree nuts, distilled spirits and wine, and a wide assortment of processed products. Duties on other agricultural goods will be phased out within five to 12 years and on the most sensitive products within 15 years to 20 years. The Agreement also includes undertakings on telecommunications, services trade, government procurement, investment, and intellectual property rights.

The U.S. International Trade Commission has studied the Agreement and found that its main effect would likely be to increase U.S. exports, while causing little growth in U.S. imports from Panama. This result would be due to the relatively small amount of goods imported from Panama; the limited production capacity of Panama; and the fact that most imports from Panama – 96 percent by value –

historically have entered the United States duty-free through either normal trade relations or preferences provided by the Caribbean Basin Initiative programs or the Generalized System of Preferences, assuming all of these programs are in effect at the time the Agreement goes into operation.

With this background in mind, there are some who understandably wish that the Panama Trade Promotion Agreement had already been submitted to Congress for approval. As Members of this Committee recall, the text of the Agreement was originally completed in December 2006 and it was signed in June 2007. Many factors led to delay including, perhaps most extraordinarily, concerns over allegations that a leader of Panama's National Assembly had murdered a U.S. soldier.

Regardless of how we arrived at this point, it is my hope that the Agreement will come before the Congress soon and that it will garner strong bipartisan support and reflect a wide range of the values Members on both sides of the aisle represent.

Concerns have been raised for some time regarding the transparency of tax information and labor laws in Panama. On taxes, Panama and the United States concluded a Tax Information Exchange Agreement in November 2010. The negotiations for this agreement commenced in 2002, but were accelerated in 2009. Secretary of the Treasury Tim Geithner has indicated that this agreement will improve information sharing and cooperation. Panama has not yet ratified this agreement, which it hopefully will do soon.

On labor and the environment, the Panama Agreement does not just seek to lock in existing standards as some past U.S. agreements have done; rather, it calls for enhanced standards subject to strong enforcement mechanisms. Panama has worked with the Administration to institute a number of administrative changes to meet labor provisions of the TPA and core International Labor Organization standards. For example, in June 2009, the President of Panama issued a decree requiring the Ministry of Labor to create a process for receiving complaints, and undertaking inspections, related to union formation. The Decree also requires training for workers regarding union formation.

Panama deserves credit for working diligently with the Administration to address these and other concerns. The Administration has indicated that a work plan is in place to conclude talks, ensure full implementation of commitments, and bring the Agreement before the Congress. It is my hope that the remaining steps are taken swiftly, and this important Agreement will forge even closer bonds between the United States and this important strategic partner.

Thank you.

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