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DOMINICAN REPUBLIC-CENTRAL AMERICA FREE TRADE AGREEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMMERCE, TRADE, AND CONSUMER PROTECTION

OF THE

COMMITTEE ON ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

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DOMINICAN REPUBLIC-CENTRAL AMERICA FREE TRADE AGREEMENT

THURSDAY, APRIL 28, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON COMMERCE, TRADE,
AND CONSUMER PROTECTION,
Washington, DC.

The subcommittee met, pursuant to notice, at 11:05 a.m., in room 2123, Rayburn House Office Building, Hon. Cliff Stearns (chairman) presiding.

Members present: Representatives Stearns, Bass, Pitts, Bono, Rogers, Otter, Myrick, Murphy, Blackburn, Barton (ex officio), Schakowsky, Markey, Brown, Green, Strickland, Gonzalez, Baldwin, and Dingell (ex officio).

Also present: Representative Solis.

Staff present: David Cavicke, chief counsel; Chris Leahy, policy coordinator; Will Carty, professional staff; Larry Neal, deputy staff director; Billy Harvard, clerk; Jon Tripp, deputy communications director; Jonathan Cordone, minority counsel; Turney Hall, staff assistant; and David Vogel, staff assistant.

Mr. STEARNS. Good morning, everybody. The subcommittee will come to order. This is the subcommittee on the Dominican Republic-Central America Free Trade Agreement, or known as DR-CAFTA. My colleagues, on a basic level, trade—particularly trade between nations—it rests on an age-old theory of comparative advantage. The laws of economic efficiency tell us that we only should produce goods at which we are most efficient and trade for all the others. This helps explain why we can see efficiency gains and improved standards of living when economically disparate countries trade with each other.

In these cases, prices reflect the most efficient means of production, which, in theory, leads to a better standard of living by effectively making all goods concerned less expensive. This basic principle has been the bedrock of free trade theory for over 200 years.

I must say at the outset that I am not here to challenge Mr. Ricardo on his elegant principle, but I do think the economic, social, and geopolitical complexity surrounding the Dominican Republic-Central America Free Trade Agreement would leave him a bit overwhelmed if he was trying to negotiate the agreement today.

These complexities and profound effects make it extremely important that we, as Members of Congress, understand why the DR-CAFTA agreement efficiency and its net gains for our economies in terms of import and export growth also could produce for some

United States job losses and less competitive U.S. products and shifts in regional U.S. economies that create winners and losers. Accordingly, the witnesses here before us today represent a broad section of many of the constituencies that will feel both positive and perhaps negative economic effects of the DR-CAFTA, many of which constitute significant parts, of course, of many of our home Congressional districts.

The signatories of this agreement include the United States, the Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The agreement was signed in 2004. The agreement would create the second largest U.S. export market in Latin America behind Mexico.

In 2004 U.S. trade with the DR-CAFTA region represented about 1.5 percent of total U.S. foreign commerce, which amounted to about $33 billion in trade flows, including about $16 billion in U.S. exports to the region. The U.S. is by far the largest trading partner to the DR-CAFTA countries. Most of the import and export trade within the region covered by the agreement is related to the merchandise, raw material, and agricultural sectors.

Since the early 1980's, the U.S. has provided the region one-way, duty-free trade preferences for the region under the Caribbean Basin Initiative. In contrast to the CBI, the DR-CAFTA is a reciprocal trade agreement that is designed to make over 80 percent of U.S. consumer and industrial exports and over 50 percent of U.S. farm exports to Central America duty-free immediately.

Likewise, DR-CAFTA countries would enjoy duty-free status on all our non-textile and non-agricultural products immediately. In addition, the agreement includes a number of unique provisions relating to expanded protection of intellectual property right, new trade rules for e-commerce, liberalization in the telecom sector, and improved labor standards in the region. All of these are very good. The committee has done a great deal of work in many of these areas, and we look forward to hearing more about the DR-CAFTA elements today.

But even with all these beneficial provisions and market opening and commitments, this agreement still stirs up a lot of strong opinion. I believe part of the reason is that all trade agreements represent a compromise that, in theory, is crafted to provide net gain to all parties. It seems obvious that parties enter into trade agreements to gain, not to lose. Even so, I believe the trade can cut both ways, regardless of economic theory. There are different regional effects, social impacts. As I mentioned earlier, different winners and losers regardless of the politics. I have seen them and my constituents have felt them. NAFTA, in my home district in Florida, is probably a lot different than the one—the effects in other parts of the country. It sits in the middle of a different regional economy.

What this committee and this Congress needs to ensure is that those net gains from these agreements don't outweigh the inevitable cause for some of our people back home, our farmers, our ranchers, and local manufacturers. We must do all we can to make sure that all of these Ricardian economic principles, efficiency translate into economic progress for all, not stagnation or loss for some.

I would also like to emphasize I support the goals of forging political and social reform in the region through increased trade and economic progress. This is very important. It is an extremely important undertaking in a world that continues to challenge the ideals of democracy and economic freedom. And I do believe the DR-CAFTA can be a very, very important instrument to help achieve these ends in this hemisphere. And this is important for all of our colleagues to remember. The important objectives, however, must not obscure the importance of providing those most affected by a shifting economic landscape, the opportunity for them to be successful too.

But let me be clear; stability in the region is an important strategic issue for us. I believe the United States should be the leader in this region, and there are enormous global, political issues here which affect economic stability and trade in these countries, and frankly, ours too. Positive effects and results will help reinvigorate multilateral WTO negotiations.

And I believe this is important. We just need to look at the history, post-war Europe and the positive impact trade has had for millions of Americans and the Europeans alike to understand the power of free trade and trading partnerships. But we must do it right, and we must remember that true, long-term success in trade liberalization will depend on our ability to sustain mutual long-term economic benefits for all Americans under agreements like the DR-CAFTA.

And finally, I would like to thank sincerely the Assistant U.S. Trade Representative Vargo and our other distinguished witnesses from industry, agriculture, labor, academia, and other interests for joining us here today in this open, frank discussion and providing their views on this extremely important agreement for our country. So we look forward to their testimony and thank them for coming. And at that, I welcome the opening statement from the ranking member, Ms. Schakowsky.

[The prepared statement of Hon. Clifford Stearns follows:]

PREPARED STATEMENT OF HON. CLIFFORD STEARNS, CHAIRMAN, SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION

Good Morning. On a basic level, trade, particularly trade between nations, rests on the age-old theory of comparative advantage. The laws of economic efficiency tell us that we only should produce goods at which we are most efficient, and trade for the others. This helps explain why we can see efficiency gains and improved standards of living when economically disparate countries trade with each other. In these cases, prices reflect the most efficient means of production, which, in theory, leads to a better standard of living by effectively making all goods concerned less expensive. This basic principle has been the bedrock of free trade theory for over two hundred years. I must say at the outset that I am not here to challenge Mr. Ricardo on his elegant principle but I do think the economic, social, and geopolitical complexities surrounding the Dominican Republic-Central America Free Trade Agreement or DR-CAFTA would leave even him a bit overwhelmed. These complexities and profound effects make it extremely important that we understand why the DR-CAFTA agreement's efficiencies—its net gains for our economies in terms of import and export growth—also could produce for some U.S. job losses, less competitive U.S. products, and shifts in regional U.S. economies that create winners and losers. Accordingly, the witnesses before us today represent a broad cross-section of many of the constituencies that will feel both positive and negative economic effects of the DR-CAFTA—many of which constitute significant parts of our home districts.

The signatories of Dominican Republic-Central America Free Trade Agreement include the United States, Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. The agreement was signed in 2004. The DR-CAFTA

agreement would create the second largest U.S. export market in Latin America, behind Mexico. In 2004, U.S. trade with the DR-CAFTA region represented about 1.5% of total U.S. foreign commerce, which amounted to about $33 billion in trade flows, including almost $16 billion in U.S. exports to the region. The U.S. is by far the largest trading partner to the DR-CAFTA countries. Most of the import and export trade within the region covered by the agreement is related to the merchandise, raw material, and agricultural sectors. Since the early 1980s, the U.S. has provided the region one-way duty free trade preferences for the region under the Caribbean Basin Initiative (CBI). In contrast to CBI, DR-CAFTA is a reciprocal trade agreement that is designed to make over 80% of U.S. consumer and industrial exports and over 50% of U.S. farm exports to Central America duty free immediately. Likewise, DR-CAFTA countries would enjoy duty free status on all non-textile and non-agricultural goods immediately. In addition, the agreement includes a number of unique provisions relating to expanded protection of intellectual property, new trade rules for e-commerce, liberalization in the telecom sector, and improved labor standards in the region. The Committee has done a great deal of work in many of these areas, and we look forward to hearing more about these DR-CAFTA elements today.

But even with all of these beneficial provisions and market-opening commitments, DR-CAFTA still stirs up strong opinions. I believe part of the reason is that all trade agreements represent a compromise that, in theory, is crafted to provide net gains to all parties. It seems obvious that parties enter into trade agreements to gain, not to lose. Even so, I believe trade can cut both ways, regardless of economic theory. There are different regional effects, social impacts, and as I mentioned earlier, different winners and losers, regardless of politics. I have seen them, and my constituents have felt them. The NAFTA that my home district in Florida knows is probably a lot different than one in another part of the country, sitting in the middle of a different regional economy. What this Committee and the Congress need to ensure is that those net gains from these agreements don't outweigh the inevitable costs for some of our people back home—our farmers, ranchers, and local manufacturers. We must do all we can to make sure all those Ricardian economic efficiencies translate into economic progress for all, not stagnation and loss for some.

I also would like to emphasize that I support the goals of forging political and social reform in the region through increased trade and economic progress. This, I agree, is an extremely important undertaking in a world that continues to challenge the ideals of democracy and economic freedom. And I do believe DR-CAFTA can be a very important instrument to help achieve those ends in this hemisphere. The important objectives, however, must not obscure the importance of providing those most affected by a shifting economic landscape the opportunity to be successful too. But let me be clear, stability in the region is an important strategic issue. I believe the United States should be the leader in this region and there are global political issues here which offer economic stability in trade. Positive efforts and results will help reinvigorate multilateral WTO the Doha Round negotiations. I believe that is important. We just need to look at the history postwar Europe and the positive impact trade had for millions of American and Europeans alike to understand the power of free markets and trading partnerships. But we must do it right. And we must remember that true long-term success in trade liberalization will depend on our ability to sustain mutual long-term economic benefits for all Americans under agreements like DR-CAFTA.

Finally, I would like to thank Assistant U.S. Trade Representative Vargo and our other distinguished witnesses from industry, agriculture, labor, academia, and other interests for joining us today and providing their views on this extremely important agreement for our great county. We look forward to your testimony. Thank you.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I am pleased that the subcommittee is taking the time to review the proposed Dominican Republic-Central America Free Trade Agreement, DR-CAFTA.

I want to welcome and thank all of our witnesses and all of the members that have come. And I am particularly glad to see that—I know that our ranking member of the full committee will be here, and I want to acknowledge also the work of Mr. Brown. While he is the ranking Democrat on the House subcommittee, he is one of our best trade experts. In fact, he wrote the book, or at least a book, on trade called "Myths of Free Trade."

For many common-sense reasons, there is wide and growing bipartisan opposition to this bill here in Congress. It endangers

workers and jobs in the United States and abroad. It endangers our economy and it endangers our environment. Opposition to Congressional implementation of this flawed agreement also runs deep outside of the Congress, throughout this country and other signatory nations. The public, as well as leaders from among organized labor, environmentalists, economists, and business owners, and the clergy, all strongly oppose the measure.

I am opposed to DR-CAFTA. It does not include the necessary labor and human rights protections or environmental standards that I believe should be at the center of our trade policies. Instead, implementation of DR-CAFTA would result in the loss of even more U.S. jobs, U.S. support for substandard working conditions in other countries, and the degradation of our precious environment.

I strongly support increased global trade for the United States. However, when negotiated, I believe free trade agreements should place human rights and labor rights and the environment on equal par with the rights of capital. DR-CAFTA fails to do so. Implementation of DR-CAFTA would further the failed experiment that was NAFTA.

As a result of NAFTA, my home State of Illinois has suffered the loss of over 100,000 jobs. And the Nation has lost almost a million jobs due to the displacement of production that supported them prior to the implementation of NAFTA.

Free trade agreements like NAFTA and PNTR for China perpetuate the race to the bottom in the global economy. They lower working and living standards for workers in other countries, and they kill jobs in the United States. And DR-CAFTA will be no different.

The only way to prevent the race to the bottom is to try and raise standards in other countries so the lure of near slave labor does not exist and does not harm our workforce.

NAFTA, PNTR, and CAFTA all failed to meet this standard. This is one of the great challenges of the 21st century. If we fail to meet it in the right way, it will continue to have dire effects on our workforce and our economy.

Instead of pursuing policies that undermine the rights and security of U.S. workers and workers in other countries, the United States should lead the world by example through a trade policy that improved the lives of individuals and not just add to the profits of major corporations. Our policies should benefit workers here in this country, create and sustain jobs, and help our small and medium-sized and family owned businesses grow. DR-CAFTA will not accomplish these goals.

The labor provisions of CAFTA are intentionally unenforceable. Violations of core labor standards cannot be taken to dispute resolution. The commitment to enforce domestic labor laws is subject to remedies weaker than those available for commercial disputes. This violates the negotiating objective of fast-track that equivalent remedies should exist for all parts of an agreement.

Further, the "enforce your own laws" standard allows countries the opportunity to rewrite and weaken their labor laws to attract investment.

I dispute the attempts by free trade proponents to reduce the debate to a choice between free trade and no trade, this agreement

or no agreement. We can do better. We can achieve our economic objectives and moral responsibilities through responsible trade. And we can and should go back to the drawing board and fix CAFTA if we want to do it right and if we want to give it even a chance to pass.

If the vote were today, it is clear that DR-CAFTA would fail to win a majority of votes in the House because it fails our economy, our workforce, our environment, and our moral standard on so many levels. Thank you, Mr. Chairman.

Mr. STEARNS. I thank my colleague. We have a vote, and we are going to temporarily recess the subcommittee. And I will be right back. I urge my members to come back. We hope to have everybody back after the vote. So it is temporarily recessed.

[Brief recess.]

Mr. STEARNS. The subcommittee will reconvene. We will continue with our opening statements, and we will go to—if Mr. Murphy is ready.

Mr. MURPHY OF PENNSYLVANIA. Mr. Chairman, my only statement is I am here interested to learn about this. I have not yet staked out a position on this issue, and so I am most interested in hearing the testimony today and look forward to that. Thank you, sir.

Mr. STEARNS. I thank my colleague. Ms. Baldwin.

Ms. BALDWIN. Thank you, Mr. Chairman. The terms on which we conduct international trade are vital to answering some of the most fundamental questions about what our Nation and our world would be like in the decades to come, and in fact into the next century.

How do we enhance and expand international trade while protecting our environment? How do we promote sustainable economic development? How do we prevent a spiraling decline in wages and worker safety protections? How do we ensure fair prices for our family farmers so that they can continue to survive and prosper? These are difficult questions that must be addressed. Unfortunately, our trade agreement track record has failed to adequately address these critical issues.

The Dominican Republic-Central America Free Trade Agreement presented an opportunity to take a fresh approach to create free and fair trade. It was a chance to negotiate a new type of trade agreement that addressed the issues of wages and worker safety, of raising environmental and health standards, and of advancing the rule of law and human rights.

International trade could and should be an issue which brings people together around the world. Trade can deter war and enhance peace. I believe the only way to build an effective global trading system is to construct it through a democratic process. Not only must the people be engaged in its development, but the results must address their very real concerns.

We will never be able to sustain a trade system that results in a race to the bottom, the bottom in wages, the bottom in air and water standards, the bottom in worker safety, or the bottom in human rights. DR-CAFTA is a bad deal for the people of the United States, the people of the Dominican Republic, and the people of Central America. And this committee and this Congress should reject it. I yield back.

Mr. STEARNS. The full committee chairman, the distinguished member from Texas, is recognized.

Chairman BARTON. I was willing to suspend for Mr. Pitts if he was ready to go. Thank you, Mr. Chairman, for holding the hearing today. Our committee has jurisdiction over many aspects of international trade, and I am glad that we are having a full discussion of the issues involved with this particular trade agreement.

I am glad that the USTR is here today. It is important for the administration to come before the committee and make its case to the members on the merits of these trade agreements. I look forward to what they have to say about DR-CAFTA.

Under this agreement 80 percent of U.S. consumer and industrial export and over 50 percent of U.S. farm exports to Central America would become duty-free immediately. This means more markets for American goods. According to a study by the United States International Trade Commission, American consumers would benefit to the tune of $166 million a year. U.S. exports to DR-CAFTA countries are estimated to increase by 15 percent, while imports are estimated to increase by 12 percent. The American Farm Bureau Federation estimates the agreement would expand farm exports by as much as $1.5 billion a year. If we are committed to making rural America not just a good place to live, but a good place to make a living, it is hard to imagine another government policy that will do the job as well as DR-CAFTA.

Moreover, markets never available to American telecommunication companies—an industry in which we are extremely competitive, and which is under this committee's jurisdiction—would be opened, most notably in Costa Rica where the industry is run by government-owned monopoly.

Some will argue that these increases in trade aren't worth it, the stress of commercial competition that comes with them. It is true that when competition asserts itself, not everyone prospers, but the net future benefits to American consumers, American farmers, and American industry are large, important, and plain to see for anyone who is truly looking in an objective fashion.

Significant advances in e-commerce, better protection of intellectual property, progressive environmental protections make DR-CAFTA an important step forward in trade negotiations.

More than just the economic advantages, passing this agreement does more than a thousand speeches to tell the developing world about the benefits of democracy and the rule of law. It will reinforce the political reforms in Central America that have helped in fighting terrorism, organized crime, and drug trafficking.

I want to thank our witnesses for their attendance and input today. I am glad that we have this opportunity to learn more about DR-CAFTA, but go ahead and count me as a supporter. With that, Mr. Chairman, I yield back.

[The prepared statement of Hon. Joe Barton follows:]

PREPARED STATEMENT OF HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE

Thank you, Mr. Chairman, for holding this hearing today. Our Committee has jurisdiction over many aspects of international trade, and I am glad that we are having a full discussion of the issues involved with this trade agreement.

I am particularly glad that USTR is here today. It is important for the Administration to come before the Committee and make its case to the Members on the merits of these trade agreements. I look forward to what they have to say about DR-CAFTA.

Under this agreement, over 80% of U.S. consumer and industrial exports and over 50% of U.S. farm exports to Central America would become duty-free immediately. This means more markets for American goods. In fact, according to a study by the United States International Trade Commission, American consumers would benefit to the tune of $166 million a year. U.S. exports to the DR-CAFTA countries are estimated to increase by 15%, while imports are estimated to increase by 12%. Furthermore, the American Farm Bureau Federation estimates the agreement could expand U.S. farm exports by as much as $1.5 billion a year. If we are committed to making rural America not just a good place to live, but a good place to make a living, it's hard to imagine another government policy that will do the job like DR-CAFTA.

Moreover, markets never available to American telecommunications companies—an industry in which we are extremely competitive—will be opened, most notably in Costa Rica where this industry is run by a government-owned monopoly.

Some will argue that these increases in trade aren't worth either our time, or the stress of commercial competition that come with them. It is true that when competition asserts itself, not everyone will prosper, but the net future benefits to American consumers, American farmers, and American industry are large, important, and plain to see for everyone who looks.

Also, significant advances in e-commerce, better protection of intellectual property, and progressive environmental protections make DR-CAFTA an important step forward in trade negotiations.

More than just the economic advantages, passing this agreement will do more than a thousand speeches to tell the developing world about the benefits of democracy and the rule of law. And it will reinforce the political reforms in the Central American world that have helped in fighting terrorism, organized crime, and drug trafficking.

I thank all our witnesses for their attendance and input today, and I am glad we have this opportunity to learn more about DR-CAFTA, but go ahead and count me in as a supporter.

Thank you and I yield back.

Mr. STEARNS. Thank you, Mr. Chairman. And the ranking member, Mr. Dingell, is recognized. Ranking member of the full committee.

Mr. DINGELL. Mr. Chairman, thank you for your courtesy and thank you for holding this hearing. It is a matter of great concern to many of our constituents, and it is a matter of importance to American industry and American labor.

I am pleased that you were able to obtain at the eleventh hour the cooperation of the United States Trade Representative's Office. And they have sent a witness to join us. For many years I have found them to be quite helpful to this committee when we were evaluating matters of trade. It is nice to see them back. And I look forward to many more appearances in the future. I am troubled by the difficulty in procuring their cooperation, but I am sure they will understand they have a responsibility to respond to the concerns of the chairman and the members of this committee.

I begin by pointing out that CAFTA is a bad agreement. It is bad for workers. It is bad for the environment. It is bad for farmers. We need not guess how this agreement will harm our constituents, for this agreement is merely the son of NAFTA. If you were pleased with how NAFTA has affected your workers and your farmers, then you should support this agreement with enthusiasm. If you believe that labor standards and environmental quality have significantly and dramatically improved in Mexico, as we were told they would, then you should, by all means, support this agreement.

Evaluate carefully the claims that will be made today about CAFTA. For example, we are going to hear today that CAFTA will open important markets for U.S. goods. Sound familiar?

As we learned from NAFTA, if labor standards are not improved as a part of these agreements, few workers in these markets will be able to afford our goods. The end result is we will not be helping the workers in the area. We will not be helping our own workers. We will not be opening markets. And we will be conferring no economic advantage in the United States or, indeed, upon the workers in the countries this agreement affects.

We make cars and trucks in my home State of Michigan. American auto manufacturers are currently putting over $1,400 in healthcare cost into each and every American-made car. The average Nicaraguan worker earns only about $2,300 a year. That is for an entire year's work. While the rising healthcare burden on American manufacturing is an important issue for another day, it illustrates the absurdity of the claims made. How many cars can we reasonable expect to sell in new markets under these conditions? I suspect very few.

I urge my colleagues to examine this agreement with great care, and to do so closely, as I intend to do. As you peel back the layers of this onion, I am confident that any careful and scrupulous viewer will be struck by an overwhelming sense of deja vu and a strong feeling of frustration at promises that have not been kept in the past and clearly that cannot and will not be kept in the future.

I have rarely seen a more appropriate occasion for the old adage, if you fool me once, shame on you. If you fool me twice, shame on me. I urge my colleagues not to be fooled by the son of NAFTA.

Mr. Chairman, I thank you for this hearing. I yield back the balance of my time.

Mr. STEARNS. Gentleman yields back the balance of his time. The gentlelady from Tennessee is recognized.

Ms. BLACKBURN. Thank you, Mr. Chairman. I will waive and save my time for questions.

Mr. STEARNS. All right. Mr. Brown.

Mr. BROWN. Thank you, Mr. Chairman. I thank you very much for your leadership, Chairman Stearns and Ranking Member Schakowsky, for your leadership. And a special thanks to Brett Gibson for his terrific work on this too.

Today, April 28, is the 11-month anniversary of the signing of the Central America Free Trade Agreement. Every trade agreement that President Bush has signed was voted in by Congress within 60 days. Within 60 days. It has been 330 days since CAFTA was signed by the President. May 28, the date by which Leader Delay and Chairman Thomas will be voted on will mark the 1-year anniversary of when the President signed the Central America Free Trade Agreement.

Because CAFTA is so unpopular and because trade policy in this country is so wrong-headed, that is why it clearly hasn't come up for a vote. Democrats support free trade. We support a trade agreement with CAFTA nations, but we don't support the misguided agreement that USTR has negotiated. We need to remember that CAFTA is non-amendable, no side agreements, no side deals. If it

is not in the core text of the agreement, it simply doesn't mean anything. As Mr. Dingell said, we have been down that road before.

One of the arguments that we hear a lot is that CAFTA nations are large markets for U.S. goods. If we pass this agreement, the same promises that Mr. Stearns and I have been hearing on NAFTA and PNTR, if we pass this agreement, it will be more exports for America, more jobs for America, growth and manufacturing for America. And they tell us especially that these CAFTA nations are large markets. But just do the math. The combined purchasing power of the Central American nations in CAFTA is the same of that—combined as the purchasing power of Columbus, Ohio or Memphis, Tennessee, Orlando, Florida or Pittsburgh, Pennsylvania.

CAFTA nations simply are not robust export markets for us. The average salary of a Nicaraguan worker is $2,300 a year, $191 a month. Nicaraguan workers can't afford to buy the cars we make in Ohio; they can't afford the cuts of U.S. prime beef at $13 a pound; they can't afford textiles and apparel from Georgia and North and South Carolina; they can't afford to buy software made in Seattle. I ask CAFTA supporters what American-made product can Central American workers purchase who are earning less than $200 a month. CAFTA supporters simply don't answer those questions.

If corporations were serious about creating robust export markets for American goods, they would be working to ensure the Central American Free Trade Agreement's nation's labor standards increased. Perhaps we should call this the Central America Free Labor Agreement rather than the Central America Free Trade Agreement because only when Central American workers will earn enough to buy U.S. goods will trade be successful.

The Central America Free Trade Agreement expands the failed trade policies of its dysfunctional cousin, the North American Free Trade Agreement.

When I ran for Congress in 1992, the United States had a $38 billion trade deficit. Last year, a dozen years later, we had a $620 billion trade deficit, $38 billion to $620 billion in a dozen years. The more you look at the face of this Central America Free Trade Agreement, the better you see who will benefit and who will pay the price. When the world's poorest workers can buy American products rather than just make them, then we will know that our trade policies are finally succeeding. Unfortunately, the CAFTA before us will not succeed in doing that. Thank you, Mr. Chairman.

Mr. STEARNS. Thank you, gentlemen. Mr. Pitts, just to confirm, did you waive? Okay. Mr. Rogers?

Mr. ROGERS. Thank you, Mr. Chairman. I do believe that I will waive, but I do want to congratulate you on reasserting this committee's jurisdiction on trade. I think that is incredibly important.

Mr. STEARNS. Thank you. Mr. Green, the gentleman from Texas.

Mr. GREEN. Thank you, Mr. Chairman. And like my Michigan colleague, I want to thank you for making sure our committee continues our jurisdiction over trade. I want to thank you and also our ranking member for holding this hearing on CAFTA.

I am pleased to see that the committee exerted our trade jurisdiction, giving committee members an opportunity to express our views on this particular trade agreement.

As a business major at the University of Houston and being in business for 23 years, I am no stranger to the theory of competitive advantage and the promises it held for countries around the world. But I know all too well that theory and promises are very different. What may sound good in the business college classroom doesn't work out in the real world.

The unfortunate reality is that the bulk of our free trade agreements have led to the erosion of our once-great manufacturing sector and the middle-class jobs it created. And I am proud to represent the third most blue collar district in our country. My constituents are the type of hard-working people all across this country who lost their jobs as a result of free trade agreements we have entered in the last 10 or 15 years. In fact, NAFTA alone led to a 50,000 net jobs loss in my State of Texas. Now, Texas benefited economically, but not the folks that I represent.

And don't get me wrong, I don't have a blanket opposition to free trade agreements, per se. Last year I voted for the U.S.-Australia Free Trade Agreement because Australia and the U.S. have comparable standards of living. And the agreement put the two nations on a level playing field. That agreement facilitated not only free trade between the two countries, but fair trade as well.

While my primary concern is with protecting the American worker, I am highly suspicious of this agreement's ability to better the lives of workers in the CAFTA countries. It is no secret that this agreement was modeled after NAFTA, which I voted against. One would think our country would learn from the many failures of NAFTA instead of applying the near identical trade provisions in Central America and the Dominican Republic.

It is easy to form a picture of what life for the Central American workers would be like under CAFTA. All we have to do is look at how the typical Mexican worker has fared under NAFTA. Unfortunately, the answer is not too well. In February I was in the central part of Mexico and discussed the problems that they have had with the loss of their job base, first with NAFTA with the agriculture sector, but now after permanent trade relations with China, so many of those jobs that moved to Mexico are now moving to China. True, the wealth in Mexico increased, but it is not distributed evenly.

Since NAFTA, an additional 19 million Mexicans are impoverished, and President Vicente Fox has stated that 54 million Mexicans can't meet their basic needs. With 10 percent of the Mexican population controlling half of the nation's wealth, it is easy to see that the average Mexican worker has not been a beneficiary of NAFTA. And I see that in our own country. We have seen, since 1993 when NAFTA was passed, the huge disparity between the CEO pay and the people that I represent.

Like NAFTA, CAFTA also disregards the interest of the American worker. CAFTA puts our country at a competitive disadvantage because Central American countries and the Dominican Republic have much lower standards of living than the United States. The blue collar workers in my district receive a living wage and

make a thriving middle class in Houston. They cannot compete against the same worker in Nicaragua whose wages hover around $200 a month for the average worker. CAFTA would not better the lives of American workers. Instead, it would just open the door for American multinational corporations to shift operations overseas for cheap labor.

Make no mistake; this is not in the interest of the American worker. It is high time our county, both Democrat and Republican, stop giving away the farm on free trade agreements. Our country's livelihood is manufacturing, and the middle class is at stake. Mr. Chairman, I yield back what time I have left.

Mr. STEARNS. Thank the gentleman. The gentlelady from California, Ms. Bono.

Ms. BONO. Thank you, Mr. Chairman. I have been a long-time supporter of free and open trade. However, this time, I do harbor some reservations about supporting CAFTA. First, I am concerned about its impact on U.S. agriculture. Specifically, I am worried about how it would affect American-grown fresh fruits and vegetables, which are the mainstay of the agricultural industry in California's 45th Congressional District.

According to the USDA's Economic Research Service, between the years 2000 to 2004, the countries included in the Central America Free Trade Agreement imported nearly $1 billion of fresh fruits each year. The U.S. exported an average of $295,000 of fresh fruits during the same period. In the vegetable industry the percentages are very similar. From 2000 to 2004 the U.S. imported an average of $96.5 million worth of fresh and frozen vegetables from Central America while exporting a mere $79,000 worth of vegetables to that part of the world.

While I do not believe we should put up trade barriers, I do think we should ensure a level playing field. One important step toward this goal is adopting mandatory country of origin labeling without delay.

But without question, my biggest reservation about supporting CAFTA has to do with intellectual property rights. While countries in this trade agreement are not necessarily the world's leaders in violating international IP agreements, it is difficult for me to imagine how we could convince these nations to be law-abiding when we do not do nearly enough to ensure the compliance of other trading partners like China.

I realize many sectors of the agricultural, entertainment, and technology industries are supportive of CAFTA, free trade, if it is fair, is valuable to our economy. But I believe we need to get our own house in order prior to opening our doors to more trading partners. If we keep looking the other way and delay getting tough on IP violations, we will be weakened by our own doing.

Mr. Chairman, I will keep an open mind when it comes to weighing the pros and the cons of this trade agreement, and I look forward to hearing from these witnesses today. Thank you, and I yield back.

Mr. STEARNS. Thank you. Mr. Gonzalez.

Mr. GONZALEZ. Thank you very much, Mr. Chairman. I am going to try to be brief. Then I am going to be asking for permission to do something, which I am not sure that I am allowed. But with the

chair's permission, I should be able to do it if I don't take up all of my time I—quickly, this is the greatest fear. You have heard everyone speak at this point. You can pretty well figure out if they are for or against this. I am one of those whose mind has not been made up, and I sincerely mean that. And I am waiting for persuasive arguments from both sides.

This is what I fear and I would caution against. In the January 25 issue of "Congress Daily," this was the report: "The Bush Administration and K-Street backers of the U.S.-Central America Free Trade Agreement will argue that the pact reinforces political stability in the region and try to cast opponents of the agreement as anti-Hispanic." Sources familiar with the pro-CAFTA coalition strategy said, "What message would it send to say we are not going to trade with poor Latinos," said a U.S. tradeofficial who has been in contact with the pro-CAFTA business lobby on strategy for lobbying Congress on the agreement.

I can tell you this right now. You will lose many individuals out there if you don't argue this thing on the merits. We are open-minded and will be objective, but the proponents and opponents must be objective in their own analysis and give us the best arguments as to why we should be for or against this particular agreement.

At this time, Mr. Chairman, I would like to yield the balance of my time to Ms. Solis if that is proper and acceptable.

Mr. STEARNS. Sure. That is fine. Go ahead.

Ms. SOLIS. Thank you, Mr. Chairman, and thank you, Congressman Gonzalez. I simply want to ask for unanimous consent to provide my statement for the record. But I do want to underscore that I am apposed to the DR-CAFTA agreement.

I am one of the few if—I think only Central American Members of Congress by birth on my mother's side. I have been to Nicaragua and I have been to Mexico, and I have seen what has happened with NAFTA and also the results as of 2 years ago in Nicaragua. And I see that there are many American corporations there and know that there are many people that are being oppressed, many young women who are being told that they can come in and get jobs there and are asked to work 12 and 15 hours, are not allowed to organize, and are not given proper healthcare and environmental protections.

I saw it for myself, and I have to tell you that I am happy that we are having this hearing and would hope that we have more discussion and debate on this. But I do want to register my opposition and provide my statement for the record. Thank you, Mr. Chairman.

[The prepared statement of Hon. Hilda Solis follows:]

PREPARED STATEMENT OF HON. HILDA L. SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I am strongly opposed to the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA).

DR-CAFTA is largely based on the North American Free Trade Agreement (NAFTA). By signing DR-CAFTA, the Bush Administration has ignored the mistakes of NAFTA. Ten years ago, NAFTA proponents promised increased wages and economic development in the United States, Mexico, and Canada and decreased migration. The agreement has failed on all accounts.

DR-CAFTA may create jobs for women, but the working conditions are unimaginable to the American public. The bulk of these jobs are in the *maquiladoras.* I have visited Mexico and seen firsthand the devastating consequences of NAFTA. In the *maquiladora* zone in Ciudad Juarez and other border cities, wages are low, union organizing is suppressed, and industrial pollution jeopardizes the health of workers and residents. Women that work in the *maquiladoras* have reported forced pregnancy testing, sexual harassment, and physical abuse. DR-CAFTA does *not* require compliance with international labor rights and does *not* protect women from discrimination.

Inadequate free trade agreements, such as NAFTA, not only hurt women workers abroad, but also hurt American workers. Over 750,000 jobs in the United States have been lost because of NAFTA. DR-CAFTA will mean more job loss and wage decline for American workers.

U.S. Latino workers have been disproportionately hurt by NAFTA because they tend to be concentrated in industries such as textiles and other manufacturing sectors. While Latinos represent 12.6 percent of the total U.S. workforce, they account for 26 percent of textile and apparel industry workers. In California, Latinos make up an estimated 80 percent of the California garment industry.

Americans believe that we should NOT pursue future free trade agreements similar to NAFTA. 51 percent of American voters oppose NAFTA and claim it has hurt workers, wages and has cost us jobs. The League of United Latin American Citizens, LULAC, the oldest and largest Latino civil rights organization in the U.S., publicly opposes DR-CAFTA. LULAC believes that DR-CAFTA "falls short of being acceptable" and fear that CAFTA will unleash enormous loses for all workers, in the U.S. and Central America.

As the only Member of Congress of Central American descent, I understand the importance of supporting efforts to promote sustainable development and preservation of the agricultural sector in that region. However, U.S. policy towards Latin America should go beyond free trade policies that do little to raise wages and working conditions for the poor.

Those who oppose DR-CAFTA do so because of the irreparable harm it will have to the economy and workers of Central America and the United States. We can not allow the failures of NAFTA be reproduced through DR-CAFTA.

Mr. STEARNS. By unanimous consent, so ordered. Mr. Otter.

Mr. OTTER. Thank you, Mr. Chairman. And thank you for your leadership in calling this I think very, very important hearing.

Long before I was a Member of Congress I was a businessman, and I traveled to more than 80 foreign countries selling French fries from Idaho all over the world. I know the importance of free trade agreements, and I also understand the frustrations of trade barriers. However, I have seen the harmful impacts of some trade agreements, especially when they are not properly enforced, such as the lack of enforcement regarding our present North American Free Trade Agreement, otherwise known as NAFTA. And other agreements that have led to tensions between the United States and Canadian beef, potato, and softwood lumber industries, as well as the Mexican bean and sugar beet industries.

I am particularly concerned that the Dominican Republic-Central America Free Trade Agreement, as currently drafted, will significantly harm Idaho's agricultural industry and have a severe impact on our economy. Sugar is the third largest crop in Idaho, sugar beets. There more than 950 farming families that grow sugar beets in Idaho and thousands of workers employed by the three sugar processing facilities that we have in the State. If DR-CAFTA passes, they are all in serious jeopardy. Nay, nay say many. I say look across my border. I can throw a rock to Nyssa, Oregon, which recently shut down its plant.

Earlier this year a sugar factory closed down in Nyssa, Oregon. It shut down because America's market already is oversupplied by foreign sugar that existing trade agreements require the United

States to accept from 41 countries. That town was devastated. Additional sugar from Central American countries will further depress the market and hurt Idaho.

When people say we are just talking about sugar, they are not recognizing the realities of farming where I come from. You can only grow sugar beets 1 year out of three in Idaho. And putting one commodity out of business, such as sugar, will only cause overproduction in the other commodities like potatoes and wheat.

Many commodity groups tell me that I should support this agreement because it is good for agriculture. However, I cannot support a proposal that it may provide a benefit for some, while almost certain devastation to others.

The sugar industry is still trying to work out problems created by the loopholes that we now see with NAFTA. And it took us years to close up some of those holes. The sugar provisions of DR-CAFTA send a dangerous precedent to our foreign negotiation free trade agreements of the Americas.

Behind the CAFTA countries, 21 other sugar-exporting countries are lined up for their gift from the United States. Combined with these 21 countries, over 25 million tons of sugar, nearly triple the U.S. consumption, are present.

The precedent that DR-CAFTA concession would set would make it impossible for the U.S. sugar industry to survive—future agreements. While I believe we should develop free trade policies—it makes the field more level for U.S. farmers and manufacturers—I will not support this or any other new trade agreement that is harmful to my State. Thank you, Mr. Chairman.

Mr. STEARNS. Thank you, gentleman. The gentleman from Ohio, Mr. Strickland.

Mr. STRICKLAND. Thank you, Mr. Chairman. I would like to thank our witnesses for being here today to give us an opportunity to flesh out the truth behind the proposed agreement.

DR-CAFTA is based on the same misguided notions that NAFTA was in 1994. NAFTA has failed. It has failed to fulfill the promises made to the American people. And so I ask, why in the hell would we proceed to follow a failed model? In the 11 years since NAFTA was implemented, our trade deficit with Mexico and Canada has grown by over 1200 percent according to the "Wall Street Journal." As many as one million good-paying jobs have been displaced here at home. In my State of Ohio alone some 46,000 jobs have been lost as a result of NAFTA.

We should have learned out lesson of free trade agreements negotiated under the Clinton and the Bush Administrations. At a time when our total trade deficit stands at a whopping 6 percent of GDP, we cannot afford to continue to allow unfettered advantage to our competitors.

The truth is that the Central American countries can produce goods cheaper than we can; thus, NAFTA and CAFTA simply allow companies to export jobs to cheaper labor and sidestep labor laws and environmental standards. It is an unbalanced equation that fails to benefit workers on either side.

The question that needs to be asked is what can we gain from CAFTA? The $3 billion in additional exports the supporters project would be a mere .25 percent of our total exports of goods. The com-

bined economies of all CAFTA partners are less than the economy of Cleveland, Ohio. There is simply nothing for us to gain, much to lose.

I visited Mexico during the last year. I talked to a worker who works 9½ hours a day, 5 days a week. Her total take-home pay is $38. American workers deserve more. We owe it to them to secure their livelihoods, to protect their jobs, and not jeopardize both to corporate special interests.

Eleven years ago, this country made a critical misstep by enacting NAFTA. It is imperative that we stand firm against CAFTA and prevent making the same mistake twice. I believe the President should withdraw this agreement from consideration and do what he was elected to do: set about rebuilding the American economy. I yield back my time.

Mr. STEARNS. Thank you, gentleman. I think our opening statements are done.

[Additional statements submitted for the record follow:]

PREPARED STATEMENT OF HON. BARBARA CUBIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

Thank you, Mr. Chairman, for holding this timely hearing.

I would also like to thank the distinguished witness panels who have joined us. They represent a diverse group of interests, all of which would be impacted by the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA). I anticipate an open debate to help Members as well as the public take an honest look at this proposed trade agreement.

I have always supported fair trade, but as it is written, the DR-CAFTA will not garner my support. The State of Wyoming, which I represent, yields numerous superior exportable products which stand to benefit from the increased visibility and expanded market access provided by most Free Trade Agreements (FTA's). However, DR-CAFTA stands to negatively impact two crucial sectors of Wyoming's agriculture community, and for this reason, I cannot support this trade agreement.

Despite what you might hear from detractors, sugar is currently the sole commodity that operates at no cost to U.S. taxpayers. Previously enacted trade agreements already require the U.S. to import 1.26 million tons of sugar annually. This forces American sugar growers to store about 600,000 tons of sugar annually, at their own expense, due to the fact their production is limited to a specificied market share. Approving DR-CAFTA will more than double signatory nations' duty-free access to the U.S. market, further jeopardizing the already strained economic health of America's sugar farmers. Since 1996, 30% of all U.S. sugar beet and cane mills have been forced out of business, including one in my own state, and it just has to stop.

The DR-CAFTA is not advantageous to America's cattle producers, either. Proponents have touted the reduced tariffs on high-priced cuts of beef exported to Central America while ignoring the fact almost half the citizens of this region live in poverty—by their standards. In return, it would provide signatory nations with immediate duty-free access to the U.S. market, despite the fact that none of these nations is declared free of BSE, or "mad cow disease." Without the full implementation of mandatory Country of Origin Labeling, American families have no way to choose domestic beef products. Simply put, DR-CAFTA undermines the stability of American cattle producers and the safety of consumers.

The goal of a free trade agreement is to promote the free exchange of goods and services, and DR-CAFTA does not do so in a reciprocal manner. This agreement will offer artificial competitive advantages to foreign food producers and take away from the families in states like Wyoming, who rely on agriculture for their stability and livelihood. America can do better for it's producers, and it's time for Congress to send this agreement back to the table.

Again, I thank the Chairman, and I yield back the balance of my time.

PREPARED STATEMENT OF HON. LEE TERRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. Chairman, I want to thank you for holding this important hearing on the Dominican Republic-Central America-U.S. Free Trade Agreement (DR-CAFTA).

I am a strong supporter of free trade and the Administration's efforts to remove trade barriers across the globe. As an agriculture-based state, Nebraska and all of its citizens depend on opening new markets and finding new customers around the globe. Exports help support more than 47,000 Nebraska jobs—both on and off the farm in food processing, storage, and transportation. In 2003, Nebraska's farm cash receipts were $10.6 billion, and agricultural exports were estimated at $3 billion, putting its reliance on agricultural exports at 29 percent.

Like many others, I am concerned about America's shrinking trade surplus in the agricultural sector. I support the DR-CAFTA efforts because, overall, U.S. agricultural producers and food processors stand to gain a great deal from the increased exports created by the agreement.

If DR-CAFTA is rejected, American farm exports will continue to face steep tariffs on their exports. The average agricultural tariff applied to U.S. exports to these countries exceeds 11 percent, and is much higher for key Nebraska products such as beef (tariffs ranging from 15-30 percent), pork (15-47 percent), and corn (as high as 45 percent). By contrast, over 99 percent of Central American and Dominican agricultural products already enter the U.S. market duty free. The U.S. currently has a negative agricultural trade balance with the six DR-CAFTA nations for this very reason.

The DR-CAFTA would open a new market of 44 million costumers to U.S. goods, including Nebraska products. More than 80 percent of U.S. exports will gain immediately duty-free access to the DR-CAFTA countries, with remaining tariffs phased-out over 10 years.

The American Farm Bureau estimates that DR-CAFTA could expand U.S. farm exports by $1.5 billion a year. This explains why more than 50 agricultural industry and farm groups support passage of the DR-CAFTA. Nebraska's manufacturers would also benefit, especially in sectors like information technology products, construction and agricultural equipment, pharmaceuticals, and other specialty equipment.

Central America and the Dominican Republic comprise the second-largest U.S. export market in Latin America. With passage of the DR-CAFTA, the United States will increase its global competitiveness—critical at a time that the U.S. is facing a new competitive challenge from Asian imports.

I am also encouraged to learn that a recent study by the International Labor Organization (ILO) demonstrated that labor laws on the book in DR-CAFTA countries are generally in line with ILO core labor standards. Moreover, this agreement contains ground-breaking environmental provisions, including a first-ever citizen participation process designed to correct trade-related environmental problems. Ten environmental non-governmental organizations from the region have endorsed the trade agreement.

While trade is not the panacea for every economic woe, I believe that free trade, combined the strong American work ethic, has provided the citizens of the United States the highest standard of living in the world. I believe the DR-CAFTA will help us continue our high standard of living, and boost America's—and Nebraska's—competitiveness in the global economy.

Thank you, Mr. Chairman. And I look forward to hearing from today's witnesses.

PREPARED STATEMENT OF HON. MIKE ROGERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, thank you for calling today's hearing on the Central American Free Trade Agreement. It is incredibly important for this committee to exercise its trade jurisdiction.

Mr. Chairman free and fair trade helps American workers by opening foreign markets and helps American consumers by lowering prices. However, for trade to work, it must actually be free and fair trade. America has the strongest and most diverse workforce in the world, and we should continue to knock down trade barriers to American products overseas.

The CAFTA does knock down trade barriers. As Ms. Vargo notes in her submitted testimony, nearly 80 percent of imports from CAFTA nations already enter the United States duty free. However, American made goods and services do not receive equitable treatment from CAFTA nations. If we are to continue to manufacture in

America, we must stop allowing foreign governments to tax American made products out of the marketplace.

Even while we work to open new markets for American made goods, we must continue to address the actions of some of our so-called trading "partners." For years, American manufacturers have been able to stay ahead of foreign competition largely because of their commitment to quality and innovation. However, that commitment serves them little benefit when their own government is unable to protect American innovations. Press reports of rampant foreign manufacturing piracy on everything from brake pads to DVDs has made it clear that many of America's trading partners are not yet committed to enforcing the intellectual property laws they agree to when signing trade agreements with the Unites States or as a condition of joining the World Trade Organization.

Mr. Chairman, the threat of intellectual property theft and outright piracy is a growing problem. For that reason, the House of Representatives has in past appropriations bills sought to increase funding help our trade enforcement officers enforce trade agreements and international copyright law. I believe that our government is sincere in its desire to carry this important fight forward. However, I am concerned with how effectively we as a government and as a nation have actually waged this battle. I hope that during their testimony and in replying to the questions posed to them today's witnesses can share with this committee the status of the United States trade enforcement record, and how we can reasonably expect to enforce the gains negotiated in the CAFTA.

Mr. STEARNS. We welcome the assistant U.S. trade representative for the Americas to the table. It is Ms. Regina K. Vargo, Office of U.S. Trade Representative, for your opening statement. And I would—just to clarify to all the members, we are here to learn and to look at this agreement objectively and see the pros and cons. And so obviously this morning you are the lead person. And so we welcome you and we welcome your opening statement.

STATEMENT OF REGINA K. VARGO, ASSISTANT U.S. TRADE REPRESENTATIVE FOR THE AMERICAS, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Ms. REGINA VARGO. Okay, thank you very much, Chairman Stearns, Congresswoman Schakowsky, and members of the committee. I am pleased to have the opportunity to testify before you today on the free trade agreement with Central America and the Dominican Republic, or the CAFTA.

As the chief negotiator of this agreement, I would like to personally thank the subcommittee for focusing on the CAFTA today as we begin the critical legislative process toward implementation of this agreement. I hope I can answer any questions that you may have regarding the many benefits that CAFTA will bring to U.S. exporters, workers, farmers, ranchers, and consumers.

CAFTA marks the successful culmination of a decades-long American policy of promoting economic reform and democracy in Central America. CAFTA offers us the best opportunity to strengthen the economic ties we already have with these nations and to reinforce their progress toward economic, political, and social reform.

At the same time, we have much to gain from this agreement. Collectively, Central America and the Dominican Republic make up the second largest U.S. export market in Latin America with more than $15.7 billion in U.S. exports in 2004. These countries form a larger export market than Brazil and a larger export market than Russia, India, and Indonesia combined.

The American Farm Bureau Federation estimates that CAFTA could expand U.S. farm exports by $1.5 billion a year, which would

represent nearly a doubling of our current agricultural exports to the region. Manufacturers would also benefit, especially in sectors such as information technology products, agricultural and construction equipment, paper products, pharmaceuticals, and medical and scientific equipment. The U.S. Chamber of Commerce estimates that U.S. sales to the region would expand by more than $3 billion in the first year of the CAFTA.

However, we currently face an unlevel playing field. The fact is, we already have free trade with Central America and the Dominican Republic, but it is one-way free trade. Nearly 80 percent of industrial imports from Central America and the Dominican Republic already enter the United States duty-free. In agriculture we estimate that 99 percent of Central America's and the Dominican Republic's farm exports to the United States are duty-free.

CAFTA will level the playing field for American workers and farmers. It will further open regional markets to our products and services, which currently face high-average tariffs and non-tariff barriers.

More than 80 percent of U.S. exports of consumer and industrial goods will become duty-free immediately under this agreement. And more than half of current U.S. farm exports to Central America will become duty-free immediately, including high-quality cuts of beef, cotton, wheat, soybeans, key fruits and vegetables, and processed food products, among others.

U.S. farm products that will benefit from improved market access include pork, dry beans, vegetable oil, poultry, rice, corn, and dairy products. Every major U.S. farm commodity group but one—nearly 60 agricultural organizations—have stated their strong support for CAFTA.

In services, the Dominican Republic and the Central American countries will accord substantial market access across their entire services regime offering new access in telecommunications, express delivery, computer and related services, tourism, energy, transport, construction and engineering, financial services, insurance, audiovisual and entertainment, professional, environmental, and other sectors.

This is also a trade agreement for the digital age, providing state-of-the-art protections and nondiscriminatory treatment for digital products such as U.S. software, music, text, and videos. Protections for U.S. patents, trademarks, and trade secrets are strengthened. And this agreement provides strong anti-corruption measures in government contracting and other measures affecting international trade and investment.

Textiles and apparel is an important component of our trade with the region, which is our second largest market for U.S. fabric and yarn. CAFTA represents a critical element in our domestic industry's ability to compete with Asia. Without the tariff preferences and rules of origins of CAFTA, apparel companies may well move production to China, where they will be more likely to buy exports from Asian suppliers, rather than from producers here in the United States. A tee-shirt that is made in Honduras is likely to contain well over 50 percent U.S. content, while a tee-shirt made in China is likely to contain very little or no U.S. content. To keep

our customers for U.S. yarn and fabric and U.S. jobs in that sector, we need to pass CAFTA soon.

I know that there is a considerable interest in the Congress with regard to workers' rights and labor standards in Central America and the Dominican Republic. We share the goal of seeing the continuation of real, meaningful improvements in worker rights in the region. In CAFTA, we focus on the chief problem in these countries, the need to improve enforcement of domestic labor laws.

At the start of the negotiations, the Central American countries, and later the Dominican Republic, requested a study by the International Labor Organization of the labor situation in these countries. The ILO study demonstrated that the labor laws on the books in Central America and the Dominican Republic are generally in line with ILO core labor standards. But let us be clear. The enforcement of labor laws in the region needs more attention and more resources.

The Central Americans and the Dominicans themselves acknowledge this in a paper that they released recently that was produced jointly with the Inter-American Development Bank and by the Central American trade ministers and labor ministers. It is a candid assessment of past problems, recent improvements, and recommendations for further actions.

CAFTA is specifically designed to respond to the problem at hand by improving enforcement and expanding resources with a comprehensive three-part strategy. First, the agreement requires that countries not fail to effectively enforce their labor laws. As the New York Times said in an editorial last November, "CAFTA actually goes further than the pact with Jordan, since penalty fines collected for not enforcing labor laws would be sent back to the offending country to fix the offense." And the use of those fines is subject to agreement by the United States.

Second, the countries in the region have taken numerous concrete steps to improve labor law enforcement, including hiring more labor inspectors, appointing special labor prosecutors, and prosecuting perpetrators of violence against trade unionists. We are pleased that the labor and trade ministers recently announced a series of additional and specific recommendations to further improve labor law enforcement.

Finally, we need to provide assistance to build the capacity of these countries to enforce their laws more effectively and to strengthen their enforcement institutions and infrastructure. The Department of Labor and USAID have some important ongoing initiatives, but most notably, Congress has recently appropriated $20 million for fiscal year 2005 for labor and environmental trade capacity building. The administration intends to work with Congress and with the CAFTA countries to target these funds toward the areas of greatest need.

We have also broken new ground on the environmental side. The CAFTA environmental provisions and the associated Environmental Cooperation Agreement are the most forward-leaning trade and environmental package ever. We have included several innovations in the environment package. First, working with Senator Baucus, we developed a new public submissions mechanism that will allow the interested public, including NGO's, an opportunity to

challenge a party's failure to enforce its environmental laws and to obtain an independent review of their submission. CAFTA is the first trade agreement ever to include this kind of mechanism in its core provisions.

Second, the parallel environmental cooperation agreement builds on previous capacity-building efforts in the region but breaks them down in several ways. For the first time ever, the agreement provides for the establishment of short-, mid-, and long-term benchmarks for measuring progress in meeting environmental goals and also provides for independent monitoring by outside organizations of success in meeting these benchmarks.

Finally, we are taking steps to ensure that capacity-building efforts are adequately funded. The administration is considering, as I said, how to allocate the $20 million in funding for this fiscal year.

Last month 10 Central American environmental NGO's endorsed the CAFTA and urged its passage. These groups praised the CAFTA environmental package for the opportunities it provides to them to have a new voice in pressing for environmental progress in the region.

In closing, Mr. Chairman, the last 20 years have been a sometimes difficult road to democracy in this region. But today, we have neighbors in Central America and the Dominican Republic who want to trade goods, not guns, across their borders. We want to replace chaos with commerce and to use CAFTA as an important tool of reform that will deepen and strengthen democracy.

Working closely with the Congress, we have negotiated a landmark free trade agreement. We believe CAFTA meets the objectives that Congress set in the Trade Act. It is strongly in the economic and national interests of the United States. We hope the Congress will agree that America should not turn its back on struggling democracies that want a closer economic relationship that will benefit citizens in all our countries. CAFTA makes eminent sense for America and for Central America and the Dominican Republic. Thank you.

[The prepared statement of Regina K. Vargo follows:]

PREPARED STATEMENT OF REGINA VARGO, ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR THE AMERICAS

INTRODUCTION

Chairman Stearns, Congresswoman Schakowsky, and Members of the Committee, I am pleased to have the opportunity to testify before you today on the free trade agreement with Central America and the Dominican Republic, or CAFTA. As the chief negotiator of this agreement, I would like to personally thank the Subcommittee for focusing on the CAFTA today as we begin the critical legislative process toward implementation of this agreement. I hope that I can answer any questions you may have regarding the many benefits that CAFTA will bring to U.S. exporters, workers, farmers, ranchers and consumers.

I would like to begin today with a bit of historical context. Twenty years ago, Congress held several hearings on the topic of Central America. But the Administration witnesses were not from USTR, and the topics had little to do with economics. In February 1985, the House Foreign Affairs Committee held a hearing about developments in Guatemala, where an undemocratic military government ruled and civil war raged. The following month, the House heard testimony from Pentagon and State Department officials about U.S. military assistance to El Salvador, which was then fighting an armed Communist insurgency. In 1985, to the extent that Congress

or the American people paid attention to Central America, it was largely because of violence, dictatorships, and civil war.

It is an extraordinary sign of the progress made in Central America that we meet here today—twenty years later—to discuss a free trade agreement—an economic partnership with these countries. Today, the Dominican Republic and the nations of Central America are all democracies. Elected leaders are embracing freedom and economic reform, fighting corruption, strengthening the rule of law and battling crime, and supporting America in the war on terrorism. And they want to help cement their courageous moves toward democracy and free markets by signing a free trade agreement with their neighbor to the North, the United States.

CAFTA marks the successful culmination of a decades-long American policy of promoting economic reform and democracy in Central America. President Bush strongly believes that America should stand with those in our Hemisphere—and the world—who stand for economic freedom. CAFTA offers us the best opportunity to strengthen the economic ties we already have with these nations, and to reinforce their progress toward economic, political and social reform.

But CAFTA is not an act of unilateral altruism on the part of the United States. We have much to gain from this trade agreement: access to a large and growing market of 45 million consumers close to our border, an opportunity to level the playing field for American workers and farmers who today must cope with one-way free trade from Central America and the Dominican Republic without a reciprocal chance to compete.

The agreement that we are here to consider today is the result of over three years of hard work and close cooperation between the Administration and the Congress, which began when President Bush announced his intent to negotiate a free trade agreement with Central America in January 2002. Using guidance from Trade Promotion Authority, USTR formally consulted closely with committees of jurisdiction before and after every round of negotiations, shared proposed text of the agreement with staff and Members prior to presenting texts in the negotiations. Former USTR Robert Zoellick, Acting USTR Peter Allgeier, myself, and other negotiators consulted with the Congressional Oversight Group and with Members on an individual basis. We took all views into consideration during each step of the negotiations, and greatly value the input provided by the Congress for this agreement. Our dialog with the Congress continues today, and I welcome this opportunity to talk with all Members about CAFTA.

In concluding this FTA, our objective, which we feel confident that we have met, was to follow the negotiating objectives laid out by Congress in the bipartisan Trade Act of 2002 to strike a comprehensive and commercially meaningful agreement that will benefit U.S. workers, businesses, farmers, investors and consumers. At the same time, these complex negotiations took careful consideration of import sensitivities of the United States, many of which were communicated to us by Members of Congress. We worked hard to take into account all concerns raised with us by Members of Congress, and believe that we struck careful balances to reflect these interests.

So today I would like to discuss the reasons why we believe CAFTA is strongly in the national interest of the United States, and why we want to work with Congress to pass this trade agreement into law.

SMALL COUNTRIES, BIG MARKETS

Central America and the Dominican Republic are very large export markets for the United States. Collectively, these countries make up the second largest U.S. export market in Latin America, with more than $15.7 billion in U.S. exports in 2004. For some key states, for example Florida and North Carolina, the region is a top-three export destination for Made-in-USA products. Central America and the Dominican Republic form a larger export market than Brazil, a larger export market than Australia, and a larger export market than Russia, India and Indonesia combined.

While the Central America countries and the Dominican Republic are physically small, they are clearly large markets for U.S. products and services. The American Farm Bureau Federation estimates CAFTA could expand U.S. farm exports by $1.5 billion a year, which would represent nearly a doubling of our current agricultural exports to the region. Manufacturers would also benefit, especially in sectors such as information technology products, agricultural and construction equipment, paper products, pharmaceuticals, and medical and scientific equipment. The U.S. Chamber of Commerce has done a number of studies of the potential economic impact of CAFTA in just eight key U.S. states, and estimates that U.S. sales to the region would expand by more than $3 billion in the first year of CAFTA. From soft drinks

to software, from pork to paper products, the region is a voracious consumer of U.S. products and services. In some areas, textile yarn and fabric for example, the region is second only to Mexico as a worldwide consumer of U.S. exports.

LEVELING THE PLAYING FIELD: NEW OPPORTUNITIES FOR U.S. WORKERS, FARMERS

But while these Central American countries and the Dominican Republic buy many goods and services from the United States, we currently face an unlevel playing field. Most Americans probably do not realize that we already have free trade with Central America and the Dominican Republic, but it is one-way free trade. Under unilateral preference programs begun by President Reagan and expanded under President Clinton with broad bipartisan support, nearly 80 percent of imports from Central America and the Dominican Republic *already* enter the United States duty-free. In agriculture, that percentage is even higher: we estimate that 99% of Central America's and the Dominican Republic's farm exports to the United States are duty-free. For the countries of the region, CAFTA will lock in those benefits and expand on them, helping to promote U.S. investment in the region.

But more importantly, CAFTA will level the playing field for American workers and farmers. It will further open regional markets to our products and services, which currently face very high average tariffs or non-tariff barriers. For example, today the average Central American applied tariff on motor vehicles is 11.1%, while U.S. applied tariffs on imports from Central America are zero. The regional tariff on steel averages 16.3%, but the U.S. tariff is zero. The regional tariff on chemicals is 12.8%, but the U.S. tariff is zero. The same situation exists in agriculture: Central American and Dominican tariffs on U.S. vegetables faced a tariff ranging from 15% to 47%; ours are zero. U.S. fruits and nuts faced a tariff as high as 25% while—products in this same sector enter our market duty free. The chief effect of CAFTA is not to further open our market, but rather to tear down barriers to our products and services in Central America and the Dominican Republic.

CAFTA will create new opportunities for U.S. workers and manufacturers. More than 80 percent of U.S. exports of consumer and industrial goods will become duty-free immediately, with remaining tariffs phased out over 10 years.

The agreement will also expand markets for U.S. farmers and ranchers. More than half of current U.S. farm exports to Central America will become duty-free immediately, including high quality cuts of beef, cotton, wheat, soybeans, key fruits and vegetables, and processed food products among others. Tariffs on most remaining U.S. farm products will be phased out within 15 years. U.S. farm products that will benefit from improved market access include pork, dry beans, vegetable oil, poultry, rice, corn, and dairy products. It is significant that every major U.S. farm commodity group but one has stated its strong support for CAFTA.

In the important area of services, the Dominican Republic and the Central American countries will accord substantial market access across their entire services regime, offering new access in sectors such as telecommunications, express delivery, computer and related services, tourism, energy, transport, construction and engineering, financial services, insurance, audio/visual and entertainment, professional, environmental, and other sectors. The Dominican Republic and the Central American countries made significant commitments regarding their "dealer protection" regimes. These commitments will help ensure that U.S. firms are not locked into exclusive or uneconomical distributor arrangements.

This is also a trade agreement for the digital age, providing state-of-the-art protections and non-discriminatory treatment for digital products such as U.S. software, music, text, and videos. Protections for U.S. patents, trademarks and trade secrets are strengthened, and several are Chile-plus provisions, such as strong patent protection by 2007 for certain modified plant varieties.

And this agreement breaks new ground, providing strong anti-corruption measures in government contracting and other matters affecting international trade or investment. U.S. firms are guaranteed a fair and transparent process to sell goods and services to a wide range of Central American and Dominican Republic government entities. The agreement's dispute settlement mechanisms call for open public hearings, public access to documents, and the opportunity for third parties to submit views, with limited exceptions to protect confidential information. Transparency in customs operations will aid express delivery shipments and will require more open and public processes for customs rulings and administration.

TEXTILES

Textiles and apparel is an important component of our trade with the region and deserves special mention. The Administration strongly believes that CAFTA is not

a threat to U.S. textile producers but in fact represents a critical element in our domestic industry's ability to compete with Asia.

Today, garment factories in Central America and the Dominican Republic are very large consumers of U.S.-made textile fabric and yarn. The extensive use of U.S. inputs in the regional apparel business means that Central America and the Dominican Republic actually constitute the second-largest world export market for U.S. textile yarn and fabric, behind only Mexico. For states like North Carolina, exports of textile fabric and yarn to garment makers in the region make a small country like Honduras that state's number one export market in the world. CAFTA will help keep it that way, by delivering tariff preference benefits for clothing made in the region that uses U.S. yarn and fabric.

Without CAFTA, our domestic yarn and textile industry would likely lose one of its biggest customers. Worldwide quotas on textiles and apparel expired at the end of last year, meaning that the hemispheric industry faces a new collective threat from Asia. Without the tariff preference benefits of CAFTA, apparel companies may well move production to China. Indeed, the uncertainty to date about CAFTA has already caused a number of apparel firms to shut down operations in Central America and move them to China; as many as 10,000 workers may already have already lost their jobs. In China, there are no special trade incentives for apparel producers to buy U.S. yarn and fabric. In fact, they are much more likely to buy inputs from Asian suppliers, rather than producers here in the United States. That's why a T-shirt that is Made in Honduras is likely to contain well over 50% U.S. content, while a T-shirt Made in China is likely to contain very little U.S. content at all.

To keep our customers for U.S. yarn and fabric, we need to keep them close to home. And to keep them close to home, we need to pass CAFTA soon.

LABOR

I know that there is considerable interest in Congress with regard to worker rights and labor standards in Central America and the Dominican Republic. We share that interest, and I believe we share the goal of seeing the continuation of real, meaningful improvements in worker rights in the region. I believe we should focus our strategy, and our attention and efforts, on the chief problem in these countries: the need to improve enforcement of domestic labor laws.

The Central American countries, and later the Dominican Republic, requested a study by the International Labor Organization (ILO) of the labor situation in their countries. The ILO study demonstrated that labor laws on the books in Central America and the Dominican Republic, are generally in line with ILO core labor standards. The Administration's own, more detailed analysis of the labor rights situation in these six countries confirms that their labor laws are generally ILO-consistent. Indeed, labor protections on the books in the region are broadly similar to labor laws in Morocco, and in some areas (e.g., child labor) are stronger. Congress gave broad bipartisan support to an FTA with Morocco in 2004.

But let's be clear: the *enforcement* of labor laws in the region needs more attention and resources. Our analysis shows this, and the Central Americans and Dominicans themselves acknowledge this, as the White Paper recently released by regional Labor and Trade Ministers clearly demonstrates. CAFTA is specifically designed to respond to the problem at hand by improving enforcement and expanding resources with a comprehensive, three-part strategy:

- First, the agreement *requires* that countries not fail to effectively enforce their labor laws. If they consistently fail to enforce those laws in a manner that affects our trade, then they face the prospect of monetary penalties that will be directed to solve the problem, or potentially face the loss of preferential trade benefits. As the New York Times said in an editorial on November 24, 2004, "*Cafta actually goes further than the pact with Jordan, since penalty fines collected for not enforcing labor laws would be sent back to the offending country to fix the offense.*" Exactly right.
- Second, it's important to note that countries in the region have already taken numerous, concrete steps to improve labor law enforcement, including hiring more labor inspectors, appointing special labor prosecutors, prosecuting perpetrators of violence against trade unionists, and cutting the backlog of cases in their labor courts. There is much more to do, however. So we were pleased that Labor and Trade Ministers recently announced a series of additional and specific recommendations to further improve labor law enforcement.
- Finally, we need to provide assistance to build the capacity of these countries to enforce their laws more effectively and to strengthen their enforcement institutions and infrastructure. We're pleased that the Department of Labor committed $7.7 million to a multi-year technical assistance effort. Congress has now

appropriated $20 million for FY05 for "labor cooperation, capacity building on fundamental labor rights and the elimination of child labor, and improvement in labor administration", as well as for important environmental cooperation activities in this region. The Administration intends to work with the Congress and with the CAFTA countries to target these funds toward the areas of greatest need, and we hope that the funds provided for FY05 are only a first step in an ongoing commitment by the Congress to fund labor capacity-building in this region.

Our comprehensive strategy does not attempt to minimize the challenges we faced: We negotiated a fully TPA-consistent labor chapter, we worked with the Dominican Republic and the Central American countries to make real worker rights progress during the negotiations, and there is a strategy for long-term capacity building. This concrete, real-world effort is directed at where the problem lies: problems with the enforcement of existing laws in Central America and the Dominican Republic. By contrast, a strategy of defeating CAFTA would preserve the status quo, and very likely set back progress to date. Defeating CAFTA will do nothing to improve working conditions for a single worker in Central America or the Dominican Republic, and in fact will have the opposite effect, as tens of thousands of Central Americans and Dominicans stand to lose their jobs to China if the United States turns its back on CAFTA. We believe that one of the best ways to improve working conditions in Central America and the Dominican Republic is to have strong economic growth, combined with a comprehensive and targeted strategy to build the capacity of these countries to enforce their labor laws.

ENVIRONMENT

We have also broken new ground on the environment side. I believe that the CAFTA environmental provisions, and the associated Environmental Cooperation Agreement, are the most forward-leaning trade and environment package ever. We have worked closely with Congress in developing our approach and developing many of its unique features.

The CAFTA countries have come a long way in the last decade in putting in place good environmental laws as well as the beginning of a complete environmental legal regime, but enforcement in many cases remains a significant challenge. There is also the need for greater transparency and involvement of civil society in environmental decision-making. To address these concerns, in addition to continuing existing Administration efforts to help the CAFTA countries further develop their legal regimes, we have included several innovations in the environment package:

- First, we have developed a new public submissions mechanism that will allow the interested public, including NGOs, an opportunity to challenge a Party's failure to enforce its environmental laws and to obtain an independent review of their submissions. CAFTA is the first trade agreement ever to include this kind of mechanism in its core provisions, and it will give civil society in the region a new voice in working to improve environmental enforcement in the region. Just a few weeks ago, in a ceremony taking place at the Organization of American States, we and our Central American and Dominican Republic counterparts signed a landmark agreement that designates a new environmental unit within SIECA—the Organization for Central American Economic Integration—as the secretariat to implement these provisions.
- Second, the parallel environmental cooperation agreement (also signed at the OAS ceremony) builds on previous capacity-building efforts in the region, but breaks new ground in several ways. For the first time ever, the agreement provides for the establishment of short-, medium- and long-term benchmarks for measuring progress in meeting environmental goals. The agreement also provides for independent monitoring by outside organizations of success in meeting these benchmarks. Initial priority areas for cooperation include reinforcing capacity to implement and enforce environmental laws, including habitat conservation, trade in endangered species and treatment of hazardous wastes.
- Finally, we are taking steps to ensure that capacity building efforts are adequately funded. The Administration has initiated a Deputies process to oversee environmental cooperation efforts linked with all the FTAs and to organize an inter-agency budget process to promote coordination across interested federal agencies. The Administration also is considering how to allocate the $20 million in FY05 funding between labor and environment activities.

The response in the region is already gratifying. Last month ten Central American NGOs sent a letter to former U.S. Trade Representative Zoellick and the trade ministers of our Central American and Dominican Republic partners, expressing their support for the CAFTA and urging its passage. These groups praised the

CAFTA environmental package and the opportunities it provides for them to have a new voice in pressing for environmental progress in the region. The governments are also doing their part to prepare the way for CAFTA's implementation. With our participation, they have held numerous public outreach sessions in the region, with more to follow. And just to take some of the most recent examples of concrete action: Nicaragua has created a new office on trade and environment within its environment ministry as the result of the CAFTA, while El Salvador has established a new advisory committee on trade and environment issues, with NGOs on the committee, very much like our own Trade and Environment Policy Advisory Committee (TEPAC). In fact, the Environment Chapter requires all of the CAFTA-DR countries to establish such advisory committees.

Thus, we are poised to make a real difference in strengthening civil society and environmental protection in Central America and the Dominican Republic. We should not let this historic opportunity pass.

SUGAR: HANDLED WITH CARE

We are aware that some members of Congress have expressed concerns with U.S. sectors that are sensitive to import competition, such as sugar. If I had to describe in a phrase how we handled those issues in the agreement, it would be, "handled with care."

On sugar, it is important to remember that there will be *no change* in the above-quota U.S. duty on sugar. This was an important accomplishment that recognizes the sensitivity of this important sector of the U.S. farm economy. CAFTA will *not* have a destabilizing effect on the U.S. sugar program, because even with a modest increase under CAFTA, U.S. imports will still fall comfortably below levels set for sugar imports in the Farm Bill.

In other agreements, we have also been sensitive to this issue. In our FTA with Australia, sugar was excluded entirely. In our agreements with Chile and Morocco, we have provisions that effectively will result in no change in the levels of sugar imports from those nations.

For Central America and the Dominican Republic we agreed to a very small and very limited expansion of the quota for sugar imports from these countries.

The total increased quota amount is equivalent to only about one day's worth of U.S. sugar production. We produce more than 7 million metric tons of sugar in the United States annually. The increased amounts under CAFTA are only a little over 100,000 metric tons. Even after 15 years, increased sugar imports from Central America and the Dominican Republic will amount to only about 1.7% of U.S. consumption.

In addition, the Agreement includes a mechanism that allows the United States, at our option, to provide alternative compensation to CAFTA country exporters in place of imports of sugar.

To put sugar imports under CAFTA into perspective, the increased imports in the first year under CAFTA amount to about *a teaspoon and half per week* per American. That compares with average consumption of 10-20 teaspoons of added sugar *per day* for most Americans. The amount of sugar allowed into the United States under CAFTA is minuscule. Claims that the CAFTA will harm the U.S. sugar industry are simply wrong.

A UNIQUE CHANCE TO STRENGTHEN DEMOCRACY

Mr. Chairman, the last twenty years has been a sometimes difficult road to democracy in El Salvador, Guatemala, Nicaragua, and other countries in the region. But today we have neighbors in Central America and the Dominican Republic who want to trade goods, not guns, across their borders. They want to replace chaos with commerce, and to use CAFTA as an important tool of reform that will help deepen and strengthen democracy.

Working closely with the Congress, we have negotiated a landmark free trade agreement that will open these large and growing markets to our goods and services. CAFTA will level the playing field, helping our workers and farmers sell to countries that already enjoy virtually unlimited access to the United States market. The agreement will help the U.S. textile industry unite with some of its largest world customers to better compete against imports from China and other Asian competitors. It contains a focused, results-oriented strategy that will—when combined with a strong Congressional commitment to capacity-building—produce real improvements in working conditions and environmental protection in the region. And it handles sensitive commodities with great care.

We believe CAFTA meets the objectives set by Congress in the Trade Act. It is strongly in the economic and national interests of the United States. We hope the

Congress will agree that America should not turn its back on struggling democracies that want a closer economic relationship that will benefit workers in all our countries. CAFTA makes eminent sense for America, and for Central America and the Dominican Republic.

Thank you.

Mr. STEARNS. I thank you. And I will start with the questions. I certainly want to say that I think you made an eloquent case. We normally allow 5 minutes for opening statements, and certainly we wanted to give you extra time. Also to commend Rob Portman, who is going to be the next trade representative, who we have great respect for. And out of respect for him and him talking to me, I sort of felt that it was important for you to get your whole statement on. And I think you did a very good job.

When you look at what you say and you—just from the outside, and you say well, look, we are allowing these goods to come in here now duty-free, I think you said 80 percent, and so by golly, all we are going to do is allow now American goods to get in there without tariffs. Why would anybody be against it? It just sounds so logical. And the fact that you point out that you have had years. How long have you been negotiating CAFTA would you say? I mean, I know it is part of the CBI Agreement from the 1980's, but I mean, how would you——

Ms. REGINA VARGO. We spent a year, Mr. Chairman, on preparatory work, going over the kinds of obligations we like to see in agreements with the countries. We were in a year of active negotiation with the Central American countries, and then another 3 months with the Dominican Republic.

Mr. STEARNS. So you have done the best effort; you had the most comprehensive teams; you worked this out. You can't expect it to be perfect so people can hit you around the edges. But I think what you are going to hear, people are going to go back to NAFTA. So I think you are going to have to also be prepared this morning, this afternoon, whatever time it is, to talk about NAFTA. And I think the argument can be made that the NAFTA agreement provided more wealth to Mexico. I think no matter who is on either side would probably agree that that was true. The problem is that the wealth was not proportional to the middle class or perhaps to the lower-wage people. So that is what the people who are against this agreement will argue, why should we vote for this CAFTA when we have NAFTA where we saw yes, the wealth increased, but it did not provide the wealth for the people who are in the middle class or lower?

So the argument to you is, is it true that more wealth was provided for Mexico because of NAFTA? I think the answer is yes, right?

Ms. REGINA VARGO. Yes, it is.

Mr. STEARNS. In your opinion, do you think the argument that the wealth went to the upper 10 percent and not to the rest of Mexico is a valid argument at all? Can you make that statement with some objectivity that the wealth that was created in Mexico went to the upper people and not to the people themselves, the substantial working labor force?

Ms. REGINA VARGO. The discussion on NAFTA sometimes gets complicated by——

Mr. STEARNS. Oh, I know——

Ms. REGINA VARGO. [continuing] people——

Mr. STEARNS. [continuing] and that is—I am——

Ms. REGINA VARGO. No——

Mr. STEARNS. [continuing] trying to keep it very simple.

Ms. REGINA VARGO. No, I just wanted to say by the peso crisis that happened——

Mr. STEARNS. Okay.

Ms. REGINA VARGO. [continuing] shortly after the——

Mr. STEARNS. Right.

Ms. REGINA VARGO. [continuing] agreement went into effect. But in fact when you look at the period from before NAFTA to the current day, poverty rates are lower now, not greatly, but lower now than they were then. And with respect to income levels, the World Bank has found that the greatest reduction in poverty has been at the extreme.

Mr. STEARNS. Okay, well, that is what you need to make, because, you know, as Members of Congress who voted for or against it, you say well, how did NAFTA go? And if NAFTA went pretty well, there is really no reason we shouldn't pass this. So I think on the stump you are going to have to explain that.

There is also a feeling that disagreement has broader implications than just the economic. It will allow Americans to have duty-free commerce into Central America, but you alluded to the fact that this will also help to stabilize countries and has geopolitical considerations, not to mention the fact that you got these people to agree, and if Congress turns it down, then we have got to go back to these countries. And they say well, gee whiz, you had an agreement with Australia, you had agreement with all these other—Jordan, all these other countries. Why didn't you have an agreement in your own hemisphere? But you might talk to us a little bit about not just the economic and the things you talked about, more inspectors, enforcement institutions, but is there also geopolitical reasons for passing this agreement?

Ms. REGINA VARGO. Well, Mr. Chairman, there has been a strong geopolitical reason for our interest in this region for quite some time. And in fact that was the basis for which the Congress, in a bipartisan way, passed the Caribbean Basin Initiative initially, back around 1985 I believe it was, that provided them with one-way duty access into the United States. This was with the hope that additional market access could help generate some sustainable economic growth in the region that would be more beneficial to creating these—reinforcing these fledgling—what we wanted to be fledgling democracies, and at the time was actually quite a period of chaos in the region with their own internal civil wars, the guerillas fighting, et cetera.

What we built under CBI is we have been able to reinforce some jobs and economic growth in the region through the opening we made. The Congress found it was inefficient. Two years ago it went to improve the terms of the CBI agreement to strengthen the partnership in the textile and apparel area. And I want to focus on that for one moment if I can, because I think that it shows very clearly what is at stake in this agreement with respect to your question, Mr. Chairman.

On the basis of the partnership we formed, this region would buy our fabric and our input, and they would produce the garments and we would allow them duty-free into the United States on the basis of their U.S. content. This region has built a broad apparel industry. That industry now employs half a million people. The people employed in this industry in Central America are basically single head of households. Basically, they are unwed mothers who are supporting children. And a real, I think, risk in not passing the CAFTA from a geopolitical standpoint is we need to reinforce that partnership that we have had that has built this industry and created those jobs now that, under the WTO, the multi-fiber agreement is no longer in place, and only tariffs, no longer quotas, will affect what the access is into the U.S. market. We have already seen a strong push in the early months of this year from China and other Asian countries, in some instances sending us as many goods in the first couple months as they did in all of last year.

If, in fact, we don't reinforce those jobs in Central America, this industry, these countries will a) not be in a position to be buying our inputs as they have been, so we will lose that business, but they will also—they don't have another means to pay for import goods into their market. They are going to have to cut back on what they are buying, buying from us generally. If they can sell us $10 billion less, they can buy $10 billion less. But we are going to do that in a context which you can see here by way of the possibility for a dangerous spiraling-down of economic opportunities in the region. And I think that when you are in a situation as we are in these countries where the rule of law and democracies are just being put in place, having the potential of throwing a large number of people out of work without other economic opportunities is definitely problematic for the United States.

Mr. STEARNS. My time is expiring. The ranking member, Ms. Schakowsky.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. First, I would like to ask unanimous consent to put into the record two documents from the United States Conference of Catholic Bishops where they urge us to evaluate CAFTA's provisions in light of the moral criteria laid out in their joint statement, and two documents from a broad environmental coalition of a number of organizations. And so I would like——

Mr. STEARNS. By unanimous consent——

Ms. SCHAKOWSKY. [continuing] this in the record.

Mr. STEARNS. [continuing] so ordered.

Ms. SCHAKOWSKY. Thank you. Ms. Vargo, back in June of 2003 when CAFTA negotiating processes began, the USTR admitted the serious problems with Central American labor laws and pledged to take action to address those problems before duplicating the labor rules of the Chile and Singapore FTA's in CAFTA. Deputy USTR Peter Allgeier testified before Congress that whether the labor provisions of the Chile and Singapore agreements would be sufficient for Central America, this is from him, "depends in part on what changes in their laws they make during the negotiating process." He stated that "Frankly, the different circumstances that exist in those countries and among those countries compared to, for example, Chile and Singapore" may require a different approach. And he

pledged that USTR would "need to get those labor standards and the enforcement of labor rights up to a certain level before we would find acceptable a commitment to enforce those laws."

Now, you know, you talked about capacity building, and those efforts may or may not come to fruition, and none of what you have talked about is actually in the agreement itself. A year and a half later most of the Central American countries really have done nothing to bring their labor laws—I am talking what is on the books right now—closer to international standards during the CAFTA negotiations. The only country that partially reformed its laws in response to ILO criticism is Nicaragua, but serious deficiencies remain in the laws even there.

So nonetheless, despite what the USTR representative said, the CAFTA labor chapter is an exact replica of the Chile and Singapore model. It requires only the enforcement of domestic labor laws, no matter how inadequate those laws are. So this model was no acceptable to the USTR for Central America in 2003. Why should Congress find it acceptable today?

Ms. REGINA VARGO. Well, thank you very much for that question, Congresswoman, and actually, I welcome the opportunity to maybe lend some insight to that remark. I think what Ambassador Allgeier was signaling to the Congress in his testimony was that we were aware of fairly widespread concerns with the labor situation in these countries. And in fact I would say that perhaps our own initial preconception was that there would be difficulties with their law reflecting the international ILO core labor standards.

Recognizing that this was going to be a major area of contention, the labor ministers in the region, subsequent to Ambassador Allgeier's remarks, actually invited the ILO to come in and do a study of their labor laws. And we believe that that study confirmed that the laws on the books—the way they are captured in their constitution and the way their ratification of the ILO core labor conventions and some of the labor laws are set up—they do give effect to these international ILO core labor standards and do provide a meaningful basis for a requirement in the agreement to effectively enforce their own labor laws.

Ms. SCHAKOWSKY. Even if what you said were the case, and we will hear some other testimony, those nations could change labor laws, and because they only have to enforce what their laws are, couldn't they weaken them at any point?

Ms. REGINA VARGO. We don't see this as having much likelihood. All of their direction has been in improving their labor laws, and over the course of the last decade, most of these countries—Honduras is the exception and they are doing it right now—have undertaken labor law reform, utilizing technical assistance from the ILO.

You also have to recognize that the way labor is presented in their constitutions themselves present an important basis for how they give effect to these international core labor standards.

Ms. SCHAKOWSKY. So you just think it is unlikely? My time has actually expired. Thank you.

Mr. STEARNS. Thank you. Thank the gentlelady. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman, and thank you, Ms. Vargo, for attending today. It is important. I am an ardent free

trader and am encouraged to see some of the agreements that you reached in CAFTA that I thought were I think a step in the right direction.

I have one concern, and I think what you are saying here are there are those here who aren't going to be for trade no matter what, and there are those who support trade no matter what. And I think there is a kind of a coming together in the middle of those of us who are concerned about the fact that the enforcement of the USTR has, I can't say, been a failure, but it has been abysmal at best. And coming from a State like Michigan, we build cars, or we are still trying to build cars in Michigan. We have found that it is incredibly frustrating to try to work through the idea of, again, people who supported these trade agreements worried about the enforcement side of it. So help me walk through—I mean, intellectual property from brake pads to golf clubs to pharmaceuticals to DVDs, horrible problem around the world. And I think, quite frankly, you all have done a horrible job of stepping up to the plate. Currency manipulation, killing us. Horrible job stepping up to the plate.

And so our argument is, hey look, I want to be a free trader; I want to be for trade agreements. But without an enforcement component in today's global competitive environment, we are in trouble. And you need a referee on the field. If it is going to be a fair game, there has got to be somebody there to throw the yellow flag when somebody is cheating. And there are nations around the world, some of which are engaged in these trade agreements, who are cheating.

Even under NAFTA, if you look at the non-tariff trade barriers under NAFTA, horrible job removing those trade barriers between Mexico on agricultural products. I could give you a list a mile long. A horrible job. And our argument is look, NAFTA, I think, at the end of the day is a good thing and it is a powerful positive for the United States and Mexico. But if you don't remove those non-tariff trade barriers through aggressive pursuit, we are going to be in trouble.

And we are having a hard time selling CAFTA to people because of that track record. And I believe that, you know, the best diplomat, the best program to cure poverty is really commerce. And so we need to promote commerce, but we can't do it one without the other. So I hope you can help me understand, how are you going to step up enforcement on CAFTA so we don't run into these very same problems that we are running into on other trade agreements?

Ms. REGINA VARGO. Thank you very much, Congressman. And I couldn't agree with you more about the importance of following up on trade agreements on the enforcement angle. I do think that we have been vigorous across a wide range of issues in pursuing enforcement initiatives. Sometimes, at an informal level, through consultations or a bilateral dialog, as opposed to WTO dispute settlement, but we have, I think, a record of achieving success in a number of large instances. But in particular I would like to point to some of what I hear of your concern in the intellectual property rights area, for example. We have a major mission right now that is going to China and through Asia on our "Stop" initiative to ad-

dress counterfeiting and piracy. The administration recently indicated its increased concern with the currency situation.

But I would like to point out, because I hear it from this committee, about the idea of a lack of enforcement leading to the trade deficit, only about 10 percent of the U.S. trade deficit is with countries with which we have free trade agreements. The bulk of our trade deficit is with countries that we don't—the vast bulk. So I think these trade agreements represent an opportunity to put the right kind of rules into place.

And you, sir, mentioned intellectual property. And certainly, that is something in the CAFTA agreement where, across a whole host of issues—whether that is protections for digital products, as I mentioned earlier, strengthening trademarks, strengthening border enforcement against counterfeited goods, strengthening patent and copyright protections—we are bringing these countries into our global efforts to produce good IP protections such as the UPOV Convention on plants and animals or the Internet Copyright Treaties. This is a basis for bringing this region—because we are talking about this agreement for the moment if I can—up to those kind of world-class standards that we would like to see. And we think we are doing it in a way that couples it with some transitions in a few areas and some trade capacity building assistance.

And frankly, I think there is a recognition on the part of these countries that market access alone to the U.S. market hasn't gotten them the growth they need. They recognize that they need to put in place a better commercial environment.

Mr. ROGERS. I appreciate that. What do you need from Congress so that you can increase your enforcement and your effectiveness in enforcement of these trade agreements? What don't you have that you need us to give you to be a success?

Ms. REGINA VARGO. Congressman, may I suggest that I get back to you on that with a written answer——

Mr. ROGERS. I would love it.

Ms. REGINA VARGO. [continuing] because I think your question isn't just relating to my region. I think that you are addressing a broader question for the agency as a whole.

Mr. ROGERS. True enough, but Mexico is a big problem, especially in the non-tariff trade side, and I would be happy to be supply you with all the information you need, at least from our angle.

Ms. REGINA VARGO. And we would be very happy to work with you on the specific problems that you are particularly looking——

Mr. ROGERS. Right.

Ms. REGINA VARGO. [continuing] at.

Mr. ROGERS. Super.

Ms. REGINA VARGO. I will point out that under NAFTA, Mexico did become our second largest agricultural export market.

Mr. ROGERS. Yes.

Ms. REGINA VARGO. So we are selling, but you are right, we have——

Mr. ROGERS. Still problems, as you know. I am——

Ms. REGINA VARGO. Problems, yes, I do.

Mr. ROGERS. [continuing] sure you are aware.

Ms. REGINA VARGO. Thank you.

Mr. ROGERS. And we just need to be fair in all of those arguments. Now, that being said, I think it is important that we are going to knock down a whole bunch of trade barriers in the Central American region, pretty important. Hopefully, you can talk to me a little bit about the tariffs on automobiles. Right now there is about a 10-percent tariff on U.S. automobiles going to the region. How will this agreement affect the selling of U.S. automobiles?

Ms. REGINA VARGO. Those tariffs will be down throughout the region within 10 years in Central America and within 5 years in the Dominican Republic. One of the reasons for the slightly longer phase-out on automobiles in the region is the role that they play in their overall revenue structure. But our auto companies were happy with that result. And obviously, that will give our cars a leg up in this region.

Mr. ROGERS. Sure. So there is a definitive date when those tariffs will be gone and we will have free and open access to selling cars in——

Ms. REGINA VARGO. Absolutely.

Mr. ROGERS. Incredibly important. Well, again, I look forward to working with you—and my time is almost up—on those issues. I hope you take this strong message back, that I think that there are many who are eager to support CAFTA but need some assurances on the trade enforcement, not only for this agreement, but previous agreements so that we can get the necessary folks in line to join in on what I think is going to be a very important and positive trade agreement, not only for Central America, but for the United States of America.

Ms. REGINA VARGO. Thank you very much, Congressman.

Mr. STEARNS. I thank my colleague. For unanimous consent, request?

Ms. SCHAKOWSKY. Yes, thank you. I wanted to put into the record a letter to Trade Representative Zoellick——

Mr. STEARNS. By unanimous consent, so ordered.

Ms. SCHAKOWSKY. Let me just say that I think response to what you had said about the ILO report, the letter just says the characterization of the ILO report is inaccurate and constitutes a misuse of the document. It says it better than I could, and I would like it in the record. Thank you.

Mr. STEARNS. Gentleman from Ohio is recognized, Mr. Brown.

Mr. BROWN. Thank you, Mr. Chairman. Thank you very much, Ms. Vargo. I just heard you say that countries where we have trade agreements or most of our trade deficit is not that. I would like to just show a chart that—this is one country we have a trade agreement with called NAFTA. We had a trade surplus the day NAFTA was signed of a few billion dollars. We now have a trade deficit of almost $50 billion. So I am not sure where you go with that.

A second point, when Ms. Schakowsky asserted that Central American nations can weaken their labor and environmental laws after CAFTA is implemented, your only answer to that was not to prohibit that because you negotiated an agreement which decidedly would not prohibit that, but you said that is unlikely because of trends in Central America. I would just answer that with one story. Before Guatemala and the Guatemalan legislature approved the Central American Free Trade Agreement, the U.S. trade rep went

to their leaders and said unless you change your generic drug law—on behalf, I assume, of the U.S. drug industry—we are not going to include you in the Central American Free Trade Agreement. That was pretty well documented. So to say that American business won't go to any of these Central American countries or Dominican Republic and lobby their parliaments and legislatures to weaken labor laws is something that just stretches the imagination a bit.

Now, my questions are a couple of places I would like to briefly go. First of all, speaking—if a company making jeans for export, a large U.S. company or whoever, fires 500 workers in, say, Nicaragua because they tried to organize a union, the only penalty under the Central American Free Trade Agreement is fines limited to $15 million. The goods the company sells can still enter the U.S. for sale duty-free. But if a street vendor is selling a pirated Mickey Mouse DVD, the country in which that occurs faces trade sanctions, the DVD is seized and destroyed, and under CAFTA the offender is criminally liable for mere possession of a pirated good. Does that mean we are putting more emphasis on intellectual property than we are on workers? Is that fair?

Ms. REGINA VARGO. Well, let me move through a number of issues that you raised in your——

Mr. BROWN. Quickly, because we only get 5 minutes.

Ms. REGINA VARGO. Sure. Okay.

Mr. BROWN. And I have another question.

Ms. REGINA VARGO. Well, first of all, with respect to your earlier comment, I would point out Mr. Rogers' comment about enforcing trade agreements, and that in fact the situation we have with the DR with respect to data protection was one where, having recently signed an agreement with that provision, the government passed a law that overturned it. So I think I would put that in the category of an enforcement action and would think in fact that the Congress would be endorsing us for effectively enforcing these free trade agreements.

With respect to the situation that you described for workers illegally fired for forming a union, I think all of these countries have taken steps to make sure that they are applying the law in this area better than they have in the past. The principal problem that I——

Mr. BROWN. If I could interrupt, there is no guarantee in this agreement that they will, because they can weaken their laws after the Central American Free Trade Agreement is ratified. And you have not told Ms. Schakowsky or me that the answer is no to that so that they can—what you think they are doing now and you say they are doing now doesn't mean that will be their behavior in the future.

Ms. REGINA VARGO. The ILO core labor principles that you are referring to here are largely imbedded in their constitutions and their ratifications of those treaties. I think the problem that you are identifying, Mr. Brown, which is an important one, is the application of that law and the enforcement of that law. And when the ILO did its study on this particular issue, what it found by and large were problems of, for example——

Mr. BROWN. Okay, I am going to interrupt. I only have——

Ms. REGINA VARGO. Okay, you have 5 minutes——

Mr. BROWN. No, no, I know I am not going——

Ms. REGINA VARGO. Okay.

Mr. BROWN. [continuing] to get an answer to this, so I am going to move to something else. And I don't mean to be rude, but I know what filibustering is in 5 minutes, so on this magic word—CAFTA goes further than U.S. law in sheltering brand-name drug makers from market competition. One example, CAFTA provides for two forms of patent extension; the first one permits extensions on delays in the examination process; the second one permits extensions based on delays in the drug-approval process. U.S. law places some limits on patent extensions; CAFTA simply doesn't. In the U.S. the extension only applies to the active ingredient of a new drug. It only permits the extension of the term of a single patent, not multiple patents. That is a bill that I worked on with Senator McCain a couple of years ago. Is it right that a Central American—to subject patients in developing countries and these countries in Central America to greater delays in access to generic drugs? Because under your negotiated CAFTA, patients in Central America will be subjected to—will have less access to generic drugs than they do in the United States because of the way that was negotiated. Is that fair?

Ms. REGINA VARGO. I don't think that would be fair, nor, Congressman, do I think that is what the CAFTA does. The important thing, and I will be fast here, is that the provisions in the agreement don't require a change in law, and they are consistent with U.S. law, which means the flexibilities that we have in U.S. law with respect to the many different instances you just mentioned would be available to the CAFTA countries as well. There is nothing in the agreement that prevents those countries from introducing those flexibilities into their own law.

Mr. BROWN. Except U.S. drug company lobbying, but that is a whole other story. I would like to ask you if I could, Mr. Chairman—I will wrap up—if I send you a series of questions about patent law, if you would share your answers with us in writing?

Ms. REGINA VARGO. I would be happy to do that. Thank you very much.

Mr. STEARNS. I thank the gentleman. Mr. Otter.

Mr. OTTER. Thank you, Mr. Chairman. I would like probably to start off from the beginning with that question. If I send you a series of questions relative to the implementation and enforcement of agreements in the Americas—and I assume that that means NAFTA as well as the potential CAFTA agreement—would you submit answers to those questions?

Ms. REGINA VARGO. I certainly would. I make that offer to anyone on the committee who would care to do that, and I would be happy, Congressman, to come and talk to you about what you see as implementation problems as well.

Mr. OTTER. Well, thank you for that. I am going to move away a little bit from the specifics that some of my colleagues have been—although I think they are terribly important, the environmental agreements, the labor agreement. I am going to move away a little bit of those and go to more of your final statements relative

to the geopolitical necessity and importance of this. Do you believe that these countries right now are free markets?

Ms. REGINA VARGO. These countries are trying to be free markets——

Mr. OTTER. No, that isn't what I asked. What I asked was do you believe that they are right now free markets?

Ms. REGINA VARGO. Could I ask you to define what you mean by that, sir?

Mr. OTTER. Well, let us say, you know, obviously with all the government regulation in the United States, we hardly have a free market either. But do you believe that the countries' economies in these countries, including the Dominican Republic where I have spent some time, are free markets relative to the same kind of free market that we struggle through in the United States?

Ms. REGINA VARGO. I believe these are market economies. I think they have perhaps more barriers and more regulation than the United States. And I think that there are many elements of this agreement that will improve that situation dramatically.

Mr. OTTER. Your conclusion is that with this agreement, suddenly they are going to get this great aspiration for rule of law; they are going to get this great aspiration for free economy and all of a sudden develop into a strong democracy. Wasn't that your conclusion?

Ms. REGINA VARGO. I think, sir, that what we find is that trade agreements are attractive to these countries because it helps them introduce reforms that they sometimes have trouble getting passed more——

Mr. OTTER. Why is that?

Ms. REGINA VARGO. Because of the market access component to them. And it is important for these countries to consolidate the access that they have here, to strengthen that textile and apparel partnership we have——

Mr. OTTER. So in other words——

Ms. REGINA VARGO. [continuing] that is critical.

Mr. OTTER. So in other words—I am also limited to 5 minutes, and most of that is gone. So in other words, if we engage in commerce between the United States and the CAFTA members, that we will then impart some freedom and impart some free market and engage in economic building, and then, as a result of that, we will get this additional benefit of building a democracy and free people and rule of law. Is that what you are saying?

Ms. REGINA VARGO. No, sir, in the sense that I think you described those as somehow sequentially with the reward coming at the end of the process.

Mr. OTTER. Oh, it happens——

Ms. REGINA VARGO. This is a process of building and reinforcing——

Mr. OTTER. It happens during——

Ms. REGINA VARGO. [continuing] that along the way.

Mr. OTTER. It happens during? Then why don't we include Cuba amongst this?

Ms. REGINA VARGO. I don't think that there is the sense of the Congress or the administration that there is a desire to do a free trade agreement with Cuba. Actually——

Mr. OTTER. But now there is not a——

Ms. REGINA VARGO. —Congress asked us to do——

Mr. OTTER. [continuing] consensus in Congress for CAFTA either.

Ms. REGINA VARGO. The Congress actually asked us to move to a free trade agreement with the countries of the Caribbean Basin in their last renewal, the Caribbean Basin Act, to put that agreement, which is a one-way agreement, on a more reciprocal basis.

Mr. OTTER. Well, I would disagree with you because I think we have got a history of trading with countries. And China is certainly amongst those, isn't it? Aren't there other dictatorial countries that we trade with, and the effort there is to build democracy? I am not even going to ask you to respond to that. One of the problems that I see—tell me whether you agree with this or not—is that we are trying to build free markets, yet we are trying to do it politically instead of economically. And that is why the USTR, your mission, comes under the State Department instead of the Department of Commerce, is that right?

Ms. REGINA VARGO. The USTR is actually part of the Executive Office of the President. And I think we have a very strong economic mission. I think that CAFTA is an instance where we have an excellent dovetailing of both our economic and our political—our geopolitical interests. And trade can help us introduce more stabilization, more jobs into this region which desperately needs them at a time that they are struggling to move forward on rule of law.

The elements in the agreement as well, the transparency elements, the anticorruption elements, are all there to help formulate how the government interacts with its private sector, with its business community—the sunshine elements on the environmental side, the fact that dispute settlement under the agreement calls for open hearings, amicus briefs, public documents. These are all elements of things that we like about the way we conduct our democracy and relate to our citizens that we incorporate in our trade agreements. I think they are commercial; I think they have an important social and political element; I think they have a geopolitical element.

Mr. OTTER. Thank you, Mr. Chairman.

Mr. STEARNS. I thank the gentleman. Mr. Gonzalez.

Mr. GONZALEZ. Thank you very much, Mr. Chairman. And first, I need to apologize to Ms. Vargo for not keeping an appointment. We were running behind. And obviously, even the individual that I was meeting before your meeting, and, of course, you couldn't wait that long, was actually a member of the Congress from El Salvador, and I was just dying to ask you all sorts of questions.

But I want to—in the limited amount of time I have, let us see if you can give me some clarification. Can you explain to me the policy of guaranteed system of preferences?

Ms. REGINA VARGO. Yes——

Mr. GONZALEZ. When it comes to collective bargaining with the labor movement and so on.

Ms. REGINA VARGO. GSP, the General System of Preferences, is a unilateral preference program the U.S. Government has that covers a scope of products that is less than that which is covered under the CBI program, but it has a number of criteria in it which

relate to a country's eligibility for participation in the program. One of those criteria relates to labor, and it is whether or not the country is taking steps to provide for internationally recognized core labor rights.

Mr. GONZALEZ. Okay. And presently, it is applicable to these particular countries that are the subject of the Dominican Republic—CAFTA.

Ms. REGINA VARGO. Right.

Mr. GONZALEZ. All right. And so obviously you know where I am going with this. My understanding is that all that will be done away with, the applicability of what we refer to as GSP. And I will have to read this because it is actually stated quite succinctly. "GSP allows for public workers' rights petition based not just on the failure to enforce labor laws, but on the adequacy of the laws themselves under international standards." So my question is, what we presently have in CAFTA is a departure from those standards, and it actually weakens workers' rights and the rights for collective bargaining in those respective countries?

Ms. REGINA VARGO. I am very glad you raised this issue, Mr. Gonzalez, because it has been a matter of some debate as people have talked about this agreement. I think there is no doubt that the labor protections in the CAFTA agreement are more effective in accomplishing the objective. GSP, as I mentioned, leaves full discretion to the administration on whether or not to take any action. The criteria is whether they are taking steps in that direction, not whether they have achieved it. It is not an absolute. Are they moving toward that? And if you look at how GSP has been applied to this region itself—and I can use Guatemala as an example—we had GSP investigations and ongoing cases from I think 1992 to 1997, across both Republican and Democratic administrations, again in 2000 and 2003. Guatemala retains full use of its GSP rights, in part because actually withdrawing those benefits from a county and potentially throwing workers in the region out of work is a sledgehammer. People are reluctant to go that far. But in the CAFTA, the requirement will be to enforce their own labor laws, and we think the ILO has made it clear that those labor laws do promote and give effect to those international core labor rights.

If in fact the failure to enforce those laws is affecting our trade, we can go in and we can, utilizing a dispute settlement process, work with the country to agree on how to correct the problem, or we can further implement fines to correct the problem. And those fines are recurring fines. It is an annual fine that keeps being paid until the problem is solved.

If, in that process, we find that we are dealing with a recalcitrant government, one that is not cooperating in a good way with us, we have not ruled out the use of any tool to get them to fix the problem, including the use of trade sanctions. So we retain all——

Mr. GONZALEZ. Available to you in the context of this agreement?

Ms. REGINA VARGO. Yes, so we retain all the tools that we have ever had in GSP. And we have added, instead, the possibility here of utilizing monetary fines because largely, these issues, we think, are ones of resources and getting those resources directed to fixing the problem.

Mr. GONZALEZ. If these labor practices in these particular countries come up short, what you are stating now is you have the mechanism, the authority, and the power within the context of this agreement to move forward, to correct, and to address those shortcomings?

Ms. REGINA VARGO. Yes, sir, we do.

Mr. GONZALEZ. Thank you very much.

Mr. STEARNS. Thank you, gentleman. Mr. Murphy.

Mr. MURPHY OF PENNSYLVANIA. Thank you, Mr. Chairman. I want to look at a couple of things in comparison of NAFTA and CAFTA and use that as a basis to try to understand what is happening now.

Now, in its analysis, USTR reported that agreement will have minimal effect on U.S. employment, but a significant portion of our current exports is to DR-CAFTA nations are components of products that are assembled by DR-CAFTA workers and re-imported back to the U.S. I am wondering to what extent do you think this agreement is going to support additional manufacturing work being conducted by workers in DR-CAFTA nations? In other words, as this goes on, are we going to be exporting more—the work will be done down there and perhaps be brought back here for final assembly?

Ms. REGINA VARGO. Let me say that that may be a trend that is happening in the world, but I don't know of anything in particular about this agreement that would necessarily promote that outcome. That outcome, in the way you suggested it, might be one one would look at when you say well, look at the new access you are offering back to the U.S. market. But I am very glad you returned to this point, Congressman, because CAFTA rhymes with NAFTA, and maybe that is unfortunate for the discussion that is going on here, but it starts from a fundamentally very different premise. This Congress, in a bipartisan way, has already given these countries virtually duty-free access to the U.S. market. So what is new here is our ability to access their market.

Mr. MURPHY OF PENNSYLVANIA. So we did not have before with Mexico—before NAFTA we did not have a situation where they were importing things to our country duty-free?

Ms. REGINA VARGO. Not in the same way that the Central American countries already have.

Mr. MURPHY OF PENNSYLVANIA. And I know that part of the discussion here is one that says that if we don't do this, someone else will. If we don't sell our goods to them, if they are not an open market, there will be other countries that will have that. And today we recognize it is a competitive market that is increasingly competitive every day.

But that being the case I do look at things about NAFTA. For example, some electronic components—electronics were made in my district, and in Mexico there is zero duties on them. In the United States, when they are made here, there is like $45 per each item on them. Now the head corporation says well, then, let us move that manufacturing down to Mexico and pull them out of the United States. So I look upon that as—even though NAFTA has been around quite a while now, and one would hope that some of the changes would have been made that allowed us to be competi-

tive. And so I look upon this—and I want to make sure there is none of those glitches which continue to essentially favor the other nation over ours when it comes to manufacturing goods and the jobs that go with that.

Ms. REGINA VARGO. Well, let me address your first point, Congressman, those who say if we don't do it, others will. I would note right now just two products that were mentioned. There haven't been very many specific products mentioned here. French fries was mentioned by the Congressman. Well, right now Canada, through their free trade agreement, gets their French fries in duty-free to Costa Rica. The Congresswoman from California mentioned a concern with fruits and vegetables, and yet Chile, right now, gets its fruits and vegetables into this region duty-free. If we are looking at this imbalance of trade that we have with this region, the fact that—and I am using the fruits and vegetables example here—the fact that they access our market duty-free and that we pay duties going into that market, it is no new access to our market on fruits and vegetables and is an example of a corrective mechanism in this agreement, not one that is going to take a particular trend to make it worse.

I think the same thing is true, sir, with respect to the manufacturing sector. First of all, a lot of what we sell into this region, we compete with other countries. Maybe it is not even things they produce. We compete with Europe, we compete with somebody else. They do buy our capital goods, our tractors, our cars, our TVs, whatever, and we would have a preferential access into this market under this agreement.

There are only—on the industrial side because you are focused on manufacturing—there are only two products or areas where these countries do not have duty-free access to the U.S. market today. One is canned tuna and the other is some rubber footwear items. They have duty-free access to our market now on everything else, sir. Every other manufactured good enters the United States duty-free today.

Mr. MURPHY OF PENNSYLVANIA. And all those same goods, when we sell to them, it does have a duty on it?

Ms. REGINA VARGO. Yes, sir. I can't guarantee you every one of them does, but I would say on areas of our major export interest, things we tend to be very good at and look at as export priorities, you will see that the tariffs are 5, 10, 15 percent.

Mr. MURPHY OF PENNSYLVANIA. Well, I would like to see some analysis of some of those items showing us those comparisons. I mean, similarly, Pennsylvania farmers and agriculture is our No. 1 industry in Pennsylvania. They are concerned about this and they recognize the difference in the marketplace. But it would be very helpful for us, and I hope you could submit some additional information to the chairman on this, to look at how that goes.

But I know we are trying to predict the future here, and some of this is opening markets in nations that are emerging and developing. And if that is the case, I mean, we need to have some sense too what is happening both if we do this and what happens if we don't. And that would be, I think, valuable information for us to have. But part of that analysis I would like to have you look at what has happened with NAFTA in terms of what I hope were un-

intended consequences. But we still have some real unfair duties when it comes to goods being made there versus here. And that is having a negative impact upon particularly in some of the electronic industries in my district. And I hope that is something you can give us some insight on as well.

Ms. REGINA VARGO. Thank you, Congressman. And I would like to take the opportunity later to perhaps get an elaboration on that point from you because I am not aware of duties that Mexico has in the electronics area. So I would like to follow up to give you the best possible answer.

Mr. MURPHY OF PENNSYLVANIA. Thank you very much. That is all I have, Mr. Chairman.

Mr. STEARNS. I thank the gentleman. Mr. Strickland.

Mr. STRICKLAND. Thank you, Mr. Chairman. Ms. Vargo, I would like to focus our attention on NAFTA's Chapter 11 foreign investor protections because these have created considerable bipartisan controversy. These allow foreign corporations to sue governments in closed trade tribunals over public health and safety laws that foreign companies claim cost them lost profits, and they demand our tax dollars in compensation. This sounds like a direct assault on our U.S. sovereignty, so much so that there are some states—I believe Montana, Indiana, and Utah have passed legislation raising these concerns. According to the CAFTA text as I understand it, in these tribunals international law, not U.S. law, prevails. Is that your understanding?

Ms. REGINA VARGO. Thank you, Congressman, for raising this topic, which I think in the CAFTA agreement we have made very many improvements.

Mr. STRICKLAND. But——

Ms. REGINA VARGO. No, it is——

Mr. STRICKLAND. [continuing] if you could just—I am sorry for——

Ms. REGINA VARGO. No——

Mr. STRICKLAND. [continuing] interrupting——

Ms. REGINA VARGO. [continuing] we do not provide greater protection for foreign investors than for U.S. investors.

Mr. STRICKLAND. But in these tribunals does international law prevail, not U.S. law?

Ms. REGINA VARGO. No, sir. The guidance that they follow is the laws of the country that the allegation is being brought against. But more specifically, let me point out to you this issue was raised; we were asked to clarify the standard for expropriation, which was done. The agreement specifically says that in the matter of, for example, environmental regulation by a State——

Mr. STRICKLAND. Whatever——

Ms. REGINA VARGO. [continuing] that——

Mr. STRICKLAND. [continuing] regulation.

Ms. REGINA VARGO. Whatever kind of regulation.

Mr. STRICKLAND. Yes.

Ms. REGINA VARGO. That if it is supplied in a nondiscriminatory manner, that it is highly unlikely to constitute an indirect expropriation, and in defining what that highly unlikely circumstance might be, the guidance the court uses is the Supreme Court ruling in the Penn Central case, which is the seminal U.S. law on what

constitutes an indirect taking. And that, sir, is a new, novel element that is in the CAFTA——

Mr. STRICKLAND. Okay.

Ms. REGINA VARGO. [continuing] specifically to address the problem that you raise.

Mr. STRICKLAND. Okay, but since NAFTA, $35 million has been ordered to be paid to foreign corporations by these secret tribunals. My understanding is—and by the way, highly unlikely is not a sufficient standard for me, and I doubt if it is a sufficient standard for my colleagues. We are talking about an international agreement, and I think the criteria should be tighter than highly unlikely.

It is my understanding that in these international tribunals, they can order, you know, the U.S. tax dollars to be paid to a foreign corporation. Now this is a question. It is also my understanding that domestic companies would not have the right to use the CAFTA investment protection rights or the CAFTA tribunals. Is that right or am I mistaken?

Ms. REGINA VARGO. Our domestic companies could use these tribunals for investment claims that they were making against the other governments to the agreement, not against the U.S. Government.

But, sir, may I for one moment—"highly unlikely" I think was my terminology. I think the exact wording is except in unusual circumstances. But the point there was that the law that is followed is U.S. law in that case. The other clarification I would like to make for you is that we made a change from the NAFTA and the CAFTA in response, in particular, to the concern that you have raised. And these international tribunals now are open to the public. The documents become public documents except for business confidential, the practice that we have here in the United States. And we now take amicus briefs from third parties who feel that they have an interest in the case. These——

Mr. STRICKLAND. So are you——

Ms. REGINA VARGO. [continuing] were all criticisms leveled in the past that we have sought to address in this agreement.

Mr. STRICKLAND. So are you telling me that under CAFTA domestic companies would have equal access to the CAFTA investment protection rights and the CAFTA tribunals, that they would not have to use U.S. law or U.S. courts? And are you further telling me that we are not giving foreign corporations greater rights than that that would be available to United States corporations?

Ms. REGINA VARGO. Yes, sir. For domestic disputes with the U.S. Government, our companies would utilize domestic courts. They would utilize the system with respect to disputes they had with the foreign governments. And we do not provide greater rights to foreign companies than we do to U.S. law and made a number of important clarifications in this agreement to ensure that that was the case. That was part of our TPA instructions.

Mr. STRICKLAND. So just to make sure I understand, domestic corporations would have the very same access to these tribunals and to the protections that are available to the CAFTA countries, as would our domestic companies?

Ms. REGINA VARGO. Our companies would be able to take the foreign governments of Central America and the Dominican Republic to binding, international arbitration for investment disputes that they had with them. I ask you to restate your question, sir.

Mr. STRICKLAND. Yes——

Mr. STEARNS. The gentleman's time has expired, and we have two other panels——

Mr. STRICKLAND. Okay, I——

Mr. STEARNS. [continuing] and I think your questions are certainly good and legitimate, and it might be possible that you could put them in writing to her and she could reply.

Mr. STRICKLAND. I would be happy to do that, Mr. Chairman. And thank you, Ms. Vargo.

Mr. STEARNS. And I thank the gentleman. The gentlelady from Tennessee.

Ms. BLACKBURN. Thank you, Mr. Chairman, and I thank our guest this morning for her time. I also want to thank the chairman for his comments and concerns about NAFTA and the implementation of such, because that is a concern.

My district in Tennessee is one of those wonderful districts that has had the opportunity to increase both the agricultural product and the manufactured goods that they export. We have been very pleased to see our exports rise, our product for export rise about 20 percent over the past decade.

But with that said, when we look at the agricultural component of CAFTA, we are concerned. Cotton is important to us, soybeans are important to us, vegetables, row crops, processed foods. All of that plays into West Tennessee and our economy there. So while we are pro-export and are very interested in CAFTA, we do have some concerns. And much of that does center around cotton. And I was pleased to hear your comments that you just made in your opening statement and in one of your responses about the agreement should be there to benefit the participating countries. And I liked hearing that because I agree with that statement and do hope that CAFTA will benefit our State. And we are interested in the yarn-forward rule and feel that that is going to be very important for our Tennessee cotton growers.

And I would like to hear from you if you feel certain that this agreement is going to continue the yarn-forward rule, because my farmers are quite concerned about having cotton that is grown and produced cheaply in China and having that routed through Central America and then into the American market. So if you will please address the yarn-forward rule.

Ms. REGINA VARGO. Thank you very much for your question because what we are doing in the textile and apparel area is just so important. And the National Cotton Council supports this agreement. Not yet? I am going to take that back. I am anticipating that they will support this agreement in part because two products that you mentioned, ma'am, cottons and soybeans, have duty-free access to the region on day one. The same is true for many of the fruits and vegetables.

But going to the rule of origin for a moment, it is a rule of origin that requires yarn-forward—that is the basis—but in terms of our exports, $4 billion-worth of exports that the United States sells to

these countries today. There is a small—without getting technical—exception for Nicaragua, which I have heard some concern expressed over that this will become a backdoor. I would note that this is a small quantity; it is temporary in nature; it reflects trade that already doesn't meet the rule. We wanted to give Nicaragua a little bit of time so that those plants didn't move out of that country to another Central American country. That is why we made the rule transitional. And we have very strong trans-shipment provisions and custom enforcement provisions in this agreement so that we feel confident that this is a partnership that is going to work. It is going to work for our yarn and fiber and for our cotton producers.

Ms. BLACKBURN. Okay, thank you. Let us shift a little bit in this conversation. I want to talk about intellectual property because we have the largest population of songwriters in the country live in my Congressional district. And we are tremendously concerned about intellectual property and the provisions that are there. And, you know, when we look at this—when my folks that are in Nashville and Franklin, and Middle, Tennessee, and some of them down in Memphis start looking at these trade agreements, immediately China and India and the production of the counterfeit DVDs and CDs comes to mind. And Mr. Rogers asked you earlier what you needed from us when you look at helping capacity bill and helping get laws on the books in these other countries. And I hope you will take that as not being an empty question or rhetoric. When you hear us talk about intellectual property, this is a tremendously important economic development issue in my State. The theft of intellectual property and the piracy, the modern-day pirates that are out there stealing this content from our producers, they are shameful. And I want to know what you are going to do, not what you need.

But you have addressed in your opening statement—you have a couple of paragraphs in here addressing intellectual property protection. But what are you going to do? How are you working with these countries so that they have enforceable legislation on the books? That they have got laws we can negotiate to so that we can begin to clamp down on this piracy. That is the No. 1 question I get from the folks in the creative industries, the creative class that lives in my district. Well, that is great if they say they are going to work on it, but what are they going to do? Actually give us some quantifiable goals and some steps and some items that you are going to have on that paper, and then what you are going to do to enforce those if you will answer that one for me, please, ma'am.

Ms. REGINA VARGO. I would be happy to do that. We need stories like this and it helps us make our case. And we would be happy to send someone to meet with you or to put some of this in writing as well. Let me just say that I think we have extremely strong protections here for the entertainment industry, and one of the things that we look at before we actually let our agreements go into effect is whether or not the countries have taken the steps in their own laws to put these protections in place. So we will be doing that. I was just alerted——

Ms. BLACKBURN. Ma'am, if I may interrupt you.

Ms. REGINA VARGO. Yes.

Ms. BLACKBURN. I see a lot of papers flying in front of you, and so I know that they are providing you with some information on that. I would ask that you do provide that to me in writing. This is so crucial. We talk about wanting an economic renaissance in this nation, but when you talk about the creative community that lives in my district, whether they are entertainers or TV producers or film producers or they are auto designers or they are working in the biotech industry, these are folks whose intellectual property is their stock in trade. And I want to be certain that we find ways to protect this. It is vital to us. I think it is vital to our nation, not just to the seventh district of Tennessee. So as all of this paper is flying in front of you, I am going to request that in the interest of time that you just submit that to us in writing so that we will have that to use with our constituents. So thank you for your time, and, Mr. Chairman——

Mr. STEARNS. And I thank the——

Ms. BLACKBURN. [continuing] I thank you.

Mr. STEARNS. [continuing] gentlelady. The gentlelady from North Carolina, Ms. Myrick.

Ms. MYRICK. Thank you, Mr. Chairman. And thank you for being here today. I come from a district that both has enjoyed a lot of benefits from trade and has had a lot of problems because of trade. I have always been a free trader myself in the concept, but I represent a very heavy textile area, and for years we have been going through a lot of transition as you know. And so I know there is some good things in this particular agreement, particular with our yarn-forwarding provision, et cetera, the give-and-take back and forth. The tee-shirt cap is going to be removed, which is a big help also. And there are some other things. But I have to go back as well to the enforcement issues, because that is where we have the greatest difficulty in our area and in making people understand any benefit from free trade because they are enforcing prior agreements. And, of course, in our case China is a huge part of that.

But on the trans-shipment side, I noticed you said that that was one thing you were going to be careful of in these agreements. You know, we have had a very frustrating experience with customs. Not the people who are actually in customs are running that part of the agency. They are just as frustrated as us. Customs was moved into homeland security. And 2 years ago Congress authorized $9.5 million to hire 72 new agents strictly for customs trans-shipments because that was the biggest concern that we had. They have completely ignored that, shifted the money to something else. We are having lots of fun getting answers out of them. And my point in telling you that is it is not under your jurisdiction as USTR, and I know that. And I know you work closely with Commerce on all the issues, and we appreciate that. The safeguards for China, et cetera, are very important to us.

But we have a hard time at home explaining why something simple like enforcement, in this particular case, isn't being done. So when you are trying to sell a trade agreement in North Carolina and in my district, yes, in Charlotte where we are the second largest financial center, et cetera, wonderful; no problems. But then when you go to our areas where we are heavy manufacturing and textiles—and Mike Rogers and I are a lot alike in the way we think

about all this. It really is a challenge for us. And so I would just encourage you that anything relative to this particular agreement that you know can be done that is going to give strong enforcement provisions would be helpful.

You know, we are very frustrated because—and China not playing by the rules of WTO. I know you are working on the currency issue. But it isn't happening fast enough, and that message has to get to them to.

So, I mean, all of this, even though they are separate issues, they aren't separate issues for my district. One thing is into the other. And any kind of help you can give relative to answers would be much appreciated. It is really more a statement than a question, Ms. Vargo.

Ms. REGINA VARGO. Well, I thank you very much, Congresswoman, for your interest. And you are right, obviously; the budget of homeland security isn't under us. But the terms in the agreement here will allow us to be much more effective monitoring in terms of being able to get—when we get those customs people in, take a look at that, they will be able to actually go in-country. We can get our jump teams much more on the ground and much more hands-on to make sure that we are not creating a leaky sieve into the United States through these countries. They are going to be good partners. And I take your other, larger enforcement question on board as well. And we look forward to working with you on that and any particular problems that you might wish to identify for North Carolina.

Ms. MYRICK. I appreciate it. Thank you.

Mr. STEARNS. Well, and we thank you. We have completed and we appreciate your patience here. And we think you are to be commended for participating. So now I think we will then move to panel No. 2. So, Ms. Vargo, thank you very much.

Ms. REGINA VARGO. Thank you, Mr. Chairman. If I could just make one comment back to Ms. Schakowsky for a moment——

Ms. SCHAKOWSKY. Yes.

Ms. REGINA VARGO. [continuing] that we did respond to the letter that you have introduced into the record and we would like to make—I would like to make sure that you have a copy of that response and perhaps that would be appropriate——

Mr. STEARNS. Sure.

Ms. REGINA VARGO. [continuing] in the record as well, Mr. Chairman.

Mr. STEARNS. By unanimous consent, so ordered, then.

Ms. REGINA VARGO. Thank you.

Mr. STEARNS. Okay. That would be great. All right. We have Kevin Kearns, President of U.S. Business and Industry Council; and Ms. Thea M. Lee, Chief International Economist, the AFL-CIO; Mr. Calman J. Cohen, President, Emergency Committee for American Trade; and Mr. Frank Vargo, Vice President, International Economic Affairs, National Association of Manufacturers. We appreciate you folks waiting through our first panel. And so we look forward to your opening statements. And I would remind each of you that it has been established that we give you each 5 minutes. We allow you to run over a little bit, but if you could hopefully keep it in that, we will keep the committee moving. And then we

have a third panel of four individuals that are waiting patiently here too. So, Mr. Kearns, I think I will start on my left and start with you with your opening statement, if you would be so kind. Just turn the microphone on.

STATEMENTS OF KEVIN L. KEARNS, PRESIDENT OF U.S. BUSINESS AND INDUSTRY COUNCIL; THEA M. LEE, CHIEF INTERNATIONAL ECONOMIST, AFL-CIO; CALMAN J. COHEN, PRESIDENT, EMERGENCY COMMITTEE FOR AMERICAN TRADE; AND FRANK VARGO, VICE PRESIDENT, INTERNATIONAL ECONOMIC AFFAIRS, NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. KEARNS. Thank you very much, Mr. Chairman. Also thank you to the ranking member, Ms. Schakowsky, for the opportunity to appear here today.

I am Kevin Kearns, President of the U.S. Business and Industry Council. We are a national business advocacy organization, we have been around since 1933, and we take a national interest approach to public policy questions. We represent businesses generally family owned and closely held businesses across the economic spectrum.

We are opposed to CAFTA. We were opposed to NAFTA. We think that CAFTA will actually have four or five negative results. It is shipment of more factories overseas, loss of U.S. jobs, lower wages or suppression effect on wages for remaining workers in the United States as they are pitted against Central American workers, more market access for China to the U.S. market through the loopholes in the various provisions of the agreement.

If I could step back for 1 minute. I know we are focusing on CAFTA, but let us look at the larger picture. And I think Congressman Brown tried to get at this somewhat with his chart. In 1993, the last full year before NAFTA came in and then the Uruguay Round, WTO, PNTR for China, CBI, various bilateral trade agreements, the U.S. had roughly a $68-billion trade deficit in goods and services. Today it is—or at the end of last year it was $618 billion, you know, nine or ten times what it was after 12 years of these free-trade agreements. Our total exports of goods and services rose, but our total imports rose much faster. Exports doubled, imports tripled creating this massive trade deficit that we face today. U.S. service surplus has continued to fall, was $48.5 billion last year. And it is a significant decrease from where we were in 1993.

If you look at the trade deficit with China, I don't think I have to call attention to that, $124 billion the previous year, up $262 billion last year, growing tremendously. Even with Europe with the decrease of the dollar versus the Euro, the trade deficit climbed by $8.85 billion in 2004, a 12-percent increase. And our trade deficit with Canada increased; our trade deficit with Mexico increased. I think they are up—on the members of the committee mentioned 1,200-percent growth in NAFTA trade deficits over these last several years.

And the fact that we are losing ground, even with countries in Europe where our dollar has depreciated, theoretically, we should be gaining ground, but we are losing ground. And that I think is

the strongest signal that there are all these structural impediments that these trade agreements have not gotten to.

I would submit, members of the committee, that if this were a scientific experiment over the last 12 years, we would stop it, and we would go back and examine our premises. If it were a poker game, we would fold our hand and walk away from the table, pick up the money we had left, and figure out a different strategy. And if it were a clinical trial, we would be morally obligated to stop it before there were anymore dead bodies on the floor.

We face a dollar crisis. We saw in the last few weeks remarks by the Japanese prime minister and South Korean Ministry of Finance official that sent the currency markets into a tizzy. If the Asian Central Banks stop buying dollars, the game is over. We have had Federal Reserve Chairman Greenspan say our trade deficit is unsustainable on numerous occasions. We have had former chairman Paul Volcker been talking about this for about 10 years. Most recently I saw him on Charlie Rose television program. He says, "It can't go on indefinitely." And we seem to think that somehow we can continue to run these trade deficits and just muddle through.

And CAFTA is another one of these trade deficits. The gains projected by CAFTA proponents are very modest, $1 billion perhaps in manufactured goods, $1 billion in agriculture. I mean, essentially, we are talking about peanuts. These are very poor countries. They are under IMF Wastery agreements. Their population majority makes under $2 a day. They are not going to be buying U.S. goods.

And the claim is made that well, this is what we need to compete against China. We need CAFTA to compete against China.

Ms. Vargo misspoke. She said there were half a billion people in the textile industry. It is half a million in Central America. And she mentioned the fact that they are largely women. Well, I am concerned about the U.S. textile and apparel industry where the majority of the workers are women and minorities. I think that is what the U.S. trade representative should be focusing on, American workers. I think that is their job.

Do we want to support democracy in Central America? We do. But do ranchers and farmers and textile workers, do they have to give up their jobs to do that? I don't think that is a fair equation.

The way to address the China problem is to address the China problem, not to do it through CAFTA, not to give up more U.S. jobs and factories to go to Central America looking for sort of a backdoor and have the Chinese continue to have a 40 percent undervalued currency, 15 percent export subsidy, free land and free buildings, no or low-cost loans from State banks, you know, any number of other government forms of subsidy and assistance.

So if we can't "defeat" or compete with China after NAFTA, which, of course, NAFTA was designed to do, we are certainly not going to do it by aligning with six dirt-poor nations under IMF Wastery agreements. You need a different strategy, Mr. Chairman. The papers and the websites of the proponents of CAFTA, you look at them and you can tell what the real game is.

Mr. STEARNS. Mr. Kearns, I am just going to have you sum up. We are——

Mr. KEARNS. Yes, sir——

Mr. STEARNS. [continuing] going to try to keep things moving.

Mr. KEARNS. Okay. The real game is to get into a whole series of other trade agreements, the Andean free trade to the Americas, the Doha Round, to jumpstart all of these through CAFTA. All these agreements, CAFTA is a signal. It is a green light. We are going to continue down this policy. We need to stop, we need to stop CAFTA, we need to stop digging this hole deeper. First rule of holes, when you are in one, stop digging. Figure out a new strategy and get out. That is what this country needs. Thank you, Mr. Chairman.

[The prepared statement of Kevin L. Kearns follows:]

PREPARED STATEMENT OF KEVIN L. KEARNS, PRESIDENT, U.S. BUSINESS & INDUSTRY COUNCIL

Mr. Chairman and Members of the Committee: I would first like to thank the Committee for allowing me the opportunity to express the many concerns of U.S. domestic manufacturers and other small and medium-sized businesses regarding CAFTA.My name is Kevin L. Kearns, President of the United States Business and Industry Council.We are anational business advocacy organization, established in 1933, that takes a national interest approach to public policy issues.USBIC is not a trade association, representing a single industry. Our members come from many different sectors of the economy.

We represent companies that have made an outsized contribution to America's national security and prosperity. We are a critical part of America's domestic manufacturing base. Our enterprises support the broad middle class, one of America's singular economic and political achievements. Today our companies in particular and the nation's middle class in general are under constant attack from predatory foreign trade practices.

Our companies still make most of their products in the United States, ensuring that our revenues flow to American working families in the form of wages, to American productive facilities and R&D in the form of reinvestment in our businesses, and to our local, state and national communities in the form of the taxes needed to fund vital public services and our country's security.

We are economically and socially critical to our communities. All of us are strong believers in free enterprise. We are job creators. We are productivity drivers. We are technology pioneers. But now, our very existence and ability to create these benefits is being threatened by decades of trade policies that ignore reality and in fact seem designed to close us down.

Although we are promised that CAFTA will open big new foreign markets for U.S.-made goods, the opposite is clearly true. The results of the outsourcing deals that have dominated U.S. trade policy over the last twelve years are in: gargantuan trade deficits, shuttered factories, and formerly middle-class Americans sliding down the job and wage scales. CAFTA is simply the latest in this series of outsourcing deals that are gutting our domestic manufacturing base.

The six other CAFTA signatories are manifestly too small, too poor, and often too indebted to become significant consumer markets for U.S. exports. Their only attraction is to multinational corporations, which see them as low-cost bases for supplying the U.S. market, and as levers to force companies and industries like ours to compete on price rather than on quality and innovation. This is a no-win proposition for domestic manufacturing and for the nation as a whole.

As a result, CAFTA's passage will surely increase net U.S. imports, boost the already dangerously high trade deficit, further weaken the dollar, force the continued fire sale of American assets, and reduce domestic manufacturing output, employment, and technological innovation.

New trade agreements could strengthen domestic manufacturing, but only as part of a thorough overhaul of U.S. trade policy aimed at promoting domestic production and living standards. Absent new approaches for dealing with challenges such as China's many predatory trade practices, the widespread foreign subsidization of manufacturing, and a deeply flawed set of world trade rules, CAFTA's passage will simply further open America's market to imports without producing comparable export opportunities.

Passage of CAFTA will also stand as a major obstacle to effecting urgently needed alternatives to the failed free trade model that is destroying domestic American manufacturing and the wider economy. CAFTA will become a political bridge to

even more destructive trade deals that are lined up behind it and that the multinationals and retailers are pushing to complete.

Here are the chief problems with CAFTA:

There is not a Central American Market for U.S. Exports—Simply put, CAFTA is an outsourcing agreement. The trade agreement involves the countries of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic. These six small countries simply cannot serve as net consumers of U.S. exports, and so CAFTA will only lead to a worsening of the current U.S. trade deficit—as have all of the trade agreements of the last 12 years.

As previously reported by USBIC, these six countries have a collective gross domestic product (GDP) of $85 billion. By comparison, New Haven, Connecticut has a GDP of $80 billion. Tampa-St. Petersburg has an $87 billion GDP. The pro-CAFTA lobby acknowledges that "millions live on less than $2 a day."

Moreover, Nicaragua, Honduras, Costa Rica, and the Dominican Republic are already under International Monetary Fund (IMF) austerity agreements as a result of their large foreign debt and deep poverty. For example, the Dominican Republic has $7.6 billion in foreign debt, 2002 inflation topped 43 percent, and the poverty rate is 67 percent. As a result, CAFTA can only lock the United States into a trade relationship with countries that can only be net exporters to America, and that will increase the already dangerously large U.S. trade deficit.

CAFTA is an Outsourcing Agreement—Pro-CAFTA lobbyists like to portray the Central American countries as a huge market for U.S. exports, even surpassing Brazil and Australia. Instead, CAFTA is largely a market for U.S. "turnaround" exports—products shipped south for assembly and then final sale in the U.S.—particularly textiles and semiconductors. 35 percent of the modest $15 billion in exports to CAFTA countries are "turnaround exports," which increased by $1.36 billion from 1997-2004.

"Turnaround" exports simply represent outsourcing that supplants U.S. production and employment for cheap overseas labor, and drives down U.S. living standards. Due to Central American turnaround trade, the U.S. trade deficit with the CAFTA-6 rose nearly 60 percent from 1997-2004, and was $2.4 billion in 2004.

CAFTA Is Poorly Negotiated and Allows Chinese Textile Transshipments—Already, 75 percent of Central American exports to the United States are duty-free, including 99.9 percent of food and agricultural products. As of 2001, 70 percent of U.S. industrial exports had zero-duty access to the Central American market. CAFTA will only increase that percentage to 80 percent.

CAFTA claims to benefit U.S.-based fabric manufacturers by requiring the use of American-made fabrics in foreign garment production. This is called "yarn forward." However, CAFTA includes a number of loopholes to undermine this. One, the Yarn Forward provisions of the agreement cover only the "essential fabric" in a garment, and leave out much non-visible material.Two, due to "single transformation" exceptions, components of such products as bras and sleepwear, for example, can be imported duty-free into the United States in unlimited quantities even when made entirely outside the CAFTA region, in China for example.

Another problem is the "cumulation" provisions of CAFTA, which allow duty-free entry into the United States of any apparel or related products made entirely of fabric components from any country party to a free trade agreement with any CAFTA signatory. Thus, non-American denim, wool, cotton, and man-made fibers produced in Mexico can be sent to CAFTA countries for assembly into garments that can then be shipped duty free into the United States.This provision simply rewards textile firms that have already moved from the United States to Mexico under NAFTA.But it's also a major loophole to benefit China.

Why is that so? Because Mexico has long been a hotspot for illegal textile transshipments from China. According to the Mexican Textile Chamber of Commerce, 58% of all clothing sold in Mexico is smuggled in from China. It seems that China, which is not a party to this negotiation and has given up nothing in return, stands to gain substantially from CAFTA.

Even the totally inadequate limits on non-CAFTA materials and products eligible for duty-free treatment can only be maintained with satisfactory customs enforcement throughout the CAFTA regions and throughout the economies of any free trade partners. No serious observer of the trade scene considers U.S. Customs enforcement to be remotely adequate, and no significant budget resources for this mission are anywhere in sight. Much worse, of course, is the customs situation in our prospective CAFTA partners and other free trade partners like Mexico. And significant improvement in these countries' customs systems is a prospect even more remote than in the United States.

Additionally, we also must not ignore the determination of China and other Asian textiles and apparel producers to maintain and increase market share through

whatever means necessary. The Chinese government has put into effect a wide range of industrial subsidies aimed at maintaining and increasing exports—especially to its leading market, the United States. However, the United States has so far displayed absolutely no willingness to respond to the Chinese and the Asian subsidies.

CAFTA Sets a Precedent to Eliminate All "Buy American" Provisions and Open US Government Procurement to Foreign Countries—Perhaps the most disturbing loophole in the CAFTA agreement is one that most people have never even heard.According to the U.S. Trade Representative's official summary of the agreement, chapter nine of CAFTA establishes a basic rule of "national treatment" in government procurement.This means that each nation must treat goods, services, and suppliers from the other CAFTA parties in a manner that is "no less favorable" than domestic firms when awarding government contracts.In simple terms, that means governments cannot treat their own citizens better than foreigners, or use "buy domestic" policies to support their own economies. And so, at a time when the U.S. is rapidly outsourcing both its service and manufacturing jobs, CAFTA will make it illegal for any state or federal agency to adopt a "Buy American" policy.

CAFTA Will Exacerbate the Devastating Impact of NAFTA and CBI—From 1997-2002, U.S. domestic manufacturers' share of the U.S. market fell from 77.4% to 72.5%, despite an 18 percent gain in productivity. During that same period, U.S. exports fell by $9.6 billion and the U.S. lost 2.3 million manufacturing jobs. Moreover, CAFTA will continue momentum for further bad trade agreements that risk crashing the dollar and igniting a global financial crisis that will take years to work through.

In conclusion, USBIC's members can assure you that without dramatic policy changes, many more domestic manufacturers will soon be forced to close down. That means these companies will no longer be engines of economic growth or pillars of community stability. Our employees will go from taxpayers to consumers of government revenues—in unemployment insurance, retraining, food stamps, Medicaid, and other forms of government assistance. Pressures to enlarge the welfare state, with the concomitant redistribution of our society's wealth, will grow significantly stronger

To remain a true global economic and military superpower, and a prosperous, stable society, the United States urgently needs entirely new trade policies that support domestic manufacturing and its resultant stable communities. Defeating CAFTA is the place to start.

Mr. STEARNS. Thank you. Ms. Lee, welcome.

Ms. LEE. Thank you, Mr. Chairman.

Mr. STEARNS. I think you have to turn your mike on.

STATEMENT OF THEA M. LEE

Ms. LEE. Thank you very much, Mr. Chairman, Congresswoman Schakowsky, members of the committee. I really appreciate the opportunity to come today and testify on behalf of the 13 million working men and women of the AFL-CIO on this extremely important issue. I think you all know how important trade policy is to our members, but the DR-CAFTA, the Central American Free Trade Agreement I think is a pivotal policy debate and one that is very important.

In our view CAFTA provides precisely the wrong answers to the challenges faced both in Central America and the United States. It is a failed model that will likely exacerbate poverty and inequality in Central America while further eroding good jobs and wages at home. At the same time, its successive protections for multinational corporations will undermine the ability of elected governments to protect public health, strong communities, and the environment.

American workers and unions are not opposed to trade. We believe that trade has the potential to lift people out of poverty, to increase harmonious relations between nations, but we also believe absolutely that the rules must adequately balance competing inter-

ests and protect, in particular, the most vulnerable members of society: workers, family farmers, subsistence farmers, those needing affordable, life-saving medications. And in our view U.S. trade policy has simply not found that balance. We didn't find it in NAFTA, we didn't find it in China's succession to the WTO, and we certainly haven't found it in CAFTA. And instead of protecting the most vulnerable and making sure that we have put, as Congresswoman Schakowsky said, protection of workers' rights, the environment, democracy at the very center of our trade agreements, we have put them on the last page.

The key question facing us is not just whether CAFTA is an okay agreement, a good enough agreement, but whether it actually sets us back. And I would like to argue today that it is not just that CAFTA is a disappointment, but that it actually, in some key ways, is worse than the status quo, particularly with respect to workers' right.

But I also wanted to just briefly say, in terms of U.S. competitiveness and good jobs, like Kevin, like many of you, like many of the statements that were made earlier today, we have heard—the labor movement, American workers, my members have heard over and over again that every new trade agreement is about opening markets and selling more stuff. Just as Ms. Vargo said, we are going to open up Central America's markets, lower their tariffs, and American products will have a better chance of being sold there. This is the exact same argument we had in NAFTA.

And I actually wanted to correct one of the things that Ms. Vargo said. She said that it is an entirely different situation because Central America's market is already open to U.S. products and Mexico's wasn't. In fact before NAFTA, U.S. products going into Mexico faced a somewhat lower average tariff than U.S. products today going into Central America on average, just given the mix of things. And I can provide those precise numbers for you if you are interested.

But with China PNTR, this is actually the most extreme situation where in fact China didn't change their tariffs at all—U.S. didn't change our tariffs at all. China lowered its tariffs, and yet, still our trade deficit with China doubled because the point is, these trade agreements are not about selling more products, exporting more goods from the United States, but are about facilitating outsourcing and off-shoring of U.S. jobs. And that is why they never deliver the benefits in terms of U.S. jobs and market access and competitiveness that they are claim to.

In terms of workers' rights it is very simple. And I am glad Mr. Gonzalez is here because I think his question deserved a better answer than he got from Ms. Vargo. Under current U.S. trade agreements, the GSP and the CBI, the U.S. can in fact challenge inadequate labor laws in Central America. Under CAFTA we cannot. The GSP, CBI does allow the removal of trade benefits when countries are out of compliance. CAFTA only allows trade sanctions if a country fails to pay a fine to itself. This is a very, very different situation. I know both Mr. Brown and Ms. Schakowsky raised this issue. The only enforceable issue in CAFTA with respect to workers' rights is that countries enforce their own labor laws.

Now, Ms. Vargo said that it is unlikely in her view that countries would weaken their labor laws. Now, when we negotiate trade agreements, we do not negotiate them for the most likely scenario, we don't negotiate them for the best-case scenario, we don't negotiate them assuming that our trade partners behave themselves in areas that are of key importance to us. We negotiate language that needs to be airtight. And the trade agreements are in place not for 5 years, not for 8 years, but for 50 years, 100 years, for future governments that we haven't seen yet. We don't know whether those governments will in fact weaken their laws.

And in fact right today in Guatemala, the government is in fact making efforts to weaken their labor laws in ways that are in violation of the commitment to meet ILO standards. So this is not a hypothetical situation. This is a very real situation. We are giving permanent and deeper market access to the Central American countries, and we are weakening the labor rights conditions attached to that.

And this is of key importance to Central American workers. We have worked very closely with Central American unions and worker activists who have told us they want the stronger worker rights protections that they have today under GSP. Now those aren't perfect. If they were perfect, then Central America would be a workers' paradise today. But it is one little piece of leverage that we have today, and as we open our market, we are in fact gutting the workers' rights protection. And this is too important an issue, both for American workers and for Central American workers to overlook.

And I thank you very much for your time, and I look forward to your questions.

[The prepared statement of Thea M. Lee follows:]

PREPARED STATEMENT OF THEA M. LEE, CHIEF INTERNATIONAL ECONOMIST, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify today on behalf of the thirteen million working men and women represented by the AFL-CIO. U.S. trade policy in general, and DR-CAFTA in particular, are of enormous interest and importance to our members and to America's workers.

In our view, CAFTA provides precisely the wrong answers to the challenges faced in Central America and the United States. CAFTA represents a failed model that will likely exacerbate poverty and inequality in Central America, while further eroding good jobs and wages at home. At the same time, its excessive protections for multinational corporations will undermine the ability of governments to protect public health, strong communities, and the environment.

Mr. Chairman, members of the subcommittee, we ask you to reject CAFTA and urge the administration to renegotiate this deeply flawed deal.

Any vote on CAFTA must take into account the broader economic reality that we are facing today. Our trade deficit hit a record-shattering $617 billion last year, we have lost close to three million manufacturing jobs in the last four years, and average wages have not kept pace with inflation this year—despite healthy productivity growth. Offshore outsourcing of white-collar jobs is increasingly impacting highly educated, highly skilled workers—leading to rising unemployment rates for engineers and college graduates. Together, record trade and budget deficits, unsustainable levels of consumer debt, and stagnant wages paint a picture of an economy living beyond its means, dangerously unstable in a volatile global environment.

Some CAFTA proponents have argued that opening Central America's markets to U.S. goods will boost sales for U.S. producers, creating high-paying export-related jobs at home. Proponents argue that this will in turn help close the U.S. trade def-

icit and allow U.S. companies to compete more effectively with China and other countries.

However, our experience under NAFTA demonstrates that the opposite is likely to occur. As Republican Senator Olympia Snowe said recently in the Senate Finance Committee hearing on CAFTA, NAFTA has cost U.S. workers nearly one million jobs and job opportunities (based on the deterioration in our trade balance with our NAFTA partners).

NAFTA was also supposed to open markets for American goods and services, creating high-paying jobs at home and prosperity abroad. Instead, in eleven years, the U.S. trade deficit with Canada and Mexico ballooned to twelve times its pre-NAFTA size, reaching $111 billion in 2004. Imports from our NAFTA partners grew more than $100 billion faster than our exports to them, displacing workers in industries as diverse as aircraft, autos, apparel, and consumer electronics. This occurred because U.S. companies did not take advantage of the easier access to the Mexican market to export finished consumer goods to Mexico; instead, they shifted production out of the United States to Mexico, exporting parts and capital goods and importing finished products. The net impact of these production shifts was a loss of good jobs in the United States.

Those workers whose jobs were not eliminated also suffered. Employers used the leverage of their new mobility and rights under NAFTA to crush union organizing drives and win concessions at the bargaining table, driving down wages and working conditions for American workers. According to researchers at Cornell University, the incidence of employers' threats to close and relocate factories grew under NAFTA. And these intimidation tactics are very effective: workers are half as likely to succeed in organizing a union when their employers threaten to move jobs abroad.[1]

NAFTA simply did not deliver stronger net exports or a competitive advantage for U.S.-based companies and workers, and there is little reason to believe that CAFTA will be any different. Like NAFTA, the attraction of Central America for multinational corporations is not its consumer market, but its low-paid and very vulnerable workforce.

The incremental market access for U.S. producers under CAFTA is quite small, as the consumer markets in the DR-CAFTA countries are not very significant. Many U.S. exports to the region are intermediate inputs, which are assembled in the region and then exported back to the United States.

And Central American assembly production is not the answer to staying competitive with China. The competitive problems we face with China require a direct solution which addresses the Chinese government's currency manipulation, illegal subsidies, and egregious repression of workers' rights and democratic rights head on. Getting slightly better access to a small market will not come close to solving those problems.

Some CAFTA proponents have made the desperate argument that CAFTA is the only way to lift Central America out of poverty. Again, we need only examine NAFTA's dismal track record to dispel this myth. Since NAFTA was implemented eleven years ago, real wages in Mexico have actually fallen, the number of people in poverty has grown, and the number of people migrating illegally to the United States to seek work has doubled. Trade liberalization in agriculture displaced nearly a million rural small farmers, swamping the fewer jobs created in the export processing sectors. Many in Mexico who supported NAFTA eleven years ago have now turned into ardent opponents.

CAFTA is likely to have similar impacts in Central America, especially since CAFTA does not dramatically increase access to the U.S. market for the Dominican Republic and Central America. The key impact on the rural poor—the majority of the population in many of the countries—will be increased competition with much more efficient U.S. agribusiness.

For industrial employment to be a reliable route out of poverty, workers must earn decent wages, have the right to form independent unions, and enjoy basic workplace protections and labor rights. Few workers in Central America today can exercise their internationally recognized rights to form unions and bargain collectively. Anti-union violence is common, and employers routinely fire workers attempting to exercise these rights, while governments fail to act. Far from addressing or rectifying these concerns, CAFTA actually weakens the labor rights conditions in-

[1] Kate Bronfenbrenner, "The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize," Dallas, Texas: North American Commission for Labor Cooperation; 1997. Kate Bronfenbrenner, "Uneasy Terrain: The Impact of Capital Mobility On Workers, Wages, and Union Organizing," Commissioned research paper for the U.S. Trade Deficit Review Commission; 2000.

cluded in current U.S. trade programs, leaving Central American and Dominican workers more vulnerable than ever. I will address CAFTA's inadequate labor rights provisions in more detail later in this testimony.

CAFTA PROVISIONS FAVOR MULTINATIONAL CORPORATIONS OVER WORKERS, COMMUNITIES, AND NATIONAL GOVERNMENTS

CAFTA strengthens protections for multinational corporations, forcing changes in intellectual property protection regimes that threaten public health, giving corporations new rights to sue governments over regulations they deem too costly or inconvenient, and limiting the ability of future legislators to place conditions on government procurement. This hurts Central America's prospects for future development, just as it weakens state legislators and erodes wages and jobs here at home.

The lopsided tilt toward corporate interests helps to explain why CAFTA is so unpopular, both here in the United States and throughout Central America. A recent poll by Americans for Fair Trade found widespread opposition to CAFTA, with 74% of respondents saying they would oppose the pact if it caused job losses, even if it also reduced consumer prices. In Central America, tens of thousands of workers, farmers, small-business owners, and other activists have taken to the streets to voice their vehement opposition to the deal and to the lack of transparency in the negotiation process.

The Bush administration and Central American governments have prioritized multinational corporate interests at the expense of ordinary citizens. Right now in Guatemala, the rights of people who need inexpensive medications are being traded away in favor of CAFTA's business interests. Pharmaceutical companies have already pressured Guatemala to stop allowing inexpensive drugs in stores. CAFTA imposes a five-to-ten year waiting period on generic drugs. The humanitarian organization, Doctors Without Borders, has said that these provisions in CAFTA could make newer medicines unaffordable.

CAFTA'S WORKERS' RIGHTS PROVISIONS UNACCEPTABLY WEAK

At the same time, despite the overwhelming evidence that Central America's workers are routinely abused, CAFTA spectacularly fails to address this problem. CAFTA's single enforceable workers' rights provision requires only that countries enforce their own labor laws—laws that Human Rights Watch, the International Labor Organization and even our own State Department have documented as failing to meet international standards. And CAFTA contains no enforceable provision preventing countries from weakening or even eliminating their labor laws entirely.

Not one country included in the CAFTA comes close to meeting a minimum threshold of respect for the ILO's core labor standards: freedom of association, the right to organize and bargain collectively, and freedom from child labor, forced labor, and discrimination. In Central America, maquiladora employers pay a workforce made up disproportionately of young women poverty wages to labor for long hours in unsafe conditions. When these workers try to organize to try to win a voice at work, they face intimidation, threats, dismissal, and blacklisting.

Labor laws in Central America uniformly fail to protect basic workers' rights, and deficiencies in the laws have been repeatedly criticized by the International Labor Organization (ILO), the U.S. State Department, and independent human rights organization for many years.[2] Despite this criticism, these flaws persist today. The ILO, in its 2003 and 2004 reports on Central American labor laws, identified no fewer than 27 key deficiencies in the laws with respect to freedom of association and the right to organize and bargain collectively. Amazingly, the U.S. Trade Representative and Central American countries continue to cite these reports as evidence that laws in the region largely meet ILO standards—a gross mischaracterization of the reports themselves. And even these reports, with all the deficiencies they identify, omit some flaws that the ILO itself had identified with regard to these countries in earlier observations because of the reports' limited scope.

A review of the ILO reports and other ILO observations, along with U.S. State Department reports and independent analyses by human rights groups, reveals a

[2] Such reports include: "Fundamental Principles and Rights at Work: A Labour Law Study—Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua," International Labor Organization, 2003; "Fundamental Principles and Rights at Work: A Labour Law Study—Dominican Republic," International Labor Organization, 2004; "2004 Country Reports on Human Rights Practices," U.S. Department of State, 2005; "2004 Annual Survey of Violations of Trade Union Rights," International Confederation of Free Trade Unions, 2004; and "Deliberate Indifference: El Salvador's Failure to Protect Workers' Rights," Human Rights Watch, 2003. A summary of these reports is available in "The Real Record on Workers' Rights in Central America," AFL-CIO, April 2005.

wide array of loopholes, gaps, and deficiencies in labor laws in the region. On issues including penalties for anti-union discrimination, employer interference with workers' organizations, obstacles to union registration, restrictions on the right to organize above the enterprise level, restrictions on the rights of temporary employees, onerous requirements for trade union leadership, limits on the activities of federations and confederations, and limits on the right to strike, labor laws throughout the region fail to meet the minimum standards enumerated by ILO core conventions. The only country to actually reform any of its laws in these areas during the CAFTA negotiation process was Nicaragua; but some gaps in the law remain even there. In every other country major deficiencies identified by the ILO remain on the books today. In fact, some countries have actively weakened their labor laws during the CAFTA negotiations: Guatemala's Constitutional Court overturned key elements of major labor law reforms, while the Costa Rican government introduced legislation to weaken worker protections.

Employers take advantage of these weaknesses in the labor law to harass, intimidate, and fire workers who dare to organize an independent union. Employers refuse to bargain with legitimate worker representatives, and have most strikes declared illegal. Even where employers are flagrantly in violation of the law, they enjoy near total impunity in many of these countries. The result is a climate of fear, insecurity, and even physical danger for workers in the region who try to exercise their most basic rights on the job.

As violation after violation of workers' rights accumulate, and as governments refuse to improve their laws or enforce those that do exist, the very institutions of independent trade unions and collective bargaining founder. Trade union density in Central American countries is minimal: 7 percent in Honduras, 5 in El Salvador, 3 in Guatemala. In El Salvador, no independent trade unions have been registered in the past four years. The most recent denial came this year, when the Ministry of Labor found that port workers did not meet the legally required minimum number to form a union, as a result of the fact that their employer had fired most of the founding members of the union in direct retaliation for their organizing activities.

There are only two collective bargaining agreements in force in Guatemala's maquiladoras—zero in El Salvador's. In Costa Rica from 1999 to 2004, for every employer that negotiated a collective bargaining agreement with a legitimate trade union, more than fourteen employers negotiated direct arrangements with employer-dominated solidarity associations. In Guatemala, 45 incidents of threats against trade unionists were reported to the government in 2004—only one conviction was achieved.

In the face of these inadequate labor laws, CAFTA only requires that countries enforce the labor laws they happen to have. Obligations to improve one's labor laws, to meet ILO standards, and not to derogate from or waive laws in the future are all completely unenforceable under CAFTA. Thus a country can maintain its laws far below ILO standards, weaken its laws even further in the future, and face no consequences under CAFTA. As the discussion above demonstrates, this is not just a theoretical possibility in Central America—it is the reality that workers live with every day.

CAFTA LABOR PROVISIONS A STEP BACK FROM JORDAN FTA AND GSP

CAFTA's failure to include an enforceable requirement that labor laws meet ILO standards represents a step backwards from the labor rights provisions of the U.S.-Jordan Free Trade Agreement. The Jordan agreement enjoyed broad support from labor unions in the U.S. and Jordan, and passed the U.S. Congress unanimously in 2001. The Jordan agreement allows each one of its labor rights obligations to be brought up under the agreement's dispute settlement and enforcement mechanism, including provisions committing countries to meet ILO standards. In contrast, CAFTA excludes the vast majority of its labor rights obligations from the accord's dispute settlement and enforcement mechanisms, and only the requirement that countries enforce their own labor laws is subject to dispute settlement and enforcement.

CAFTA also backtracks from the Jordan agreement by giving labor rights second-class status within the agreement's dispute settlement and enforcement apparatus. In the Jordan FTA, the dispute settlement and enforcement measures that apply to the agreement's labor provisions are identical to those that apply to the agreement's commercial provisions, and can include fines or sanctions. Under CAFTA, only violations of the agreement's commercial provisions can lead to sanctions or punitive fines sufficient to compensate the harm caused by the violation. Violations of the agreement's labor obligation must be remedied through the assessment of a non-

punitive fine, and that fine is capped at $15 million regardless of the harm caused by the violation.

Perhaps most disturbing is the fact that CAFTA's rules on workers' rights are actually weaker than the current labor conditions that apply to Central American countries under our unilateral trade preference programs, the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI). CAFTA's labor chapter backtracks from the labor standards in GSP and CBI, and the agreement eliminates enforcement tools currently available in the unilateral programs.

- The GSP requires countries to have taken or be "taking steps to afford internationally recognized worker rights," while the CBI instructs the president to consider "the extent to which the country provides internationally recognized worker rights" when granting preferential market access under the program. These rules enable workers to complain about the inadequacy of national labor laws, not just about the government's failure to enforce the law. CAFTA, on the other hand, only requires countries to enforce the labor laws they happen to have, no matter how weak those laws are now or become in the future.
- The GSP includes a public petition process for the removal of trade benefits. The AFL-CIO and other labor rights advocates have used the process, in conjunction with unions in Central America, to bring public pressure on Central American governments to improve labor rights. Even when the U.S. government exercises its discretion to reject meritorious GSP petitions, the public forum provided by the petition process can help focus public attention on workers' rights abuses and pressure governments to reform. CAFTA contains no direct petition process for workers—enforcement can only happen through government-to-government disputes.
- The GSP and CBI directly condition market access on respect for international labor rights. While preferential benefits are rarely withdrawn under the programs, the credible threat of reduced trade benefits has successfully changed government behavior. In addition, petitioners have been able to tailor request for withdrawal to specific sectors and producers responsible for workers' rights violations, helping to create a specific incentive for employers to respect workers' rights. CAFTA, on the other hand, makes it extremely difficult to withdraw trade benefits for workers' right violations. Even if a government has been found in violation of CAFTA's labor provisions, it can continue to enjoy full market access under the agreement as long as it pays a small, capped fine to finance labor enforcement activities. The fine in no way penalizes producers for violations of workers' rights, and exerts little pressure on governments, who can reduce their labor budgets by an amount equal to the fine and avoid spending the fine on projects with political sensitivity such as labor law reform.

The only tool that has helped create the political will to reform labor laws in Central America in the past is our unilateral system of trade preferences. While the labor rights provisions of these programs are not perfect, they have led to some improvements in labor rights in the region. In fact, nearly every labor law reform that has taken place in Central America over the past fifteen years has been the direct result of a threat to withdraw trade benefits under our preference programs.

Even the United States Trade Representative (USTR) touts the reforms that have been made to Central American labor laws as a result of GSP petitions. USTR argues that the reforms demonstrate Central American governments' commitment to workers' rights, and thus argue for approval of CAFTA. Quite to the contrary, the reforms demonstrate that governments in the region rarely undertake labor law improvements without outside pressure—pressure that will no longer be applied if CAFTA is ratified.

- The U.S. government accepted a GSP workers' rights petition against Costa Rica for review in 1993, and Costa Rica reformed its labor laws later that year.
- The Dominican Republic reformed its labor laws in 1992 in response to a GSP petition on workers' rights.
- El Salvador was put on continuing GSP review for workers' rights violations in 1992, and the government reformed its labor laws in 1994.
- Guatemala reformed its labor laws in response to the acceptance of a 1992 GSP petition, and when their case was reopened for review in response to a 2000 petition they again reformed their labor laws in 2001.
- Nicaragua's GSP benefits were suspended in 1987 for workers' rights violations, and it reformed its labor laws in 1996.

The GSP process has also been helpful in addressing enforcement and rule-of-law problems in the region. Too often, these patterns of violation are the result not just of limited resources, but of insufficient political will on the part of Central American governments. GSP cases have helped create that political will. As the result of a

2004 petition on El Salvador, for example, the Salvadoran government finally enforced a reinstatement order for union activists that had been locked out for three years. All appeals to national mechanisms in the case had been fruitless, and the employer was in outright defiance of a reinstatement order from the nation's Supreme Court. The last independent union granted legal registration in El Salvador was only registered after appeals to the Salvadoran Supreme Court, the ILO, and a GSP petition.

Central American countries need a trade regime that will improve compliance with fundamental workers' rights. As long as independent trade unions are thwarted, collective bargaining avoided, and the right to strike repressed, workers will be unable to win a voice at work and negotiate with their employers for decent working conditions and wages that reflect the true value of their production. Trade rules must ensure that governments protect fundamental workers' rights, and require that the companies who take advantage of the new rights and mobility that trade agreements provide be held accountable for their treatment of workers.

CAFTA fails this test. Rather than tie the incentives that additional market access provides to required improvements in workers' rights, CAFTA does exactly the opposite. While granting expanded and permanent market access to Central American countries, CAFTA actually reduces the labor rights conditions those countries are required to fulfill under current trade programs. This failure is particularly egregious in the Central American context—in countries where labor laws fall far short of minimum international standards, where governments have a record of indifference towards workers' rights and hostility towards trade unions, and where the only tool that has proven successful in improving workers' rights has been the threat of the withdrawal of trade benefits.

It is time for policymakers to take an honest look at our trade policy and the impact it has had on workers and communities at home and abroad, and start revising the rules that govern trade. The American labor movement, along with our brothers and sisters in Central America, has made substantive and thoughtful proposals on what changes need to be made to our trade policies.[3] We recognize that trade has the potential to spur growth and create jobs—but to deliver on these promises, we need to get the rules right. Unfortunately, CAFTA negotiators ignored our proposals.

As a result, we are forced to oppose CAFTA. We are working together with unions, environmentalists, family farmers, bishops, women's groups and many others in the U.S. and Central America to stop CAFTA and to build a better way to trade. Only by rejecting CAFTA can we begin a real dialogue on the new kinds of trade rules we need to create good jobs, stimulate equitable and sustainable economic development, and support strong democratic institutions.

In sum, CAFTA grants multinational companies that ship U.S. jobs overseas the following rewards: greater access to the U.S. market, more freedom to violate workers' rights with impunity, and the ability to challenge government regulations enacted in the public interest. CAFTA's rules on investment, government procurement, intellectual property rights, and services create new rights for multinational corporations, but the agreement actually weakens existing protections for workers' rights, leaving the interests of ordinary working men and women out in the cold.

Members of the subcommittee, I will close with these thoughts. The U.S. economy continues to break records, but not in ways that help working people. The all-time high U.S. trade deficit is not an abstract issue; it shows up every day as working men and women see their plants close, are asked to train their own overseas replacements or are asked to swallow wage and benefit cutbacks that affect their families' lives in hundreds of ways. Entire communities suffer the consequences of failed trade agreements. We urge the Congress to reject CAFTA and begin work on just economic and social relationships with Central America and the Dominican Republic.

Mr. STEARNS. Thank you. Mr. Cohen.

STATEMENT OF CALMAN J. COHEN

Mr. COHEN. Mr. Chairman, Congresswoman Schakowsky, members of the committee, I welcome the opportunity to appear before

[3] See "Labor Movement Declaration Concerning The United States-Central America Free Trade Agreement," San Jose, Costa Rica, November 18, 2002. This declaration was signed by the labor federations of the United States, Guatemala, Nicaragua, Costa Rica and El Salvador. It is reprinted in, "The Real Record on Workers' Rights in Central America," AFL-CIO, April 2005.

you to express the support for CAFTA as president of ECAT on behalf of the Business Coalition for U.S.-Central America trade.

Like its predecessor FTAs, CAFTA will promote new economic opportunities, but it is not a panacea the many problems which have been addressed during the hearing this morning and this afternoon. It will not address every aspect of the U.S.-Central America-Dominican Republic relationship. However, it is a comprehensive, high-standard, and commercially meaningful agreement that is very much deserving of the support of this committee and the U.S. Congress for five reasons.

First, CAFTA levels the playing field and creates new opportunities as you have heard already. Second, CAFTA will promote growth and partnership in our own neighborhood. Over 20 years ago the Congress developed a model of economic engagement to promote stability and growth in the Caribbean Basin. More than two decades later the so-called CBI programs are no longer sufficient. They are too cumbersome, too inflexible, and too limited to withstand the pressure of the recent lifting of global textile and apparel quotas, and companies in the region have already started laying off thousands of workers. This is extremely important from a U.S. perspective since the Central American-Dominican Republic textile and apparel industry is the second-largest source of economic activity in the region, employing some half million workers in some of the best-paying jobs in these countries. And this industry is the largest export market for U.S. apparel manufacturers and yarn and the second largest U.S. export market for fabric. The competitiveness of the U.S. textile and apparel industries and the future of their workers depend in significant part on whether or not the Congress approves the FTA.

Third, CAFTA will promote improved working conditions in this region. It is precisely through increased trade and economic growth the developing countries are better able and increasingly motivated to improve labor and environmental standards. This is particularly important in the context of CAFTA where nearly half of the population of the six countries lives in poverty. Without CAFTA working conditions will not get a much-needed boost. Indeed, they are likely to get much worse.

CAFTA also includes the most robust provisions yet on labor capacity building, including the establishment of a council that oversees a capacity-building mechanism. This capacity-building mechanism and Congressional support for capacity building are precisely what is needed to make a difference.

The agreement also includes strong and enforceable labor provisions on labor rights that we believe are in fact stronger than the Jordan FTA and stronger than the existing unilateral trade preference programs. With few exceptions, CAFTA's labor provisions are essentially the same as contained in the U.S.-Jordan FTA. The key differences between the Jordan FTA and CAFTA are, first, CAFTA clarifies what was implicit in the Jordan FTA. CAFTA includes a provision specifically stating that the only provision subject to dispute settlement is the enforce-your-own-law standard. As President Clinton said in submitting the Jordan FTA to the Congress, "It is important to note that the FTA does not require either country to adopt any new laws in these areas, but rather includes

commitments that each country enforce its own labor and environmental laws."

Second, the U.S.-Jordan FTA includes an underdeveloped dispute settlement mechanism. The CAFTA, on the other hand, contains a state-of-the-art, binding dispute settlement mechanism.

The third deference is capacity building. The Jordan FTA merely makes a statement that cooperative activities enhance labor standards. CAFTA includes concrete provisions to promote labor capacity building.

I then want to just briefly to go to a point that was raised by Mr. Gonzalez. In determining the eligibility for duty-free treatment, the trade preference programs prohibit the designation of a country as a beneficiary if it has not taken or is not taking steps to afford internationally recognized worker rights. These provisions require a country's adherence to internationally recognized worker rights as a condition of eligibility, rather only that a country has or is taking steps.

In contrast, CAFTA builds upon the progress achieved by the unilateral preference program by requiring each of the countries to enforce its labor laws, subject to binding dispute resolution. This is actually a very robust standard when you consider what is already in their laws. For example, all but El Salvador has ratified all eight of the ILO core conventions, which, according to their own constitutions and laws, become part of their national law. All have already incorporated in their constitutions and/or their national law the broad ILO labor standards.

Fourth, CAFTA's comprehensiveness is critical. During the negotiations, the CAFTA countries sought to exclude certain products and services completely from liberalization. In the end U.S. negotiators succeeded in negotiating openings to all of their key sectors and protecting ours.

Sugar is the most notable because the end result is extremely far from what the CAFTA countries had sought. There is very minimal increase in the sugar quota for these six countries. The new access equals less than 1 percent of the 2003/2004 U.S. sugar supply. In addition, CAFTA includes a compensation mechanism that would allow the restriction of actual imports, but require the U.S. Government to compensate these countries for any such restrictions.

My final point is that CAFTA is an important test for U.S. leadership on trade. Concerns about laying the playing field for American workers and farms can nowhere be better addressed than in the WTO. But U.S. influence will be reduced if the first FTA that the United States negotiates with a group of developing countries is defeated over a modest increase in sugar imports and because the labor provisions do not solve every problem.

For all of these reasons I urge your support for the CAFTA. Thank you.

[The prepared statement of Calman J. Cohen follows:]

PREPARED STATEMENT OF CALMAN J. COHEN, PRESIDENT, EMERGENCY COMMITTEE FOR AMERICAN TRADE

Mr. Chairman, Congresswoman Schakowsky, Members of the Committee, I welcome the opportunity to appear before you today to express strong support for the U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA) as President of the Emergency Committee for American Trade (ECAT) and on behalf of the

Business Coalition for U.S.-Central America Trade, for which ECAT serves as the secretariat.

- ECAT is an association of the chief executives of major American companies with global operations who represent all principal sectors of the U.S. economy. ECAT was founded more than three decades ago to promote economic growth through expansionary trade and investment policies. Today, the annual sales of ECAT companies total $2 trillion, and the companies employ approximately five and a half million people.
- The Business Coalition for U.S.-Central America Trade is a coalition of over 400 companies and associations representing all major sectors of the economy with members in all 50 states that work together in support of the implementation of the CAFTA. The Business Coalition was formed as the negotiations started and is working in strong support of Congressional approval of the CAFTA.
- The CAFTA is a comprehensive, commercially meaningful and high standard agreement. I will focus today on why CAFTA deserves your support.

THE HISTORY OF FREE TRADE AGREEMENTS

Twenty years ago tomorrow, former President Reagan sent to Congress the first U.S. free trade agreement for Congressional approval—the U.S.-Israel FTA. It was approved by the House by a vote of 422-to-0 and by the Senate by voice vote. It was largely a political agreement that included significant, but by no means perfect, market opening. Indeed, the services aspects of the agreement were merely aspirational and the dispute settlement provisions extraordinarily limited.

Since the U.S.-Israel FTA was approved in 1985, successive Administrations, Republican and Democratic, have successfully sought Congressional approval for eight additional FTAs, from our largest trading partner Canada in 1989, the NAFTA in 1993, the Jordan FTA in 2001, and the Chile and Singapore FTAs in 2003 to the Australia and Morocco FTAs in 2004.

Each of these FTAs, from the 19-page Jordan FTA negotiated by the Clinton Administration to the several hundred pages of the Morocco FTA negotiated by the Bush Administration, has three very important aspects in common:

- First, they seek to promote new opportunities for U.S. manufacturers, farmers and service providers through the elimination of barriers to U.S. consumer and industrial goods, farm products and services.
- Second, each FTA seeks to respond to the negotiating objectives set forth by Congress in the trade negotiating authority legislation (Trade Promotion Authority) that governs the negotiation and Congressional approval of such agreements.
- Third, each FTA sends a strong message to the rest of the trading community about the United States' commitment to a rules-based trading system and to more open markets with developed and developing countries alike.

In each case, with the exception of the U.S.-Israel FTA, concerns were raised that more should have been done to address various issues—some within the context of the FTA, some outside. For example:

- With the U.S.-Jordan FTA, environmental groups and others complained about an extremely weak dispute settlement mechanism that would allow any party to block dispute settlement proceedings in perpetuity.
- With NAFTA, complaints were raised about the decline in Mexican wages prior to the conclusion of the FTA and how that would affect American workers.

In some cases, provisions were included as part of the implementing legislation to address related concerns—such as NAFTA Trade Adjustment Assistance program. In other areas, the FTAs were simply not able, nor intended, to address all facets of the relationship.

I would also note the importance of these agreements to opening markets for U.S. exporters in particular. Based on 2004 data, U.S. exports to the six countries with which the United States had an FTA in 2004 equaled $332.8 billion, accounting for 40 percent of total U.S. exports worldwide; this does not include the Australia or Morocco FTAs which were not in force in 2004. Let me say that again. Our FTAs with our six FTA partners in 2004 accounted for 40 percent of total U.S. exports.

CAFTA IS A STRONG AND IMPORTANT TRADE AGREEMENT, BUT IT IS NOT A PANACEA

This background is important to put the CAFTA into the correct context. Like its predecessors, it is a free trade agreement that seeks to promote new opportunities for U.S. manufacturers, farmers and service providers. It is not a panacea. It is not intended, nor did Congress ask, that it address every aspect of the U.S.-Central American-Dominican Republic relationship. While CAFTA makes important progress in promoting economic growth in Central America and the Dominican Re-

public, as well as U.S. exports, it cannot, for instance, solve by itself the problems of poverty or subsistence farming in the region.

While not perfect—no agreement ever is—CAFTA is very much deserving of the support of this Committee and the U.S. Congress. From the perspective of ECAT and the broader Business Coalition, I would suggest that there are five key elements of the CAFTA that are most important for your consideration.

FIRST: CAFTA LEVELS THE PLAYING FIELD FOR U.S. MANUFACTURERS, FARMERS AND SERVICE PROVIDERS

Through unilateral preference programs overwhelmingly approved on a bipartisan basis by Congress since the 1980s, some 75 percent of CAFTA imports and 99 percent of CAFTA agricultural products already enter the United States *duty-free.*

What CAFTA does for U.S. manufacturers, farmers and service providers, is to make trade with our neighbors a two-way street. CAFTA opens *their* markets to *our* goods and *our* services, which is particularly important given that the six CAFTA countries already represent the United States' 12th largest export market worldwide and our second largest market in Latin America, after Mexico. In particular, CAFTA eliminates tariffs, tariff rate quotas and non-tariff barriers in all major sectors.

- **For U.S. Manufacturers,** CAFTA immediately eliminates tariffs on more than 80 percent of U.S. consumer and industrial goods when the CAFTA enters into force, including on such key products as information technology products, agricultural and construction equipment, paper products, chemicals, and medical and scientific equipment. CAFTA will eliminate all remaining tariffs on all U.S. manufactured goods within 10 years. CAFTA also eliminates other major non-tariff barriers to consumer and industrial goods, including onerous dealer distribution requirements that created enormous barriers for decades to the ability of many U.S. companies to sell their products in these countries.
- **For U.S. Service Providers,** all six CAFTA countries committed to open up their services market on a negative list basis (listing exceptions to full market opening), with particular benefits for telecommunications, financial, distribution, information technology, audiovisual and entertainment, energy, transport, construction, express delivery, professional and other services. The six countries also committed to significant provisions on regulatory transparency and independent regulatory authorities. Of particular importance are Costa Rica's commitments to open up key portions of its currently closed telecommunications and insurance markets.
- **For U.S. Farmers,** CAFTA eliminates tariffs on over half of U.S. agriculture products immediately, with most remaining duties on U.S. products phased out over 15 years. Since 99 percent of their agricultural products already enter the U.S. market duty-free, this is particularly important to provide reciprocity. The agriculture provisions create significant new opportunities in particular for U.S. producers of beef, pork, dairy, corn, wheat and grains, soybeans, rice, cotton and processed foods.
- **For U.S. Creative and Scientific Industries,** CAFTA establishes strong rules for the protection of intellectual property that are critical to promote innovation and new research in numerous sectors, from information technology to chemical, pharmaceutical and other scientific industries, and to stimulate a rich and diverse marketplace for the development and publishing of business information and creative works.
- **For U.S. Investors,** CAFTA provides strong protections derived from U.S. legal principles and practice, including, non-discrimination, due process rights, prompt compensation for expropriation, free movement of capital, no performance requirements (such as local sourcing rules or export requirements) and the resolution of disputes in a neutral and objective forum. In accordance with Congress' directions in Trade Promotion Authority, enacted as part of the Trade Act of 2002, the CAFTA also ensures that key protections conform to U.S. legal principles and practice and that disputes are handled transparently, efficiently and with public input. Unlike any prior FTA, the CAFTA also provides a concrete mechanism for the development of an appellate or other review procedure to ensure the coherence of decisions.

SECOND: CAFTA WILL HELP PROMOTE GROWTH AND PARTNERSHIPS IN OUR NEIGHBORHOOD

Over 20 years ago, former President Reagan and the Congress developed a model of economic engagement to promote stability and growth in the Caribbean Basin. The so-called Caribbean Basin Initiative (or Caribbean Basin Economic Recovery Act—CBERA) provided duty-free access to many goods from the CAFTA countries

and the rest of the Caribbean, in significant part to help stem the flow of communism by promoting economic growth and the reduction of poverty.

More than two decades later, that program, which was expanded and improved most recently through the Caribbean Basin Trade Partnership Act (CBTPA), enacted as part of the Trade and Development Act of 2000, helped this region emerge from a period of civil war, insurgency and military dictatorship to democratic stability.

While CBI and CBTPA have been important drivers for economic growth, they are no longer sufficient. The Central American-Dominican Republic textile and apparel industry that these programs helped create now faces extraordinary competitive pressures as a result of the elimination of global quotas on textiles and apparel at the beginning of 2005. The CBTPA program in particular is too cumbersome, too inflexible and too limited to withstand this additional pressure, and companies in the region have already started laying off thousands of workers.

This is extremely important from a U.S. perspective, since the Central American-Dominican Republic textile and apparel industry is the second largest source of economic activity in the region—employing some 500,000 workers in some of the best-paying jobs in these countries. With an overall poverty rate of 47 percent and the largest source of economic activity being subsistence agriculture, these countries are facing a significant slowdown in employment and growth if CAFTA is not passed. That has important consequences for working men and woman in the six CAFTA countries, but it also has important consequences for working men and women here in the United States since these countries are the largest export market for U.S. apparel manufactures and yarn and the second largest export market for U.S. textiles. The competitiveness of the U.S. textile and apparel industries and the future of their workers depend in significant part on whether or not Congress approves the CAFTA.

With CAFTA, and the permanence, flexibilities and reciprocity it creates for the U.S.-Central American-Dominican Republic textile and apparel industries, U.S. workers in these industries will continue to have markets in the six CAFTA countries. This will likely translate into economic growth in these countries, making them a more vibrant trading partner in the years ahead. Without CAFTA, these markets will continue the downward slide that has already begun. And since most Asian garments include little, if any, U.S. input, this has very negative implications for U.S. textile and apparel workers.

THIRD: CAFTA BUILDS UPON THE EXISTING U.S. INTEREST IN PROMOTING IMPROVED WORKING CONDITIONS THROUGH ECONOMIC GROWTH, CAPACITY BUILDING AND A STRONG DISPUTE SETTLEMENT SYSTEM

As the World Bank and others have documented, it is precisely through increased trade and economic growth that developing countries are better able and increasingly motivated by growing working and middle classes to improve labor and environmental standards. Since World War II, the liberalization of trade has helped produce a six-fold growth in the world economy and a tripling of per capita income and enabled hundreds of millions of families to escape from poverty and enjoy higher living standards. The World Bank has documented that developing countries that participate actively in trade grow faster and reduce poverty faster than countries that isolate themselves. In the 1990s, per capita incomes grew 5.1 percent in developing countries with high trade and investment flows, while more isolated countries saw incomes decline by 1.1 percent. Contrary to many popular perceptions, NAFTA has also been found to have a positive effect on wage levels and the reduction of poverty in Mexico. While it is alone not enough to produce gains for all workers in Mexico, NAFTA has had very positive effects.

The relationship between economic growth and labor rights is particularly important, given that nearly half of the population of the six CAFTA countries lives in poverty and Nicaragua is the second poorest country in the hemisphere, after Haiti. Without CAFTA, working conditions will not get a much-needed boost. In fact, they are likely to get much worse with the loss of some of the best-paying jobs in these countries in the textile and apparel sector. CAFTA, by creating new opportunities and making them permanent, has the ability to reverse the downslide and loss of thousands of jobs that we have seen in these countries since global textile and apparel quotas were lifted.

CAFTA also includes the most concrete provisions yet on labor capacity building that will promote strong improvements in the lives of workers. In particular, CAFTA would establish a Labor Affairs Council that will oversee a Labor Cooperation and Capacity Building Mechanism to:

- establish capacity-building priorities, including with respect to "fundamental rights and their effective application," worst forms of child labor, labor administration and inspection systems.
- develop specific cooperative and capacity-building activities.
- exchange information on laws and practices and ways to strengthen them.
- seek support from the ILO, Inter-American Development Bank, World Bank and Organization of American States to advance common commitments.
- seek input from worker and employer representatives and the public.

Capacity building by the ILO and other institutions has, over the years, resulted in very concrete progress in working conditions in the region and throughout the world. In Central America, for example, ILO technical assistance through the IPEC (International Programme for the Elimination of Child Labor) has provided concrete assistance to tens of thousands of children involved in child labor and their parents. Much more remains to be done to improve working conditions, but it is most often the lack of resources and technical ability, not particular laws, that limit improvements in labor conditions. CAFTA's capacity building mechanism and Congressional support for capacity-building programs are precisely what is needed to make an important difference. In this regard, I would note the existing commitments by the U.S. and by the Central American/Dominican Republic governments to labor capacity building:

- The Administration began its first CAFTA-related labor project before the agreement was even concluded, with a $6.75 million grant to the Foundation for Peace and Democracy to help improve working conditions in the region. In the FY 2005 Appropriations Act, Congress allocated $20 million for labor and environment capacity building for the CAFTA countries.
- On April 4, 2005, the six CAFTA countries made a strong and unprecedented public commitment to continue to improve labor standards and their implementation by endorsing the recommendations in the very detailed report on their labor laws and working conditions—*The Labor Dimension in Central America and the Dominican Republic*—prepared by their trade and finance ministries in conjunction with the Inter-American Development Bank. The report identifies specific areas where the countries need to improve labor standards and implementation and where additional technical assistance is required.

CAFTA is not meant to be, nor could it be, a panacea; yet it represents a much-needed modernization of the U.S.-Central American-Dominican economic relationship that will promote better working conditions through economic opportunities and a strong capacity-building program in the region.

Beyond the economic opportunities and capacity building that CAFTA will promote, the agreement itself includes strong and enforceable provisions on labor rights. I know this is a much debated subject, so I will focus my remarks on the two often-heard critiques of CAFTA with which I strongly disagree—that it is weaker than the Jordan FTA and weaker than existing unilateral trade preference programs:

1. CAFTA HAS VERY SIMILAR, IF NOT STRONGER, LABOR PROVISIONS THAN THE U.S.-JORDAN FTA.

With few exceptions, CAFTA's labor provisions are essentially the same as contained in the U.S.-Jordan FTA. The commitments are largely the same, except in those cases where CAFTA strengthens them or adds new commitments, such as to ensure access to fair, equitable and transparent tribunals for labor law enforcement. The key differences between the U.S.-Jordan FTA and CAFTA are:

CAFTA Clarifies What Was Implicit in the Jordan FTA. CAFTA includes a provision specifically stating that the only provision subject to dispute settlement is the "enforce-your-own-law" standard. This provision essentially clarifies the fact that the enforce-your-own-law standard is the only language in either the Jordan FTA or CAFTA that expresses an enforceable commitment as opposed to a hortatory objective. Indeed, the CAFTA clarifies the point former President Clinton made when he transmitted the U.S.-Jordan FTA to Congress on January 6, 2001:

> *"The FTA joins free trade and open markets with civic responsibilities. In this Agreement, the United States and Jordan affirm the importance of not relaxing labor or environmental laws in order to increase trade. It is important to note that the FTA does not require either country to adopt any new laws in these areas, but rather includes committments that each country enforce its own labor and environmental laws.*" (emphasis added).

This statement was obviously not made because Jordan had perfect labor laws. Indeed, as the 2004 State Department Report on Human Rights found: "[Jordan's] [l]abor laws mandate that workers *must obtain Government permission to strike.*

Unions generally did not seek approval for a strike, but workers used the threat of a strike as a negotiating tactic. Strikes are prohibited if a labor dispute is under mediation or arbitration." (emphasis added).

CAFTA Contains a More Developed and Binding Dispute Settlement Mechanism. The U.S.-Jordan FTA includes an underdeveloped dispute settlement mechanism that lacks strict time limits for the appointment of panelists, meaning that complaints can be blocked in perpetuity. In the case of the CAFTA, the dispute settlement procedures with respect to labor and environmental issues are much more detailed and developed and result in binding panel reports, with strict time limits for the establishment of panels and potentially the imposition of monetary assessments or trade sanctions. Panels are authorized to review a Party's commitment to enforce its labor and environmental laws as sought by the Trade Promotion Authority negotiating objectives. If a panel finds that a Party is failing to enforce such laws and that the Party does not bring its actions into accordance with the FTA obligations, the other Party is authorized to assess a monetary penalty that will be used for improving labor or environmental conditions in the complained of Party. If that monetary penalty is not paid, the complaining Party "may take other appropriate steps to collect the assessment or otherwise secure compliance . . . [including] suspending tariff benefits under the Agreement as necessary to collect the assessment . . ."

CAFTA Contains a Robust Capacity-Building Mechanism. The U.S.-Jordan FTA contains merely a statement that cooperative activities may enhance labor standards. CAFTA, as discussed previously, includes the most concrete provisions included in any FTA on labor capacity building—provisions that are likely to have a much more important effect than dispute settlement in promoting enhanced labor conditions.

2. CAFTA REPRESENTS A STRONGER WORKER RIGHTS MODEL THAN UNILATERAL PREFERENCE PROGRAMS

In determining eligibility for duty-free treatment, the Generalized System of Preferences (GSP), CBTPA and CBERA prohibit the designation of a country as a beneficiary if it "has not [taken] or is not taking steps to afford internationally recognized worker rights' and not implementing its commitments to eliminate the worst forms of child labor. CBTPA also provides that the President should consider the "extent to which the country provides internationally recognized worker rights."

As language of GSP, CBTPA and CBERA makes clear: these provisions do not require a country's *adherence* to internationally recognized worker rights as a condition of eligibility; rather only that a country has or is taking "steps." Indeed, in considering the CBTPA bill on the Senate floor, the proposal to condition CBTPA benefits on a country's compliance with internationally recognized worker rights (S. Amdt No. 2847) was rejected by more than a two-to-one margin.

While GSP, CBTPA and CBERA have been used by successive Administrations to help promote improvements in the labor standards in the Caribbean Basin countries, both the Clinton and Bush Administrations have repeatedly found that all six of the CAFTA countries have satisfied the taking "steps" standard of these programs. Indeed, in October 2000, the Clinton Administration designated all 24 Caribbean Basin countries as eligible for the new CBTPA benefits.

CAFTA builds upon the progress achieved by the unilateral preference programs by requiring each of the CAFTA countries to enforce its labor laws, which the unilateral preference programs helped improve. This obligation is subject to binding dispute settlement, including potential monetary assessments and trade sanctions. Given that each of the CAFTA countries has already adopted robust treaty and constitutional, as well as national law, labor protections provisions and CAFTA requires actual adherence to those laws, CAFTA actually provides a much stronger framework than the existing preference programs. Consider:

- All but El Salvador have ratified all eight of the ILO core conventions (El Salvador has ratified six), which, according to their own constitutions and laws, become part of their national law.
- All but the Dominican Republic have already incorporated in their constitutions all of the broad core ILO standards—the rights of freedom of association and collective bargaining and prohibitions against discrimination, child labor and forced labor.
- All six CAFTA countries have very detailed national laws on labor rights covering all four core ILO labor principles, including many of the key provisions called for in the very detailed ILO conventions.
- The CAFTA countries recently committed to strengthening labor standards and enforcement in their countries as recommended in The Labor Dimension in Cen-

tral America and the Dominican Republic, endorsed by the Trade and Labor Ministers of each of the six CAFTA countries.

Even more importantly, the CAFTA mechanism also includes an institutional framework to support labor capacity building within the CAFTA countries, the very activities that together with economic development are likely to have the greatest impact on improving working conditions within the region.

Suggestions that CAFTA, unlike the unilateral preference programs, will allow countries simply to repeal strong labor provisions ignore several key facts:

- That the labor language of the unilateral preference programs in fact allows countries to move backward, requiring only that a country has or is taking "steps."
- That the labor protections in the CAFTA countries are embedded in their constitutions and international treaties and, as a result, would be very difficult to undo if these countries wanted to.
- That CAFTA requires each country to "strive to ensure that its laws provide for labor standards consistent with the internationally recognized labor rights' and to improve those standards in that light." The six CAFTA countries also made the unprecedented commitment to continue to improve labor standards and their implementation by endorsing the recommendations in *The Labor Dimension in Central America and the Dominican Republic.*
- That CAFTA provides for ongoing work through a robust capacity-building mechanism to help each country with regard to labor issues, including fundamental rights and their effective application, and the worst forms of child labor, which are specifically included as subjects for labor capacity building in the CAFTA labor chapter.

We can debate at length the legal provisions in the CAFTA, compared to the U.S.-Jordan FTA, the trade preference programs or even NAFTA. Yet, I think it is critical to reemphasize that CAFTA's real power in improving labor conditions in the region is through economic opportunities and growth and a concrete capacity-building framework that Congress has a strong voice in promoting and sustaining. Without CAFTA, there are reduced economic opportunities; in fact there are likely to be significant job losses in the region. Without CAFTA, there is no framework or plan of action to improve working conditions through capacity building in the region. In short, we strongly believe that CAFTA provides a much stronger framework for promoting working conditions in the region.

FOURTH: CAFTA'S COMPREHENSIVENESS IS CRITICAL

ECAT and many in the Business Coalition have been working on this agreement even prior to the start of actual negotiations in January 2003. What we sought on behalf of the U.S. manufacturers, service providers and farmers that make up our groups was a comprehensive agreement that provided new access in all areas. As the negotiations progressed, it was very clear that the CAFTA countries, which already enjoy significant duty-free access into the United States, wanted to exclude certain products and services completely from liberalization—largely agricultural products and key service sectors, particularly in Costa Rica. At the same time, their negotiators sought substantial new access in areas in which they remained restricted in the United States, most notably textiles and apparel and sugar. In both areas, U.S. and the CAFTA countries' negotiators reached compromises that provided significant protections to U.S. interests.

Sugar is most notable because the end result is extremely far from what the CAFTA countries had sought. There is a very minimal increase in the sugar quota for these six countries—109,000 metric tons in year one that will increase to 153,000 metric tons by year 15. This new access—which will entail no final reduction of the tariff on sugar—equals less than one percent of the 2003/2004 U.S. sugar supply and less than seven percent of U.S. imports of sugar. In addition, CAFTA includes a compensation mechanism that would allow the restriction of actual increased imports, but require the U.S. government to compensate these countries for any such restrictions.

Failure to include any increased sugar access in the CAFTA would have resulted in a negotiating dynamic that could easily have unraveled the very significant new access provided to all other parts of U.S. agriculture, U.S. manufacturing and U.S. services. Instead of the elimination of tariffs on all beef, pork, rice, soybean, poultry and other key crops, the agreement would have been a patchwork of exceptions.

And that brings me to my last point.

FIFTH: CAFTA IS AN IMPORTANT TEST FOR U.S. LEADERSHIP ON TRADE

For many U.S. companies, the most significant trade negotiation is the ongoing WTO Doha Development Agenda. It has had a rocky several years and only last

summer seemed to be moving forward in earnest as a result of the so-called Framework Agreement. Yet, our negotiators are now faced with perhaps the most difficult period as they work to promote commitments by other countries to significant new access for U.S. farm and manufactured goods and U.S. services.

CAFTA represents an important test for the United States. It is the first time that the United States has negotiated an FTA with a group of developing countries. If opponents to CAFTA are successful and CAFTA is not approved, what type of message would that send to developing countries around the world with which the United States is trying to build coalitions to support new access in Europe, Japan and elsewhere? How does the United States explain that it is scared of six small countries in its own neighborhood over a modest increase in sugar imports and because the labor provisions do not solve every problem?

Concerns that many on this Subcommittee have expressed about leveling the playing field for American workers and farmers can nowhere be better addressed than in the WTO, but U.S. influence in the Doha Development Agenda will be reduced if the CAFTA is not approved.

With CAFTA, on the other hand, we have expanded our block of countries that support common goals and common principles. The WTO Doha Development Agenda will still be a difficult negotiation, but we will have allies in the developing world with which to move forward.

CAFTA will benefit the United States and our manufacturing, services and agricultural producers and workers through the expansion of markets, renewed partnerships to advance the competitiveness of U.S.-Central American-Dominican industries, and the development of a stronger, more stable hemisphere. It will level the playing field for our workers by eliminating barriers in these six countries. It will also help improve working conditions in the region through new economic opportunities and a robust and focused capacity-building mechanism. On behalf of ECAT and the Business Coalition, I strongly urge your support for this agreement.

Mr. STEARNS. I thank the gentleman. Mr. Vargo.

STATEMENT OF FRANK VARGO

Mr. FRANK VARGO. Thank you very much. I am very pleased to be here, Mr. Chairman and Congresswoman Schakowsky.

The National Association of Manufacturers is extremely supportive of this agreement. It is a great agreement despite everything you have heard against it. In trying to think of what is really important here, though, is there anything I could say to the subcommittee today, I thought I would quote the President. It is always a useful thing to do. Something the President said on April 12. The President said, "It is of vital importance to every nation of this hemisphere that the American Governments individually take, without further delay, such action as may be possible to abolish all unnecessary and artificial barriers and restrictions which now hamper the flow of trade between the peoples of the American Republics."

Now, this wasn't President Bush, although it could have been. He said pretty much the same thing. Because this was April 12, 1933 when the President was Franklin Delano Roosevelt, and the occasion was the introduction of the Good Neighbor Policy. And that is fundamentally what CAFTA is really most importantly about. It is about being good neighbors. It is about the United States working with its neighbors, and our neighbors can benefit us in this instance as well.

When we look at this agreement, you know, people just keep acting as though we don't already have an agreement. It is a one-way agreement. It has been a one-way agreement. The United States has been very generous, and now in response for making this agreement permanent, these countries are saying we will give you the open access to our market. In the NAM's estimate, and it is

available to you, is that we can pick up $1 billion of manufactured exports here because we will be more competitive than the European or Japanese or other competitors in Central America.

More importantly, we will save—it could be up to $4 billion of exports that would otherwise be at risk if these countries lose their apparel industry to China or other Asian producers. Why? Because they sell $10 billion of apparel to us. We have 40 percent of their market. If they lose $10 billion to us, they are not going to pick it up elsewhere. They will have to cut their imports $10 billion. On average, then, they will have to cut their imports from us $4 billion. Does anybody up there think that if China picks up $10 billion of textile exports to the U.S., they are going to spend $4 billion in the United States? I certain don't.

When we look at the impact on their economy, again, if they were to lose their apparel industry, half a million people, you know, the political instability that could be generated is something you all ought to contemplate. But we looked at the figures; it is also equivalent to 7 percent of their GDP. If they lost 7 percent of their GDP, that is something that would not contribute to their stability, would not be helpful for migration to the United States.

And as far as I can tell, there are really two problems that people are saying: sugar and the labor standard. Now, sugar really got a good deal. It is a sweetheart deal. The Secretary of Agriculture, all the analysis indicates prices aren't going to come down, the sugar industry is not going to be hurt. The sugar industry is concerned about a slippery slope. You can't take agreements on what other agreements might or might not be in the future. This is a good agreement. The sugar industry, frankly, should say thank you for what they have here and let us get on with it. Because the NAM and I think other agricultural sectors are not going to sit by and let a good agreement—and let our whole trade policy, if you will, be paralyzed by sugar the way Japan's trade policy has been paralyzed by rice all these years. It is a good agreement. We should move on with it.

Now, labor rights, in essence what I am hearing is until these countries clean up their labor act, until they have perfect labor laws or very good labor laws—perhaps better than ours in some instances; we can't meet the ILO standards—we don't want them to lower their tariffs to us. And to me that makes no sense. We want them to lower their tariffs, we want this agreement, and we will work with them to improve labor conditions. The worse thing you can do for labor conditions there is put a half million people out of work.

A lot has been said that CAFTA and NAFTA—let me make just a couple of points quickly, Mr. Chairman. People blame NAFTA as being kind of the root of all trade evil. You know, with manufactured goods, we have about a $500 million trade deficit. Now, $49 billion of that is with NAFTA, less than 10 percent. $25 billion is with Mexico, less than 5 percent. And 95 percent is outside. We have four times the deficit with the European Union in manufacturers than we do with Mexico. NAFTA has contributed about two-thirds of our entire export growth. If we had the other countries of the world, if our exports to them and imports with them had grown the same as with NAFTA, our global trade deficit would be

about $200 billion less than it was. And conversely, if our exports and imports with NAFTA had performed as they did with the rest of the world, our deficit with NAFTA would have been three times as large.

Our trade agreements aren't the problem. They are part of the solution. We are a very, very open market. Today, as we speak, 70 percent of everything we bring in to the United States comes in duty-free. We have a lot of barriers overseas. We want those barriers down. Some people suggest the way to do that is withdraw from the trading system; let us have global trade anarchy; we are a big country; we will push others around. Yes, we tried that in the 1930's. The only way to get trade barriers down in other countries is through trade agreements, and that is what we want. And this is a good trade agreement. It is an excellent trade agreement. And it is a trade agreement with six little struggling countries whose economy is the size of Sacramento, California.

I live in the greatest country on earth. I don't want that country to turn to the rest of the world and say we were afraid to enter into an agreement with Sacramento, California because it was going to devastate our economy.

Thank you, Mr. Chairman.

[The prepared statement of Frank Vargo follows:]

PREPARED STATEMENT OF FRANKLIN J. VARGO, VICE PRESIDENT, INTERNATIONAL ECONOMIC AFFAIRS, NATIONAL ASSOCIATION OF MANUFACTURERS ON BEHALF OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

Mr. Chairman and Members of the Subcommittee: I am pleased to testify today on behalf of the National Association of Manufacturers (NAM) to provide a perspective on the U.S.-Central America-Dominican Republic and Free Trade Agreement (CAFTA-DR). The National Association of Manufacturers is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. Headquartered in Washington, D.C., the NAM has 10 additional offices across the country. All of our members are affected directly or indirectly by trade and have a keen interest in the factors affecting our trade and international economic relations.

The U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) is unambiguously a winner for U.S. manufacturing. The NAM strongly supports this comprehensive agreement. It levels the playing field for U.S. producers by providing the same access to DR-CAFTA markets that their producers enjoy in the U.S. market.

Under CAFTA-DR, U.S. manufactured goods exports will become duty-free (80% as soon as the agreement goes into effect), while European and other competitors will continue to face CAFTA-DR's tariffs and other trade barriers. As a direct result, U.S. manufacturers stand to gain $1 billion of additional manufactured goods exports, with approximately 12,000 related job opportunities for American workers, according to an analysis by the NAM.

More significantly, CAFTA-DR could preserve up to four times that amount of existing U.S. exports. Without the agreement, CAFTA-DR countries are at severe risk of losing their $10 billion of apparel exports to the United States to Asian competitors, and would have to cut their global imports by $10 billion—over 40% of which would be lost U.S. exports worth $4 billion, affecting 48,000 U.S. jobs.

The agreement also strengthens the ability of U.S. and Central American producers to compete against China and other Asian competitors. If the CAFTA-DR countries lost their apparel industry to Asian producers, 550,000 people could be put out of work in the region. Loss of their apparel exports to the United States would cause the region's GDP to fall about 7 percent, putting their economies into serious recession and slashing U.S. exports to the region.

Currently, 80% of U.S. imports from CAFTA-DR are duty-free—due to the one-way market access programs already provided to them; moreover, excluding textiles, 93% of U.S. manufactured goods imports from CAFTA-DR already are duty-free.

While the agreement has significant potential to maintain existing CAFTA-DR exports to the United States, it is unlikely to generate significant new net manufac-

tured goods imports into the United States. This is because the CAFTA countries already have open access to the U.S. market for almost all manufactured goods. Moreover, the six CAFTA countries together have an economy of only $77 billion. That makes their combined economy about the size of Sacramento, California!

THE CAFTA-DR FREE TRADE AGREEMENT

The U.S.-Central American-Dominican Republic Free Trade Agreement (CAFTA-DR) would increase trade among the United States and Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. The free trade agreement (FTA) will eliminate tariffs to agricultural and manufactured goods, and would improve the rules governing trade—such as by strengthening intellectual property protection, increasing safeguards against product counterfeiting and copyright piracy, strengthening investment rules, opening access to government procurement, facilitating electronic commerce, speeding customs processing, encouraging express delivery, and opening financial, telecommunications and other services markets.

It is important to stress the comprehensive nature of the agreement's coverage, and also its very strong and positive contributions toward improving both labor and environmental conditions in the CAFTA-DR region.

The CAFTA-DR countries already enjoy almost completely open access to the U.S. market, but maintain significant barriers to U.S. exports. The agreement would level the playing field for U.S. producers by providing the open access to the CAFTA-DR countries that they already have in the U.S. market because of the one-way market access programs provided to them by the United States in earlier years. The agreement would benefit the CAFTA-DR countries by making their access to the U.S. market permanent and by bolstering the region's ability to compete against Asian producers.

U.S. MANUFACTURED GOODS TRADE WITH CAFTA-DR

The CAFTA-DR region imported $15.7 billion of U.S. goods in 2004, as shown in Table 1., making it the 13th largest export market for the United States. In the Western Hemisphere the CAFTA-DR market is second only to Mexico as a market for U.S. exports. It is a larger market for the United States than Brazil, even though Brazil's economy is considerably larger than the combined economies of the CAFTA-DR countries.

Manufactured goods predominate U.S. trade with the CAFTA-DR countries. Fully 87 percent of U.S. exports and 83 percent of U.S. imports are manufactured goods. Textiles and apparel are the largest category of goods traded, accounting for about 55 percent of U.S. imports and over one-fourth of U.S. exports. U.S. textile exports consist principally of fabric and other textiles that are inputs into CAFTA-DR apparel production that is exported back to the United States under existing preference programs. CAFTA-DR accounts for nearly 30 percent of U.S. textile exports to the world.

U.S. manufactured goods trade with the CAFTA-DR countries typically runs a small deficit overall, but a large and growing surplus in non-textile/apparel areas, as is shown in Table 1. Last year's manufactured goods deficit was $1.1 billion, comprised of a $5.4 billion deficit in textiles and apparel trade and a $4.3 billion surplus in all other manufactured goods trade. Paper and paper products, chemicals, motor vehicles and other transportation equipment, machinery, and electrical equipment and appliances are significant U.S. manufactured goods exports to the region.

Table 1
U.S. Merchandise Trade with CAFTA-DR, 2004
Millions of Dollars

	Exports	Imports	Balance
Total	$15,731	$17,663	-$1,932
Manufactured Goods	$16,328	$14,719	-$1,091
Textiles and Apparel	$4,244	$9,679	-$5,435
Other Manufactured Goods	$9,384	$5,040	$4,344
Other Goods	$2,103	$2,944	-$841

Source: U.S. Census Bureau Trade Stastics.

The United States is region's major trading partner. Using trade statistics of the six countries as compiled by the International Monetary Fund (IMF), the U.S. share of CAFTA-DR's global imports was 41 percent.

Table 2
CAFTA-DR Imports from the World and U.S., 2003

	2003 Total Imports from World, $ millions	2003 Total CAFTA-DR Imports from the U.S., $ millions	U.S. Import Market Share, %
CAFTA-DR total	36,627	14,968	41%
Costa Rica	7,663	1,775	23%
Dominican Republic	8,082	4,214	52%
El Salvador	5,763	2,881	50%
Guatemala	7,339	2,501	34%
Honduras	5,894	3,129	53%
Nicaragua	1,887	469	25%

Source: International Monetary Fund.

The United States is also the CAFTA-DR region's largest customer. IMF data show that in 2003 the CAFTA-DR countries exported $24.6 billion to the world. U.S. imports from the region that year were $16.9 billion, nearly 70 percent of the CAFTA-DR countries' global exports. By far their most important export is their shipments of apparel to the United States, which in themselves comprise 40 percent of the region's total exports of all products to the world.

HOW THE CAFTA-DR AGREEMENT WILL EFFECT U.S. EXPORTS

The CAFTA-DR free trade agreement has the potential to have a significant effect on U.S. exports. There will be three types of effects: (1) expansion of U.S. exports stemming from the reduction and elimination of CAFTA-DR tariffs on U.S. production; (2) expansion of U.S. exports through the reduction of non-tariff barriers in the CAFTA-DR countries and the trade facilitation measures they are committed to take; and (3) preservation of existing U.S. exports that would otherwise be lost if CAFTA-DR garment production shifted to China or other Asian nations.

Together, these three effects could total to as much as $5 billion. The tariff effect would be roughly $1 billion. Non-tariff effects are important and positive, but difficult to quantify. By far the largest of the effects would be the preservation of existing U.S. exports that would be saved by reducing or preventing the loss of CAFTA-DR production to China and other Asian nations, a loss that would result in a sharp reduction in the amount of goods the CAFTA-DR region buys from the United States.

TARIFF EFFECTS

Producers in the CAFTA-DR region already have very open access to the U.S. market, while U.S. producers face significant trade barriers in attempting to sell into their markets. Thus the agreement can be expected to have a stronger expansion effect on U.S. exports than on U.S. imports. U.S. manufactured goods exports to the CAFTA-DR region face tariffs that, on a weighted average by major product groups, are generally in the 4 to 10 percent range, as is shown in Table 3. These tariff averages reflect both very low tariffs but also tariffs that are in the range of 15-20 percent or even higher.

In examining the likely effects of tariff elimination, the NAM utilized an econometric trade substitution model. This model was applied to all U.S. manufactured goods exports other than textiles and apparel. Because of the inter-relationship between CAFTA-DR garment production and the inter-related requirement for the use of U.S. fabrics and other inputs, an econometric model would not yield meaningful results. The NAM's estimates of manufactured goods export gain are thus net of the textiles and apparel sector.

It should be noted, however, that the U.S International Trade Commission's (USITC) analysis indicated the agreement would boost U.S. textile and apparel exports by $700 million, and U.S. textile and apparel imports by $680 million—essentially expecting a neutral effect on these industries.

The NAM analysis takes consideration of the substitutability of U.S. exports that might displace existing domestic production in the CAFTA-DR countries, and U.S. exports that would displace third-country exports to the region. An examination of the industrial production structure of CAFTA-DR manufacturing industry and the composition of U.S. exports showed very little overlap or substitutability. The vast bulk of U.S exports to the region are products that are not made in the CAFTA-DR region.

There is, however, a high degree of similarity in the composition of U.S. exports to CAFTA-DR and other country exports to the region, and this is where almost all of the tariff effect will take place on U.S. exports. U.S. exports to the region will become duty-free, while exports from the European Union, Canada, Japan, and other countries will continue to be subject to the full duties of the CAFTA-DR countries. This will make U.S. products more price-competitive relative to third-country production and will result in a shift of CAFTA-DR purchases from the other suppliers to U.S. products.

The results of the NAM tariff effects model are shown in Table 3, below. The elimination of tariffs on U.S. exports of manufactured goods (leaving aside textiles and apparel, as explained above, is estimated to generate over $1 billion in additional U.S. manufactured goods exports. Miscellaneous manufactures, electrical equipment, chemicals and allied products, and paper products would be the largest dollar gainers.

Table 3
U.S. Export Gains from CAFTA-DR Tariff Elimination
Millions of Dollars

	U.S. Exports, $ Millions	Applied CAFTA-DR tariff, %	Gain from tariff elimination, $ millions	Percentage Gain, %
Paper and wood products	757	10	141	19
Tires and other rubber products	212	10	43	20
Metals	247	6	40	16
Chemicals, including photography supplies	1,431	5	159	11
Motor vehicle and parts	449	11	112	25
Transportation & Equipment	182	4	13	7
Non-electric machinery	1,281	4	104	8
Electric Machinery	2,597	4	176	7
Mineral Products	980	4	60	6
Manufactured articles not specified elsewhere	1,248	7	203	16
Total, excluding textile and apparel	9,382		1,051	11

See Methodology section for sources and other information.

These exports would not displace local production in the CAFTA-DR countries, but would instead displace imports into the region from producers in countries that would still be subject to the full import duties assessed by the CAFTA-DR countries. The model's estimates are for export gains after all tariffs are eliminated. As not all CAFTA-DR tariffs on manufactured goods would be eliminated immediately, the above estimates are not a first-year result. Additionally, it is important to note that these estimates are incremental to the base of U.S. exports—i.e., the model is not estimating an absolute level of exports, but instead is estimating how much larger exports would be with the tariff cuts than without them. The overall level of U.S. exports, of course, depends on many factors, particularly the health of the CAFTA-DR economies.

BOUND VS. APPLIED RATES

A very important aspect of the agreement has been widely overlooked by most observers—the fact that the official tariff bindings—so-called "bound tariff rates" of the CAFTA-DR countries are much higher than the statutory tariff rates they actually apply. This is not uncommon for developing countries, many of whom have unilaterally reduced the tariff rates they actually charge, while keeping their bound rates at high levels.

Table 4
CAFTA-DR: Bound Tariff Rates

	Bound Tariff Rate
Costa Rica	44%
Dominican Republic	35%
El Salvador	35%
Guatemala	41%

Table 4—Continued
CAFTA-DR: Bound Tariff Rates

	Bound Tariff Rate
Honduras	32%
Nicaragua	41%

Source: World Trade Organization. Bound tariff data are unweighted averages.

The significance of this is a country may legally, under WTO rules, charge any tariff rate it wishes, so long as it does not exceed its bound rate. Thus, if any of the CAFTA-DR countries wished, they could raise their tariffs up to the extremely high levels that are summarized in Table 4. As these are averages, some bound rates will be even higher. For example, CAFTA-DR bound tariffs can be as high 50 percent on transportation equipment. Without the CAFTA-DR agreement, U.S. exporters would have no recourse against countries' raising their applied tariffs. The CAFTA-DR agreement, however, would commit these countries to maintain zero duties on U.S. products even if they hiked their applied tariff rates up to their bound tariff levels.

In such a case, other exporters to the CAFTA-DR countries would have to pay the higher tariffs, while U.S. exporters continued to have duty-free access. This guarantee is of substantial value. U.S. bound and applied rates are virtually identical, as is typically the case for industrial countries, so there is no U.S. obligation here.

NON-TARIFF EFFECTS

The second effect on U.S. exports stems from liberalization of non-tariff barriers and improvements in trade-facilitating rules and policies. These include express delivery, customs clearance, intellectual property protection gains, etc. For example, the agreement requires that customs processing be accelerated and imported goods be able to clear customs within 48 hours to the extent possible. Advance customs rulings, transparent publication of customs rules, and other trade facilitation steps will lower the cost of processing exports.

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

These improvements will result in expanded exports, but there is no economic model to estimate the amount of the gain. After consultation with knowledgeable NAM members, we believe these gains may be equivalent to a further 5 percent reduction in the total cost of providing exports into the CAFTA-DR markets. While the effects are real, and in some instances may rival the size of the tariff effects, there is no reliable way of quantifying the non-tariff benefits.

EXPORT PRESERVATION

By far the largest effect on U.S. exports would be the preservation of some or all of existing U.S. exports to the CAFTA-DR countries that otherwise would be lost if Asian countries displaced current CAFTA-DR country apparel exports to the United States. This effect could be as large as $4 billion of U.S. exports.

As the CAFTA-DR countries do not have large currency reserves or borrowing capacity, the amount they can buy from the United States and other countries depends on how much foreign currency they can earn.

The region has four significant sources of foreign exchange—exports of goods, remittances from workers who have migrated to the United States, tourism earnings, and investment inflows. If CAFTA-DR country exports of apparel to the United States were to be displaced by Asian-made apparel, none of the other three sources would automatically increase to make up for the loss of export earnings.

Thus, for every dollar of apparel exports the CAFTA-DR countries lose to Asian competitors, they will have to cut their imports by a dollar. If they were to lose all $10 billion of apparel exports they currently sell to the United States, they would have to cut their global imports by $10 billion. Since over 40 percent of what they import comes from the United States, it is obvious this is a matter of some consequence to U.S. exports.

Most observers believe that in the absence of the CAFTA-DR agreement, the region risks losing all or most of its apparel industry. The cause of this loss is the January 1, 2005, expiration of the global textile quotas that had been permitted by World Trade Organization (WTO) rules. Analyses by the International Monetary Fund, the World Bank, and others indicate China's costs are lower than all other producers and in the absence of quota restraint would be able to put most producers, including those in the CAFTA-DR region out of business. Even analyses performed by such anti-trade agreement organizations as the Global Trade Watch state that without the CAFTA-DR agreement, the region's apparel production cannot survive.

The U.S. International Trade Commission's (USITC) analysis of the CAFTA-DR agreement indicates that implementation of the CAFTA-DR agreement will provide enough added advantages to enable the region's producers to maintain their exports to the United States and avoid the loss of its industry. The USITC does not foresee a significant net increase in imports into the United States resulting from the CAFTA-DR agreement, and states that any increase in the region's exports to the U.S. market likely would be in lieu of other imports into the United States. In fact, as noted earlier, the USITC analysis sees a small ($20 million) positive net export effect in this sector.

Thus, if without the benefit of the CAFTA-DR agreement' preferences, CAFTA-DR producers were unable to compete with Chinese producers and lost their entire U.S. market, their exports to the United States would fall by $10 billion. As earlier noted, the United States has more than a 40 percent share of their imports, so our exports to them would be expected to fall by about $4 billion.

There would not be an offsetting increase in U.S. exports to China. This is because while the CAFTA-DR nations spend virtually everything they earn, China does not. Rather than utilizing its U.S. dollar earnings to purchase U.S. goods or services, China instead uses them to build up its foreign currency reserves to keep its currency undervalued and implement its export-led growth policy. In 2004, for example, China added to its currency reserves by $200 billion, even while it earned a $162 billion merchandise trade surplus with the United States. China now has currency reserves of $600 billion, 40 percent of its entire annual production of goods and services.

The NAM's calculations for the relationship between exports and U.S. employment indicate that currently about 12,000 jobs are associated with every $1 billion of exports, as was noted earlier—meaning that if there were a $4 billion drop in U.S. exports, about 48,000 U.S. job opportunities would be eliminated. Many would probably be in the U.S. textile industry, since the CAFTA-DR region is one of the only large purchasers of U.S. textiles—which they must use to obtain most of their tariff preference privileges. Losses, however, would also occur in other sectors as well.

It should be stressed that the NAM is not making any forecast of its own with respect to the degree to which the CAFTA-DR countries can preserve their sales to the United States under the CAFTA-DR agreement. For purposes of the analysis, the NAM relied on the USITC's estimates of the effect of the agreement on the region's garment industry. The NAM also accepts, at the other end, the widely-held view that without the agreement, their apparel industry has little, if any, hope for survival.

Thus the maximum effect on preserving U.S. exports is calculated by the difference between the CAFTA-DR producers being able to keep their present $10 billion in annual apparel exports to the United States or entirely losing their markets to Asian—and particularly Chinese—producers. Certainly the CAFTA-DR agreement is the best hope for the region's producers. If, however, the agreement were not sufficient to enable them to maintain their sales, then of course, the figures for the preservation of U.S. exports would be proportionately smaller. For example, if only half their sales were preserved, then the differential effect on U.S. exports would be half the maximum depicted in this paper.

ECONOMIC EFFECTS ON CAFTA-DR COUNTRIES OF LOSING APPAREL EXPORTS

As part of the analysis, the NAM considered some of the domestic economic effects in the CAFTA-DR region if they were to lose their apparel industry to China or other Asian nations. Even a cursory look shows that the effects on their economies would be severe.

The NAM's analysis shows that there are about 550,000 people working in Central America's apparel industries. Were the industry to see its exports to the United States displaced by Asian producers, most—if not all—of these jobs, which are among the highest-paying in the region, would disappear. As shown in Table 5, the

job losses would raise the overall official unemployment rate in the region to 17 percent.

The actual job losses would be higher if the apparel industry disappeared, for support jobs in other industries—e.g., transportation services—would disappear as well. Additional jobs would be lost in the service and other industries as the former apparel workers no longer had income with which to purchase goods and services. The NAM has no estimate for the size of this "multiplier" effect in the CAFTA-DR countries, but by way of order of magnitude, if the multiplier were the same as in the United States, an additional 275 thousand workers would become unemployed, increasing the region's unemployment by over 800,000 and implying an unemployment rate of 18 percent.

Table 5

CAFTA-DR Unemployment, Assuming Loss of Textile/Apparel Industry

	Current Unemployment, thousands	Unemployment Rate %	Textile/Apparel Employment thousands	Prospective Unemployment, thousands	Prospective Unemployment, Rate, %
CAFTA-DR	2,063	14	549	2,612	17
Costa Rica	118	7	45	163	9
Dominican Republic	404	17	138	541.5	22
El Salvador	170	7	91	261	10
Guatemala	288	8	122	410	11
Honduras	663	28	107	770	32
Nicaragua	420	22	46	466	24

Source: Overall employment data from CIA World Factbook, for 2003. Textile/apparel employment data are latest available, from USITC country studies.

Moreover, CAFTA-DR's apparel exports account for a surprisingly large portion of the region's entire Gross Domestic Product (GDP). Their net exports of apparel to the United States of about $5.5 billion are equivalent to 7 percent of their combined $77 billion GDP—the sum total value of all goods and services produced in the region.

A 7 percent drop in GDP would put the region into a serious recession. Such a decline would be two and a half times as large as the deepest recession the United States has had in the last 50 years (1982's 2.6 percent drop). The political stability consequences in the CAFTA-DR countries of having 550 thousand or more people become unemployed and enduring a 7 percent decline in GDP with little prospect of recovery are self-evident.

Table 6

CAFTA-DR Gross Domestic Product, 2003

(Billions of U.S. Dollars)

Total	**$77**
Costa Rica	$18
Dominican Republic	$16
El Salvador	$13
Guatemala	$20
Honduras	$7
Nicaragua	$4

Source: International Monetary Fund.

The CAFTA-DR countries are already highly dependent on remittances. For example, in El Salvador remittances are 15% of its GDP. An Inter-American Dialogue report found that the CAFTA-DR countries received $9 billion in remittances in 2003. While this counter-cyclical flow would surely rise in the event of massive layoffs in the CAFTA-DR region, the present numbers indicate that migrants are already hard-pressed and increases are likely to be small.

EFFECT ON U.S. IMPORTS

Turning to U.S. imports, the analysis indicates the CAFTA-DR agreement is unlikely to generate significant new imports to the United States. The primary reason for this assessment is that the CAFTA-DR countries have been enjoying preferential

access to the U.S. market under a variety of special programs such as the Caribbean Basin Trade Partnership Act (CBTPA).

Fully 80 percent of their exports to the United States already enter duty-free under these programs. Moreover, outside the textiles and apparel industries, 95 percent of CAFTA-DR exports already enter the U.S. market duty-free. Thus they will obtain little new U.S. market access. The key benefits to the region lies in the greater ability to withstand Chinese and other Asian nation competition in the apparel area, and the fact that their access to the U.S. market will be permanent and not dependent upon possible changes in U.S. legislation or policies.

Table 7

Proportion of U.S. Imports from CAFTA-DR Currently Entering Duty-Free

(Percent)

All Imports	80
Manufactured Goods	77
Textiles and Apparel	68
Other manufactured goods	95

Source: United States International Trade Commission.

Certainly the improved investment rules, better rule of law, greater protection of intellectual property, better-functioning services markets, and other structural improvements that the countries will make under the agreement are likely to improve their business and labor climate and have a positive effect on U.S. and other investment in Central America.

However, fears that a flood of U.S. investment will pour into the CAFTA-DR region and "outsource" U.S. jobs are unfounded. First, it is important to understand that at the present time there are no restrictions on U.S. investment into the region. American companies have been free to invest.

Second, three of the countries already have Bilateral Investment Treaties (BITs) with the United States that provide U.S. investors with substantially the same benefits as the FTA would.

Third, it is important to understand just how small the CAFTA-DR economies are. Together their production of goods and services (total GDP) is only $77 billion. This is a tiny fraction of U.S. production. To be precise, their combined GDP is seven-tenths of one percent (0.7 percent) of U.S. GDP or the size of Sacramento, California. Even investments significant to their economies would be small in scale to present trade flows.

Finally, any increased investment in the CAFTA-DR region is most likely to be in product areas that would otherwise see imports into the United States from Chinese or Asian production—rather than displacing U.S. production. As noted earlier in this analysis, U.S. imports from the CAFTA-DR region would result in greater U.S. exports than if the production were in Asia.

Thank you again Mr. Chairman and Members of the Subcommittee. I appreciate the opportunity to express my views, and those of the National Association of Manufacturers about the importance of CAFTA-DR.

Mr. STEARNS. I thank the gentleman. I will start with my questions first. Mr. Kearns, you have made quite a bit about the deficit in our trade, but isn't it also true that deficit relative to GDP is really what you should be talking about? Because if you compared deficits 20 years ago with deficits today, you have a much bigger GDP. So it is all relative to what you are doing in business. Wouldn't you admit that that is a factor? This is just a minor point. It is just——

Mr. KEARNS. Yes, it——

Mr. STEARNS. [continuing] because I think every Member of Congress struggles, what do deficits mean? Not just for the budget but also for trade. And, you know, so I think your emphasis on these deficits, as Mr. Vargo has pointed out, is not in the area where we are talking about, but it is European Union where we are probably buying all their BMWs and buying all their Porches and Mercedes and so forth, so, you know, it is just a thought.

Mr. KEARNS. Well, I think the trade deficits are—Mr. Vargo has said that trade agreements are the way to solve these problems, but the point I am making is that they are not working to solve those problems because the trade deficits would be dropping, regardless of their share of GDP. If in fact these trade agreements were effective in opening foreign markets full to U.S. products, we would exporting a lot more and importing a lot less——

Mr. STEARNS. Okay.

Mr. KEARNS. [continuing] and in fact trade is a—the rest of the world approaches trade as a zero sum game, get your products into the U.S. market, keep out U.S. products to the extent you can. So it hasn't been a win-win solution, and it is a symptom of a larger problem. And the trade agreements are clearly ineffective in getting a greater balance in trade.

Mr. STEARNS. The United States International Trade Commission did a study. They estimate that under CAFTA, imports from the area would go up about 12 percent, $2.8 billion, while exports would go down roughly 15 percent, $2.7 billion. Does your organization dispute those numbers? Because it looks like a wash to me.

Mr. KEARNS. Yes, essentially, it is a wash. The point is——

Mr. STEARNS. Do you dispute those numbers? Do you accept those numbers?

Mr. KEARNS. I just said it is a wash, sir.

Mr. STEARNS. Okay. Okay.

Mr. KEARNS. I agree.

Mr. STEARNS. Okay. Okay. Ms. Lee, you know, just as a person when looking at this, not knowing about the agreement, and Ms. Vargo said right now the tariffs are set up so that they can send everything into us with no tariffs, but we can't send it to them. So just you would say by golly, any kind of an agreement that would allow you to get into their markets with no tariff has got to be good just on that basis. And then, as Mr. Vargo said, we thrown in some labor agreements and we make particular set-ups for maybe the controversial items, it seems on the outset that this agreement would be better than no agreement, because right now they come in here free of charge and we can't get into theirs. So what is wrong with trying to set up some kind of agreement where we can get into theirs?

Ms. LEE. No, I think the idea of getting extra market access is always appealing. The question is, first of all, as Mr. Vargo said, this is a very small market. And so getting addition, incremental, a few percentage points different in the tariff you pay in a very small market is not going to be economically all that meaningful for the United States. And if the conditions attached to it are inadequate and wrong, and I guess I would argue—I completely disagree with Mr. Vargo and Mr. Cohen about whether the labor rights provisions are a step forward. We see them, and we are the ones who live with these——

Mr. STEARNS. You think they are a step backward?

Ms. LEE. We think they are a definite step backwards.

Mr. STEARNS. Separate the labor conditions——

Ms. LEE. Yes.

Mr. STEARNS. [continuing] and I know it is going to be hard since you represent the AFL-CIO, but wouldn't you agree that this agreement would help us sell to Central America?

Ms. LEE. Not to a large extent. I mean, I think there is probably some small increase in sales to Central America, but, and I think this is really the issue that Mr. Kearns was getting at also, that to the extent that American companies don't have an export strategy from the United States for the large part, that they have an outsourcing strategy, that they have been serving foreign markets by moving production there, and they are serving the U.S. market by moving production offshore, taking advantage of low-paid labor and workers who lack basic rights, who don't have the right to organize unions.

So to the extent that these trade agreements are much more about facilitating the mobility of capital than they are about facilitating mobility of goods. It ends up in the end—even though—that was very true of NAFTA. The figures were that U.S. goods faced about a 10-percent tariff going into Mexico, and Mexican goods faced only a 2.5-percent tariff coming into the United States. So you would think that if you take those tariffs down to zero that U.S. producers would be the winners. But it is not as simple as looking at the tariffs. And that is the point that we are trying to make in the Central American context. And the investment rules, the intellectual property rights rules, the government procurement rules, and the services rules are also problematic in our view. So the set of rules together don't justify the small additional market access.

And just one word on the ITC studies is that those studies were wrong in the case of NAFTA.

Mr. STEARNS. So you don't agree with Mr. Kearns?

Ms. LEE. I don't.

Mr. STEARNS. He said it is a wash. You say that the study was wrong.

Ms. LEE. I don't believe that CAFTA is going to be economically devastating to the United States. It is small.

Mr. STEARNS. I mean, obviously, as Mr. Cohen said or Mr. Vargo, this is Sacramento. So, I mean——

Ms. LEE. It is not economically devastating, but it is also not going to be our savior. It is not going to create——

Mr. STEARNS. No, but it might be symbolic. It might be geopolitical and——

Ms. LEE. It is——

Mr. STEARNS. [continuing] and also I understand there is a lot of U.S. industry unionized support for this agreement. I mean, you hear the folks from Michigan talking about over a 10-year period they will be able to sell more cars at really——

Ms. LEE. There is not a lot of U.S. unionized support for CAFTA. Certainly, the United Auto Workers, the steel workers, the machinists, the apparel workers, we have got a fair amount of unanimity within the U.S. labor movement opposed to CAFTA.

Mr. STEARNS. Okay, Mr. Vargo, is there anything that Ms. Lee said that you would like to respond to. I am trying to——

Mr. FRANK VARGO. Well——

Mr. STEARNS. [continuing] understand this in a very simplified way.

Mr. FRANK VARGO. Yes, that has become very popular now to say these are——

Mr. STEARNS. I think you have to turn your mike on I think.

Mr. FRANK VARGO. It has been very popular these days to say these are outsourcing agreements. They are not outsourcing agreements. There is nothing that has prevented any American company from investing in Central America. Half the countries already have bilateral investment treaties with us. This is about lowering their tariff rates. Why would the NAM care about lowering tariff rates if we just wanted to outsource? One quick point on NAFTA; we lost three million manufacturing jobs between 2000 and 2003. Three million. Do you know how much our imports from Mexico of manufactured goods rose in those 3 years, Mr. Chairman? Zero. They fell. These are not outsourcing agreements. Now, sure, some plants move to Mexico. Others expanded and exported to Mexico.

We want this agreement because we want those barriers down because we want to sell to them.

Mr. STEARNS. My time has expired. Ms. Schakowsky.

Ms. SCHAKOWSKY. Well, Mr. Vargo, I feel that I have been called a bad neighbor. I feel that I have been called a chicken, afraid of negotiating agreements with these little countries. You said that the sugar industry should say a big thank you for what they have gotten in this and that it is good for us and good for them. And my real question is who is the "us"? You know, I have no problem with you coming here and arguing a case for the National Association of Manufacturers. But I do have to say that I take exception for your arguing on behalf of the workers in this country or in those countries. We have other people who are here to presumably argue their own self-interests. And I would hope that you presume that they understand their self-interests.

And I would say that to Mr. Cohen too. If you want to argue on behalf of your members, that, it seems to me, is what this is for. But for you to come and tell us about why organized labor, why working people are wrong about what they believe to be their own self-interest is something else. And I would agree that some of your members may benefit very much. Your bottom line may be better and you may argue that ultimately, that is good for the United States of America.

I, for one, am concerned about the workers in my district, and I am also concerned, having traveled to Ciudad Juárez and seen workers living in the packing crates of the items that they are manufacturing when their employer is a U.S. company that crossed the border. I am worried about the impact that our trade agreements are having. On this side of the border, the lost jobs, and on the other side of the border. And I, for one, am less concerned about the bottom line of your members. That is a legitimate concern. But it is not my primary concern.

So I wanted to go back to Ms. Lee to talk a little bit about the situation with these labor agreements. But I also wanted you to defend—I think Mr. Vargo made a strong argument in saying this is not an outsourcing piece of legislation or agreement, but rather—so if you would talk about both the labor agreements. But also first

to address it. That it is not outsourcing, that in fact we are talking about the interest of lowering the trade barriers.

Ms. LEE. Thank you very much, Congresswoman. And in terms of the outsourcing agreement, I guess there are some key differences, key things that changed. Certainly, the investment protections are things that I know multinational corporations do look at whether—if you are reducing the riskiness of moving production to another country, and you are locking in the lower tariff barriers, that does make it more attractive to move the production there. You have guaranteed your access back into the United States market and maybe even guaranteed the lower tariffs on your inputs that move back and forth.

In terms of whether these agreements are outsourcing or not, I think that—I will say two things in terms of NAFTA, first of all, that a couple of years after NAFTA there was a follow-up and went back to a lot of the companies that argued for NAFTA—Allied Signal, Procter and Gamble, Eastman Kodak—and asked them how many jobs did you create in the United States through your increased exports to Mexico and Canada? And those companies were almost to the one unable to come up with very many jobs, five here, six there, small numbers. On the other hand, almost all of those companies had in fact moved production to Mexico in the years following NAFTA's implementation.

The same thing was very true around the China PNTR. Remember, that debate also was about opening China's market, making sure that American producers and workers had a good chance to sell more stuff to China, and yet again, when a "Wall Street Journal" reporter went to as many multinational corporations as she could around the China vote and said how many of you are actually planning to expand exports to China if PNTR goes through? She couldn't find a single one that would say they wanted to export more to China. And yet every single one again had plans to move production to China.

So this has been our experience of the American labor movement that the trade agreements are sold as market opening agreements. And in fact what we see is that they are used both at the bargaining table, when workers are trying to form unions, when they are trying to bargain for decent wages and benefits and they are told we can move to another country where workers don't have the right to form unions, where wages are much lower, where we don't have to worry about pesky workplace health and safety regulations, the enforcement of environmental rules. And that is exactly what our members experience every single day of the week with respect to trade agreements. And that is why our folks are cynical and they don't believe the promises that have been made on behalf of the trade agreements, because they simply have not seen them borne out in their own lives, in their own workplaces, in their own communities.

Mr. KEARNS. May I make one additional point on outsourcing or is that out of order?

Mr. ROGERS. Please.

Mr. KEARNS. Okay. Many of our members at U.S. Business and Industry Council are suppliers of intermediate goods to larger American corporations, multinational corporations. And I can tell

you there is extreme pressure to move to—has been extreme pressure over the last 12 years to move to Mexico, to follow the majors if you are in the auto parts business or supplying parts for major appliances, for instance. The GM plant in Shanghai, the Buick plant there, one of our members bid on a contract and he was told well, you won the bid, you are the low man, but you have to take a Chinese partner, and over 5 years you have to transfer all of your technology to them. Well, at the end of 5 years, guess who is going to be supplying that plant. And it is not going to be from Tennessee. It is going to be from some local Chinese supplier. So I would dispute Mr. Vargo's assertion that these are not outsourcing agreements.

If you looked at PNTR for China, we did a survey of the websites, the top 50 Fortune 500, the ones that are involved in manufacturing, they all had plans to move factories to China, not to sell goods out of U.S. factories to China. And when they moved those factories to China, the whole supply chain in this country is disrupted, and the American companies supplying them either have to follow them or are forced to transfer technology to a Chinese partner, a joint venture partner, et cetera. Thank you.

Mr. COHEN. Mr. Chairman, may I just make one comment?

Mr. ROGERS. Please.

Mr. COHEN. Simply on this larger issue of companies' involvement overseas, we have done quite a few investigations, as well, of what the consequence is of investment overseas by U.S. companies. And there is a conclusion that has come out again and again, and the conclusion is that as companies invest more and more overseas, they have a greater level of activities here at home. Were they to have less activity overseas, invest less, they would have fewer activities here at home. And in that sense it is not a substitution. It is complementary. And when you actually look at what companies produce overseas, the lion's share of what is produced overseas is sold overseas.

Similarly, if you look at where U.S. companies export their products and they produce them in the United States, the largest single purchaser of U.S. product that is produced here in the United States are the subsidiaries and affiliates overseas of U.S. companies.

Mr. ROGERS [presiding]. And not because I am sitting in the chair but apparently I am next on the list, a couple of quick things, Mr. Kearns. China is not covered in the NAFTA agreement, correct? I mean, the example used was Shanghai. You mentioned Mexico and China in the same breath. I mean, just for the sense of clarity, we don't have a free trade agreement with China.

Mr. KEARNS. No, they are part of the world——

Mr. ROGERS. I just wanted to make that very, very clear.

Mr. KEARNS. There is not a bilateral free trade agreement with China, correct.

Mr. ROGERS. And I have the same concerns, being from Michigan, about coercion of placement of supply—absolutely, but we need to be very clear about this, that we have no free trade agreement with China, which is a very common misconception, at least where I come from. NAFTA and China, in my estimation, are two

very distinct sets of problems that we need to address just for a point of clarification.

Mr. Vargo, you cited an interesting figure that I think is important. Two-thirds of all your manufacturing growth came from exports. Did I understand that correctly?

Mr. FRANK VARGO. I must have misspoken, Mr. Rogers. What I meant to say was that two-thirds of our entire growth of manufactured exports to the whole world since 1997 has come from NAFTA.

Mr. ROGERS. That is interesting.

Mr. FRANK VARGO. And——

Mr. ROGERS. You mean exported to NAFTA co-signatures, is that correct?

Mr. FRANK VARGO. To purchasers in NAFTA.

Mr. ROGERS. Okay.

Mr. FRANK VARGO. Two-thirds of our entire—well, one-third to Mexico. In fact the increase to Mexico was almost as large as to all of the countries with which we don't have trade agreements.

Mr. ROGERS. Can you put that in a—that has a huge job implication, does it not?

Mr. FRANK VARGO. Yes, it does.

Mr. ROGERS. I mean, one-third of all—this sounds kind of complicated, but what does that mean in actual jobs? Can you give me an understanding?

Mr. FRANK VARGO. Our exports of manufacturers to Mexico are currently running over $100 billion. I mean, you can figure 12,000 jobs per billion. So there is a lot there. But can I make one point on Mexico——

Mr. ROGERS. Sure, please.

Mr. FRANK VARGO. [continuing] which NAFTA has been impugned a lot, and it was said, you know, if these things worked, our trade deficit would fall. You know, anyone who would like to check the figures can see that our manufactured goods trade deficit with Mexico last year in 2004 was smaller than it was in 2002 while it exploded with the rest of the world. Two-thirds of our deficit is with Asia. And, Mr. Rogers, I know how concerned you are about the Chinese currency. That is where our problem is.

Another problem I have with people going on NAFTA, NAFTA, is they are barking up the wrong tree and they are preventing us from getting to the real problem, which is, within the system, we have got to find a way to solve those Asian currency problems, or our deficit is just going to get totally out of hand. It is plenty big enough now. Thank you.

Mr. ROGERS. And I agree 100 percent on this currency manipulation. It is a huge problem that we must——

Mr. FRANK VARGO. It is.

Mr. ROGERS. [continuing] address. It is one of the areas that we are wholly uncompetitive on American manufacturers. It has nothing to do with any trade agreement other than it is bad economic policy.

Mr. FRANK VARGO. I don't know if you can find jurisdiction, this subcommittee, but I would love to have a hearing on it.

Mr. ROGERS. We are working on it. Trust me on that one. And now that I am sitting in the chair, can I make that pledge right

now? Also, I think it is important to point out—and I don't know the exact number—I want to say two-thirds. That may be wrong. You can help me here. One of the things with global competition, American manufacturers got more innovative and more productive. Didn't we lose about two-thirds of those jobs through productivity increases and not necessarily moving companies offshore?

Mr. FRANK VARGO. Probably not that high, but a lot. Our productivity growth has been astonishing. But as far as trade goes, you know, we had a worsening of about $100 billion in our trade deficit in those 3 years. But about $80 billion of that worsening was because our exports fell. And our exports fell because the dollar was allowed to get out of line. So we take the export fall and you take the productivity and the decline of the domestic economy, you have got the vast bulk of it.

Mr. ROGERS. Talk to me about enforcement. I know that the National Association also has some concerns about enforcement.

Mr. FRANK VARGO. Yes, sir, we——

Mr. ROGERS. What do you think that we can do on the enforcement side, either in Congress or through the administration to make sure that these are truly fair and free trade agreements?

Mr. FRANK VARGO. Two things in my view—and for full disclosure I will say that I had 30 years at the Commerce Department, and part of my time there was in setting up a compliance center at the Commerce Department—I would like to say three things actually. One, I would like to see a strong inter-agency committee on enforcement and compliance so the agencies would all really get in line to work together. Second, I would like to see some more enforcement resources, but third, I would like to see investigatory resources because we have so many smaller companies that say I go to the government; they say well, prove it. Well, I can't go to China and document everything. There is no way I can do that. So, in essence, a lot of smaller companies are left outside the system. So I would hope that we would look at how can we increase the resources that go to investigation. Commerce has set up one unit. We haven't seen that much out of it yet. We would like to press for more.

Mr. ROGERS. I think those are great suggestions, and I think, hopefully, we can work together and find some common ground on that on both sides of the aisle on that particular issue. I see that my time is up, and I would now recognize Mr. Brown.

Mr. BROWN. Thank you, Mr. Chairman. Mr. Vargo talked about the expansion of all the exports from the United States to Mexico, understanding mostly though the great—overwhelming percent of those exports were either equipment to build factories in Mexico or what some have called industrial tourists. They are components that go to Mexico and then return quickly to the United States as assembled products.

And I would just show this chart here that none of these countries in Central America, just like Mexico is not buying consumer goods. None of these countries can afford to buy a car from Mr. Rogers' district, can afford to buy steel from West Virginia, can afford to buy textiles, by and large, from North and South Carolina and Georgia, can afford to buy from Seattle, buy any kind of software. I mean, it is just pretty clear that these are not countries

that are going to be able to consume, to buy American exports as Mr. Kearns was saying.

Another point before I have a question for you, Mr. Kearns. You had said that—I have heard President Bush the first say that $1 billion in imports or exports translates into 18,000 jobs. Your number was 12,000. Either way you were talking about how this means more jobs for the United States. Conversely, when you have a $600 billion trade deficit, if you multiply that times 12,000 jobs, because if you are going to multiply it one way, you are going to multiply it the other way—I can't even add that high, but 12,000——

Mr. KEARNS. It is eight million. It is——

Mr. BROWN. It is obviously an awful lot of job loss, and so I think you made that point pretty well. Mr. Kearns, I have a yes or no question for you because of the shortness of time. The only penalties we talked about earlier Ms. Schakowsky first brought up for violating CAFTA's labor and environmental provisions is a fine capped at $15 million. In contrast, violations of CAFTA's commercial provisions result in unlimited trade sanctions, a much more drastic and effective tool. My yes or no question for you is penalties for violations of the commercial and IP provisions of CAFTA were the same as those for labor and environment provisions, capped at $15 million fines, would NAM still support CAFTA?

Mr. FRANK VARGO. I am sorry. What was the question?

Mr. BROWN. The question was that if the penalties for violations of commercial and IP—if the penalties for those provisions were the same as those for labor and environmental provisions, that is, capped at $15 million rather than trade sanctions, would NAM still support CAFTA?

Mr. FRANK VARGO. Well, I think that the sanctions should be appropriate to the——

Mr. BROWN. Would you give me a yes or no on that? Is that possible?

Mr. FRANK VARGO. It is not possible.

Mr. BROWN. Okay. All right, then. I have a couple of questions for Ms. Lee. Several of CAFTA's supporters cite the report from the International Labor Organization on Central American labor laws and enforcements. When I hear some of the supporters of CAFTA toasting an ILO report, it piques my curiosity for sure. People keep saying the report says CAFTA countries' labor laws meet ILO standards. Would you both discuss that whether in fact they do. And second question, would you comment on Mr. Cohen's comments—and I believe Mr. Vargo weighed in too—on the whole issue of these labor provisions in CAFTA being actually stronger than labor provisions in the Jordan agreement? Thank you.

Ms. LEE. Thank you very much. We read that ILO report pretty closely, and it is written like all ILO reports, in very careful language. But it found about 27 different ways in which Central America's labor laws do not in fact meet ILO standards. Now we can argue about whether those are important ways or not important ways, but I think it is not accurate to say Central America's laws meet ILO standards. They don't, and in fact those 27 different deficiencies in Central America's labor laws haven't been corrected. And there is no move to correct them. And if CAFTA is passed there will be no incentive to correct them.

And, you know, we talk every day with Central American trade unionists, and they tell us the deficiencies in their labor laws are real.

There are also problems with enforcement. Those are both issues there. But the deficiencies in the labor laws create loopholes where workers who try to organize unions simply can't register their unions, they get fired, and there are no penalties. There are no adequate penalties. Those are things that need to be fixed in Central America's labor laws. And the kind of vague language written into constitutions that say we support labor rights is almost irrelevant in that context.

The CAFTA doesn't just clarify the Jordan standard. The Jordan standard has three labor provisions: to respect and affirm the ILO obligations under the Declaration of Fundamental Principles and Rights at work, to enforce your own laws, and not to derogate from your laws in order to increase trade. And CAFTA explicitly makes the first and the third of those, the commitment to meet ILO standards and the commitment not to derogate not subject to any enforcement whatsoever. That is not a clarification.

Under the Jordan agreement it is possible to bring dispute settlement over whether a country is in fact meeting ILO standards, whether their laws meet ILO standards or not. It might be that it would be unlikely that that would happen, and I would argue that it is unlikely, that, you know, if a madman takes over the country and bans union, we would be able to bring a dispute settlement case saying that that country was not in fact striving to ensure that its laws met ILO standards. It was not in compliance with that.

And in terms of the different dispute settlement mechanisms, I was astounded to hear Ms. Vargo say that the GSP provisions are a sledgehammer, and she much prefers the weak CAFTA labor enforcement provisions where there is essentially the ability to pay a fine to yourself is what the CAFTA labor rights enforcement provisions include. And only if you don't pay that fine to yourself does a trade sanction come into play.

Now, trade sanctions, the withdrawal of trade benefits when a country is not in compliance with its obligations under trade agreements is how we enforce all of our trade laws. All of the things of importance to Mr. Cohen and Mr. Vargo are enforced through the threat of withdrawing trade benefits. And we have denied ourselves the use of that very important tool for labor right enforcement in the CAFTA, and we have completely denied the ability to challenge a country's labor laws, the adequacy.

And in Central America where workers are fired almost every day for trying to organize unions sometimes face violence, and the reprisals against trade unionists are very extreme. We feel that the laws need to be improved, we need protections against weakening those laws, and we need effective enforcement of those laws. We have none of those under the CAFTA labor chapter.

Mr. COHEN. Mr. Brown, may I just——

Mr. FRANK VARGO. May I be permitted a quick technical comment?

Mr. COHEN. Just a——

Mr. FRANK VARGO. Let me do this. It is important to understand that while the CAFTA agreement has teeth, the Jordan agreement has no teeth. Because if you read the dispute settlement part it says this is non-binding. It doesn't mean a thing. And also, both parties to the dispute have to agree to allow a panel to be created. And if they don't, it will never be created because there are no time limits on it. But the CAFTA agreement does have the dispute settlement built right into it.

Mr. COHEN. The one other point, if I may, Mr. Chairman, is to mention why the enforce-your-own-law standard is incorporated in the FTA with the countries of Central America. And it really goes back to the direction of you, the Congress, in the 2002 Trade Act. That was the direction that you gave the negotiators when they were going to go forth and negotiate trade agreements around the world. It was to be an enforce-your-own-law standard. There had been a consideration of requiring each of the free trade agreements to incorporate the core ILO labor standards. That was looked at by the Congress; it was not adopted. And that is really the basic reason why this standard has been—Congress itself is the one that requested it.

Mr. BROWN. Mr. Cohen, I would add, the Congress that did in fact—was included in the Trade Promotion Authority Bill, but it also passed literally in the middle of the night with the role call staying open for an hour and a half by two votes, just for your information.

Ms. LEE. Congress also instructed the administration to have equivalent dispute resolution for labor and environment for all the principal negotiating objectives. In our view that is not——

Mr. ROGERS. I am just going to cut—this is not a debate with the panelists, although intriguing and as interesting as that might be. Mr. Gonzalez.

Mr. GONZALEZ. Thank you, Mr. Chairman. My first question is to Mr. Kearns, and I do want to have enough time to ask Ms. Lee what I think is a very important question because it is the most troubling aspect of the treaty for me. Mr. Kearns, some would argue that CAFTA is a way of dealing with the China problem.

Mr. KEARNS. Right.

Mr. GONZALEZ. All right. What I mean by that is that we do something in our own hemisphere to strengthen everyone that obviously are our neighbors and stuff, and it is good neighbor policy, but it may be good economic policy and strengthen everyone so that we are in a more competitive mode because when you say fix the China problem, you know, they are our creditor. They are the ones that enjoy the trade deficit and such. In other words, they are in a superior position in many ways, and it is worsening. But do you see that a free trade agreement could be part of a policy of addressing what looms large in the very near future and that is China and the changing global circumstances?

Mr. KEARNS. Well, I think there are better ways to address the threat of China in terms of textiles and apparel than is laid out in this agreement. There are a bunch of loopholes that the Chinese may be able to take advantage of in yarn-forward and single transformation. According to the Mexican Chamber of Commerce, 58 percent of all the clothing sold in Mexico is smuggled in from

China. So China has set itself up over the past several years to do what we see it doing since the MFA went out of existence at the end of last year. It is just surging and taking enormous amounts of market share here in the U.S.

It would have been prudent, if we could turn back the clock, to look at the phase-out periods of the MFA to make it a 15-year as opposed to a 10-year, et cetera. No one was looking when this stuff was negotiated back in the Uruguay Round with setting up the WTO. China wasn't on anyone's horizon, and the countries negotiating these things all thought well, we are just going to get increased share, access to the U.S. market at the expense of American companies. Now China is on the scene and it is a much different equation.

I think that the, you know, the whole notion that somehow these roundtrip exports down there, about 35 percent or so of our exports down there, $5 out of the $15 billion roughly speaking, are roundtrip textile and apparel exports. I don't see it as a way to, you know, they may—some companies, American in the textile and apparel field, may do a little bit better for a short amount of time, but there is just colossus. There is this 800-pound gorilla in the room eating our lunch at the buffet and we are discussing the hors d'oeuvres, as it were. It is not a good long-term strategy. I don't think it is——

Mr. GONZALEZ. And I need to move on to the next question.

Mr. KEARNS. Yes, sir.

Mr. GONZALEZ. And I do appreciate your concerns and your insight. Bottom line is always going to be who is our competition, who is going to be basically our trading partners. And either we do something in this hemisphere, and I am not really sure how we would do it to better position ourselves, and everyone complains when we attempt to do it. It just depends whose ox is being gored. When labor is the greatest cost in all of your components in whatever you are manufacturing or producing, you are going to be at a disadvantage whether it is Latin America or China.

And I guess I am just having a real difficult time in trying to reach some sort of an agreement with at least those individuals that have more in common with us, whether it is in this hemisphere and so on. Then maybe someone who is truly the greater competition, such as China, and that remains to be seen on how we get there.

Ms. Lee, I know I have just 1 minute left, but obviously I think the chairman will allow you to answer this. And it goes back to the labor provisions of CAFTA. And what you have already told me is this: under what we call the GSP, there is greater ability for the United States one, to identify what is less than satisfactory labor practices, and then promote them because there are significant sanctions or actions that the United States can take.

Under CAFTA what you do is you fine yourself, is that pretty much it? It is also my understanding that the trade representative, back in the Singapore and Chile pacts, identified the labor provisions as maybe in those particular treaties as maybe not applicable to Central America and South America and so on. Yet, that is what we have presently. Isn't that true?

Ms. LEE. Yes, that is exactly right that early on in the negotiation process, USTR, Ambassador Allgeier said that the Central American context was different, would require stronger labor provisions. And then they went ahead to negotiate the exact same, essentially, labor provisions.

And I think the point is that we are losing tools that we have in place today, that we have the GSP tools and that the mechanism of paying a fine that goes back to the country where the violation occurred I don't think would be seen as acceptable for commercial provisions, for IPR.

And certainly if you take for example the case of Australia. We negotiated a free trade agreement with Australia. Australia has excellent intellectual property rights laws, and yet it wasn't considered that we didn't need an IPR chapter with respect to Australia or that we needed a provision that just said keep on enforcing your own IPR laws. We put in the same IPR protections, very strong IPR protections even in the Australia context because that is how we do trade agreements when something matters.

And I guess what I would argue to you is the very weak and inadequate labor rights provisions in CAFTA show that this administration simply doesn't care. It is not a high priority to protect workers' rights, and so they put in place very weak provisions.

I wanted to say one word about China, which is that I think this is a very important question, but it is essentially wishful thinking that signing CAFTA is somehow going to help us compete with China. We have $162 billion trade deficit with China. We have to address directly—we need our own government, we need our administration to step up to the plate and address the currency manipulation, the illegal subsidies, and the egregious repression of workers' rights and human rights in China, because that is one of our key trading partners.

And having a little bit more ability to assemble clothing in Central America is simply not going to address that China problem. It is not going to help Central America. I know the Central Americans are very concerned about the end of textile and apparel quotas, and we heard a couple of people say today that Central Americans are going to lose half a million apparel jobs if CAFTA doesn't go through. There is no reason why that would be the case. Central America still has the CBI provisions and could have those indefinitely.

Mr. ROGERS. Thanks. Unfortunately——

Ms. LEE. And if there is time——

Mr. ROGERS. [continuing] I am going to have to——

Ms. LEE. [continuing] I have just one quick——

Mr. ROGERS. [continuing] make that the last word. I apologize. We have yet another panel to get through. Thank you very, very much for taking the time to be here. We appreciate your insight and concern. Thank you very, very much.

Mr. COHEN. Thank you.

Mr. FRANK VARGO. Thank you.

Mr. ROGERS. The next panel is Jack Roney, is that correct?

Mr. RONEY. Yes.

Mr. ROGERS. John Murphy, Dr. Russell Roberts, and Mr. David Waskow. Thanks for that quick transition. We are going to push

on. Thank you very much for your patience today. We look forward to hearing from you. And, Mr. Roney, we are going to start with you and ask if you would proceed.

STATEMENTS OF JACK RONEY, DIRECTOR OF ECONOMICS AND POLICY ANALYSIS, AMERICAN SUGAR ALLIANCE; RUSSELL ROBERTS, PROFESSOR OF ECONOMICS, J. FISH AND LILLIAN F. SMITH DISTINGUISHED SCHOLAR AT THE MERCATUS CENTER, DEPARTMENT OF ECONOMICS; JOHN MURPHY, VICE PRESIDENT, WESTERN HEMISPHERE AFFAIRS, EXECUTIVE DIRECTOR, AMERICAN CHAMBERS OF COMMERCE OF LATIN AMERICA, UNITED STATES CHAMBER OF COMMERCE; AND DAVID F. WASKOW, DIRECTOR OF THE INTERNATIONAL PROGRAM FRIENDS OF THE EARTH

Mr. RONEY. Thank you, Mr. Chairman. I am Jack Roney, Staff Economist for the American Sugar Alliance. I have the privilege of speaking today on behalf of 146,000 American farmers, workers, and their families who grow, process, and refine sugar beets and sugar cane in 19 States.

The proposed CAFTA threatens American sugar jobs in all 19 of these States. By the government's own estimates, sugar job losses from the CAFTA would be far greater than any other sectors. The same International Trade Commission study also questions the overall value of the CAFTA to our economy. The ITC concluded that the CAFTA will increase the U.S. trade deficit with that region, not reduce it.

Our sugar growers and processors are among the most efficient in the world. Like other American farmers, we would welcome the opportunity to compete globally on a level playing field free of government intervention. Like other American farmers, we can compete with foreign farmers. We cannot compete against foreign government subsidies.

The world's sugar market is the world's most distorted commodity market. A vast global array of subsidies encourages overproduction and dumping. We support correcting this distorted dump market through genuine global sugar trade liberalization.

There is a right way and a wrong way to attack sugar subsidies. The right way is the WTO, all countries all the table, all subsidies on the table. The wrong way: bilateral and regional FTAs where markets are wrenched open without addressing any foreign subsidies.

Virtually every FTA every completed around the world excludes import access mandates for sugar. Only the United States has every guaranteed access to its sugar market in an FTA, in the NAFTA and the CAFTA. And these agreements are mired in controversy. Sugar must be reserved for the WTO where genuine trade liberalization can occur.

As Congressmen from sugar-producing regions know, if the CAFTA passes, it will have devastating effects on sugar jobs in their states. Our farmers know their industry and their policy well. We have examined the CAFTA provisions soberly and carefully. We regard the CAFTA as a life or death issue. American sugar farmers and workers who will lose their jobs are insulted by CAFTA proponents that trivialize the potential harm from this agreement

with cutesy, misleading depictions of additional access and teaspoons or packets per consumer per day, or suggesting we should thank the administration for the CAFTA.

We are already one of the world's most open sugar markets. Past trade agreement concessions force us to import upwards of one and a half million tons of sugar per year from 41 countries duty-free. This makes us the world's fourth largest net importer of sugar. The CAFTA countries and the DR are already our biggest duty-free supplier, accounting for a fourth of all our imports.

Unfortunately, our market is already oversupplied. Every additional ton of sugar we are forced to import from foreign countries is one ton less than struggling American sugar farmers will be able to sell in their own market. Import more foreign sugar, export more American jobs.

The CAFTA poses serious short-term and long-term dangers to American sugar farmers and workers. In the short-term the CAFTA sugar market access concessions, on top of import commitments the U.S. has made already in the WTO and the NAFTA will prevent the USDA from administering a no-cost sugar policy, as Congress directed it to in the 2002 Farm Bill. The CAFTA will further oversupply the U.S. sugar market.

The additional concessions will trigger off the marketing allotment program that permits USDA to restrict domestic sugar sales and balance the market. U.S. sugar producers are currently holding more than a half million tons off the market and storing it at their own expense. Absent marketing allotments, this surplus sugar would cascade onto the market and destroy the price.

Contrary to the misleading claims of CAFTA proponents, there is no cushion, no additional share of the U.S. market that Congress intended to make available in FTAs. The difference between recent actual imports and the one-and-a-half-million-ton marketing allotment trigger has already been allocated to Mexico under the NAFTA. The administration is ignoring the NAFTA to promote the CAFTA.

In the long-term CAFTA is the tip of the FTA iceberg. Behind the CAFTA countries, 21 other sugar-exporting countries are lined up like planes on the tarmac waiting to do their deal with the U.S. No doubt they expect no less than the concessions already granted to the CAFTA countries. Combined, these 21 countries export over 25 million tons of sugar per year, nearly triple U.S. sugar consumption. Obviously, the precedent the CAFTA concessions set would make it impossible for the U.S. sugar industry to survive future agreements.

In conclusion, Mr. Chairman, the CAFTA will cost thousands of American sugar farmers and workers their jobs. The certain dangers of the CAFTA to the U.S. economy far outweigh the marginal possible benefits. We respectfully urge the Congress reject the CAFTA and focus U.S. trade liberalization efforts instead on the WTO where there is genuine potential for progress. Thank you.

[The prepared statement of Jack Roney follows:]

PREPARED STATEMENT OF JACK RONEY, DIRECTOR OF ECONOMICS AND POLICY ANALYSIS, AMERICAN SUGAR ALLIANCE

The American Sugar Alliance is grateful for the opportunity to provide testimony for this important hearing. The ASA represents the 146,000 American farmers,

workers, and their families in 19 states, engaged directly and indirectly in the growing, processing and refining of sugarbeets and sugarcane. The U.S. sugar industry generates nearly $10 billion in annual economic activity.

BACKGROUND ON U.S. AND WORLD SUGAR MARKETS

In some states, sugar is the most important cash crop, or among the most important. Sugar accounts for 44% of crop receipts in Louisiana, 37% in Wyoming, 24% in Hawaii, and 10-20% in Idaho, Minnesota, Florida, North Dakota, Montana, and Michigan.

American sugar growers and processors are among the most efficient in the world, and, like other American farmers, we would welcome the opportunity to compete globally on a level playing field, free of government intervention (Chart 1). Like other American farmers, we can compete against foreign farmers, but we *cannot* compete against foreign government subsidies and predatory trading practices.

The world sugar market is the world's most distorted commodity market, because of a vast, global array of subsidies. Subsidized growers overproduce and dump their surpluses on the world market for whatever price it will bring. As a result of all this dumping, the so-called world sugar price has averaged barely half the world average cost of producing sugar for the past 20 years (Chart 2). The ASA supports correcting this distorted dump market through genuine global sugar trade liberalization.

ONLY PATH TO SUGAR TRADE LIBERALIZATION: WTO

There is a right way and a wrong way to achieve global sugar trade liberalization.

- The right way: The World Trade Organization (WTO)—all countries at the table; all programs and all subsidies on the table. The ASA has supported sugar trade liberalization in the WTO since the initiation of the Uruguay Round of the GATT in 1986.
- The wrong way: Bilateral and regional free trade agreements (FTAs), where markets are wrenched open without addressing any foreign subsidies. The Administration has rightfully declared it will not address any support programs or subsidies in FTAs. Yet it has effectively negotiated away the U.S. sugar support program in the CAFTA.

Virtually every FTA ever completed around the world excludes import-access mandates for sugar. Sugar import mandates are excluded from the U.S.-Canada portion of the NAFTA; from the Mercosur agreement among four South American sugar producing countries, including Brazil; from the European Union's (EU) trade agreements with South Africa, with Japan, and now with Mercosur; from Mexico's FTAs with other Latin American countries and with Japan; from Japan's pending agreements with Thailand and with the Philippines. Sugar was excluded from the U.S.-Australia FTA, which USTR touted as a "state of the art" agreement that gained the U.S. immediate duty-free access for 99% of its exports to Australia, and which Congress passed easily.

The only exceptions: Sugar market-access mandates were included in the U.S.-Mexico portion of the NAFTA, and those provisions have been mired in controversy ever since, and in the CAFTA, whose fate in the Congress is highly uncertain.

The ASA's recommendation to the Administration has been long-standing and unambiguous: Reserve sugar negotiations for the WTO, where genuine trade liberalization can occur.

CAFTA DANGERS TO U.S. SUGAR, U.S. ECONOMY, WTO PROCESS

The U.S. sugar industry adamantly opposes the CAFTA and respectfully suggests that this Committee do the same. The potential benefits for the U.S. economy simply do not outweigh the definite risks. The possible benefits are tiny: The entire GDP of the six countries is about the same as New Haven, Connecticut's. At serious risk are American jobs in sugar and a host of other sectors.

- The government's own analysis, by the International Trade Commission (ITC), predicts that at the end of the 15-year implementation period, the U.S. trade *deficit* with the CAFTA region will have increased, not fallen, to $2.4 billion. (*"U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects,"* Investigation No. TA-2104-13, August 2004.) Other ITC findings from the same study:
- Job losses in the sugar sector will be 38 times greater than job loss in the next most harmed sector, textiles. ITC also predicted American job losses in electronic equipment, transport equipment, oil, gas, coal and other minerals.

- The U.S. already has 100% duty-free access for wheat exports to the CAFTA countries.
- The U.S. already accounts for 94% of the small CAFTA market's grain imports; and 95% of soybean imports.
- The U.S. gets immediate tariff-free access only for prime and choice cuts of beef. With 40% of the CAFTA population earning less than $2 per day, the demand for such expensive cuts of beef cannot be great.
- FTAs such as the CAFTA distract from, and harm, the progress toward genuine trade liberalization in the WTO.

  For example, after the CAFTA countries have spent years negotiating special access to the United States, the world's biggest market, why should these countries cooperate in Geneva to provide the same access to the U.S. for the rest of the world?

  The FTA approach risks fragmenting the world economy into to a matrix of trading blocs, each with its own tariff wall around it to protect the subsidies within. Only in the WTO can we address both the tariff walls and the subsidies within.
- Opposition to the CAFTA is widespread.

  The American public correctly perceives that CAFTA dangers outweigh the risks. Polls indicate a majority of Americans opposes the CAFTA, including pluralities of Republicans, Democrats, and Hispanics.

  Opposition extends to labor, environmental, textile, human rights, and faith-based organizations, both here and in the CAFTA countries.

  Some national farm groups oppose CAFTA, some others are split. American farmers have grown understandably skeptical that the promises of trade agreements and other efforts to expand U.S. exports far exceed actual performance. In 1996, the U.S. achieved a record agricultural trade surplus of $27.3 billion. In 2004, 11 years into the NAFTA, 10 years into the Uruguay Round Agreement on Agriculture, and 9 years after the 1996 Freedom to Farm Bill reduced commodity prices to encourage more exports, our ag trade surplus has plummeted to zero (Chart 3)—despite the weaker dollar that made our exports more competitive. Our ag imports have skyrocketed under these agreements; our exports have been essentially flat.

  The CAFTA promises more of the same, particularly in the near term. U.S. import concessions are frontloaded—concentrated in the early years of the agreement—and CAFTA-country import concessions are backloaded, to the final stages of the 15-year implementation period.

As the Congressmen from sugar-producing states know, if the CAFTA passes, it will have devastating effects on the U.S. sugar industry. Our farmers know their industry and their policy well, and have examined the CAFTA provisions soberly and carefully. We regard the CAFTA as a fully genuine, life-or-death issue. Our farmers, whose livelihoods are at stake, are insulted when USTR trivializes the potential harm from this agreement with cutesy, misleading estimates such as the amount of additional access in teaspoons per consumer or production per day.

We are already one the world's most open sugar markets. Past trade-agreement concessions have made us the world's fourth largest net importer. We are required, under WTO concessions, to import 1.256 million short tons of sugar per year from 41 countries, essentially duty free, whether we need the sugar or not. *The six CAFTA countries are already our largest duty free supplier, accounting for 27% of our WTO-required imports.* In addition, we are required under the NAFTA to import up to 276,000 short tons per year of Mexican surplus sugar production, again, whether we need the sugar or not.

Unfortunately, U.S. sugar consumption has declined in recent years, rather than grown. As a result, every additional ton of sugar we are forced to import from foreign countries is one ton less that struggling American sugar farmers will be able to produce or sell in their own market.

U.S. sugar policy is unique. It is the only U.S. commodity policy designed to operate at no cost to taxpayers. During this time of enormous federal budget pressures, American sugar farmers are proud to have a program with no budgetary costs (Chart 4).

Congress in the 2002 Farm Bill provided an inventory management approach for sugar and a mandate for the Administration to operate the program at no cost by avoiding sugar loan forfeitures. The Administration has two tools to balance the domestic market: the WTO-legal tariff-rate import quota and domestic marketing allotments. Basically, USDA forecasts U.S. sugar consumption, subtracts required WTO and NAFTA imports, and sets the remainder as the American sugar producers' share of their own market. With a large part of our market guaranteed to foreign suppliers, American sugar farmers—taxpayers, businessmen, and coopera-

tive owners—must line up behind the foreign farmers for access to their own U.S. market. If we produce more sugar than our marketing allotment, our producers store the excess at their own expense, not the government's expense, until that sugar is needed.

Congress stipulated that if imports exceed 1.532 million short tons—the sum of the WTO commitment of 1.256 million short tons and the NAFTA/Mexico commitment of up to 276,000 short tons—USDA would lose its authority to administer marketing allotments and sustain no-cost sugar-program operation. In effect, the Congress was saying: Though American sugar producers are among the world's most efficient, we have already ceded to foreign producers over 1.5 million short tons of the U.S. market. Let's reserve the remainder of the U.S. market for American farmers, rather than giving our market away, piecemeal, to foreign producers in FTAs (Charts 5, 6).

American sugar producers are currently storing at their own expense about 600,000 tons of surplus sugar, and many are reducing acreage, idling or shutting down mills—many of them farmer owned—to absorb the oversupply. Sugar prices have been flat or depressed for some time—the raw cane sugar support price has been the same 18 cents per pound for 20 years now, since 1985; prices in 2004 averaged 11% lower than in 2003 (Charts 7, 8). Unlike other program crops, sugar farmers receive no income support from the government to compensate for low market prices. This allows scarce federal dollars to be directed toward assisting farmers of export crops.

Sugar farmers, meanwhile, are making wrenching adjustments to survive, or just going out of business. Fully a third of all U.S. beet and cane mills and refineries have closed just since 1996, 30 plants in total (Chart 9).

As independent beet processors and cane refiners have gone out of business, beet and cane farmers, desperate to retain outlets for their beets and raw cane sugar, have organized cooperatively to purchase those operations. Beet farmers now own 94% of U.S. beet processing capacity and cane farmers own 57% of U.S. cane refining capacity (Chart 10).

This vertical integration has helped to increase efficiency, but growers have literally mortgaged the farm to stay afloat and are deeply in debt. Since sugar farmers derive 100% of their return from the marketplace and none from government payments, they are more dependent on, and more vulnerable to, market forces than other farmers. Sugar farmers are generally unable to switch to other crops because of their commitment to supplying beets and cane to the processing mills they now own. This makes sugar farmers all the more vulnerable to the type of market disruption the CAFTA would be likely to cause.

Sugar farmers based their investment decisions on the promise in the 2002 Farm Bill of volume and price levels that would enable them to remain in business and repay their loans. The CAFTA, and other FTAs, now threaten to break that promise.

LOW, STEADY U.S. CONSUMER PRICES FOR SUGAR

The low producer prices for sugar over the past several years have been a hardship for sugar farmers and caused considerable job loss as mills have closed. Unfortunately, consumers have seen no benefit from the low producer prices for sugar. Though wholesale sugar prices in 2004 averaged 11% lower than the previous year and 20% less than in 1996, consumer prices for sugar in the grocery store have risen modestly; and, sweetened product prices have continued a steady rise, at least with the overall rate of inflation (Chart 11).

Nonetheless, American consumers are getting a great deal on the sugar they purchase, with low, steady prices. U.S. retail sugar prices are essentially unchanged since the early 1990's. And new figures from LMC International show that the foreign developed-country retail sugar price averages 30% higher than the United States'. EU average prices are 35% higher than the United States', and retail sugar prices in Australia and Canada, which claim to be exposed to world dump market sugar, are virtually the same as prices here (Chart 13). (*"Retail and Wholesale Prices of Sugar around the World,"* LMC International Ltd, Oxford, England, April 2005.)

Taking into account developing countries, and varying income levels, LMC discovered that sugar here is about the most affordable in the world. In terms of minutes of work to purchase one pound of sugar, only tiny Singapore is lower; the world average is four times higher than the U.S. And, our expenditure on sugar as a percent of per capita income is the lowest in both the developed and the developing world (Charts 13, 14).

WORLD AVERAGE WHOLESALE PRICES ARE DOUBLE DUMP MARKET LEVELS

In the same survey, LMC also examined wholesale refined prices and found that the global average is 22 cents per pound—double the world dump market average price for 2004—and about the same as the United States'. This reinforces the meaninglessness of the world dump price. Globally, the vast majority of sugar is sold in domestic markets at price levels that are, on average, double the world dump market price and similar to the United States' (Chart 15).

It is worth noting that LMC found wholesale prices in Mexico to be 5 cents higher than the United States' 23 cents per pound, and Canada's price to be just 2 cents lower. This contradicts notions that U.S. candy manufacturers are moving to these countries for lower sugar prices. Other factors are far more important in those decisions. For example, the same candy company that paid average wages in Chicago of more than $14 per hour now pays an average of 56 cents per hour in Juarez, Mexico (Chart 16).

CAFTA: SHORT AND LONG-TERM DANGERS TO U.S. SUGAR MARKET

Despite the fact that our market is already oversupplied, and despite the fact that the six CAFTA countries already supply more than a fourth of our guaranteed duty-free imports, the proposed CAFTA more than doubles the five Central American countries' duty-free access to the U.S. market, an increase of 111%. With an additional, smaller concession to the Dominican Republic, additional imports would total 120,000 short tons in the first year, growing to 169,000 short tons per year in year 15, and an additional 2,910 short tons per year forever after (Chart 17).

The CAFTA poses serious short-term and long-term dangers to the U.S. sugar industry.

In the short term, the CAFTA sugar market-access concessions—on top of import commitments the U.S. has made already in the WTO, to 41 countries, and in the NAFTA, to Mexico—will prevent the USDA from administering a no-cost U.S. sugar policy, as Congress directed it to in the 2002 Farm Bill, and will badly further oversupply the U.S. sugar market.

The additional concessions will trigger off the marketing allotment program that permits USDA to restrict domestic sugar sales and balance the market. Absent marketing allotments, surplus U.S. sugar—the 600,000 tons producers are currently holding off the market and storing it at their own expense—would cascade onto the market and destroy the price.

- Contrary to USTR's misleading claims, there is no "cushion"—no amount of additional import access Congress intended to make available in FTAs. The difference between recent actual imports and the 1.532-million-ton trigger has already been allocated to Mexico under the NAFTA. Mexico has not recently had the surplus sugar available to send to the U.S. But surplus Mexican sugar may soon become available again, with improved crops and with the successful conclusion of sweetener-trade discussions with Mexico that Members of Congress from sugar and corn states strongly support.

  We find it disturbing that USTR would ignore commitments made in past agreements in order to promote new agreements.

In the longer term, the CAFTA is the tip of the FTA iceberg.

Behind the CAFTA countries, 21 other sugar-exporting countries are lined up, like planes on a tarmac, waiting to do their deal with the U.S. and, no doubt, expecting no less access than already granted to the CAFTA countries. Combined, these 21 countries export over 25 million tons of sugar per year, nearly triple U.S. sugar consumption. Obviously, the precedent the CAFTA concession would set will make it impossible for the U.S. sugar industry to survive future agreements (Charts 18, 19).

The U.S. is pushing to complete the Panama, the Andean, and the Thailand FTAs this year. The South Africa Customs Union FTA and the Free Trade Area of the Americas are on hold, but still very much on the Administration's FTA agenda. All these involve major sugar producers and exporters.

CONCLUSION

In conclusion, Mister Chairman, the certain dangers of the CAFTA to the U.S. economy outweigh the marginal, possible benefits. We respectfully urge that this Committee reject the CAFTA, and focus U.S. trade liberalization efforts instead on the WTO, where there is a genuine potential for progress.

The CAFTA would devastate the U.S. sugar industry. We are, therefore, expending all possible resources and energy to urge Congress to defeat this ill-conceived agreement.

Thank you.

Mr. ROGERS. Dr. Roberts.

STATEMENT OF RUSSELL ROBERTS

Mr. ROBERTS. I want to thank the committee for the opportunity to appear today and discuss CAFTA. On the surface CAFTA would seem to be an easy agreement, as a number of people have mentioned, due to the opening of foreign markets—sorry—on the surface, as a number of people mentioned today, it would be easy to, you would think, to support CAFTA, given the fact that it opens markets for our producers while leaving our markets that are already open relatively unchanged, yet trade agreements always raise legitimate concerns about job losses in the United States.

And having recently traveled to Costa Rica at the invitation of the State Department to speak on trade issues, I was struck by the similarity of the concerns in Costa Rica. They too were worried about job loss. But in fact trade changes the kind of jobs we do, and in a flexible market, particularly one as dynamic as the United States, the number of jobs is determined by how many people want to work and the skills they have. Yes, some sectors will grow and others will get smarter. Pointing to NAFTA, job losses without accounting for job gains is the wrong way to evaluate free trade agreements. Similarly, trade deficits have little or no impact on the total number of jobs in the United States, despite concerns to the contrary.

I spoke to a wide array of people in Costa Rica, students, journalists, labor representatives, and government cabinet ministers, and being a small country that has undergone a great deal of economic change in the last 25 years, they were very aware of the benefits of being a part of the global trading system. They also understood the uncertainty and unpredictability of the future. But most Costa Ricans I spoke to embraced economic change and trade as the inevitable key to growth for their small country and a transformation of their economy.

But they would always ask the same question: if trade is good, why doesn't CAFTA allow Costa Rica to export sugar freely to the United States? If Costa Rica is willing to compete with U.S. engineers and other farmers, why isn't America willing to compete and cope with the challenge of Costa Rican sugar farmers? Despite the words "free trade" in the title of the agreement, CAFTA would allow only the tiniest of expansions in sugar imports phased in over 15 years.

And they would ask me why do Americans fear Costa Rican sugar? They don't, I would explain, not most Americans anyway. In fact keeping out foreign sugar punishes me and every other consumer in the U.S. because the U.S. price is roughly double the rest of the world. We American consumers are punished, not you Costa Ricans, by the decision to keep virtually all sugar from Costa Rica out that would come in in a free market.

Jobs created in the sugar industry here in the United States are offset by job losses in the American candy and food industry and elsewhere. So we negotiate a trade agreement with some of the poorest countries in the region, but we make sure that one of the things they do best, which is grow sugar, is essentially off the

table. There is no attractive way to defend that policy when you are standing in the fields of a poor county.

So CAFTA is not perfect. In a perfect world sugar would be freely traded. But CAFTA is a step in the right direction. It lowers trade barriers on an enormous range of products that are traded in the region. The best should not be the enemy, the good. The CAFTA will encourage the signatories to the agreement to do what they do best. The result will be a higher standard of living.

And ironically, sugar has become the flashpoint for this discussion even though the sugar industry gets preferential treatment under CAFTA, even though they have quotas in place and tariffs that isolate them from world competition, even though the sugar industry has made sure that CAFTA leaves their domestic monopoly virtually intact, somehow the entire debate over CAFTA is about sugar jobs. That is quite an achievement for an industry with less than 60,000 employees.

The job losses in sugar to CAFTA will be dwarfed by retirement, turnover, job loss due to technology. Should the threat of these job losses hold this agreement hostage and prevent poor nations from buying our goods? Should the threat of these job losses prevent the expansion of U.S. employment in sectors that will grow?

Our natural concern for these workers should not confuse us about the cost of stopping economic change that CAFTA will bring. Economic change like free trade creates our standard of living. Without economic change, without trade, our economy would be stagnant.

Now, economic change is always challenging. I was explaining to my children the other day, they are here; they are off from school, by the way. Their school is not in session. I am not violating any truancy laws. But I explained to them when American baseball players were considering letting in African American players, you can imagine that American players born here in the United States who were white would be afraid of that competition. And my 7-year-old, who is sitting right there in the brown shorts, said, but that wouldn't be fair. He said it wouldn't be nice to keep out African American players. And said besides, it would be good for the team. Shouldn't the players be in favor of that?

And that got me thinking about the Dominican Republic. At the start of this year's baseball season, 385 players born in the Dominican Republic had played in the major leagues, including Pedro Martinez, Miguel Tejada, Vladimir Guerrero, Manny Ramirez. Surely the game of baseball, surely our lives, surely their lives are better for letting them play here. Who would argue we should keep them out in order to create more opportunity for native-born Americans in baseball? And as my 7-year-old understands, it wouldn't be nice. It would be bad for baseball and its fans.

It is good that we have let players from all over the world come to America to use their skills to the greatest advantage, and it would be good to let other things, besides baseball players, come to the United States from the Dominican Republic and our fellow nations in Central America. In return, we will send our products using our skills to help them. CAFTA will be good for the United States, good for the Dominican Republic, and good for Central America. It will raise the standard of living in each nation, but per-

haps more importantly, it will make sure that the peoples of each nation have the greatest opportunity to use their skills in the most effective and productive ways. Thank you very much.

[The prepared statement of Russell Roberts follows:]

PREPARED STATEMENT OF RUSSELL ROBERTS, PROFESSOR OF ECONOMICS, SMITH DISTINGUISHED SCHOLAR, MERCATUS CENTER, GEORGE MASON UNIVERSITY

Mr. Chairman. Congressman Schakowsky. Members of the committee. Thank you for the opportunity to appear before you and discuss CAFTA, the Central American Free Trade Agreement, which now includes the Dominican Republic as well.

On the surface, CAFTA would seem to be an easy agreement for the United States to support. Many products and services already arrive duty-free in the United States from Central America. But under CAFTA, many products and services currently protected in Central America would now have to compete with American exports, opening markets to numerous American products.

Yet CAFTA remains highly controversial with concerns that the agreement will cost the United States jobs trying to compete with low-wage workers in Central America working in a less demanding regulatory environment.

Having recently traveled to Costa Rica at the invitation of the State Department to speak on trade issues, I was struck by the similarity of the concerns raised in Costa Rica. Surely, little Costa Rica would have no chance of standing up to the United States economy. Jobs would be lost to the powerful American workers.

Both arguments cannot be right. It cannot be that employment in both economies will shrink as the other expands. One of these worries is wrong. Or both are. But both cannot be right.

Both are wrong. When NAFTA passed, we were told of the millions of jobs that would inevitably flow to Mexico because of Mexico's lower wages and less rigorous labor and environmental standards. Yet those fears were unrealized. They were no more plausible than the notion that all of America's jobs would end up in Mississippi because of Mississippi's low wages.

Trade changes the kind of jobs we do, but in a flexible labor market, particularly one as dynamic as the United States, the number of jobs is determined by how many people want to work and the skills they have. The main effect of trade is to allow both trading parties to use their skills wisely and effectively.

Costa Rica currently has a state monopoly on telecommunications. There are a lot of engineers employed by that state monopoly. What will happen to them when that monopoly is opened to competition by CAFTA? Some will keep their jobs working in areas like land-line phones that the government will probably still be able to provide competitively. Some will find work with American firms now free to operate profitably in Costa Rica. Some will lose their jobs and find work as engineers outside of the telecommunications industry. And some will lose their jobs and find work outside of engineering.

The average Costa Rican who is not an engineer employed by the state-run telecom company will be better off. The average Costa Rican will enjoy lower prices and more choices. That will mean more resources left over to do new things with, new products and services to enjoy that were not affordable before. That in turn will mean more employment in Costa Rica as those products and services expand, offsetting any job losses in the engineering sector.

The bottom line for Costa Rica is better phone service and internet access at lower prices and more opportunities created elsewhere in the economy. Understandably, Costa Rican engineers are nervous about the uncertainty and challenges of the future. But the net effect on Costa Rica would be positive.

The same logic applies to the Costa Rican car industry. Wisely, Costa Rica doesn't have a car industry—it would be too expensive. It would create inefficient and unproductive jobs in the car sector relative to other sectors. By importing cars, Costa Rica gives up those jobs and creates jobs elsewhere. By importing cars, Costa Rica uses the skills of its people more wisely and the result is less expensive cars for Costa Ricans to enjoy.

I spoke to a wide array of people in Costa Rica—students, journalists, labor representatives and government cabinet ministers. Being a small country that has undergone a great deal of economic change in the last 25 years, they were very aware of the benefits of being part of the global trading system. They also understood the uncertainty and unpredictability of the future. But most Costa Ricans I spoke to embraced that change as an inevitable part of growth and the transformation of their economy.

But they would always ask the same question. If trade is good, why doesn't CAFTA allow Costa Rica to export sugar freely to the United States? Costa Rica is willing to cope with the challenge of competing with American telecom engineers and American telecom companies? Why isn't America willing to cope with the challenge of Costa Rican sugar farmers?

They were referring to the fact that while American farmers and telecom companies and medical device companies would have relatively open access to sell their products in Costa Rica, sugar farmers in Costa Rica would have very little freedom to sell their sugar in America. Despite the words "free trade" in the title of the agreement, CAFTA would allow only the tiniest of expansions in sugar imports phased in over 15 years. CAFTA limits the expansion of sugar imports into the United States to less than 2% of US consumption over the next 15 years.

Why do Americans fear Costa Rican sugar?

They don't, I would explain to my hosts in Costa Rica. Not most Americans, anyway. In fact, keeping out foreign sugar punishes me and every other consumer in the United States. The US price of sugar is roughly double that of the rest of the world. We are punished, not you, I explained, by the decision to keep out virtually all sugar from Costa Rica that might come in under a truly open market. Jobs created in the sugar industry are offset by job losses in the American candy and food industries and elsewhere.

So we negotiate a trade agreement with some of the poorest countries in the region but we make sure that one of the things that they do best, grow sugar, is essentially off the table. There is no attractive way to defend that policy when you're standing in the fields of a poor country.

It makes no more sense for America to insist on always growing its own sugar than it does for Costa Rica to use protectionism to create a Costa Rican car industry. But that is what we have decided with CAFTA.

So CAFTA is not perfect. In a perfect world, sugar would be freely traded along with telecom services and cars and tourism and ornamental plants and corn and chicken. But CAFTA is a step in the right direction. It lowers trade barriers on an enormous range of products that are traded in the region. The best should not be the enemy of the good. CAFTA will encourage the signatories to the agreement to do what they do best and the result will be a higher standard of living for all of the partners to the agreement.

Ironically, despite the special treatment of the American sugar industry in CAFTA, the American sugar industry has become the flashpoint for the debate over the agreement in this country. Even though the sugar industry gets preferential treatment, even though the sugar industry has quotas and tariffs in place that isolate them from world competition, even though the sugar industry has made sure that CAFTA leaves their domestic monopoly virtually intact, somehow, the entire debate over CAFTA is about fear of losing jobs in the sugar industry.

That's quite an achievement for an industry with less than 60,000 employees. (The sugar industry claims there are 372,000, but that number is inflated by counting corn sweetener jobs and then multiplying the total by two and a half.) About 8 million jobs are destroyed and created every quarter in the US economy. When the economy is going well, more jobs are created than destroyed. When we are in a recession, more jobs are destroyed than created. But the norm is good times—a growing economy where there is net job growth, where more jobs are created than destroyed. But even in good times, millions of jobs disappear for thousands of reasons—companies go out of business, consumers decide they want fewer of one thing and more of another. These jobs are replaced by new jobs in new companies or companies that are expanding.

Millions of jobs appearing and disappearing. That is a sign of great economic health, that churning of jobs in response to new desires, new information, new technology and new opportunity. All of those jobs destroyed and created in response to economic change. It is a strange thing to exert all this political energy to stop economic change in one tiny sector, the sugar industry, but because it is identifiable, the sugar jobs and the sugar profits get special treatment.

Our natural concerns for workers in the sugar sector and other sectors that will be affected by CAFTA should not confuse us about the costs of stopping the economic changes that CAFTA will bring. Economic changes like free trade create our standard of living and the incredible opportunities that each generation has to shape the world according to its dreams and skills. Without economic change, without trade, without innovation, our economy would be stagnant. A dynamic economy and a growing standard of living are the greatest gifts we can give each generation.

Even with such benefits, economic change is always challenging, no matter its source and no matter how small or how fair such change is. I was explaining to my children how understandable it is for people to fear change and competition. For ex-

ample, I explained, imagine being a white baseball player when there was discrimination in baseball and African-American players were not allowed to play in the major leagues. You would be worried about losing your job to a better player. My seven-year old did not find this understandable. What about Willie Mays, he wondered. And he told me that the white players should have been in favor of letting African-Americans play because it would be good for the team. Besides, he said, keeping out some players because of the color of their skin isn't nice.

That got me thinking about the Dominican Republic. At the start of this year's baseball season, 385 players born in the Dominican Republic had played in the major leagues including Pedro Martinez, Sammy Sosa, Albert Pujols, Miguel Tejada, Vladimir Guerrero and Manny Ramirez. Surely, the game of baseball is better for allowing them to play here. Surely our lives as fans have been enriched by their excellence. And surely their lives have been enhanced by the opportunity to play here.

Who would argue that we should keep them out in order to create more opportunity in baseball for native-born Americans? As my seven year old understands, that would not be nice. And it would be bad for baseball and its fans.

It is good that we have let players from all over the world come to America to use their skills to their greatest advantage. Both America and those players benefit. And it will be good to let other things besides baseball players come to the United States from the Dominican Republic and her fellow nations in Central America. In return, we will send our products using our skills to help them in return. CAFTA will be good for the United States, good for the Dominican Republic and good for Central America. It will raise the standard of living of each nation, but perhaps more importantly, it will make sure that the peoples of each nation have the greatest opportunity to use their skills in the most effective and productive ways.

Mr. STEARNS. Thank you. Mr. Murphy.

Mr. MURPHY. Mr. Chairman——

Mr. STEARNS. I think you need to put your mike on. Yes.

STATEMENT OF JOHN MURPHY

Mr. MURPHY. Mr. Chairman, Congresswoman Schakowsky, I would like to thank the committee for the chance to testify here today.

Speaking on behalf of the U.S. Chamber of Commerce, which is the nation's largest business federation representing more than three million businesses of every size, sector, and region, the U.S. Chamber and its members strongly support DR-CAFTA.

While these six countries look small on a map and they are significantly poorer than the United States, they are excellent customers for U.S. products. In 2004 the six countries purchased over $15 billion in U.S. exports. That is more than India, Indonesia, and Russia combined. It is also more exports than Italy purchased from the United States; Italy, a G-7 country that is one of the largest and most sophisticated economies in the world.

A number of members of the committee and witnesses have already commented on how DR-CAFTA will give American companies a level playing field. The fundamental point is that the U.S. market is already open, but our trading partners, tariffs, and quotas continue to stand as a significant barrier to U.S. exports. This point is critical and has been well made.

I would like to focus my comments on the profound value of the agreement as a vehicle for generating new business opportunities for American companies by energizing economic reform in Central America and the Dominican Republic, questions that go beyond simply cutting tariffs.

One of the Central American trade ministers once commented that "DR-CAFTA contains 15 years worth of economic reform in a single package," reforms that these countries could not have tack-

led with such ambition or speed under other circumstances. Consider the following: first, DR-CAFTA will guarantee transparency in government procurement. The agreement mandates competitive bidding for contracts and that extensive information about these opportunities be made available on the Internet and not just to well-connected insiders. In this sense, DR-CAFTA is an extremely useful weapon against corruption.

Second, DR-CAFTA will ensure a level playing field for services, the most rapidly growing portion of U.S. companies' engagement in international trade, and one where the United States enjoys a large surplus. To give a specific example, DR-CAFTA will open the telecommunications and insurance markets of Costa Rica where U.S. companies are currently shut out. Many other sectors, from express delivery to financial services, will see new and transparent rules that will allow U.S. companies to compete and prosper in the region, generating jobs and income there and back home in the United States.

Third, DR-CAFTA will shore up legal protections for copyrights, patents, and trademarks so that creative artists who produce movies and television shows, researchers who create new medicines, and companies that create software will be protected. Counterfeiters will be put on notice that these countries will protect intellectual property, which is the future of the U.S. economy with the full force of the law. And new resources will be directed to enforcement.

Members of the committee, these free trade agreements work. Consider the U.S.-Chile Free Trade Agreement, which DR-CAFTA resembles in many respects. The Department of Commerce reports that U.S. exports to Chile rose by an astonishing 33 percent last year, which was the first year of that free trade agreement's implementation. We have seen similar advances already as this Caribbean Basin Initiative and its successors over the past 20 years have doubled and tripled trade with these countries.

How often does the Congress have a chance to secure such a remarkable win-win for our workers, farmers, and companies, and for our friends and neighbors? If U.S. companies, workers, and consumers are to thrive in an increasingly competitive world, new trade agreements such as DR-CAFTA will be critical.

In the end, American business is quite capable of competing and winning against anyone in the world when markets are open and the playing field is level. All we are asking for is a chance to get in the game. I appreciate the leadership of this committee and the chance to testify today. Thank you.

[The prepared statement of John Murphy follows:]

PREPARED STATEMENT OF JOHN MURPHY, VICE PRESIDENT, WESTERN HEMISPHERE AFFAIRS, EXECUTIVE DIRECTOR AMERICAN CHAMBERS OF COMMERCE IN LATIN AMERICA, UNITED STATES CHAMBER OF COMMERCE

The Chamber of Commerce of the United States of America (U.S. Chamber) and the Association of American Chambers of Commerce in Latin America (AACCLA) are pleased to present the House Committee on Energy and Commerce Subcommittee on Commerce, Trade, and Consumer Protection with this testimony regarding the U.S.-Dominican Republic-Central America Free Trade Agreement (DR-CAFTA). Our organizations strongly support Congressional approval of this landmark trade agreement, and we urge the House to do so as soon as possible.

The U.S. Chamber is the world's largest business federation, representing more than three million businesses of every size, sector and region. AACCLA represents 23 American Chambers of Commerce in 21 Latin American and Caribbean nations, and its 20,000 member companies manage over 80% of all U.S. investment in the region.

International trade plays a vital part in the expansion of economic opportunities for our members. As such, the U.S. Chamber and AACCLA have helped lead the business community's effort to make the case for new free trade agreements. We do so because U.S. businesses have the expertise and resources to compete globally—if they are allowed to do so on equal terms with our competitors.

From this perspective, DR-CAFTA is an outstanding trade agreement. It will slash trade barriers for U.S. exports, enhance protections for U.S. investment overseas, and strengthen the competitiveness of American companies—both big and small—throughout the world. We believe the agreement is worthy of your support.

OPENING TRADE, GENERATING GROWTH

America's international trade in goods and services accounts for nearly a fifth of our country's GDP. As such, it is difficult to exaggerate the importance of the leadership demonstrated by Congress in renewing Presidential Trade Promotion Authority (TPA) two and a half years ago. As we predicted, this action by Congress has helped reinvigorate the international trade agenda and has given a much-needed shot in the arm to American businesses, workers, and consumers.

When TPA lapsed in 1994, the United States was compelled to sit on the sidelines while other countries negotiated numerous preferential trade agreements that put American companies at a competitive disadvantage. As we pointed out to Congress during our aggressive advocacy campaign for approval of TPA, the United States was party to just three of the roughly 150 free trade agreements in force between nations at that time.

The passage of TPA allowed the United States to complete negotiations for bilateral free trade agreements with Chile, Singapore, Australia, and Morocco, all of which won bipartisan approval in Congress. These agreements are already bearing fruit; for example, the Department of Commerce reports that U.S. exports to Chile rose by an astonishing 33% in 2004, the first year of implementation of the U.S.-Chile Free Trade Agreement. Free trade agreements with roughly 20 additional countries are now in various stages of completion.

Why is DR-CAFTA so critical? First, the agreement is good for workers, consumers, and businesses in the United States. And second, the agreement is good for workers, consumers, and businesses in Central America and the Dominican Republic.

BIG MARKETS, BIG OPPORTUNITIES

The commercial benefits of DR-CAFTA for the United States are expected to be highly significant. While these six democracies look small on a map, they are excellent customers for American business. Purchasing $15.7 billion in U.S. exports in 2004, Central America and the Dominican Republic buy more U.S. goods than Australia, Italy, or Sweden.

These existing trade flows make DR-CAFTA the largest free trade agreement in more than a decade. In fact, the 45 million citizens of Central America and the Dominican Republic purchase more U.S. goods than the 1.5 billion citizens of India, Indonesia, and Russia—combined.

What is the United States selling to these countries? About one-third of all U.S. exports to Central America and the Dominican Republic are made by the U.S. textile and apparel industries. Computers, electronics, and information technology products represent almost another third. And farm products, ranging from soup to nuts, account for a large share of American sales to the six countries.

This success story began 20 years ago, when a tremendous bipartisan coalition created the Caribbean Basin Initiative. By a vote of 392 to 18, the House of Representatives decided in July 1983 to do away with most tariffs on imports from Central America and the Caribbean in an effort to help the region with "trade, not aid." The Senate followed suit with a similarly significant favorable vote.

The Caribbean Basin Initiative eliminated tariffs on nearly all imports from Central American and the Caribbean. In 2003, 77% of Central American and Dominican industrial products (including 99% of non-apparel industrial products) and 99.5% of agricultural products entered the United States duty-free.

MAKING TRADE A TWO-WAY STREET

More than any previous free trade agreement, DR-CAFTA is about reciprocity. It will level the playing field for the thousands of U.S. workers and businesses that rely on exports to Central America and the Dominican Republic. It will provide immediate, duty-free access to the six-country market for more than 80% of U.S. consumer and industrial goods and more than half of all U.S. agricultural exports to the six countries, with further openings phased in.

To gauge the commercial value of the agreement, the U.S. Chamber of Commerce has released a series of state-by state economic impact studies that found substantial economic gains for American workers and the economy from DR-CAFTA. We used a widely respected input-output economic model known as RIMS II that has been used for years by economists at the U.S. Department of Commerce and elsewhere, and we proceeded with some very conservative assumptions about the growth of exports. For instance, we assumed that U.S. exports to the six countries would grow at only half the rate of growth of exports to Chile in 2004, the first year of implementation of the free trade agreement with that country.

The results are extremely promising. In the first year of DR-CAFTA's implementation, the agreement would generate $3.9 billion in new sales across all industries and $866 million in new earnings for workers in the 12 states profiled. In would also create over 26,000 new jobs in its first year. This table summarizes our findings:

Summary of Findings of State-by-State Economic Impact Studies

The full studies are available at: www.uschamber.com/goto/drcafta

AFTER ONE YEAR	Increased sales in all industries	Increased earnings of employees in all industries	New jobs created in all industries
Alabama	190,000,000	40,000,000	1,490
California	221,000,000	51,000,000	1,287
Florida	985,000,000	232,000,000	7,008
Georgia	262,000,000	52,000,000	1,516
Illinois	79,000,000	24,000,000	693
Louisiana *	339,000,000	77,000,000	2,769
New Jersey	71,000,000	14,000,000	342
New York	149,000,000	32,000,000	794
North Carolina	736,000,000	163,000,000	5,404
Pennsylvania	94,000,000	20,000,000	608
South Carolina	167,000,000	27,000,000	912
Texas	683,000,000	134,000,000	3,326
TOTAL	**$3,976,000,000**	**$866,000,000**	**26,149**

* ''CAFTA: Potential for Louisiana's Prosperity,'' by Dr. James A. Richardson, Alumni Professor of Economics, Louisiana State University, March 2004. This study used the U.S. Department of Commerce's Bureau of Economic Analysis Regional Input-Output Modeling System (RIMS II) in the same fashion as the U.S. Chamber studies. However, the figures cited in this table are based on a projected increase in exports from Louisiana to the other DR-CAFTA countries of 16%. The U.S. Chamber studies use a figure of 17% for the first year. For comparison, U.S. exports to Chile rose by 33% in 2004, the first year of implementation of the U.S.-Chile Free Trade Agreement.

Nine years after implementation, DR-CAFTA would boost sales by over $20 billion in the 11 states for which data are available. In the same period, the agreement would raise workers' earnings by $4.5 billion and create more than 130,000 new jobs in the 11 states.

AFTER NINE YEARS	Increased sales in all industries	Increased earnings of employees in all industries	New jobs created in all industries
Alabama	1,021,000,000	214,000,000	7,901
California	2,486,000,000	573,000,000	13,132
Florida	5,200,000,000	1,200,000,000	36,982
Georgia	1,405,000,000	283,000,000	8,691
Illinois	445,000,000	97,000,000	2,402
New Jersey	381,000,000	79,000,000	1,801
New York	802,000,000	173,000,000	4,215
North Carolina	3,900,000,000	876,000,000	28,913
Pennsylvania	504,000,000	107,000,000	3,062
South Carolina	701,000,000	144,000,000	6,273
Texas	3,600,000,000	718,000,000	17,127
TOTAL	**$20,445,000,000**	**$4,464,000,000**	**130,499**

As noted above, the vast majority of Central American and Dominican exports already enter the U.S. marketplace duty-free, so the risk of job losses due to enhanced competition from imports is extremely limited. In sectors where imports from Central America and the Dominican Republic are not entering the United States duty-free, the U.S. average tariff is significantly lower than that faced by our exports to these countries. While U.S. rates average 3.6%, Guatemala's average applied industrial tariff is 7.1%, Honduras's is 6.7%, El Salvador's is 6.5%, Nicaragua's is 4.9%, Costa Rica's is 4.6% and the Dominican Republic's is 10.7% (2001 figures).

SUPPORT FROM FARMS TO FACTORIES

The Chamber is far from alone in recognizing the potential of DR-CAFTA; studies prepared by other organizations have also projected impressive gains. A study by the American Farm Bureau Federation, which is the nation's largest association of farmers and ranchers, projected that the agreement will boost U.S. agricultural exports by $1.5 billion, which explains why over 50 leading agricultural commodity groups have endorsed the agreement.

In the textile and apparel sectors, the agreement will promote even stronger partnerships between companies in the United States, Central America, and the Dominican Republic. This will enable this hemisphere to compete more effectively in the face of rising international competition in these sectors since the demise of the global system of quotas on textiles on January 1, 2005. Most experts predict that Asian textile and apparel manufacturers will be the principal beneficiaries of the end of quotas—at the expense of apparel producers in Central America and the Dominican Republic, and their textile suppliers in the United States.

For years, the U.S. textile industry has benefited from an integrated supply chain and market with the DR-CAFTA nations, which constitute a key sourcing location for U.S. apparel and retail companies. Unlike other garment production centers, Central America and the Dominican Republic have emerged as the dominant consumers of U.S. textile products. Since the passage of the U.S.-Caribbean Basin Trade Partnership Act in 2000, the region has become one of the largest and fastest growing export markets for U.S. cotton growers, yarn spinners, and fabric mills.

As a result, garments imported from Central America and the Dominican Republic have U.S. content exceeding 50% while garments imported from Asia typically have less than 1% U.S. content. Without DR-CAFTA, apparel operations in Central America and the Dominican Republic will not be able to compete with Asian manufacturers, who have been ramping up sales since the global quota regime on textiles ended in January. If apparel manufacturers in Central America and the Dominican Republic cannot compete with Asia, a domino effect will hit cotton growers, yarn spinners, and fabric mills in the United States as their best customers go under.

On a more general level, the evidence is overwhelming that trade is a powerful tool to strengthen the U.S. economy. As former U.S. Trade Representative Robert Zoellick has pointed out, the combined effects of the North American Free Trade Agreement (NAFTA) and the Uruguay Round trade agreement that created the World Trade Organization (WTO) have increased U.S. national income by $40 billion to $60 billion a year. This helped lead to the creation of millions of new American jobs in the past 15 years. Many of these jobs were created in the export sector where, on average, jobs pay 13 to 18% more.

In addition to the increased wages, the lower prices generated by NAFTA and the Uruguay Round on imported items mean that the average American family of four has gained between $1,000 to $1,300 in spending power—an impressive tax cut, indeed.

BENEFITS FOR CENTRAL AMERICA AND THE DOMINICAN REPUBLIC

The U.S. Chamber and AACCLA are speaking in favor of DR-CAFTA to advance the interests of U.S. businesses, workers, and consumers. However, it's clear that the agreement will also be beneficial for workers, consumers, and businesses in Central America and the Dominican Republic—some of our closest neighbors.

Consider what Central America and the Dominican Republic were like 20 years ago. Several of these countries were at war, internally, and with violence spilling across their borders. Contrast that with the peaceful and democratic elections we have seen just in the past 18 months in El Salvador, Guatemala, and the Dominican Republic. It's worth recognizing that the outgoing administrations all supported DR-CAFTA strongly—and so do the new ones. These countries made some tough choices, and they've been rewarded with economic growth and progress in the fight against poverty.

Consider the example of El Salvador, which in the 1990s brought inflation under control, fought corruption, and moved toward a more free market economy. As a re-

sult, per capita incomes in El Salvador grew 10 times faster in the 1990s than in the 1980s.

Again, if things are going so well, what do we need DR-CAFTA for? The agreement is strong medicine, and it represents an opportunity to make sure the progress of the past two decades doesn't slip away. The agreement will enhance democratic institutions, business transparency, and economic reform—all while locking in a strong partnership with the United States. Consider the following:

1) DR-CAFTA will guarantee transparency in government procurement, with competitive bidding for contracts and extensive information made available on the Internet—not just to well-connected insiders;
2) DR-CAFTA will ensure a level playing field in the regulatory environment for services, including telecoms, insurance, and express shipments; and
3) DR-CAFTA will shore up legal protections for copyrights, patents and trademarks, so that creative artists who produce movies and television shows, researchers who create new medicines, and companies that create software will be protected. Pirates and counterfeiters will be put on notice that these countries will protect intellectual property with the full force of the law.

FIGHTING POVERTY, HELPING WORKERS

Finally, DR-CAFTA will help in the fight against poverty. Despite significant progress in the past 20 years, many Central Americans continue to live on just a few dollars a day. By enhancing opportunities for economic growth, the agreement will help provide jobs at all levels of the Central American and Dominican economies, while providing governments with additional resources for much-needed education, health care, and basic infrastructure projects.

Some critics charge that the agreement doesn't do enough to protect workers' rights, even though it does more in this regard than any trade agreement in history. The agreement builds on the fact that five of these countries have ratified all eight of the core conventions of the International Labor Organization; the sixth country, El Salvador, has ratified six of the conventions and is already upholding the final two based on provisions in its own constitution.

The Washington Post summarized the situation in an editorial: "It is a bad idea to oppose trade deals on the grounds that labor protections are advancing, but not quite fast enough—This neglects the truth that the best way to boost workers' bargaining capacity is to boost job creation, so that labor is in strong demand. Trade deals that create jobs are good for workers' rights as well as workers' incomes." We agree.

WHAT THE CHAMBER IS DOING

The U.S. Chamber and AACCLA are conducting an ambitious educational strategy to build support for Congressional approval of DR-CAFTA. In concert with our partners in the Business Coalition for U.S.-Central America Trade, the Chamber and AACCLA have organized hundreds of face-to-face meetings with members of Congress to make the case for the agreement. We have also met with members of Congress in their districts throughout the country as part of our ongoing "TradeRoots" program to educate business people and workers about the benefits of open trade. We have found broad support for the agreements, both in the Congress and in the business community.

As part of this "TradeRoots" effort, the U.S. Chamber and AACCLA have published a "Faces of Trade" book to highlight small businesses in the United States that are already benefiting from trade with Central America and the Dominican Republic—and that stand to benefit even more from free trade with these two markets. We invite you to review these success stories and see the face of American trade today (electronic copies of the book are available at www.traderoots.org). It isn't just about multinational corporations, which can usually find a way to access foreign markets, even where tariffs are high. DR-CAFTA will first assist the hundreds of thousands of small companies that are accessing international markets—and that are meeting their payroll, generating jobs, and growing the American economy.

The U.S. Chamber and AACCLA are also making the case for the agreement in a nationwide tour with the Central American and Dominican ambassadors to meet with local business people, farmers, and journalists in their home towns. We've organized major events in more than a dozen cities with the ambassadors, and people from all walks of life are excited to learn about how DR-CAFTA will create new opportunities for business and employment.

This is just the tip of the iceberg. We've generated a wealth of information about the potential benefits of these agreements and our efforts to make them a reality. In the interest of brevity, I would simply urge you to contact the Chamber if you

need more information. Our websites are a good place to start: www.uschamber.com and www.aaccla.org. Another great source of information is the website of the Business Coalition for U.S.-Central America Trade at www.uscafta.org.

CONCLUSION

Trade expansion is an essential ingredient in any recipe for economic success in the 21st century. If U.S. companies, workers, and consumers are to thrive amidst rising competition, new trade agreements such as DR-CAFTA will be critical. In the end, U.S. business is quite capable of competing and winning against anyone in the world when markets are open and the playing field is level. All we are asking for is the chance to get in the game.

The U.S. Chamber and AACCLA appreciate this committee's leadership on these critical issues, and we ask you to move expeditiously to bring DR-CAFTA to a vote. Thank you.

Mr. STEARNS. Thank you. Mr. Waskow.

STATEMENT OF DAVID F. WASKOW

Mr. WASKOW. Good afternoon. I am David Waskow, Director of the International Program at Friends of the Earth. Friends of the Earth is a national environmental organization and a member of Friends of the Earth International, which is the world's largest environmental federation with more than one million members in 70 countries.

We believe that international trade and investment can and should be supportive of environmental protection. However this agreement lacks adequate environmental provisions and also includes provisions that would themselves directly undermine hard-won environmental protections. Because of CAFTA's negative implications for environmental protection, a wide range of major U.S. environmental organizations and dozens of environmental groups in Central America oppose this CAFTA.

CAFTA is an extremely important trade agreement in environmental terms. Central America is one of the most bio-diverse regions on the planet with more than 8 percent of all living species in the world. The region has already lost more than 70 percent of its forest cover and urban and rural pollution are rampant. Unfortunately, however, essential environmental protections are lacking in much of the region. For instance, in its own environmental review of the agreement, USTR itself determined that Guatemala and Honduras are lacking basic environmental laws. And most countries in the region have disjointed and under-funded policies.

CAFTA would only exacerbate the existing problems in the region by opening Central America to substantial changes in industrial and agricultural development, many of which would worsen the environmental situation if left unregulated.

Unfortunately, the agreement's environmental provisions are inadequate to this task. First, CAFTA does not mandate any country to adopt or maintain a set of basic environmental laws, a serious omission given the weak environmental standards that are currently in place. Only one environmental provision, as in the labor chapter, that countries enforce their already-existing laws as subject to dispute settlement, and there is a lack of parity between commercial and environmental provisions, in dispute settlement, a clear step backward from the U.S.-Jordan agreement.

The environmental provisions also include numerous loopholes, for instance, the requirement that countries enforce their own laws

does not even apply to laws whose primary purpose is natural resource manage, such as forestry management laws.

The agreement also includes no guarantees of a permanent, dedicated, and adequate source of new funding for environmental capacity building. And interestingly, the Bush Administration, in its fiscal year 2006 budget zeroed out any funding for capacity building for the region connected to CAFTA.

In addition, although CAFTA includes a citizen submission process that you heard about from Ms. Vargo to allege enforcement failures, it doesn't provide for any clear outcomes or actions to ensure enforcement of environmental laws through that system.

Moreover, this lack of outcomes from the system is in stark contrast to the monetary compensation that private investors can demand of governments under the investor rights rules in CAFTA.

And let me now turn from the ways in which the environmental provisions are lacking to the ways in which other aspects of the agreement directly undercut environmental protection. And I will focus here on the investor suit rules found in chapter 10 of CAFTA. These are similar to NAFTA's chapter 11, rules which have allowed foreign investors to challenge environmental and public health standards before international tribunals, bypassing domestic courts, and providing rights that are nonexistent in the U.S. or in other countries.

Under NAFTA, Mexico and Canada have already lost chapter-11 challenges to domestic environmental protections, and the U.S. has spent millions of dollars defending itself against environmentally related claims, totaling more than $1 billion. With CAFTA, the threat of these challenges could chill the further development of much-needed environmental standards, especially, of course, for developing Central American countries and the Dominican Republic.

During debate over the Trade Act of 2002, a mandate requiring that trade agreements should give investors no greater substantive rights than U.S. citizens have under U.S. law was introduced into the requirements for USTR's negotiations. Unfortunately, however, CAFTA would still provide foreign investors with rights to challenge environmental protections that go far beyond the rights in U.S. law.

Contrary to what Ms. Vargo said earlier, in revising the investment rules, USTR cherry-picked a few legal standards from a single Supreme Court case, taking those standards completely out of context, and ignoring many key principles from U.S. Constitutional Law, including some key principles from that same Supreme Court case that she mentioned, Penn Central.

Let me conclude by saying that DR-CAFTA will have serious impacts not only in Central America. It will set critical parameters for broader U.S. trade policy, including regional agreements such as the FTAA. Unfortunately, we believe that this agreement sets our trade policy on a wrong and unsustainable course for the environment.

[The prepared statement of David F. Waskow follows:]

PREPARED STATEMENT OF DAVID F. WASKOW, DIRECTOR OF THE INTERNATIONAL PROGRAM, FRIENDS OF THE EARTH

Thank you for the opportunity to testify before the Subcommittee today concerning the proposed Free Trade Agreement with five Central American countries

and the Dominican Republic (DR-CAFTA). Friends of the Earth is a national environmental advocacy organization and a member of Friends of the Earth International, the world's largest grassroots environmental network, with more than one million members in 70 countries worldwide.

We believe that international trade and investment can and should be supportive of environmental protection. However, this agreement's lack of adequate environmental provisions threatens the environment and public health in one of the world's most environmentally sensitive and biologically rich regions. Moreover, DR-CAFTA would undermine hard-won environmental protections by allowing foreign investors to challenge environmental laws and regulations in all of the countries, including the U.S., that are parties to the agreement. Because of DR-CAFTA's negative implications for environmental protection, a wide range of major U.S. environmental organizations, together with dozens of environmental groups in Central America, oppose this agreement.

DR-CAFTA is an extremely important trade agreement in environmental terms. My comments will focus on Central America, one of the most biodiversity rich regions on the planet, with more than 8% of all living species in the world. Four of the five Central American countries included in DR-CAFTA have tropical areas identified as "critical regions" that require the protection of biodiversity. Three out of four migratory bird routes in the Western Hemisphere pass through the DR-CAFTA countries, making the forests in this tiny strip of land an essential habitat for the survival of 225 species of birds.

In the midst of already fragile ecological zones, Central America is battling with a wide range of environmental problems. Central America has already lost more than 70% of its forest cover, and the depletion of forests has led to increased soil erosion, the deterioration of watersheds, and decreased biodiversity. Urban pollution, including air pollution, low levels of sewage and solid waste treatment, and chemical and pesticide runoff into water supplies, are rampant.

Unfortunately, essential environmental protections are lacking in much of the region. For instance, in its Environmental Review of the agreement, USTR itself determined that Guatemala and Honduras are lacking even the most basic environmental laws, such as protections for water, forests, sanitation, and biodiversity. Most countries in the region have disjointed and under funded policies that have led to severe environmental degradation.

DR-CAFTA would only exacerbate the existing problems in the region by opening Central America to substantial changes in industrial and agricultural development, many of which would worsen the environmental situation if left unregulated. Unfortunately, DR-CAFTA's environmental provisions are inadequate, contain numerous loopholes, and would not improve environmental protection.

DR-CAFTA does not mandate any country to adopt and maintain a set of basic environmental laws and regulations, a serious omission given the weak environmental standards currently existing in much of the region. Only one environmental provision—that countries effectively enforce their already existing laws—is subject to dispute settlement, and the agreement fails to provide parity between enforcement of commercial and environmental provisions, a clear step backward from the U.S.-Jordan Free Trade Agreement.

The environmental provisions also contain numerous loopholes. For instance, countries can evade the requirement to enforce their environmental laws through an escape hatch that allows them to use enforcement resources as they see fit. None of the agreement's provisions apply to judicial decisions, even including repeated failures by a country's court system to enforce environmental laws. And the requirement that countries enforce their own laws does not apply to any laws whose "primary purpose" is natural resource management, such as a forestry management plan.

Given the numerous environmental challenges facing Central America, DR-CAFTA ought to be accompanied by firm commitments to meet the capacity building needs of these countries, backed up by a permanent, dedicated and adequate source of new funding not taken from already existing programs. Unfortunately, the agreement includes no such funding. And the recently appended Environmental Cooperation Agreement fails to ensure anything more than the establishment of a multi-agency commission without even a required mandate for specific cooperative activities to improve environmental protection.

In addition, although DR-CAFTA establishes a citizen submission process to allege enforcement failures, it does not provide for any clear outcomes or actions to actually ensure that citizens of the region can achieve enforcement of environmental laws. In a step backward from NAFTA, the secretariat charged with oversight of citizen submissions is an economic institution with no environmental expertise. Moreover, the citizen submission process' lack of enforcement tools contrasts starkly with

the monetary compensation that private investors can demand of governments under DR-CAFTA's investor suit rules.

The investor suit rules, found in Chapter 10 of DR-CAFTA, pose a substantial threat to environmental protection in all of the agreement's participating countries. These investor suit rules are similar to NAFTA's Chapter 11, which has allowed foreign investors to challenge environmental and public health standards before international tribunals, bypassing domestic courts. Using these rules, which provide foreign investors broad rights that do not exist under U.S. or other countries' laws, multinational investors have been able to demand compensation for the implementation of legitimate environmental protections.

Under NAFTA, Mexico and Canada have lost Chapter 11 challenges to domestic environmental protections, and the U.S. has already spent millions defending itself against claims totaling more than $1 billion. The challenges thus far have involved a wide range of concerns, including hazardous waste, toxic gasoline additives, mining remediation measures, and food safety requirements, as well as many other public interest protections.

With DR-CAFTA, the threat of these challenges could discourage the further development of much needed environmental standards, especially for developing Central American countries and the Dominican Republic. Attempts to improve environmental standards in Central America could be chilled by the impending threat of investor litigation before international tribunals.

During debate over the Trade Act of 2002, many members of Congress, including several on the Energy and Commerce Committee, raised significant concerns about the provisions in NAFTA Chapter 11. The Trade Act of 2002 requires that trade agreements give foreign investors "no greater substantive rights" than U.S. citizens have under U.S. law. In introducing the relevant amendment, Senator Baucus instructed USTR to place a "ceiling" on investor rights at the level of U.S. law.

Unfortunately, however, DR-CAFTA would still provide foreign investors with rights to challenge environmental protections that go far beyond the rights provided under U.S. law. In its supposed fixes to the agreement's investment provisions, USTR cherry picked a few legal standards from a single Supreme Court case, taking those standards completely out of context and ignoring many key principles from U.S. Constitutional law.

The agreement continues to allow foreign investors to assert that environmental laws have caused an "indirect expropriation," or regulatory taking, of their business interests or have violated a "minimum standard of treatment" in a wide range of circumstances that would not be compensable in U.S. courts. For instance, the agreement does not include the critical Supreme Court principle that a governmental action must permanently interfere with a property in its entirety in order to constitute a taking. Nor does DR-CAFTA ensure the Constitutional principle that the government can regulate a public nuisance—such as pollution released from a property—without compensating the property owner.

In several critical respects, DR-CAFTA's investor suit rules also provide investors rights greater than those found in NAFTA. DR-CAFTA expands the definition of an "investment" to cover a wide variety of economic interests that go far beyond what is considered property in U.S. law regarding regulatory takings. The agreement also explicitly grants foreign investors the right to challenge any aspect of government decisions about natural resource agreements, such as federal oil, gas, and mineral leases.

Finally, I would like to touch on two key additional concerns regarding the agreement: agriculture and intellectual property. One of DR-CAFTA's most significant impacts is likely to be the dumping of subsidized U.S. agricultural products on Central America, a practice that under NAFTA drove small-scale farmers off their land and impoverished many others. In Mexico, this forced many small farmers to clear-cut forest areas to provide increased farming opportunities or replacement sources of income, while industrial farms have increased the levels of nitrogen and other pollution. Under DR-CAFTA, impacts for the millions of Central American small farmers whose livelihoods depend on the agricultural sector are likely to be similarly harmful.

DR-CAFTA's intellectual property rules, which go beyond World Trade Organization requirements, could threaten the region's biodiversity and put the rights of small farmers and indigenous people at risk. By requiring the patenting of a wide range of life forms, the agreement creates potential conflicts with the Convention on Biological Diversity and could limit the ability of small farmers to maintain traditional practices, such as seed saving, which help protect and sustain agricultural biodiversity. In addition, DR-CAFTA could impede efforts to ensure that the origins of traditional community knowledge utilized in seeds and medicinal treatments are fully acknowledged and appropriately compensated.

Let me conclude by saying that DR-CAFTA will have serious impacts not only in Central America. It will set critical parameters for broader U.S. trade policy, including regional agreements such as the Free Trade Area of the Americas (FTAA). Unfortunately, we believe this agreement sets our trade policy on a wrong and unsustainable course for the environment.

Mr. STEARNS. I thank the gentleman. And I will start with my questions for the third panel. Mr. Roney, I think you heard Mr. Roberts. Is there anything you would like to—because he is saying that pretty much this agreement, the only person that is sort of on the outs on this agreement is the sugar industry. And the implication is also that under this agreement, that sugar would get a better deal than they are now getting. So you might want to reply to what he is indicating that why you wouldn't be better off with this agreement, and really, considering you are the only one, I think Mr. Roberts is saying you have had inordinate persuasion on this bill. Is that what your words were, something to that effect that there has been—considering there is only 60,000 employees, you said, of the sugar industry, that the sugar industry has had a pretty much a vocal opposition to it. And so Mr. Roney, I would give you an opportunity to answer.

Mr. RONEY. Thank you very much, Mr. Chairman. I do appreciate that because I think the professor is very right about baseball but he is very wrong about sugar in quite a number of areas.

In terms of our holding the agreement hostage, it is quite the other way around. We are being held hostage by it. It is wrenching open our market without adjusting any foreign subsidies. And in terms of the opposition to the CAFTA, it is extremely widespread. Polls show the majority of Americans oppose it. The labor and environmental movements that you have heard from today are opposed to it. A broad range of religious, human rights groups here and in the Central American countries are opposed to it, as is much of American agriculture, contrary to what we have heard earlier. There are quite a number of large U.S. agricultural groups who are opposed to it.

The professor is also wrong about our competitiveness. We are among the most competitive producers in the world. Our beet sugar producers are the third most competitive out of 41 countries, and our cane producers are 26 most competitive out of 64 countries, despite the fact that we are facing much, much higher labor and environmental standards than other countries.

And the other most egregious area was on consumer prices for sugar in this country. And there is quite a bit of information on this in my full testimony, which I will recommend to Dr. Roberts because what we have shown is that the foreign consumer prices for sugar are 30 percent higher than here. And then in terms of affordability, sugar is more——

Mr. STEARNS. When you say foreign, you mean European or Latin American?

Mr. RONEY. The work that we have done focuses in actual prices in developed countries. Abroad, it is the developed country average——

Mr. STEARNS. Okay.

Mr. RONEY. [continuing] is 30 percent higher——

Mr. STEARNS. Okay.

Mr. RONEY. [continuing] and then globally taking various per capita incomes into account in terms of minutes of work required to buy a pound of sugar. And there are charts in here that demonstrate this. Our sugar is the most affordable in the world.

Mr. STEARNS. Mr. Waskow, you know, the argument seems pretty strong that this agreement is only worth about $77 billion, or about the GDP of Sacramento, California. And relative in the big scheme of things, you know, we are saying don't support a fast-track agreement for a very small number of agreements. I mean, relative—and then it was also pointed out by Mr. Murphy when he indicated that the best is often the enemy of the good. I mean, couldn't this agreement—you can't get a perfect agreement, but certainly with such a small number of nations, wouldn't it just be goodwill to go ahead and try and move forward, realizing that the best is not the enemy of good and perhaps we can perfect it as we go?

Mr. WASKOW. Well, if we thought that this agreement on net were going to be positive for the environment and Central America and the United States, I would perhaps say yes——

Mr. STEARNS. But remember, you——

Mr. WASKOW. [continuing] but——

Mr. STEARNS. [continuing] cannot influence anybody if you don't have a dialog and you don't trade with them. And right now they are getting a free ticket in here but we don't get a free ticket into theirs. So wouldn't we be able to influence them a little bit if we had a trade agreement and they were buying more of our products and just the set up that the trade organization has set up here in the CAFTA agreement? Wouldn't that be some kind of influence to get a better environmental situation than we now have?

Mr. WASKOW. Well, I would just draw on the lessons that many of our colleagues in Central America have come to, and that is that this agreement is bad for environment and development in Central America. It will not provide benefits in a substantial way to the economy given as Ms. Vargo herself said, that market access to the U.S. economy is almost as great now under CBI as it would be under CAFTA. Perhaps selling products there would somehow benefit the environment, but in fact I think the likelier outcome is that selling—and this is a controversial question, of course—but our selling highly subsidized agricultural products to Central America could have a quite problematic effect for the environment.

We have seen with NAFTA that the subsidized dumping of corn into Mexico has displaced many small farmers, and unfortunately, what that has led to is increased deforestation rates as those farmers try to supplement their incomes or to clear additional agricultural land when they are impoverished.

So in fact what our colleagues have determined is that this will not be a beneficial agreement for their environment or development.

Mr. STEARNS. Dr. Roberts, you have your Ph.D. in economics and——

Mr. ROBERTS. Yes.

Mr. STEARNS. [continuing] in the opening statement I talked about Ricardo and his comparative advantage——

Mr. ROBERTS. Was a thrill for me——

Mr. STEARNS. Yes.

Mr. ROBERTS. —Mr. Stearns——

Mr. STEARNS. Okay.

Mr. ROBERTS. [continuing] I have to tell you.

Mr. STEARNS. And so I went to my staff and I said well, didn't Adam Smith and the "Wealth of Nations," didn't he come up with this concept before Ricardo? And I guess he talked about free trade in his "Wealth of Nations." Which one is it from an academic standpoint is considered the one, the free-marketer in terms of comparative advantage?

Mr. ROBERTS. Well, Adam Smith really was talking about what is usually called absolute advantage, and he was emphasizing the fact that even if we are all alike, there are values to specialization. I don't want to do everything for myself. I am going to rely on you and cooperate with you via trade, and if we have the same skills. That was Smith's deep insight as to how that creates wealth. Trade and exchange and relying on others, cooperating with others, which is what trade is all about, creates wealth.

But there is another aspect to trade, which is diversity, which is the fact that you and I may not be the same. You may have certain things you are good at and certain things I am going to be better at than you. And what Ricardo's great insight was was that even if I am better at everything than you are—or let us reverse it—even if you are better at everything than I am, it still is worthwhile for you to trade with me. I will benefit even though you are better than I am at everything, because by specializing, you will be able to do—use your resources, your time, your energy much more effectively. That was Ricardo's deepest insight was that when we are different, even if I am bad at everything, by letting you specialize and letting me do some things for you, you will be better off and I will be better off.

So for example, even if you are the best typist in the world or the greatest lawn cutter in the world, you might outsource those jobs outside your household. You might rely on others to do those jobs. You might let someone cut your lawn, someone do your typing, someone to change the oil in your car, even if you were phenomenal at it, because that will free up your time to do something you are even better at. And that is really what Ricardo's insight was. It is not intuitive, and I would suggest that it has not quite made its way fully into the consciousness——

Mr. STEARNS. And I——

Mr. ROBERTS. [continuing] of the American people.

Mr. STEARNS. [continuing] appreciate your definition, and I think going—when I asked a question to Mr. Waskow, that when this happens in this dialog with this other country, you actually influence them and they influence you. And there is a modicum of cross-the-board influence.

Mr. ROBERTS. And you change the way that you organize your economic life and you change the way you organize your political life. And I think the political impact is extremely important for these countries that have struggling democracies.

Mr. STEARNS. And let me ask you one other question. My time has expired. I hear lots of times that the deficit, the trade deficit is bad.

Mr. ROBERTS. Yes.

Mr. STEARNS. And I think the arguments are made before NAFTA we had a surplus, and after NAFTA we had huge deficits even though NAFTA contributes a smaller portion. And Mr. Brown from Ohio has a graph he shows——

Mr. ROBERTS. Chromatic chart, yes.

Mr. STEARNS. [continuing] and how do deficits—trade deficits affect our economy and what does that mean? Should we, as Congressmen, be concerned that this might add to the trade deficit, this CAFTA agreement?

Mr. ROBERTS. Well, no economist who is not under the pay of a special interest. That is, virtually every academic economist thinks that trade deficits are relatively unimportant for the economy and for the job picture in the United States, which is counterintuitive. It is not what you will hear from a lot of lobbyists and special interest——

Mr. STEARNS. Because people are arguing that is why the dollar has gone relative to the European Union. But the European Union has high unemployment, they have deficits themselves, they——

Mr. ROBERTS. Well, yes——

Mr. STEARNS. [continuing] so I just——

Mr. ROBERTS. [continuing] Well, to make it simple what a trade deficit is mirrored by is a capital surplus; that is, a trade deficit means we import more from our neighbors than they import from us. At the same time they are investing more in our economy than we are investing their. Why is that? Because we are a phenomenal place to invest and a great place to take risk relative to the rest of the world. As long as that is true, as long as the United States is a productive and stable environment for investment, we will run a trade deficit year in, year out, maybe with some countries and not with others, but our net trade deficit will be negative in goods. And that will be a sign of economic health——

Mr. STEARNS. So trade deficit——

Mr. ROBERTS. [continuing] one——

Mr. STEARNS. [continuing] in your opinion is——

Mr. ROBERTS. Irrelevant.

Mr. STEARNS. [continuing] is a positive sign?

Mr. ROBERTS. Irrelevant or positive. One last statistic, since the mid-'70's we have run a trade deficit every single year. It adds up to trillions of dollars. These numbers we hear about how many jobs are lost for every $1 billion of trade deficit or jobs that are created for surplus, those numbers are meaningless; they are not true. It would require us to have created something like—by the way, since those mid-'70's our economy has created 50 million jobs in the face of those trade deficits. So the proponents who tell us that trade deficits hurt jobs, they suggested we would have created an extra 20 or 30 million jobs. Where would they come from? Who would be drawn into the labor force? Children? 80-year-olds? The job market, the labor market, the number of jobs in the United States is determined by our skills and our willingness to work, not by our trade deficit per se. Totally irrelevant.

Mr. STEARNS. If you go back in history and you look at the start of this country in the 18th century and the 19th century, what were the trade deficits back then?

Mr. ROBERTS. Well, when we were getting investment, we were running a trade deficit, but a more dramatic example is England, from 1850 to 1970, which is 120 years, which were glorious years of economic history for England, by the way——

Mr. STEARNS. Those were the golden years of England.

Mr. ROBERTS. Mostly time of tremendous economic growth, tremendous job growth, they ran a trade deficit 119 of the 120 years. So we will hear it is not sustainable. That is pretty sustainable. 119 out of 120 years, 1 year, I don't know what was wrong with that year. I suspect it was a data error entry, a typo on the chart, but for 119 out of 120 years when England was the most powerful economy in the world, they consistently ran a trade deficit because they were a good place to invest. That will be true for the United States as well.

Mr. STEARNS. And my time has expired.

Ms. SCHAKOWSKY. England was also a colonial power that enslaved entire nations at the time. I just wanted to point that out.

Mr. ROBERTS. They had some negatives. That is true.

Ms. SCHAKOWSKY. I just thought I would——

Mr. ROBERTS. Big ones.

Ms. SCHAKOWSKY. [continuing] point that out. Yes. I wanted to say something to ask a question of Mr. Murphy. Your organization and the Chamber of Commerce have been citing a study that was sponsored by the Chamber that you say demonstrates that CAFTA would increase U.S. employment and increase income nationally. There are a couple things about the report that I wanted to ask you, which in fact is the only economic modeling that we have seen that tries to show that the U.S. would gain jobs from CAFTA.

I want to you ask you, does it seem like a reasonable assumption that under CAFTA the United States would not see any increase in imports from Central America? Because that is one of the assumptions of the study.

Mr. MURPHY. The study is based on a model that has been around for a long time. It is called a RIMS-II study. It is widely use at the Department of Commerce and other places. The model—basically you come up with certain assumptions. For instance, we started by making some very conservative assumptions about export growth from the United States to the region. We took what we saw last year with the Chile agreement of 33 percent export growth and we cut it in half and we posited out what that would mean using multipliers that the government provides for different sectors. You know, if you have $1 billion of exports, what does that mean in terms of job creation in the computer sector in a different industrial sector.

And that is the State-by-State studies that we have been doing, and some of the numbers are quite impressive, for instance, for Florida, which has very large trade with the region. We did not explore the import side for the reasons that have been discussed quite broadly here today, that the U.S. economy has essentially already paid the price for opening up our economy to imports from this region. The fact that 99 percent of agricultural goods are already coming in duty-free, we don't expect to see a huge surge in agricultural goods. The fact that 80 percent of manufactured goods

come in duty-free, that we don't expect to see a huge surge in that category. Whereas in the other direction, the tariffs are quite high.

Ms. SCHAKOWSKY. So you don't think that figuring in imports—you think there will—so you are saying there will be no increased imports?

Mr. MURPHY. I think that as economic growth proceeds, there are increases in imports, but for the purposes of the study, projecting that out, we looked at the export side. But I think——

Ms. SCHAKOWSKY. So they weren't necessarily net exports, I mean, in terms of impact on the economy?

Mr. MURPHY. Yes. But I think one of the important things you have to say about imports is that one shouldn't look at imports as a net negative. After all, look at the Chile agreement, one of the——

Ms. SCHAKOWSKY. No, I am just saying they weren't really considered at all.

Mr. MURPHY. Right, precisely because we expect it to be quite a low number, an extremely low number given how open the U.S. economy already is——

Ms. SCHAKOWSKY. Our staff——

Mr. MURPHY. [continuing] across the——

Ms. SCHAKOWSKY. [continuing] ran some numbers on the export side, and what they found was that in order for CAFTA to create jobs in the United States, to actually make progress in job creation, if you look, just for example, at Honduras, you would have to assume export gains for U.S. companies and farmers to essentially have 80 percent of the Honduran economy absorbed by the United States exports in 10 years. I mean, just enormous amount of exports that it would amount in figures to 80 percent of the Honduran economy.

I mean, do you think it is realistic to think that we could displace 80 percent of another country's economy in terms of money that we would gain?

Mr. MURPHY. I think that if you look at the statistics on what the U.S. already sells to this region, it is remarkable what great customers they are. I think it is about 70 percent of the non-oil imports that go to these countries is coming from the United States. And as we see these economies grow, we expect those numbers to continue also to grow a great deal. Now I can't speak very specifically to your analysis. I would be very happy to look at it.

Ms. SCHAKOWSKY. Okay, that would be good. I would appreciate that. I wanted to ask a question briefly about the environment and my concern about questions of U.S. sovereignty and our ability to even enforce our own environmental laws. I wonder if you could expand a little bit on that.

Mr. WASKOW. Sure. And in fact groups ranging from the National League of Cities to the Conference of State Chief Justices have raised significant concerns about the investor suit rules in these agreements I think it is coming from a whole array, including a bipartisan array, of local and State-elected officials around the United States.

And, in essence, what the concern is is that these rules provide a tool for foreign investors to essentially challenge and undermine legitimate environmental—and frankly, not just environmental,

other public interest standards as well by demanding compensation from the U.S. Government when the foreign investors claim that their business interests have been affected in some manner.

And what this does is essentially place significant pressure on State and local governments. And we have seen just recently Governor Schwarzenegger veto a bill that would have required recycling of crumb rubber in California for road use because of concerns about the effect of NAFTA and whether NAFTA would in fact overrule the attempt to do that recycling. And so I think that it is quite a well-placed concern on the part of those State and local officials.

Ms. SCHAKOWSKY. Thank you. And thank you for that example as well.

Mr. STEARNS. Mr. Otter.

Mr. OTTER. Thank you, Mr. Chairman. Mr. Roney, the administration has insisted that there is a cushion that permits them to grant the CAFTA countries additional access to the U.S. sugar market without interfering with the operation of U.S. sugar policy. And you say that there is no such cushion. Can you explain the difference between your position and the administration's position?

Mr. RONEY. Yes, I can. Thank you, Congressman. The administration seems to have a peculiar case of selective amnesia about what it has already committed to do in the NAFTA. But in the NAFTA the administration added to commitments that it had already made in previous trade—in the Uruguay Round of the WTO. It added a commitment to import up to a quarter million tons of sugar from Mexico when Mexico has that sugar to export, regardless of whether we need the sugar or not. That is on top of the one and a quarter million tons that we are committed to import from 41 countries on the WTO.

Now, what has happened in the last couple years is that Mexico has had a couple of short sugar crops and has not had the sugar available to send to us. And so our actual imports were coming in below this one and a half million tons that the Congress essentially decided in the 2002 Farm Bill was an adequate amount of access guaranteed to foreign countries.

And the administration looked at the sugar that was not being imported from Mexico and said oh, well, this gives us room or a cushion to grant additional access to the CAFTA countries, completely forgetting that Mexico could, any month now, resume shipping that sugar to us. And indeed this year Mexican sugar crop is coming back substantially, and we would not be surprised in the coming year if they didn't send us the full amount that they are allowed to.

Mr. OTTER. Which is 276,000 tons?

Mr. RONEY. Exactly, yes. And——

Mr. OTTER. You feel confident that they will then use their full quota to come back into the United States?

Mr. RONEY. I would expect that they would——

Mr. OTTER. Then what happens in 2008 with Mexico?

Mr. RONEY. In 2008 it gets even worse because then the 276,000-ton limit comes off. We have free trade with Mexico. Mexico, beginning in 2008, if they wanted to, could send us all their sugar production and import off the world dump market to satisfy their domestic needs. That is a train wreck that is on the way, and we are

trying to work out negotiation with Mexico to avoid that. The CAFTA will just make that worse.

Mr. OTTER. Are you familiar with their policy of importing sugar into Mexico, but not allowing any of that imported sugar to go into value-added products such as candy bars, cake mixes, and those kind of things unless it is going to be exported?

Mr. RONEY. Yes, that is through a re-export program set up by Mexico and by the U.S.

Mr. OTTER. And, of course, we are going to continue with that program?

Mr. RONEY. We would expect so, yes.

Mr. OTTER. What is the world sugar price right now?

Mr. RONEY. About 9 cents per pound.

Mr. OTTER. Now, 2 years ago I was in Cuba and visiting with Castro with the Cuban government, and he just indicated they had shut down 78 sugar plants. I said, well, that was a very capitalistic move. Why did you do that? He said well, because I can buy sugar on 3 cents and it costs me 4.5 cents to produce it. And I said again to him, well, that was a very capitalistic move. He said I can get all the sugar I want for 3 cents. So why would that 3-cent sugar go to anyplace else in the world except the United States if we opened our markets?

Mr. RONEY. Well, that is the problem, Congressman, is that there is a lot of this dump-market sugar floating around out there. No one in the world, and I think Mr. Castro was dreaming when he said they could produce sugar for as low as 4.5 cents per pound. They have an antiquated sugar industry there. With cost of production they are probably doubled.

Mr. OTTER. Yes, but they also have slave labor.

Mr. RONEY. They have that. They have got some low labor costs and antiquated equipment and probably very high——

Mr. OTTER. Actually, it is not slave labor. It is all government employees.

Mr. RONEY. Yes, and——

Mr. OTTER. So there is a difference. Mr. Roberts, I am interested in your economic—I remember when I was taking economics, I think it was Economics 101 back in college, and my college professor said one time, who was a real free market advocate, not unlike, say, a Friedrich Hayek or Milton Friedman—anyway, he said that, you know, if every government economist were laid end to end, it would probably be a good idea. I am not sure I totally agree with that, but I would say it is not unusual for us to constantly be bombarded with conflicts between government economists and free market economists. Tell me why that is.

Mr. ROBERTS. Well, first, again, I have to say that to have a hearing with David Ricardo, Adam Smith, Friedrich Hayek, and Milton Friedman's name mentioned, is it a first or is this commonplace?

Mr. OTTER. I hope it is not the last.

Mr. ROBERTS. Okay. It is an interesting world that we live in. There is a lot of disagreement in economics about lots of things. There are a lot of issues about how big certain effects are. Some effects I might think are large; someone else might say no, they are small. So economists disagree about a lot of things, but there are

many things that economists actually agree on. One of them is about the benefits of trade for both parties. And the people who are against trade, who put the label economist on their business card, tend to be economists who are paid for their positions rather than people who are free, either because they are in the academic——

Mr. OTTER. Wait a minute. You mean they are free because they are government employees?

Mr. ROBERTS. No, I am not talking about government economists.

Mr. OTTER. Oh.

Mr. ROBERTS. I am talking about people you will hear representing various industry groups, various labor unions, people who are paid to take a position basically. Those are the people you will hear day in, day out. They will come through your office to tell you about how dangerous trade is and how bad trade deficits are.

But the economists who are disinterested, free trade and otherwise, on the left and the right, Democrat and Republican, overwhelmingly agree that trade is good for both sides and that trade deficits do not cost us jobs. The people who you were hearing are, I would argue, not a representative sample of the economics profession. The other side, the so-called free marketers, include Democrats, Republicans, people across the ideological spectrum. But they are not in the employ of special interest.

Mr. OTTER. My time is up. And, Mr. Chairman, thank you. I would only—I need your answers because I have got 14,000 lumber workers that are out of business because of Canadian Softwood Lumber Agreement. I really need to be able to convince them that they are better off——

Mr. ROBERTS. Well——

Mr. OTTER. [continuing] now because of NAFTA.

Mr. ROBERTS. Well, not everybody is going to be better off. I mean, no economist has ever said that. The question is, who is going to benefit at whose expense. And the sugar beet farmers that you are worried about, and I understand your worry, are taking money out of my pocket right now. And this agreement will keep that money flowing into their pocket. And I understand that they are going to tell you how bad it is for their livelihood that CAFTA is going to pass and increase U.S. imports by 2 percent over 15 years. The fact of the matter is that is making me pay more for my sugar, for my cereal, for my candy, my ketchup, et cetera.

And I understand your self-interest. You have got to protect those jobs. But the overall, people who are paying for that are the rest of the country.

Mr. OTTER. Thank you, Mr. Chairman.

Mr. STEARNS. I thank the gentleman. The gentleman from Ohio.

Mr. BROWN. Thank you, Mr. Chairman. I would like to tell an anecdote, a story, and then a question. The anecdote, before we go too far about Adam Smith, you should remember that Adam Smith's last job before his death was a tariff collector in Scotland. And I also would add to Dr. Roberts that Paul Samuelson, who was probably not on any industry payroll, has written a paper that he was generally wrong on free trade all these years. And that to say that no reputable economist—I mean, there are dozens of reputable economists that don't agree with your position on trade. But that is neither here nor there.

A couple of guys from my staff, both are sitting behind me, toured a big steel problem last month in Baltimore I believe. And they told a story that bears on what we are talking about. I would like to tell the story and then ask each of you just to respond to a question, all four of you. They were taking a bus ride from one plant to another, and across the aisle on the bus was the plant manager talking to another guy about their environmental protection efforts. The plant manager said—and this is a pretty direct quote from the two people in my staff that listened—he said yes, it is a big investment. We just spent $23 million to improve our water emissions, we spent $43 million to improve our air emissions. And he said that is okay, though, because we all live here too and we want this area to be safe for our kids. And then he paused and he said I just wish that other countries had to play by the same rules, that is all.

That is the point that a lot of us have made on this trade agreement by holding foreign countries to lower or nonexistent environmental standards. Trade agreements like CAFTA not only harm the environment, they harm our competitiveness. How do you compete with that?

And my questions are for each of the four of you, starting with you, Mr. Roney. Is that plant manager right and should we insist on a level playing field for environmental protections as well as intellectual property and commercial protection?

Mr. RONEY. Yes, sir. We certainly should, and in farming it is very apparent. I had a mill manager in Hawaii who had worked in other mills in the developing world before he got there and said that he was facing rules in Hawaii that he had never faced in any other country in terms of cleaning the water, the muddy water that left the mills before it could go out into the ocean. He had to invent machinery that had never been made anywhere else in the world just to get the mud out of the water before it went in.

Now, should we be put out of business by the countries that don't protect the water supply by the El Salvador industry? It employs child labor that is well-documented. Should we be put out of business while we are adhering to the highest labor and environmental standards in the world and these other countries continue? I am a recovering free trade economist because I have seen how the real world works. I see how governments play roles that—directly subsidizing or indirectly subsidizing by not putting labor and environmental standards on their workers and disadvantaging those countries that do care about those things.

Mr. BROWN. Dr. Roberts.

Mr. ROBERTS. Yes, I am glad to add Paul Samuelson to the illustrious list of economist who have been mentioned today and would love to see—if you would please send me that paper, I would be anxious to see it.

On the comment on the steel workers and the steel industry, we do have different standards than the rest of the world, but, of course, many U.S. steel producers compete very effectively with those standards in place. The mini-mills, for example, through innovation and technological creativity were able to be competitive with the rest of the world. Unfortunately, the large steel mills——

Mr. BROWN. The question is not about the steel mills; the question is should Central American countries have the same environmental standards as we do——

Mr. ROBERTS. I think not. I think not because we would impoverish them if we did. The reason they don't have the same standards we do is because they are much poorer than we are and they can't afford the same standards that we do. To impose those standards on them is to keep them poor. And I think that is a cruel policy. And I think we can compete in the face of that disparate regulatory environment as the mini-mills have shown we can do. So I think it would be a mistake to force them to live by our standards.

Mr. BROWN. Mr. Murphy.

Mr. MURPHY. I think one of the interesting ways to look at the choice that the Congress faces is to think about the different outcomes if DR-CAFTA is approved or rejected. If the agreement is rejected, and I think this goes to the question here, it is American businesses and workers and farmers who will continue to face these high barriers to their exports while the Central Americans will not. It is interesting to look at the working conditions of the workers in Central America. What incentive would the governments have to improve their working conditions? To say nothing of the fact that increased competition in the global economy, especially in the apparel and textile industry, is only going to increase. And without CAFTA they will have even fewer resources and a lessened ability to stay competitive and hold onto the markets that they have. I do think that there is a clear fork in the road there.

Mr. BROWN. Mr. Waskow, if you would answer also. Thank you.

Mr. WASKOW. Sure. Well, let me begin by saying that I think from the perspective of our colleagues in Central America, the cruelty—cruelty was just referred to—the cruelty would be for citizens in those countries to continue to face serious water and air pollution, to see their forests deforested, to see small sustainable farmers pushed off their lands. That is the cruelty from the perspective of our colleagues.

And I think one of the great ironies in this agreement is the fact that the investor suit rules give companies, foreign companies, an opportunity to essentially place a lid on the standards to which those countries can aspire. Because a country, if it senses a threat of a lawsuit from a foreign investor under these rules before an international tribunal, it is quite unlikely, when they know that millions of dollars in defense costs would be involved and possible compensation paid, even greater amounts, that country, I think, is quite unlikely to be ready at a moment's notice to go forward with environmental standards. And so what I think we see with this agreement in fact is an imposed cruelty because the investor suit standards cap what it is that Central Americans can do for their environment.

Mr. STEARNS. Thank you. Mr. Gonzalez.

Mr. GONZALEZ. Thank you, Mr. Chairman. And the first question will go to Dr. Roberts. And I think what we are always discussing, and I think, in essence, I agree with some of the theories; it is just that the practice can be brutal. The thing about creative destruction, it just depends if you are part of that that is being created or that segment that is being destroyed at any given point. But it

doesn't mean that things get paralyzed either. We stay in the same place. And those are really hard choices. Like I said earlier, in Texas we always just say it depends whose ox is being gored. And that is, as we can see through the testimony, generally that is what is happening.

I was at a meeting about a month ago at the Greater Houston Partnership, and Dr. Ray Perryman was there. And you are familiar with Dr. Perryman, I believe? You are not? Well, in Texas we don't do anything unless there is an economic study by Dr. Perryman. And so what I asked him was, in the context of free trade agreements, and specifically CAFTA, how much can we realistically accomplish in the way of human rights, workers' rights, and the environment? His answer was really very little. Very little if you don't take into consideration where they are in their economic development. And what he was basically telling me—and I don't want to put words in Dr. Perryman's mouth—was, you know, you guys need to get realistic about how much you can accomplish. Because at one time in our history we had child labor.

Mr. ROBERTS. Sure.

Mr. GONZALEZ. And we didn't have 40-hour weeks. And we polluted the heck out of the air and the water. And if you want to impose these certain conditions on emerging, developing economies, you are crippling them. So you are going to have to be reasonable when you go out there and recognize the realities. Now do you agree with that kind of general assessment of Dr. Perryman?

Mr. ROBERTS. I do. I think the first thing to say though is on the creative destruction point, it is easy to forget how dynamic our economy is. Every quarter, every 3 months, the U.S. economy destroys about eight million jobs for a thousand reasons: companies that take a wrong turn, consumers decide they don't want to buy something, they want low-carb instead of high-fat, trade issues, innovation, productivity changes. Eight million jobs a quarter. But we create about eight million jobs a quarter. When the economy is going well we create more than we destroy.

So that incredible dynamism is really the source of our prosperity and to me gives me a great deal of optimism about our ability to deal with changes that we are talking about or many of the industries we are talking about are very, very small relative to the size of the whole economy.

On the environmental issue I think you are exactly right. When I was in Costa Rica, an incredible awareness there that their future lies with their environment. It is a gorgeous country. They have rainforest, they have beautiful beaches. They want to see tourism, and do see tourism as a tremendous source of their prosperity. They want to protect their environment, but they are very poor. And I think it is very arrogant on our part to try to tell them the pace at which they will make the transformation to what we hope will be a healthier and richer society.

They are a democracy. They are desperately trying to become a successful economy, make an incredible set of transitions that we have already dealt with both environmentally, both in the job market. You know, 25 years ago their main crops were coffee and bananas. And now tourism is probably their—I don't know if it is for

sure their No. 1 export, but I know coffee and bananas are no longer as important as they used to be.

So they understand the world is changing. They are desperately trying to make it happen, and we can't dictate to them what pace they follow, just like we wouldn't like anyone to dictate to us.

Mr. GONZALEZ. Mr. Waskow. And I——

Mr. WASKOW. Thank you for the opportunity.

Mr. GONZALEZ. Sure.

Mr. WASKOW. I think all the evidence to date is that there is really no fundamental conflict between environmental protection and development. In fact countries can benefit themselves—I think Costa Rica is an excellent example—by protecting their environment, that that provides great economic benefit.

I would also add that I agree in a sense that we should not be dictating standards across the board. Unfortunately, I think that the investor suit provisions in the CAFTA agreement do dictate and do place a lid on the kind of environmental protections that countries can seek to put in place. And so I think that is the dictation that is going on if you look at CAFTA, all the chapters in CAFTA.

Mr. GONZALEZ. And I have 19 seconds. And each one of you, your own read, because you always hear that NAFTA was a profound failure. I am from Texas, and I have to tell you that it hasn't been in the State of Texas. And I am taking into consideration what has been going on in Mexico and such.

Was NAFTA a good agreement? And I just—Mr. Roney?

Mr. RONEY. It has been bad for us, Congressman, because it is forcing us to take Mexican sugar and the Mexican sugar industry is half-owned by the government. So this isn't exactly free trade here. Rather than letting their mills go out of business, the government just expropriates them. And now they are trying to send—they want to be able to send us their surplus. And the NAFTA will allow them to. So it has been a bad agreement for us.

Mr. GONZALEZ. Dr. Roberts.

Mr. ROBERTS. Well, your State is one of the few States where you can see the benefits. We all see the costs. We have heard from Representative Brown; we heard from others earlier about how their State lost a certain number of jobs to NAFTA. What we didn't see—they are there. We can't see the jobs that are created because they are not created specifically in NAFTA industries. But when we import stuff that is cheaper, that frees up resources for us to do other things. Those other things that expand and create more jobs, you are not going to be able to identify them as NAFTA jobs. Surely every State that complained about job losses due to NAFTA has increased employment since NAFTA passed. And I think much of that—some of that, not much—a part of that was due to NAFTA; you just can't identify it.

So I think attempts to vilify NAFTA on the job issue are wrong. It didn't create jobs per se; it changed the kind of jobs we did. I think that is good for us, good for Mexico, and the stability of the Mexican democracy I think is the single most important result from that. It is not totally stable obviously. It is not as stable as the United States. But it is much more stable than it was 15 years ago. And I think that is extremely important for us and for them.

Mr. GONZALEZ. Mr. Murphy.

Mr. MURPHY. I think for the United States NAFTA has clearly been a gain. As has been pointed out, you can't see it everywhere because the gains are so broadly distributed. And yet at the same time you look at the past 10 years, we have had a net creation of nearly 20 million jobs in this country. Incomes are rising, not incredibly quickly, but they are rising.

If you look at Mexico, though, it is a country very close to my heart. I lived there for a couple of years. I am struck by basic statistics like seeing the consumption of chicken has doubled in the past decade, the average consumption of chicken. The consumption of pork is up 50 percent. You are beginning to see people start to live better. Mexico came into NAFTA with tremendous rural poverty, and there is still tremendous rural poverty. But you are starting to see changes there, and it is very heartening.

Mr. GONZALEZ. Mr. Waskow.

Mr. WASKOW. I would say there are some marginal benefits, but in general it has been a negative. Continued problems at the borders I am sure you are aware, deforestation and other problems due to major shifts in the agricultural sector in Mexico, and the significant legal and regulatory issues that have been raised by the investor suit rules and other provisions in NAFTA.

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

Mr. STEARNS. Thank you. And we are getting ready to close. I am just going to take the liberty, Dr. Roberts, just to talk to you a little bit more about economics, and you know this better than I do. But there are cases when you—at least Adam Smith in "Wealth of Nations" as I recollect said there is a reason for tariffs. And as I recollect, the three he mentioned was obviously for national security, the second one is to retaliate against those suppliers that flood the market illegally either with the snap-back provisions, and the third is to allow a transition time for those workers who are being replaced so that they can be educated so that they are not thrown out of work and they just sit there with no job. So he mentioned those three in "Wealth of Nations" as I recollect. Do you think there is any other reasons to oppose free trade with tariffs other than those three?

Mr. ROBERTS. Well, in those particular cases, I think he also mentioned—I would be happy to send you the quotes online—he also mentioned the danger of using those arguments because they would likely become abused by the political process as special interests invoke those arguments. I think most economists recognize those as potentially good arguments but understand that in practice they often are exploited.

So for example, I think the steel industry for about the last 120 years has been saying they need just a little more time to adjust to foreign competition. I think it is about time to let them try to stand on their own feet.

In the case of transition, I think the thing that CAFTA does that is generally good is it would be cruel to someone who has had protection to say overnight it is gone. It is important to phase those in slowly, those tariff reductions. I think in that case it makes sense.

Those are the main arguments. On the case of national security I think it is the strongest case. There are very few products in today's world where national security is truly a legitimate issue——

Mr. STEARNS. Do you think——

Mr. ROBERTS. [continuing] on trade protection.

Mr. STEARNS. [continuing] having this country be able to have its own agricultural sector is a national security and a reason——

Mr. ROBERTS. I don't——

Mr. STEARNS. [continuing] for Americans——

Mr. ROBERTS. I don't think so. I think our agricultural policy with respect to tariffs and quotas—with all due respect to the gentleman on my right—makes no sense. There are many, many products that we do not have tariffs and protection for. Because we buy them from lots of places that compete with each other, there is no risk that we will be exploited by an enemy. And somehow those products arrive at our groceries in great abundance even though they are not subsidized, even though they are not protected, even though they are not taken care of by a government policy. Self-interest on the part of farmers and consumers makes sure that those products are there in great abundance. So I don't see any reason of why we have to worry about that as a national security issue.

Mr. STEARNS. Okay. Well, I am going to close the hearing and thank all of you. I think the debate today has clearly demonstrated the complexities of trade agreements, and we have seen the pros and cons. And I really encourage my members of the subcommittee to come here objectively to try and get to the facts and not try to look at this relative to any political things. And I think all of you have helped us. I also believe that the United States must be a leader in economic progress, and to a certain extent, the United States has its obligation.

So with that, thank you for waiting through the other two panels. And at this, the subcommittee is adjourned.

[Whereupon, at 3:36 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

PREPARED STATEMENT OF THE RETAIL INDUSTRY LEADERS ASSOCIATION

On behalf of the Retail Industry Leaders Association, we welcome the opportunity to submit written comments for the record for this important hearing on the United States-Dominican Republic-Central American Free Trade Agreement (DR-CAFTA), now coming before the Congress for implementation. We strongly support the DR-CAFTA agreement and urge swift Congressional passage of the implementing legislation.

By way of background, the Retail Industry Leaders Association (RILA) represents the nation's most successful and innovative retailer and supplier companies—the leaders of the retail industry. As a sector, retail is the second largest industry in the U.S., employing 12 percent of the nation's total workforce and conducting $3.8 trillion in annual sales. RILA's retail and product supplier companies operate 100,000 stores, manufacturing facilities and distribution centers in every congressional district in every state, as well as internationally. They pay billions in federal, state and local taxes and collect and remit billions more in sales taxes. They are also leading corporate citizens with some of the nation's most far-reaching community outreach and corporate social responsibility initiatives.

RILA fully believes that passage of this agreement will:

- *benefit* the U.S. economy—producers and consumers alike;
- *strengthen* freedom and security in our Hemisphere;
- *improve* working conditions;
- *activate* critically important textile-apparel-footwear provisions; and
- *enhance* the legal framework for retail and distribution services.

THE DR-CAFTA WILL BENEFIT THE U.S. ECONOMY—PRODUCERS AND CONSUMERS ALIKE

Central America and the Dominican Republic make up the second-largest U.S. export market in Latin America, behind only Mexico. U.S. sales in the region exceed $15 billion annually—more than is sold to Russia, India and Indonesia combined—a result achieved in the absence of reciprocal trade liberalization. Upon full implementation of the agreement, U.S. goods will be able to enter the participating countries duty free. In fact, 80% of the commercial goods will become duty free once the agreement is implemented, with the rest phased out over a ten-year period. This will help to significantly increase U.S. exports of farm products, manufactured goods and services to the region. According to a report by the International Trade Commission on the economic impact of the agreement, once the agreement is fully implemented, exports will grow by nearly $2.7 billion.

In addition to increased benefits for U.S. exporters, U.S. importers and their customers will benefit from implementation of the DR-CAFTA as well. Most Central American products already enter the United States duty-free, under preference programs such as the Caribbean Basin Trade Partnership Act (CBTPA). Enshrining this treatment in an international agreement with reciprocal obligations will provide added commercial security as well as a firmer legal basis under WTO rules. This aspect of the FTA is in effect a tax cut targeted to those consumers who need it most.

THE DR-CAFTA WILL STRENGTHEN FREEDOM AND SECURITY IN OUR HEMISPHERE

Within recent memory, conditions in Central America have featured civil war, chaos, dictators, and Communist insurgencies. Today, the region is one of fragile democracies that need U.S. support. Elected leaders are embracing freedom and economic reform, fighting corruption, and supporting U.S. anti-narcotics and anti-terrorism efforts. But this positive momentum cannot be taken for granted. Opponents of reform in the region remain strong.

By implementing the DR-CAFTA, the United States can demonstrate its support for freedom, democracy, the rule of law, and economic reform in Central America. Doing so will bolster U.S. security in various ways. The new economic opportunities will reduce the pressures that help produce illegal narcotics activity and illegal immigration.

THE DR-CAFTA TAKES THE RIGHT APPROACH ON WORKING CONDITIONS

America's retailers are committed to careful supply chain management and high ethical standards of corporate conduct in international sourcing. This applies to products sourced in not just in Central America, but around the world. Our experience with the DR-CAFTA countries has shown that they share these values and high standards, including the field of labor rights. Their constitutions and national laws generally provide strong labor protections consistent with the International Labor Organization's four "core principles." Indeed, labor protections in these countries are largely in line with those in Morocco and Jordan, whose accession to the status of "FTA partner" gained overwhelming Congressional approval in recent years.

The DR-CAFTA will promote economic opportunities and growth that are likely to become powerful catalysts for improved working conditions in the region. Through capacity-building and dispute settlement, the DR-CAFTA will also address those circumstances where better enforcement of existing labor laws proves necessary.

THE DR-CAFTA'S TEXTILE-APPAREL-FOOTWEAR PROVISIONS WILL BENEFIT CONSUMERS AND PRODUCERS THROUGHOUT THE VALUE CHAIN

The textile and apparel product category is a hugely important component of U.S.-Central American trade, and retailers are committed to finding the best available combination of speed-to-market, product price, and quality of products for their consumers. U.S. consumers will benefit from several innovative DR-CAFTA provisions promoted by retailers to add needed flexibility to the outdated "yarn forward" rule of origin. Moreover, qualifying textile and apparel products are to be afforded immediate U.S. duty free treatment.

Retailers are also quite interested in the health of regional textile and apparel producers—our valued suppliers. The DR-CAFTA is strategically designed to improve their competitive situation at a time when, following the expiration of global textile and apparel quotas, they face a formidable challenge from outside the hemisphere, most notably China. The DR-CAFTA will provide regional garment-makers—and their U.S. suppliers of fabric, yarn and other components—a boost in com-

peting with Asian producers and will support an estimated 400,000 jobs in the DR-CAFTA countries and 700,000 jobs in the U.S. cotton, yarn, textile and apparel sectors.

In addition to benefits for textiles and apparel, there are significant benefits for footwear imports in the DR-CAFTA. A solid consensus in all segments of footwear manufacturing and retailing favors immediate duty-free treatment for footwear traded among the DR-CAFTA countries, excluding a few import-sensitive tariff lines. By delivering this outcome, the DR-CAFTA lays the groundwork for increased trade and investment in the footwear sector, supports retailer strategies designed to maintain geographically diverse sourcing options, provides substantial benefits to consumers, and poses no risk to U.S. footwear production.

THE DR-CAFTA ENHANCES THE LEGAL FRAMEWORK FOR RETAIL/DISTRIBUTION SERVICES

For the first time in a trade agreement, the DR-CAFTA addresses restrictions on distribution created through restrictive dealer protection regimes. Such regimes are prevalent in Central America today and have locked U.S. companies and products into inefficient, exclusive and effectively permanent relationships with local dealers regardless of performance. DR-CAFTA rules would require dealer distribution agreements to permit parties to terminate at the end of the contract or renewal period without indemnification. These rules will promote more efficient distribution for U.S. companies and products in the DR-CAFTA region.

THE DR-CAFTA, ONCE IMPLEMENTED, CAN BE IMPROVED OVER TIME

No FTA is perfect, and as with other FTAs, experience under the DR-CAFTA may reveal opportunities for useful adjustments in areas like rules of origin, accelerated tariff phase-out, etc. Some improvements may require the negotiated approval of all the DR-CAFTA parties; others may be of the type the United States can make unilaterally. The implementing legislation should establish a flexible and streamlined framework for making such adjustments over time, using available tools such as proclamation authority and consultation/layover.

RILA congratulates the Energy and Commerce Committee for turning its attention to this important agreement, and stands ready to assist as the implementation process moves forward. If you have any questions, please contact Lori Denham, Senior Vice President Policy and Planning, Paul T. Kelly, Senior Vice President, Federal and State Government Affairs or Jonathan Gold, Vice President Global Supply Chain Policy.

PREPARED STATEMENT OF LORI WALLACH, DIRECTOR, PUBLIC CITIZEN'S GLOBAL TRADE WATCH

On behalf of Public Citizen's 200,000 members, I thank the Committee for the opportunity to share my organization's views on the proposed Central America Free Trade Agreement (CAFTA) NAFTA expansion. Public Citizen is a nonprofit citizen research, lobbying and litigation group based in Washington, D.C. with offices Austin, TX and Oakland, CA. Public Citizen, founded in 1971, accepts no government nor corporate funds. Global Trade Watch is the division of Public Citizen founded in 1995 that focuses on government and corporate accountability in the globalization and trade arena.

CAFTA, signed in May 2004, would expand the economic model established in the North American Free Trade Agreement (NAFTA) to five Central American countries and the Dominican Republic. If approved, CAFTA, like NAFTA, would require its signatory countries to conform their domestic policies and practices to a broad array of non-trade dictates, for example regarding the regulation of service sector companies and foreign investors' operations in other economic sectors operating within a signatory nation's territory. It would require signatories to provide certain patent medicine and seed protections that have been criticized by health and consumer groups worldwide as undermining consumers' access to these essential "goods." It even sets constraints on how countries and other political entities may spend their own tax revenues. In addition, CAFTA contains the same model of interconnected trade rules and foreign investor protections that together create incentives that motivate business operations seek out the most profitable sites and processes for production, even if these are often contrary to the public interest.

An analysis of CAFTA's provisions reveals that it replicated NAFTA's provisions to a high degree—often with identical language. Thus, there is much that we can learn from the 11-year record of NAFTA, which CAFTA would expand to additional nations.

1. CAFTA NAFTA Expansion is an Outsourcing Agreement: Eleven-Year Record Demonstrates that the NAFTA Model Lowered Living Standards on Both Sides of the Border

Since 1994, the United States has lost nearly 1 million jobs on net due to NAFTA trade,[1] with one in six U.S. manufacturing jobs being eliminated during the NAFTA decade.[2] U.S. income and wage inequality have gone up markedly, with the ratio of both income and wages of the top five percent of the income and wage distribution growing nearly 10 percent since NAFTA alone as compared with the bottom 20 percent.[3] The U.S. real median wage has scarcely risen above its 1970 level, resulting in declining or stagnant standards of living for the nearly 70 percent of the U.S. population that does not have a college degree.[4] During the NAFTA era, the U.S. trade deficit has risen to historic levels, and approaches six percent of national income—a figure widely agreed to be unsustainable, putting the U.S. economy at risk of lowered income growth.[5] The U.S. trade balance with NAFTA countries alone went from a mild surplus with Mexico and mild deficit with Canada to a ballooning deficit with the two countries exceeding $110 billion in 2004.[6]

For our neighbors in Mexico, the economic outcomes of eleven years of NAFTA are not brighter. Over 1.5 million Mexican *campesino* farmers lost their livelihoods to the dumping of commodities such as corn as a result of NAFTA's agricultural rules,[7] while the Mexican minimum wage has lost 20 percent of its value in real terms, and the median industrial wage 10 percent of its value[8]. The jobs that were temporarily created in the country's *maquiladora* sector in NAFTA's initial years, as plants relocated from the United States, are increasingly relocating and losing market share to lower wage countries such as China.[9]

In both countries, the increased ability of companies to nearly effortlessly relocate production to lower wage countries—(as NAFTA's investor protections forbid the policies a country like Mexico might otherwise use to root foreign direct investment for development)—has tilted the playing field against the majority of the working population who are finding it ever more difficult to obtain and maintain quality employment. Meanwhile, studies commissioned by the U.S. government show that as many as 62 percent of U.S. union drives face employer threats to relocate, with over 10 percent of such threats specifically referring to a relocation to Mexico. The actual factory shut-down rate following successful union certifications tripled in the years after NAFTA relative to the years before.[10]

2. Contradicting Congress' Demand that Trade Pacts Give Foreign Investors "No Greater Rights" within the U.S. than Available to U.S. Citizens, CAFTA Extends NAFTA's Special Protections for Foreign Investors that Expose U.S. Taxpayer Funds to Claims in Closed Trade Tribunals

The changes described above in the NAFTA country labor markets are supported by the granting in NAFTA and CAFTA of special rights and privileges to foreign investors from one signatory country operating in another. In NAFTA, these rights are contained in Chapter 11, which also provides for foreign investors' private enforcement of these new privileges through so-called investor-state dispute resolution, a controversial mechanism also included in CAFTA. The investor-state system allows corporations to sue governments for cash compensation before closed trade tribunals for claims based on signatory countries' policies that may or may not have a demonstrable economic impact on their expected future earnings. The provisions afford foreign investors operating in the United States greater rights than those available to U.S. citizens and businesses under the U.S. Constitution as interpreted by the U.S. Supreme Court. Thus far, 42 cases have been brought before the NAFTA investor-state tribunals, 11 have been finalized, and some $35 million in taxpayer funds have been granted to five corporations that have succeeded with their claims. An additional $28 billion has been claimed from investors in all three NAFTA nations in cases attacking the most basic functions of government. The U.S. government's legal costs for the defense of just such recent case topped $3 million, and seven cases against the United States are currently in active arbitration.

While ostensibly, NAFTA's investor protections were designed to ensure compensation if property is nationalized by a NAFTA government, only one of the 42 known NAFTA "Chapter 11" cases filed to date involve expropriation. Instead, investors have challenged domestic court rulings, water rights, local and state environmental policies, municipal contracts, tax policy, controlled substances rules, anti-gambling policies, emergency efforts to halt the spread of mad cow disease, and even provision of public postal services.

Given that these extraordinary investor rights and their private enforcement had not been part of any previous U.S. trade agreement, and that many Members of Congress did not understand these implications at the time when NAFTA was enacted in 1993, the record of NAFTA's Chapter 11 has generated enormous con-

troversy. Thus in order to obtain a congressional delegation of Fast Track Trade Authority in 2002, the administration offered to address Congress' concerns. Fast Track thus specified that in future U.S. trade agreements, foreign investors should not have "greater substantive rights with respect to investment protections than United States investors in the United States." [11]

Unfortunately, the Executive Branch negotiators failed to meet Congress' requirements. In CAFTA's Chapter 10 foreign investor protections and investor-state mechanism actually amplify many of the problems Congress identified with NAFTA.

• **CAFTA Would Allow Compensation to Foreign Investors in "Regulatory Takings" and "Minimum Standard of Treatment" Cases not Permitted by U.S. Law:** CAFTA includes the NAFTA language that requires foreign investors be compensated for "indirect expropriation." This provision has been the basis for an array of cases that would not be permitted under U.S. law, including regulatory takings cases. In one such case, Metalclad Corporation obtained $16 million from the Mexican Treasury after being denied a permit to expand a toxic waste facility until it cleaned up existing contamination.[12] Several additional CAFTA provisions promote regulatory takings cases not allowed under U.S. law. For instance, the Supreme Court has ruled that "mere diminution in the value of property, however serious, is insufficient to demonstrate a taking" [13] and that the entire property must be affected permanently. In contrast, NAFTA Chapter 11 tribunals have found that a government action need only cause "significant" or "substantial" impairment of an investment's value to qualify as a taking.[14] For instance, the Metalclad tribunal held that "expropriation under NAFTA includes not only open, deliberate and acknowledged takings of property . . . but also covert or incidental interference with the use of property which has the effect of depriving the owners in whole or significant part, of the use or reasonably-to-be-expected economic benefit of property." [15] USTR failed to remedy this problem in CAFTA.

To make matters worse, CAFTA allows such claims regarding types of property not subject to takings action under U.S. law. U.S. law deems public interest policies governing personal property (property other than land) to be legitimate exercises of police powers and exempt from takings claims. In contrast, CAFTA's broad definition of what categories of property are subject to compensation claims includes an array of non-real estate property such as assumption of risk and also bonds, loans, stocks, and intellectual property rights.

In response to criticism that investment rules in CAFTA allow for broad regulatory takings claims, the USTR will likely point to CAFTA, Annex 10-C, which reads: "Except in rare circumstances, nondiscriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment, do not constitute indirect expropriations." [16] Unfortunately, this language has precisely the opposite effect claimed. This language enshrines the right of foreign investors to challenge a wide array of public health and safety regulations not be subject to U.S. taking claims. U.S. law safeguards all public interest regulations governing personal property, yet this language reiterates that such policies are subject to CAFTA challenge. Moreover, the U.S. government would have no capacity to affect whether such cases are brought only in "rare" circumstances. Foreign investors decide whether to file these cases. (And, the U.S. legal defense cost for just one such case, Methenex's attack on California's ban on the gasoline additive MTBE, has already cost $3 million in U.S. taxpayer funds.) Further, the ultimate decision whether or not to grant compensation in such challenges remains with investor-state tribunals on a case-by-case basis. Moreover, when deciding such cases, tribunals will reference other specific provisions of CAFTA that directly conflicts with the Annex's general language. There have been numerous NAFTA cases involving toxic substances, including Phillip Morris' threat against a proposed Canadian tobacco control law, and Canadian cattlemen's NAFTA challenge of U.S. actions to prevent entry into the U.S. of mad cow disease. To avoid future such cases and to bring CAFTA into conformity with U.S. takings law, the scope of property subject to such claims in CAFTA needed to have been limited to real estate and the "indirect expropriation" language needed to have been eliminated, or at least defined in the context of U.S. takings standards that require that virtually all of a property's value must be taken permanently to obtain compensation.

• **CAFTA Would Allow Compensation to Foreign Investors in Cases in which U.S. Law Only Permits Injunctive Relief:** Under U.S. law, both foreign and domestic firms can sue under the Due Process or Equal Protection Clauses of the Constitution for injunctive relief, but they are not allowed to sue for monetary relief. Under NAFTA's investment rules—and under CAFTA were it to be approved—foreign investors are empowered to sue for monetary relief on similar grounds. CAFTA extends this NAFTA problem by allowing foreign investors to ob-

tain taxpayer compensation not only for claims of expropriation, but also based on national treatment (non-discrimination) and "fair and equitable treatment" claims—which are the trade agreement equivalent to Due Process or Equal Protection Clauses claims in U.S. law.

• **CAFTA Would Eviscerate the Long-established Principle that Governments Can Remedy a "Nuisance" without Compensating Polluters:** The expansive definition in CAFTA of what sorts of foreign investments are subject to compensation covers government actions to prevent a public nuisance. Given the record of the related NAFTA provisions, this element of CAFTA is likely to generate further claims by chemical companies attempting to combat environmental regulation. Under NAFTA, foreign investors are demanding compensation for California's ban of the gasoline additive MTBE which has been found to be polluting scarce water resources in the state and for California's open pit mining reclamation law. Yet, under the U.S. Supreme Court holding in *Lucas v. South Carolina Coastal Council,* pollution that harms public or other properties is a nuisance that can be regulated by states without compensation.[17] USTR failed to remedy this problem in CAFTA.

• **CAFTA Would Empower Foreign Investors to Overcome the Long-established Sovereign Immunity Shield to Pursue U.S. Taxpayer Compensation In Property Claims from which U.S. Residents and Companies Are Barred:** NAFTA panels have explicitly refused to dismiss investor challenges when governments have raised sovereign immunity as a defense in investor-state challenges—apparently allowing firms to sue governments at any level regarding any issue for any amount of money. Indeed, in these cases, investor-state tribunals have accepted the argument raised by some foreign investors that Congress waived federal sovereign immunity when it passed NAFTA. USTR failed to remedy this problem in CAFTA with explicit language clarifying that sovereign immunity was not waived, thus providing an open door for future such challenges.

3. CAFTA Would Forbid Congressional, States' Anti-Offshoring Policies that Require Government Contract Work be Done by U.S. Workers; Forbids Environmental, Other Procurement Rules

CAFTA's rules on government procurement apply to an array of federal government agencies as well as the states that are listed as "covered entities" in Chapter 9, Annex 9.12 (b) (i). In September 2003, the United States Trade Representative sent a letter to all 50 governors, requesting that they commit their states to be bound by the procurement provisions in all bilateral and regional trade pacts under negotiation, including CAFTA. The letter touted the potential for U.S. suppliers to bid on foreign government contracts, but failed to mention the requirements the procurement chapters CAFTA and other agreements imposed on states. Initially, twenty eight states were listed as bound in the CAFTA text. However, since then, state officials have become much more aware of the implications that binding state procurement policy to CAFTA's rules would have on their ability to determine what procurement policies are in the best interests of the state, including policies that use state purchasing power to further social, environmental, and economic development goals.

As a result, a majority of U.S. states (30) have rejected CAFTA's government procurement rules and decided it is not in their best interest to be bound. In 2004, seven governors (from Iowa, Kansas, Maine, Minnesota, Missouri, Oregon, and Pennsylvania) rescinded their previous commitments on behalf of their states to be bound to CAFTA's procurement rules. Other states (Montana, Nevada, Wisconsin, and Virginia) declined the USTR's request outright. Governors of states that remain bound by CAFTA, including Texas and Washington, have requested that additional reservations be taken. (Only some of those requests have been incorporated into the CAFTA text. Washington's request was rejected in an August 13, 2004 letter from Ambassador Zoellick to Washington Governor Gary Locke.) In early 2005, the National Conference of State Legislatures wrote to the USTR, requesting that the USTR respond to the myriad concerns of state legislators. The Intergovernmental Policy Advisory Committee (IGPAC) issued recommendations in August 2004 that state legislative leaders be carbon copied on all requests sent to governors, as state legislators to date have been cut out of the consultation process, despite the fact that in most states, the Legislative Branch has the authority to set state procurement policy. The USTR explicitly denied that request, and sent another letter to governors requesting that they sign on to the procurement provisions of free trade agreements with Panama and Andean countries. Most recently, in April 2005, the Maryland General Assembly passed legislation over Governor Ehrlich's veto which stipulated that it was the authority of the legislature, not the Governor, to sign on to the government procurement rules in trade pacts. The bill also declared invalid

previous expressions of consent made by governors, including Governor Ehrlich's letter offering to bind Maryland to CAFTA's procurement provisions.

State officials' concerns stem from the restrictions that CAFTA's rules impose on their ability to maintain existing and adopt new procurement policies in the public interest. CAFTA's procurement chapter prohibits many common purchasing policies, seriously weakening governments' flexibility to use procurement as policy tool to promote economic development, environmental sustainability, and human rights. These rules also apply to federal government procurement policies:

• **Requirements that Government Work Be Performed in the United States by U.S. Workers Are Prohibited:** If CAFTA were approved, federal and state governments would be required to treat companies located in the six CAFTA countries identically to U.S. domestic companies when governments seek to procure goods and services. This means neither Congress nor state governments could give preference to domestic or local firms or require that to obtain government contracts, firms must employ U.S. workers (CAFTA Article 9.2).

• **Sweat-Free, Recycled Content, Renewable Source and Other Labor and Environmental Criteria Banned:** CAFTA requires that "a procuring entity shall not prepare, adopt or apply any technical specification describing a good or service with the purpose or the effect of creating unnecessary obstacles to trade" and that technical specifications are limited to "performance requirements rather than design or descriptive characteristics." These constraints mean that procurement policies that set criteria for how a good is made or how a service is provided are prohibited—putting preferences for recycled content or renewable energy, "green" building requirements, and bans on goods made with the worst forms of child or slave labor at risk as "barriers to trade" (CAFTA Article 9.7).

• **Consideration of Bidding Firms' Labor, Tax, Environmental, Human Rights Records Forbidden:** CAFTA limits what sorts of qualifications may be required of companies seeking to supply a good or service to a government. Conditions for participation in bidding are limited to "those that are essential to ensure that the supplier has the legal, technical and financial abilities to fulfill the requirements and technical specifications of the procurement." CAFTA's limits on the requirements that can be imposed on contractors prohibit conditions such as prevailing wage and living wage requirements, as well as consideration of suppliers' environmental or labor track records (CAFTA Article 9.8).

4. Opposition to CAFTA NAFTA Expansion Wide and Varied, Having Grown Since NAFTA

As successive administrations have failed to reverse the damage and demonstrated, significant problems of NAFTA's foreign investor protection model, opposition has grown in all quarters. The Association of State Supreme Court Justices, U.S. League of Cities, National Conference of State Legislatures, National Association of Counties, and National Association of Towns and Townships all have expressed concerns about the investment provisions of CAFTA.

Concerns about CAFTA's foreign investor protection by these typically pro "free trade" associations of state and local officials, groups that are concerned about our nation's system of federalism and the integrity of our domestic courts, has been joined by outright opposition to CAFTA from other unexpected quarters, suggesting the degree to which this agreement signed a year ago is seen not to serve the U.S. national interest. The National Association of State Departments of Agriculture, for one, concerned about CAFTA's agricultural provisions called on Congress to oppose CAFTA.[18] These and other agricultural groups are concerned about declining farm revenue even as volumes of food trade increased under NAFTA, and that the United States is about to become a net food importer. Furthermore, these groups take to heart the claims of pro-CAFTA forces, who continually repeat that CAFTA is a stepping stone to a proposed broader Free Trade Area of the Americas (FTAA).[19] Many U.S. economic sectors views of CAFTA are tied to their analysis of how competition with Brazil in a NAFTA expansion from Alaska to Tierra del Fuego would affect their export capacity in beef, soy, citrus, sugar and ethanol.

Many other groups have also expressed opposition to CAFTA NAFTA expansion. Human Rights Watch has produced analyses of the failure of Central American labor law and enforcement practices to meet the minimal International Labor Organization core labor standards,[20] an analysis that has been confirmed by the U.S. Department of State's annual human rights reports.[21]

And U.S. Latino organizations who supported NAFTA, from the nation's largest and oldest Hispanic civil rights organization the League of United Latin American Citizens to an array of immigrant rights groups representing Central Americans in the United States, have also indicated their opposition the current terms of the agreement, concerned that trade-related job loss disproportionately affects U.S.

Latinos and that CAFTA's negative repercussions for Central America are foretold by NAFTA's negative results in Mexico.[22]

5. Central American Public Opposition to CAFTA NAFTA Expansion Is Based on NAFTA's Record of Destroying the livelihoods of 1.5 Million Mexican Small Farmers and U.S. Heavy-Handed Tactics Forcing Price-Raising Medicine Policies, Essential Service Privatizations

Lawmakers concerned about the implications of the so-called "Arab Street" in the Middle East should also pay attention to the passionate CAFTA opposition on the "Latin Street" of Central America. Nearly one out of every 25 El Salvadorans have publicly rallied against CAFTA in the past several years, and polls indicate that a majority of citizens in Guatemala and elsewhere oppose the terms of CAFTA.[23] In Honduras, Guatemala and Nicaragua, massive protests have also occurred against CAFTA, while it is unclear if Costa Rica's congress will approve the deal.[24]

Officials from the U.S. Trade Representative's office have taken to threatening Costa Rica that if the democratically-elected Congress there determines the pact is not in their nation's interest and rejects it, the United States will remove that nation's existing terms of access to the U.S. market provided under the Caribbean Basin Initiative (CBI). These threats continue today despite the March 2005 letter by Ways and Means Committee Ranking Member Charles Rangel (D-NY) calling upon the administration to desist these misleading pronouncements. As Rep. Rangel's letter pointed out, CBI is a "congressionally mandated program [whose] benefits are guaranteed on a permanent basis, unless the Congress amends current U.S. law." The representative said he would oppose such an amendement of U.S. law, characterizing the administration's remarks as "thinly veiled blackmail."[25]

Regardless of the Administration's bullying and disrespectful treatment of some CAFTA countries, certainly Congress would be concerned with the underlying cause of such passionate opposition to CAFTA in Central America—opposition whose protests have been met with increasing violence by governments. This includes the murder by military troops in Guatemala of two Mayan protestors—an act of military violence by the army explicitly forbidden in the 1996 peace accords.[26]

The causes of opposition include CAFTA's service sector rules, which would require these nations to privatize and deregulate numerous essential services such as energy and other utilities, health care and more, as well as foreign investor protections, which would create a new set of rights for foreign investors to acquire ownership over natural resources and land and pharmaceutical patent requirements, including extended data exclusion terms, which would hurt poor people's access to medicines and take Central American governments' abilities to respond to public health crises such as HIV-AIDS. Fury about these severe threats has been exacerbated by the administration's heavy handed tactics, for instance in pressuring Guatemala to rescind a law that would have improved access to generic, life-saving medicines or in threatening Costa Rica with removal of CBI benefits.[27]

Now major Central American political parties, Catholic bishops, the Central American Council of Churches and other mainstream, important Central American interests have come out against CAFTA as a threat to the region. In addition, eighteen of the most democratic, independent and representative union federations throughout Central America representing workers in the private and public sector, including in export-oriented manufacturing and agriculture, have demanded stronger workers rights than those provided under CAFTA.[28] They have noted that the existing CBI arrangement affords concerned citizens with the International Labor Organization core rights and with the greater ability to improve Central American labor law than the proposed CAFTA's roll-back CBI labor provisions.

6. Given the NAFTA Record and Growing Central American Public Opposition, CAFTA Supporters Resort to Increasingly Dubious Arguments'

Given this broadscale U.S. and Central American opposition to a NAFTA expansion, pro-CAFTA forces have increasingly resorted to disconnected arguments and exaggerated and misrepresentative claims about the agreement. For instance, the U.S. Chamber of Commerce has produced a flawed study projecting U.S. economic gains from a Central America agreement. But to obtain that conclusion, the Chamber had to assume that—contrary to the history of every trade agreement the United States has signed—the United States would receive no new imports from the CAFTA countries if the pact went into effect.[29] The study's methodology additionally implies that over 80 percent of the Honduran economy would have to absorbed by U.S. exports by 2013, a potentially socially and economically destabilizing outcome if true.[30]

Despite this projection that Central American countries would not gain from a CAFTA, pro-CAFTA forces have simultaneously asserted that CAFTA would save

the U.S. and Central American textile industries from the end of the global textile and apparel quota system.[31] Here too, their claims are wildly misleading, since experts from the U.S. International Trade Commission to the Organization for Economic Cooperation and Development (OECD) have demonstrated that China enjoys a significant technological, wage and input cost advantage over the Central American countries. This means that, with or without a CAFTA, the expiration of the Multi Fiber Arrangement quota system will result in Central America losing a great deal of its current production and employment in the textile and apparel industry.

The notion that CAFTA would affect this situation is beyond bizarre. Already under CBI, CAFTA countries' textile and apparel exports enter the United States duty free. CAFTA provides no additional benefit for entry. Indeed, CAFTA loosens the CBI rules of origin, meaning more Chinese goods could enter through CAFTA countries if CAFTA were implemented than are now permitted.

Already, apparel imports from China jumped amount in the first quarter, and by as much as 1,521 percent in some customs categories.[32] While Congress may seek to address this flood of cheap Chinese imports, this is a separate problem than CAFTA and would require a separate solution. The debate around CAFTA is not a question of "whether U.S. workers would rather lose their jobs to China or to Central America," as Carlos Sequeira, Nicaragua's chief CAFTA negotiator put it.[33] Congress should instead focus on the flaws of CAFTA, which would loosen CBI's requirement that U.S. inputs be used to enjoy duty-free access to the U.S. market and undermine CBI's labor rights protections, while still not proffering to the dying Central American industry any access benefits that they do not already enjoy through CBI.

CONCLUSION

The bottomline in Congress' consideration of CAFTA should be whether extending the NAFTA model will help us create a brighter future for our children and grandchildren. Even considering only the well-documented NAFTA record of undermining the livelihoods of 1.5 million Mexican farmers, suppressing real median wages in the United States and Mexico, gutting the U.S. manufacturing base, coinciding with record-low prices paid farmers for the food they produce in all three countries even while consumer prices increased, and exposing some 42 domestic environmental, health, zoning and laws and regulations to attack in closed investor-state tribunals and the payment of some $35 million in taxpayer funds to foreign investors for the lost NAFTA-guaranteed profits they lost, it seems quite clear the answer is no. If one adds to the NAFTA evidence the problems caused by the CAFTA provisions that go beyond even what NAFTA requires—for instance in the foreign investor protections chapter or regarding drug patents—the answer becomes only clearer.

As a group that works with consumer organizations around the world, we would urge Congress to oppose this agreement simply on the basis of its intellectual property rules which are certain to undermine affordable access to essential medicines for poor consumers in the Central America. Many other organizations are submitted testimony about these scandalous provisions of CAFTA NAFTA expansion. At issue are life or death matters: generic versions of the cocktail of anti-retroviral drugs essential to extending the lives of those infected with HIV cost several hundred dollars for a yearlong course while the brand name patented version of the same drugs cost $5,000 per year. If the CAFTA drug patent rules would go into effect in the Central American countries and the Dominican Republic, many people now able to have access to these life saving HIV-AIDS medicines and also drugs vital to fighting tuberculosis and other deseases will not have access to these medicines—either because they cannot afford to purchase them or because their government health agencies cannot afford them to provide to their public.

Thus given CAFTA NAFTA expansion's potential extension of the failures of NAFTA to people in six additional nations and the damage to U.S. residents that further extension of this model would pose, we urge Congress to oppose NAFTA's expansion to Central America and beyond.

Endnotes

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[14] Interim Award by Arbitral Tribunal, In the Matter of an Arbitration Under Chapter 11 of the North American Free Trade Agreement between Pope & Talbot Inc. and the Government of Canada, United Nations Commission on International Trade Law, Jun. 26, 2000, at 37; Award, Before the Arbitral Tribunal constituted Under Chapter 11 of the North American Free Trade Agreement, *Metalclad Corporation v. the United Mexican States,* International Centre for Settlement of Investment Disputes (Additional Facility), Aug. 25, 2000, at 28. The Metalclad panel stated that expropriation under NAFTA "includes not only open, deliberate and acknowledged takings of property such as outright seizure or formal or obligatory transfer of title in favor of the host state, but also covert or incidental interference with the use of property which has the effect of depriving the owner in whole or in significant part of the reasonably-to-be-expected economic benefit of the property."

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