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U.S. TRADE AGENDA

HEARING

BEFORE THE

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

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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U.S. TRADE AGENDA

WEDNESDAY, FEBRUARY 14, 2007

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

The Committee met, pursuant to notice, at 10:00 a.m., in room 1100, Longworth House Office Building, Hon. Chairman Rangel (Chairman of the Committee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
February 07, 2007
FC–9

CONTACT: (202) 225–1721

Rangel Announces Hearing on the U.S. Trade Agenda

House Ways and Means Committee Chairman Charles B. Rangel (D–NY) today announced that the Committee will hold a hearing on the direction and content of U.S. trade policy. **The hearing will take place on Wednesday, February 14, 2007, in the main Committee hearing room, 1100 Longworth Building, beginning at 10:00 a.m.**

In light of the limited time, the sole witness at this hearing will be the United States Trade Representative, Ambassador Susan C. Schwab. However, any individual or organization not scheduled for an oral appearance may submit a written statement for inclusion in the printed record of the hearing.

BACKGROUND:

Congress and President Bush face a number of significant challenges in formulating a trade policy that maximizes the opportunities and manages the downsides of globalization. Specific challenges include: addressing the persistent failure of a number of major U.S. trading partners, including Japan and China, to live up to their international trade obligations, in order to ensure that U.S. workers, farmers and businesses are competing on a level playing field; finding ways to conclude successfully the long-stalled multilateral trade negotiations at the World Trade Organization (WTO), known as the Doha Round; completing pending U.S. free trade agreements (FTAs), including with South Korea and other agreements, in ways that create meaningful market access opportunities for U.S. workers, businesses, and farmers; addressing remaining issues in completed and pending FTAs in ways that will ensure the benefits of the agreements are broadly shared in the United States and abroad, including addressing labor standards in the FTAs; better integrating the poorest countries into the global economy; addressing trade relations with Cuba; and developing a bipartisan framework to extend presidential trade negotiating authority.

In announcing the hearing, Chairman Rangel stated that: **Congress must be an active partner with the Administration in setting a *new*** course for U.S. trade policy. We must ensure that U.S. policies and agreements promote the interests of the American people, and reflect our shared values. We need a pro-active trade policy that shapes the rules of competition to create new economic opportunities for all Americans, maximizes the benefits of globalization and minimizes the downside, and spreads the benefits broadly in the U.S. and around the world.

FOCUS OF THE HEARING:

The hearing will examine the direction and content of U.S. trade policy, including:

(1) the status of the WTO Doha Round negotiations and the role U.S. positions on agriculture, services, and industrial market access (including non-tariff barriers) have played in the talks; (2) the status of signed and yet-to-be-completed U.S. FTAs, including a review of open issues; (3) the U.S. policy responses to the U.S. trade deficit and debt, including efforts to combat unfair trading practices such as violations of intellectual property rights, currency manipulation, and subsidization; (4) the operation of the WTO Dispute Settlement Body, including a review of recent Appellate Body decisions against the United States; (5) the status of Russia's, and other countries' accession to the WTO; (6) whether U.S. preference programs are effective in promoting growth and economic development, particularly in low-income

and least developed countries, including Haiti; (7) issues related to extension of presidential trade negotiating authority; and (7) other issues.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select 110th Congress from the menu entitled, Committee Hearings (*http://waysandmeans.house.gov/Hearings.asp?congress=18*). Select the hearing for which you would like to submit, and click on the link entitled, Click here to provide a submission for the record. Once you have followed the online instructions, completing all informational forms and clicking submit on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You MUST REPLY to the email and ATTACH your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **Wednesday, February 28, 2007**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

FORMATTING REQUIREMENTS:

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

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

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

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

Chairman RANGEL. Good morning, Ambassador Schwab. We are very pleased that you've been able to overcome the storm and to share your views with us about tax policy.

Mr. McCrery sends his deepest regrets, but the snow prevented him from attending this hearing, but as you know, we've been working very closely with you on a variety of issues, and Mr. Herger will be opening on behalf of the minority this morning.

I have a prepared statement, but as you might suspect, I will be deviating from it because it is my desire to be your new best friend in terms of trying to share with the American people and especially the Congress how important trade is to the United States of America and most recently the impact that it has on democracy throughout the world.

Unfortunately, the thinking about trade has been polarized. It has been my limited experience that the Chamber of Commerce has never seen a trade agreement that they didn't like and Labor has never seen one that they did, but a lot of the reasons why trade gets such a negative feeling is because it's perceived that the negotiations only concern the multinationals—but those who are the victims of globalization don't get the attention that they should get, one, to avoid the loss of jobs and industry, but two, they think that their Government, maybe not your Department, but their Government will be there to be of some assistance to them.

So, it seems to me that when this Committee takes a bill out on the floor, we don't have people saying, "I got my job through the North American Free Trade Agreement (NAFTA), please support the Central American Free Trade Agreement (CAFTA)." We hear the people who say, "I lost my job as a result of the trade agreement."

So, I am very pleased how the Administration and especially you have provided leadership in how we can prove to the American people that yes, there is pain with progress, but our country is not just concerned with agreements for business. We're concerned for businesses that are already in the United States, and we want to help them.

Of course, we're working on language that would not do damage to American trade agreements, but would show that this great country is concerned about at least minimum standards that protect minors and women in having some type of labor laws which, of course, most of the country is agreed to but we have a problem with.

I'd just like to say that while we're not there yet, Mr. Levin and I are very pleased with the willingness of your office and others in the White House to work with Mr. McCrery and me so that we'll be able not to bring problems to the full Committee but to indicate that we've moved as many impediments as we can in order to make certain that agreements that befall us will be considered in a very bipartisan way.

So, I thank you for that, and I would want, before I go to Mr. Herger to yield to the Subcommittee Chair, Mr. Levin, who has devoted so much of his time in trying to get these agreements acceptable to both parties.

Mr. Levin.

Mr. LEVIN. Thank you, Mr. Chairman and Mr. Herger and Ambassador. Let me, if I might, read a statement that I wrote. It's direct. I hope it will be felt constructive, as is intended.

Trade policy is at a new crossroads in our Nation. Ambassador, we appreciate that since November you have increased dialogue with the Democratic majority in the House and with the Republican minority. What is needed now is a clear agreement on changes of approach to vital trade issues.

As you know, Democrats in the House have long held a deep concern about the direction of U.S. trade policy. The Administration's approach has been far too passive in shaping trade agreements and establishing rules in ways that raise standards of living in the U.S. and around the globe, in enforcing trade agreements and in breaking down unfair barriers to U.S. products.

You said on Monday, and I quote, "The equation is quite simple. Trade agreements mean more exports and more exports mean better jobs." We believe the equation is not nearly that simple. Imports matter as well as exports. More is not automatically better. We strongly favor expanded trade, and I think votes have shown that, not as an end in and of itself but as a tool shaping the rules of competition to maximize the benefits and minimize the down sides of globalization.

It is time to craft a new trade policy for this new era of globalization, an activist international trade policy that expands and shapes trade. To do so requires real collaboration, moving beyond too often perfunctory consultation. We believe the pending FTAs represent an excellent opportunity if the Administration is truly willing to change its approach.

As to the Latin American FTAs, our position has been clear and consistent. The text of the agreement must include the five, core International Labor Organization (ILO) standards with a reasonable transition period enforceable like other provisions in the agreement.

As to the pending Korea FTA, our position is firmly held. Among other key outstanding issues, the agreement must knock down the economic iron curtain to American industrial goods including automotive in a measurable way.

As we have discussed, Ambassador, time is of the essence on these and several other issues in the FTAs. The deadline for submitting or resubmitting revised agreements under the current Trade Promotion Authority (TPA) is March 31. Democrats being ready to work to meet this deadline we need to receive concrete proposals on these issues from the Administration, setting standards for international competition and knocking down rigid barriers like those in Korea are the oppositive of "perfectionism" or "isolationism," misguided terms sometimes used to avoid real issues.

A real partnership, and I emphasize this as I close, between this Administration and the new majority and the minority to rebuild the bipartisan foundation for trade is also necessary to address key issues in the World Trade Organization (WTO) round that has faltered. Whether agriculture, industrial policies and non-tariff barriers, services or rules, we Democrats stand ready to proceed with that kind of true partnership, changing policies where necessary for the benefit of U.S. businesses, workers and farmers in the global marketplace.

Mr. Herger, if you would, now present your opening statement.

Mr. HERGER. I thank the gentleman from Michigan, Mr. Levin, and I welcome the Ambassador with us today. Ambassador Schwab, I do want to thank you for joining us today. I think it's crucially important that the Administration continues to discuss the benefits of trade to the American people and our economy and

the important progress you are making to bring down barriers to trade for our many U.S. products.

I'd like to focus on the DOHA Round negotiations at the WTO. We have ambitious expectations for how the United States will benefit from these multilateral negotiations not only in agriculture but also for goods and services liberalization. We should move in a direction that will eventually bring the DOHA Round to a successful conclusion with an agreement that is good for all Americans.

Many are pegging the future of the President's trade promotion authority on the level of success we see over the next few months. I believe we should extend trade promotion authority, and beyond a mere extension only for DOHA. Exports to our FTA partners—our 13 FTA partners, account for an amazing 42 percent of our total annual exports even though these countries only make up 7.3 percent of world Gross Domestic Product (GDP).

TPA is important for future bilateral trade agreements, but also because we know that other countries are aggressively pursuing expanded trade, such as the European Union (EU) and China. If we allow TPA to expire, we would be foregoing a competitive edge as these countries expand their trade relationships and leave U.S. producers and consumers behind.

As we continue to discuss the WTO with respect to agriculture, I think the central issue will continue to be market access. We have to insure that the concessions we made to reduce our trade-distorting domestic subsidies are reciprocated through meaningful new market access in places like Europe, Japan and Brazil by eliminating tariff and non-tariff barriers.

Beef and rice offer a good example. The EU market has been closed to U.S. beef because of a non-science-based ban which the WTO has deemed illegal. We also have a push for renewed beef exports to countries like Japan, China and Korea, which restrict our access in violation of international standards.

The EU also restricts our rice exports, blocking shipments through import restrictions and other non-tariff measures due to unfounded fears.

In other countries like Japan our access is severely restricted. The U.S. product that makes it into the country sits unused in warehouses, never present in the consumer market or people's dinner tables. These are just a few concerns that I think must be addressed through our continued negotiations at the multilateral and bilateral trade level.

Overall, I've been extremely pleased with the bilateral trade opportunities we've created since TPA was granted in 2002. I think we need to continue our aggressive stance to conclude successful agreements with South Korea and Malaysia and see that American producers and consumers alike would benefit.

I believe this is a mission that we can accomplish on the very tight time frame we have, and I assure you, you have my full support as you continue to promote U.S. interests in these negotiations.

I would like to conclude with a couple of thoughts. First, we must make sure that our trading partners live up to their already negotiated obligations. Accordingly, I applaud the Administration's re-

cent announcement that it is bringing a case against China on export subsidies.

Second, as Congress looks for a way forward on TPA, an application of our trade remedy laws, we need to keep in mind a balance that recognizes the interest of all elements of our diverse economy.

Thank you, Mr. Chairman.

Chairman RANGEL. Thank you. Madam Ambassador, welcome to the Committee, and we really look forward to working with you in a bipartisan way, and we're anxious to hear your testimony.

STATEMENT OF THE HONORABLE SUSAN C. SCHWAB, U.S. TRADE REPRESENTATIVE, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Ambassador SCHWAB. Thank you, Mr. Chairman. I'm delighted to be here today. In keeping with the spirit of the day, I will say I will be your new best friend if you'll be my valentine.

I'm going to move through my written testimony fairly quickly, efficiently, and make sure that we have plenty of time for questions and answers. The first two slides that I'm going to go through really lay out the context for President Bush's trade agenda for 2007.

The economy is very strong. The economy grew last year at 3.4 percent. We've averaged over 3 percent for the last several years. Two million jobs were created in the last 12 months, 7.4 million since August of 2003. Real compensation is up. Real manufacturing output is up.

That said, we recognize that there are real concerns about trade and those concerns are in spite of the very compelling evidence, statistics and data to the contrary. That has to do with the changing nature of the workforce and adjustment, structural adjustment that takes place in the economy.

Now we all recognize that productivity increases, technological change, and global competition have an impact on this. We must be understanding, and we must seek solutions to address and help the narrow but very real group of individuals, of companies, of communities that have been negatively impacted by trade. We need to do so in a way that does not jeopardize the benefits of trade that accrue to the vast majority of Americans, American workers, American producers, ranchers, service providers and so on.

Yesterday the 2006 trade statistics came out, and they offer a very interesting and in many ways upbeat insight into the trade picture. Export driven growth last year was tremendous, nominal U.S. goods and services exports grew by double digits, nearly 13 percent. Imports also grew 10.5 percent, but if you look at the composition of the increase in our trade deficit last year, it turns out 90 percent of that was from increased oil prices.

On an inflation adjusted basis, you see different statistics, but what is compelling when you look behind the statistics, exports accounted for over a quarter of real GDP growth in the United States last year. In the fourth quarter, U.S. trade accounted for almost half of our GDP growth.

Actually, if you look on a trade-adjusted basis, the U.S. trade imbalance was largely unchanged last year. In fact, it was down slightly, one-and-a-half billion dollars, and that is mainly because of strong export growth.

We note here the impact that exports had, trade had, in helping to offset the impact on the economy of the housing downturn. I would note, again, that export pay—export-related jobs pay an estimated 13 to 18 percent more than jobs nationwide. As we know, the vast majority of Americans benefit from trade, recognizing that not all Americans benefit from trade.

So, it's in this context that I want to talk about our trade agenda today and to talk about the DOHA Round of multilateral trade negotiations, trade promotion authority, trade agreements, including our FTAs and enforcement, compliance and dispute resolution.

First, the benefits of the DOHA Round deal, a potential DOHA Round deal: This is an opportunity for the United States to improve our access to exports to the 95 percent of consumers in this world who do not live within our borders. The DOHA Round also has incredible potential, very important development potential in terms of alleviating poverty in the poorest countries of the world. By one estimate by the World Bank, elimination of global trade barriers could lift 66 million of the world's poor out of poverty.

If Africa, for example, Africa's share of world trade could increase from two percent to three percent, that would be the equivalent of over $70 billion a year in income for Africa, well in excess of foreign aid that goes to Africa, but ultimately, we will need trade promotion authority to implement any DOHA Round agreement.

On page 6, I have a quick summary of where we are in the DOHA Round negotiations. We have talked about, and I suspect we'll talk about more the element of trust in trade promotion authority, the nature of the contract between the executive and legislative branches that is represented by trade promotion authority.

A reflection of that trust included our ability, my ability, to walk away last July from a bad deal, knowing that that would mean that the current allocation of trade promotion authority would expire before we had a DOHA Round agreement.

What we're doing to try to save the DOHA Round is to drill down below the headline numbers, the finger pointing, and look really specifically at our priority exports, our redline sensitivities, those priorities and sensitivities of our trading partners, and then to backward integrate, reverse engineer, into top-line numbers.

The key, at the end of the day, is going to be market access, whether it's in agriculture, whether it is in manufacturing or whether it is in services.

On page 7, we've got information about why the DOHA Round is important. I'm not going to dwell on this. I'll be happy to answer any questions about it, but again, the key, market access. If you want a single solitary contribution that the DOHA Round can make to U.S. economic growth and to global economic growth, development and the alleviation of policy, it is the elimination or the reduction of trade barriers, tariff and non-tariff barriers that generate meaningful new trade flows, particularly in agriculture.

There, the real problem has to do with the exceptions or sensitivities or loopholes that countries are looking to shield their barriers. Export subsidies here is one very bright picture to date in terms of the DOHA Round negotiations. There is already a commitment if the DOHA Round is ultimately implemented for the elimination of export subsidies in agriculture.

Then of course there is the issue of U.S. trade distorting agricultural domestic support where we are obviously under significant pressure to reduce and discipline that.

When it comes to manufacturing, again tariff and non-tariff barriers are critical, and we're also looking to have enhanced access in certain key sectors, chemicals, electronics, electrical products, healthcare products, environmental products and forest products.

In the case of services that account for eight in ten U.S. jobs where we have a trade surplus, again, we are focusing on critical sectors, financial services, telecommunications, computers, express delivery, energy distribution and environmental services. Then there are other important issues under negotiation, including rules, environmental related issues having to do with fishing, trade facilitation and development.

Trade promotion authority, as I said, is going to be a prerequisite to getting a DOHA Round agreement enacted into law. All presidents since 1974 have used trade promotion authority to open markets and create opportunities for American workers, farmers, ranchers, service providers.

Very few countries are willing to negotiate seriously with the United States without knowing that trade promotion authority will enable the United States to deliver on a trade agreement without it being picked apart during the implementing process. The Administration has used trade promotion authority to increase our exports, and if we do not have trade promotion authority, whether it is for the DOHA Round or regional agreements or bilateral agreements or plurilateral agreements, that is the equivalent of walking off the field. If you're not moving forward in this business, you're probably moving backwards.

If you look at recent free trade agreements that we've negotiated in the 10 agreements that have been negotiated in the last several years, I would note that U.S. exports to those countries have grown twice as fast as U.S. exports to the world. Countries with which the Administration has concluded or is negotiating free trade agreements account for $157 billion in U.S. export markets, the equivalent of the second largest market in the world for U.S. exports.

Even though the 13 FTA countries with which we currently have agreements in force account for only 7.2 percent of global GDP, excluding the United States, they account for 42 percent of U.S. exports to the world. Those numbers are broken down in the subsequent slide.

As you mentioned, Mr. Chairman, we are negotiating free trade agreements, currently under active negotiation with Korea. That negotiation is going on this week with Malaysia. We recognize that under the current allocation of trade promotion authority, any agreements must be signed by June 30th and we need to notify Congress of our intent to sign before the first of April.

Again, content over calendar. Content will take precedence over calendar, the substance of the negotiations, but ultimately access to trade promotion authority is critical.

We have in front of the Congress two free trade agreements, Peru and Colombia. Those are extremely good examples of how we use trade promotion authority to level the playing field.

One of my predecessors, Carla Hills, was quoted in the last two weeks about the Colombia and Peru FTAs as saying, "Well, they get unilateral, one-way, free market access to the United States through a preference program. Under the FTAs, they have agreed to open their markets entirely to U.S. exports. If that isn't leveling the playing field, nothing is." She called it a no-brainer to see Peru and Colombia enacted into law.

We have a free trade agreement that we are very close to closing with Panama, as you know.

Enforcement, last but certainly not least. The last two slides—I'm going to talk very briefly about the record of success that we have had in enforcement. This is a very results oriented approach that we take with results to show for it. The Administration has been willing, has shown it is capable of using all the tools in our arsenal from jawboning at one end to retaliation at the other to get results when there are cases of countries that are not living up to their commitments in terms of our bilateral or global agreements.

Litigation is, in some ways, almost a last resort because if you want to settle a deal, if you want to work out a deal and get results, you'd just assume do it now if you can than go to litigation. That said, we have gone into litigation, for example, with the EU over the Airbus case, the largest case ever filed, and more recently with China over auto parts, and just last week with China over prohibited subsidies.

We have won, I'm happy to say, 88 percent of the WTO cases that had been brought since 1995 when the WTO was created, and we've won over half, 55 percent of all cases, offensive and defensive.

My last slide, Mr. Chairman, just offers some illustrative examples of where we have accomplished compliance enforcement objectives using bilateral consultations, using negotiations, market liberalizing negotiations through free trade area agreements, the WTO, by threatening or actually bringing WTO cases, and by reaching conclusion in WTO cases that have been successfully prosecuted.

Let me stop there and let me invite you to ask questions. I can go into detail on any of these and other details that you care to discuss.

[The prepared statement of Ambassador Schwab follows:]

U.S. Trade Update and Agenda

House Ways & Means Committee Hearing

Presentation of United States Trade Representative
Ambassador Susan C. Schwab

February 14, 2007

1

U.S. Economy is Strong

- **Strong Growth:** U.S. Real GDP grew at 3.4% in 2006 – faster than the EU and Japan
- **Creating Jobs:** 2 million jobs created over last 12 months and 7.4 million created since August 2003; unemployment low at 4.6%; over ten years almost 2/3 (63%) of all job creation by the G-7 countries occurred in the U.S.
- **Rising wages:** Real compensation in the U.S. has risen by 8% since 2001; real consumer spending has risen over 17% in the last five years (adjusted for inflation)
- **Strong Manufacturing:** Real U.S. manufacturing output from 1995-2005 grew by 39% - slightly faster than overall U.S. GDP growth at 37.6%
- **Changing Workforce:** Productivity increases, technological change, and global competition can lead to increased opportunity for many workers and potential short-term worker dislocation for others; the President has called for reauthorization and improvement of Trade Adjustment Assistance to help the fewer than 3% of workers who may have been laid off due to import competition or overseas relocation

2

Trade is Spurring Economic Growth

- **Export-Driven Growth in 2006:** Nominal U.S. goods and services exports grew by nearly 13% last year; U.S. imports grew by 10.5%; 90% of the trade deficit increase resulted from higher prices for petroleum imports (Department of Commerce)
- **Expanding Trade:** On an inflation-adjusted basis, exports in the GDP accounts show substantially faster growth of U.S. exports (8.9%) than for U.S. imports (5.8%) (Department of Commerce)
  - Exports accounted for over a quarter (28%) of real GDP growth in 2006
  - In the 4th Quarter 2006, U.S. trade accounted for almost 50% of GDP growth
- **Offsetting Housing Downturn:** At over $1.4 trillion, U.S. exports were twice the size of the new housing market in the United States in 2006; U.S. exports more than offset the housing decline, with export growth adding $1.44 to U.S. GDP for every $1.00 of GDP growth lost to declines in new home construction (Department of Commerce)
- **Better Paying Jobs:** Jobs supported by goods exports pay an estimated 13% to 18% more than the U.S. national average (various studies)
- **Trade Benefits All Americans:** Post World War II trade liberalization has raised annual incomes by $1 trillion, or $9,000 per American household; elimination of remaining global barriers would add another $500 billion to annual income or $4,500 per U.S. household (Institute for International Economics) 3

2007 TRADE AGENDA

1) Doha Round Negotiations

2) Trade Promotion Authority

3) Trade Agreements

4) Enforcement and Dispute Resolution

4

Benefits of a Doha Deal

U.S. Economy and Global Economic Leadership

- 95% of world's customers are abroad; a Doha deal will generate trade liberalization among the WTO's 150 Members, opening more markets for more American goods and services exports
- Uruguay Round and NAFTA agreements raised the income of an average U.S. family of four by an estimated annual $1,300 to $2,000 (USTR)
- If Doha were to achieve even a one-third cut in global barriers to trade in goods and services, the real income gain to a U.S. family of four could be around $2,500 annually (University of Michigan)
- The United States leads the multilateral trading system's promotion of rule of law, transparency, predictability and democratic values

Global Development

- Outside the United States, the elimination of global trade barriers could lift 68 million of the world's poor out of poverty (World Bank)
- Raising Africa's share from 2% to 3% of world trade would provide export revenues of $70 billion, nearly three times the amount that sub-Saharan Africa receives from global aid donors (Blair Commission on Africa)

Need Trade Promotion Authority to Implement Doha

5

Doha State of Play

July 2006

- Impasse leads to formal suspension of negotiations

July through December 2006

- U.S.-led push to revive negotiations
- Drilling down below "headline" numbers to explore specific sensitivities and priorities

January/February 2007

- Endorsement of bottom-up approach at Davos Ministerial gathering
- Intensification of informal bilateral engagement with key partners
- Some progress, but much work still required for breakthrough

6

Doha State of Play

Agriculture

- United States is the world's largest exporting country of agricultural products, with a 9.7% share of world exports in 2005 (WTO)
- One out of three acres are planted for export; given high agriculture trade barriers abroad, U.S. agricultural exports are a big potential winner from successful Doha negotiations
- **Market Access:** Agreement must deliver new export opportunities for U.S. agricultural producers and generate meaningful new trade flows
- **Exceptions:** Assure market access not negated by loopholes
  - Scope of "Sensitive Products" for developed countries
  - Scope of "Special Products" for developing countries
  - Scope of "Special Safeguard Mechanisms"
- **Export Subsidies:** Complete elimination as part of final agreement
- **Trade-distorting Domestic Support:** Reform and reduce most trade-distorting subsidies

7

Doha State of Play

Manufactured Goods (NAMA)

- Manufactured goods represent 62% of total U.S. goods and services exports; manufactured goods exports have increased by 107% since 1995 when the Uruguay Round went into effect; the United States exported $891 billion of manufactured goods in 2006 (Department of Commerce)
- Seeking real cuts in tariffs and non-tariff barriers to generate meaningful trade flows in both developed and advanced developing markets; elimination of tariffs in key sectors (e.g., chemicals, electronics/electrical products, health care products, environmental products and forest products)

Services

- U.S. exports of services have doubled over the past 12 years (up 107%); generated $72 billion surplus in 2006 on exports of $414 billion (Department of Commerce)
- Expanded market access in key services sectors (e.g., financial, telecommunications, computer, express delivery, energy, distribution, and environmental services)

Other Key Issues Under Negotiations:

Trade Remedies (Rules), Subsidies Causing Over-fishing, Trade Facilitation, and Development Issues

8

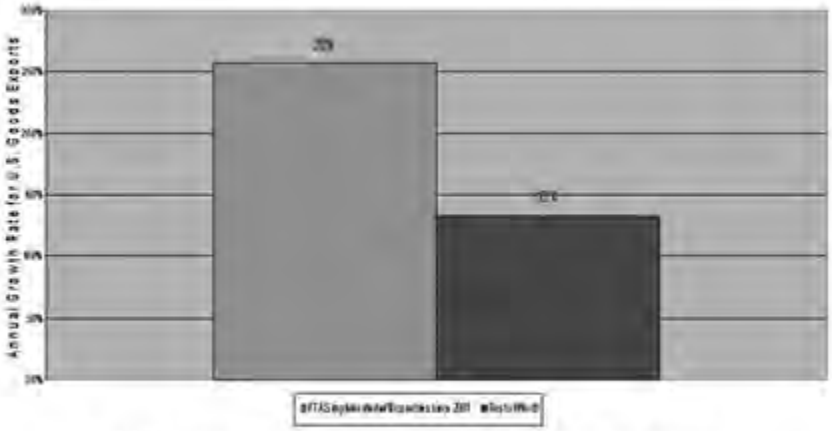
Trade Promotion Authority

- All Presidents since 1974 have used authority to help open markets for American workers, farmers, ranchers and service providers
- Need TPA to implement Doha
- Need TPA to negotiate regional and bilateral agreements to open markets for U.S. exporters, to level the playing field, and to keep pace with U.S. competitors
- Few countries will negotiate seriously with the U.S. without TPA; should TPA lapse, the U.S. will be excluded from future regional and bilateral trade agreements – harming U.S. exporters and threatening U.S. economic growth
- To help U.S. companies and workers succeed globally, the U.S. government must be on the field
- The Administration has used TPA to increase U.S. exports and to level the playing field and will continue to do so

9

U.S. FTAs = Expanded Exports

U.S. Exports to 10 recent FTA Partners* Grow Twice as Fast



The 13 FTA countries with agreements currently in force account for 7.2% of global GDP, excluding the U.S., but account for 42% of U.S. exports to the world

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*Jordan, Chile, Singapore, Australia, Morocco, El Salvador, Nicaragua, Honduras, Guatemala, and Bahrain

U.S. FTAs = Expanded Exports

U.S. Export Growth with FTA Partners (since entry into force)

		Date of Entry
Israel	325%	(1985)
Canada	222%	(1989)
Mexico	223%	(1994)
Jordan	92%	(2001)
Chile	150%	(2004)
Singapore	49%	(2004)
Australia	25%	(2005)
Morocco	67%	(2006)
CAFTA-DR*	18%	(2006)
Bahrain	40%	(2006)

* Includes 4 countries in force: El Salvador, Nicaragua, Honduras, Guatemala

11

Free Trade Agreements

Ongoing Negotiations within Current TPA:

- **Korea** – Seventh largest trading partner – two-way goods and services trade valued at $98 billion (2006)
- **Malaysia** – Tenth largest goods trading partner with two-way trade in goods amounting to $49 billion (2006)

Timeline under Current TPA:

- Notify Congress of intent to sign by April 1
- Sign agreement by June 30

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Agreements Pending Enactment

- **Peru and Colombia – Leveling the Playing Field**
  - Agreements will eliminate tariffs and unfair barriers to U.S. exports, opening a combined market of almost 72 million consumers and a combined GDP of almost $550 billion (purchasing power parity basis)
  - U.S. farm exports to Peru and Colombia will increase by an estimated $1.5 billion per year after full implementation of these FTAs, with gains spread among all sectors of U.S. agriculture (American Farm Bureau)
  - Over 80% of U.S. exports of industrial and consumer products to Peru and Colombia will become duty-free immediately upon entry into force of the agreements, with the remaining tariffs eliminated within 10 years
- **Panama**
  - Agreement would open opportunities to participate in the $5.25 billion expansion plan for the Panama Canal

13

Enforcement – A Record of Success

- **Employ all tools needed for aggressive enforcement**
- **Litigation the tip of the iceberg**
- **Use litigation where most effective:** Airbus (largest WTO case ever filed), China Auto Parts, China Subsidies
- **Less litigation by all Members at WTO since 1998 as backlog drawn down and rules clarified:**
  - 50 cases in 1997 → 21 cases in 2006
  - More cases brought by developing countries
  - U.S. and EU brought comparable number of cases each year since 1995
- **Won 88% of WTO cases brought** (at a consistent rate since 1995)
- **Won About 55% of All Cases:** Offensive and defensive, at a consistent rate since 1995
- **Others also asking us to implement:** Legislative implementation still needed (Section 110, Section 211, Hot-Rolled Steel)

14

Enforcement

Creating and Using Tools

- **Bilateral Consultations**
  - EU Wine Agreement
  - China pre-loaded operating Software
- **FTA/WTO Negotiations**
  - Peru/Colombia FTAs – Beef, Poultry, IPR protection
  - Accessions (Vietnam, Russia, Ukraine)
- **Threaten/Bring WTO Case**
  - China Kraft Linerboard
  - China Semiconductors
- **WTO Cases brought to conclusion**
  - Mexico High Fructose Corn Syrup Tax
  - Mexico Telecom
  - EU Biotech

USTR has used all our tools to ensure China lives up to its commitments:

- Intellectual property: pre-loaded operating software JCCT consultation, semiconductor case settlement, kraft linerboard settlement, auto parts case panel, subsidies case consultations

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Chairman RANGEL. Thank you, Madam Ambassador.

If Ambassador Carla Hills believes that Peru is a no-brainer, why doesn't she come down and share with us why we haven't got it on the floor and voting on it?

Ambassador SCHWAB. Mr. Chairman, I can't speak for Ambassador Hills, but I suspect——

Chairman RANGEL, but you already have.

Ambassador SCHWAB. Well, I was quoting her. I suspect she'd be very happy to come down here and work with this Committee.

Chairman RANGEL. Well, please tell her we welcome her input. Having said that, as you know, Mr. McCrery and I are working very hard to remove any partisan impediments to any agreement, and you do a heck of a job for negotiating what is best for the United States.

Do you believe since the Congress created your office, that there's any room for the executive and legislative branch to agree on basic standards how we treat—how countries that we work with treat child labor and discrimination issues?

Ambassador SCHWAB. Mr. Chairman, I believe that the record—the United States' record both in this Administration and the previous Administrations on free trade agreements, as affects child labor, worst forms of child labor, forced labor and so on, I think that record is very good. I think it's very clear that in every case in every one of these free trade agreements, after the free trade agreement has gone into effect, the situation on the ground for workers in those countries is vastly improved over what it would have been if we hadn't had the FTA. So, these are obviously important standards——

Chairman RANGEL. But as relates to getting votes for these bills and approval from the Congress, can you share with us what you think has been the biggest impediment to getting bipartisan support on these agreements based on your experience?

Ambassador SCHWAB. Mr. Chairman, you are asking the $64,000 question. These agreements, by almost any measure, are of dramatic net benefit to the United States economy, to workers, to ranchers, to small business, medium businesses, large businesses.

Chairman RANGEL. I agree with you, but I'm asking what would you think based on your experience in bringing these agreements to the Congress has been the one greatest impediment to bipartisanship. We all know you're doing a great job. I said that. You all know that most everyone in the House and this Committee believes that it's necessary for us to participate because globalization is a state of fact.

Now we want this. All I'm asking, since we're working on it, and I'm only trying to get it on the record, what do you think has been the greatest impediment so that Republicans and Democrats can hold hands and support these things?

Ambassador SCHWAB. I will answer your question. I think there are two significant impediments. One has been an increasing misperception within the United States among the electorate, your constituents, as to the real benefits of trade to the U.S. economy.

That has, in turn, telescoped into a dialogue in the Congress about worker rights and how the protection of worker rights should not fit into these trade agreements.

Chairman RANGEL. Do you believe that the executive branch and more specifically your office can make suggestions that can remove these impediments?

Ambassador SCHWAB. You have my commitment to make that effort.

Chairman RANGEL. Do you believe that the Congress should have any input as to what the President's authority should be as relates to trade promotion authority?

Ambassador SCHWAB. I believe very strongly that trade promotion authority, whether you look at the original allocation of trade negotiating authority in 1934 or trade promotion authority starting in 1974, that is ultimately a contract between the Congress and the President, the legislative and executive branches of Government, some of which is written down, some of which has to be based on trust and a mutual understanding about how the authority can and should be used.

Chairman RANGEL. Well, I asked those things because, again, I want to thank you for you willingness to negotiate these things.

Jim McCrery is here, and I don't think I'm talking out of school in sharing with the audience that he has been working with me and you and Secretary Paulson and the Secretary of Commerce. So, I'd just like to see how long we can have this atmosphere of cooperation working and to indicate publicly that you have done more than your share to get this started and on the right track.

While we have not reached any conclusions yet, I want to thank you for your efforts. Soon I hope to be able to bring your recommendations to the full Committee so that we can let the House know that we're anxious to move forward and give it present authority and get these agreements agreed to.

I'd like to once again publicly thank Mr. McCrery for the cooperation that he's given, not for Democrats and Republicans but for this Committee, the Congress and the country. I yield to Mr. McCrery.

Ambassador SCHWAB. Thank you, Mr. Chairman.

Mr. MCCRERY. Thank you, Mr. Chairman. I apologize for being late. For the first time in years, my four-wheel drive vehicle couldn't get up my driveway this morning, so I had to make other arrangements to get here.

I want to add to what Chairman Rangel said in terms of our willingness to work together to find a way to move the trade agenda forward for the United States and for the world. Certainly Ambassador Schwab has been more than willing to meet with us and work with us, and her staff as well in searching for a way to create a robust trade coalition here in the Congress that would enable us to move forward with the trade agenda.

I don't think there's much question anymore as to the value of opening markets around the world. The value of breaking down barriers to American goods and services having access to the 95 percent of the world's consumers who live outside of the United States. So, given that, I'm confident that we will find a way to

forge ahead with opening markets and tearing down barriers to trade around the world.

Obviously, the best way to do that is with the leadership of the biggest market in the world, the United States. Obviously the United States cannot lead that effort if the executive branch of our Government is shackled with not being able to negotiate freely as every other country in the world is.

Given our unique form of government, it is necessary for the legislative branch to not delegate but make sure that the executive branch has the—in perimeter of the Government of the United States, and the authority of the Government of the United States not just the executive branch but the entire Government of the United States to negotiate, to knock down these barriers, to open markets, and to bring the value free or trade to people all over the world, not the least of whom would be our consumers here in this country.

So, I'm glad that we're talking. I'm glad that we are seeking solutions and not just trying to obfuscate differences and block the progress of trade in the world. So, I commend the Chairman, Mr. Levin, Ambassador Schwab, and frankly my colleagues on the Republican side for working so hard to find a way to advance our trade agenda.

Mr. Chairman, I have a more complete statement that I would submit for the record with your permission.

Chairman RANGEL. Without objection. What we will do, fellow Members, is have the first round at three minutes and then we will go back around for those people who want a second round. Do you have questions, Mr. Levin, at this time?

Mr. LEVIN. Thank you, Mr. Chairman. Let me just—let's talk about your presentation. Trade issues are so polarized, and Mr. Rangel mentioned that.

Mr. Rangel, you mentioned how polarized trade issues are. That makes it all the more important that we have balance in our presentations. I said the same thing to Mr. Portman.

Your presentation kind of shows half of the picture. It talks about exports, and they are vital. They don't talk about imports and the impact of imports, and I guess I don't have time. Chart one, if it's quick, shows what our trade deficit is.

Okay. It's not ready. It went up to $763 billion. Our deficit with China, $232 billion.

Imports matter. They have an impact, and that was—your pages aren't numbered—trade spurring economic growth. There's no references here except percentages as to imports; the base is so much larger.

Then skipping to the pages where you talk U.S. FTA's expanded exports, I guess that's page 10; they are numbered. So, much of that is with Mexico and Canada. You need to bring imports in there. We have huge deficits with Mexico and Canada. There's also no reference to Japan.

We've had a discussion here about currency. We talked to the Secretary of the Treasury about not siding with the Japanese when he went over to the G7 meeting when Europe raised issues about the weak yen.

Again, it's so imbalanced to not talk about imports and how they impact jobs in this country. You talk about the level of manufacturing. There's no reference to the three million manufacturing jobs that have been lost in the United States. The import of cars in one year—from '05 to '06—these are the imports, went up by 30 percent.

So, again, I just urge, if we're going to have a constructive discussion, and we must, and I want to be very much a part of it, we need to look at all sides of this. I want to pick up what Carla Hills said about no-brainer.

Look, when we debated issues in the Clinton Administration and they said that an issue, a trade agreement was a no-brainer, I said, "Never use that." There are differences of opinion, so when you quote Carla Hills when we have some basic issues regarding the Peru and Colombia Agreement and say it's a no-brainer, what are you transmitting, Ambassador?

Look, we want to work out these agreements. The record on this side is clear in the past and is clear about the future. We've got some serious issues. They aren't no-brainer issues. I just urge, the next time you come and join our discussions, let's talk about the imports. Let's talk about the impact of the imports on places in the United States. Let's talk about manufacturing. Let's talk about currency issues that aren't really in your domain. Let's talk about breaking down barriers like Korea that don't let any of our cars except a few hundred, a few thousand, come in when they ship 500,000 to 600,000 and we've said to you, "Let's sit down seriously and talk about how we tear down the Korean economic walls."

That's the kind of balanced presentation that will be the predicate for the kind of full length, bipartisan and executive Congressional discussions about where we go here. I close—we've got only six weeks on Colombia, Peru and Panama, six weeks on Korea if you want the FTA under this present fast track.

We've got DOHA. My view is let's get the policies straight and then talk seriously about the extension of fast track or its renewal. We've got some very different views on policies. Let's work to straighten them out as well as our language.

Mr. Rangel is no isolationist; he's no protectionist. I hope this Administration will stop using those terms about this Democratic congress. It's not true.

Chairman RANGEL. The Chair accepts the Ambassador's agreement to meet with the Committee in a less formal setting so that we can share with you some of the biased feelings that are created as relates to free trade, which we all agree with.

As soon as possible, since the clock is running out, we will be meeting in an informal way with you and the staffs and clear up some of the things that can be cleared up.

Recognize Mr. Herger.

Mr. HERGER. I thank the Chairman, and I think it's a point well taken by the gentleman from Michigan. Somehow no-brainer doesn't have a good sound to it, but the fact that we're looking at in our country today a 4.6 unemployment rate, the greatest prosperity that we've ever had, we see exports that are up. We see with just the 13 countries that we do have trade agreements with, that some 43 percent of our total trade is going to those countries we

can see. The fact that we're living in a dynamic economy, worldwide economy, whether we like it or not, is very important.

So, no-brainer perhaps isn't the right term, but the fact that how dynamic it is, how positive it is for Americans, also the fact that we can import and import goods that our consumers, the America can buy at a lower rate to be able to keep our inflation rate down. The fact that so many of our industries are dependent on these good quality, low rate products they import that they use themselves to put into their goods the export, I think, is incredibly positive.

Again, I agree. No-brainer isn't the right term, but some positive term that describes what I've just said perhaps is.

Madame Ambassador, I am very concerned about the renewal of TPA and consider it to be vital to our economic policy. I'm pleased that we have an open dialogue on renewal of this important piece of legislation. Perhaps you can help us by describing the future use of trade promotion authority and its benefits from your advantage, and if TPA is renewed, how would you use it; which negotiations besides the DOHA Round and our already ongoing negotiation do you envision?

Ambassador SCHWAB. Thank you, Congressman. If I may respond to your question and also to Congressman Levin's comments. We can set aside—let us coin our own phrase, which is, a 'brainer' as distinct from a no-brainer, and let's proceed and talk about substance here.

The TPA renewal, is critical as I mentioned for a DOHA Round agreement. It is critical for any free trade agreements, regional, bilateral, that we care to negotiate. It is critical if we choose to negotiate plurilateral agreements, for example, sectoral agreements related to environmental goods and services if, for example, the DOHA Round does not succeed.

There are opportunities to negotiate on intellectual property rights and so on. While the United States—if we have a gap in trade promotion authority, don't think that during that period of time, the world is going to stand still in terms of trade agreements and trade negotiations. There are hundreds of trade agreements, bilateral free trade agreements, regional trade agreements being negotiated by our trading partners with each other.

You can bet that if we have walked off the field those negotiations will continue, and they will continue and those agreements will be to the detriment of U.S. exporters and U.S. producers and U.S. farmers, and ranchers and workers. So, that is the kind of thing that we could use the next allocation of trade promotion authority to do.

I would look forward to working with this Committee, Mr. Chairman, with Members on both sides of the aisle, both sides of the Capitol, in identifying the negotiating objectives and the approach that we would take and the priorities that we would be looking at.

If I may, Mr. Chairman, respond briefly to some of the points that Congressman Levin made, he is absolutely right. You're absolutely right, Congressman. Trade issues are much too polarized in the United States, and I'm happy to talk about imports.

Imports do matter. They matter significantly to consumers. They matter to people who went out and bought roses today for their

sweethearts for Valentine's Day where they were able to buy inexpensive flowers at Safeway or at Costco, where maybe a few years ago it would have been much more expensive to buy long stem roses.

That's trade. That is comparative advantage. That is trade. That is open market.

Mr. PASCRELL. Chairman, a point of order.

Chairman RANGEL. For what purpose does the gentleman from New Jersey raise the point of order?

Mr. PASCRELL. Well, I would like to respond to what was just said on Valentine's Day. Those very flowers come from countries that have child labor and forced labor, and that's why the prices are cheaper. If we don't concern ourselves about that, then we are not the Nation we pretend to be.

Ambassador SCHWAB. The principal sources of U.S. imports of such flowers include Colombia, include Ecuador, include Israel and a variety of other countries. I would say whether we're talking about the ultimate consumer or when we're talking about imports, intermediate users, manufacturers who are more globally competitive because the import parts, imports do matter.

Imports also matter in some cases to individuals, to firms and to communities when they are trade distorting and when they are trade damaging. I think that's the point that you were making. I would note though that the way you address these issues has to be where the cure isn't worse than the disease.

The last time we had a trade surplus was 1975. We were in a recession. There are ways of addressing trade imbalances. Increasing exports and tearing down foreign barriers to trade really is the way to go, and that is the way to go in terms of our workers, in terms of our constituencies.

Where individuals are hurt I would note that the President has specifically asked for the extension of trade adjustment assistance, and I would be happy in conjunction with the Department of Labor and others to work with you in terms of renewal of trade adjustment assistance.

Let me stop there, Mr. Chairman, for other questions.

Chairman RANGEL. All now to recognize Mr. McDermott for three minutes.

Mr. MCDERMOTT. Mr. Chairman, I'd like to focus on the DOHA Round. There is an assumption that because countries are poor that they are dumb or that they can't count. There are more Less-Developed Countries (LDCs) in the world than there are developed countries, and you are not going to get a change in that round until you change some of the policies.

Now, in the 1970s, they accounted for 1.5 percent of the trade in the world. Today they are at .8 percent. That's why we said this is going to be a development round.

When we sit down with them, we say things like, we're going to stick with our agriculture. Agriculture is two percent of the employment in this country. Eighty percent is in manufacturing and services.

Now when you focus on opening up and forcing these countries to give up their agricultural exports by opening the markets, you are simply saying to them, we don't care about you. They can

count, and they say, we're not going along. Then we have a Chairman in the last session who beat up on them by denying benefits to them under GSP and saying that India—and we've somehow, we've got to break them.

Now when you—let me just give you one specific question. When you talk at the DOHA Round about a duty free, quota free initiative, you say we're going to open up our markets, duty free, quota free, to poor countries, except for three percent that we figure we have to hold on for flexibility.

The least developed countries immediately said, that's the part that will kill us the most. Now I'd like to hear your answer to them about why you want to say to them, we're going to give with one hand but take back with the other, to think that they can't see through that, because cotton, for instance, is made—some of the best cotton in the world comes from Africa, and there should be duty free, quota free, right?

Your moment.

Ambassador SCHWAB. Congressman, thank you. You are absolutely right that the focus of the DOHA Round, which is formally named the DOHA development round agenda, as you know, is international economic development and the alleviation of poverty in developing countries. If you look at any study that is out there, World Bank study, Organisation for Economic Co-operation and Development study, International Monetary Fund (IMF) study, the single most important thing that we can do to enhance development in developing countries is barrier elimination, not just in developed countries, but also in developing countries.

It turns out, for example, that 70 percent of tariffs paid by developing countries are paid to other developing countries, not to the developed world. So, the DOHA Round, to be successful, needs to enhance North-South trade. It also needs to enhance South-South trade.

The Round framework is designed so the developing countries do less than developed countries in terms of opening their markets. The least developed countries, which are the ones you're talking about, need to do nothing at all. Although I would argue in areas such as services, they would—one of the best development plans that developing countries could undertake is opening their markets to services, transportation, communications, computers services, express package delivery, build their own infrastructure for their own entrepreneurs to export and to gain access to the markets.

The United States, as you know, has been very generous in terms of preference programs that we offer to the developing countries through GSP, through African Growth and Opportunity Act (AGOA) (P.L. 106–200), through Andean preferences to the new Haitian preference program. When it comes to duty free, quota free, in the DOHA Round negotiation, the agreement—and by the way, this was an agreement among multiple countries not just the United States to have duty free, quota free applied at 97 percent of trade is significant because it turns out that there are some countries among the "least developed" that in certain sectors, such as textiles and apparel, are powerhouse exporters that really don't need duty free, quota free. If they have duty free, quota free, they

will knock out the exports of all the other least developing countries and some other lesser developing countries.

So, there's a balance to be struck. We have a Federal Register notice that we just issued recently asking for comments on how we should allocate that three percent and if there are specifics that you or anyone else here on the Committee would like to offer and comment, we would welcome them.

Chairman RANGEL. Chair recognizes Mr. Camp for three minutes.

Mr. CAMP. Well, thank you, Mr. Chairman. Thank you, Ambassador.

There are clear benefits to trade as you outlined in your testimony. Our exports have increased and they're growing faster than imports, and they're growing faster with countries we have trade agreements with. Jobs related to export pay more than jobs that aren't.

I'm also concerned about some of the adverse consequences as well. Our trading partners in some cases fail to stop counterfeiters. They impose non-tariff barriers.

I applaud your filing of the trade cases against China on auto parts. Korea, as has been pointed out, largely remains a closed market. We don't have any agreement with Korea, but we're working on that. It's largely closed to our auto market. Do you think greater enforcement of our existing trade laws is as important as negotiating new trade agreements? Can you outline some of your enforcement efforts in this regard?

Ambassador SCHWAB. Congressman Camp, thank you very much. I think it's a both-and answer, which is, in some cases active enforcement of existing agreements, whether they're bilateral agreements, WTO accession agreements, WTO multilateral agreements on the one hand—in some cases enforcement—ensuring compliance is the best way to go. In other cases, the only way you're going to get the trade barriers down is through new negotiations, whether it's through a free trade agreement or whether it's through a multilateral trade agreement like the DOHA Round.

It depends on the barrier. In some cases, there are barriers that are out there that are fully legit, legal under international trading rules, and the only way you get those down is to negotiate them.

In the case of—let me talk briefly about Korea and then about China. You mentioned Korean autos. In the case of Korean autos, Korea has, for example, an eight percent tariff on its automobiles. That is perfectly legal under the WTO. They only way we will ever level the playing field with Korea on autos is to get Korea to eliminate that eight percent tariff in contrast to a tariff we had that's less than three percent and to get Korea to eliminate the non-tariff barriers that are very serious, a very, very serious market access problem having to do with regulatory standards, having to do with tax provisions, and so on.

That has to be done through a bilateral negotiation. That's what we're trying to do in the context of the FTA negotiations with Korea. You won't be surprised to learn it's hard slogging, but we haven't given up yet.

In terms of China, there are a variety of tools and issues. Last year the U.S. trade representative's office issued a top to bottom

review on what our policy vis-à-vis China should be, and that was a comprehensive blueprint that we have been following, and it includes discussion, negotiations through the Joint Committee on Commerce and Trade, for example, where we've addressed intellectual property rights issues.

It includes activities now through the strategic economic dialogue, Secretary Paulson's initiative to address longer term strategic underlying issues, including macro-economic issues. As I note, in cases where we believe China is not in compliance with its WTO obligations, such as in auto parts, such as in Kraft Linerboard, where we almost filed a case last year and didn't need to because when they heard we were filing a case they fixed the problem.

Most recently, these prohibited subsidies. Where we cannot get a resolution, cannot get the problem solved and trade moving on a fair basis through negotiation, we will opt for litigation through the WTO.

Mr. CAMP. All right. Thank you. Thank you, Mr. Chairman.

Chairman RANGEL. Chair recognizes Mr. Neal for three minutes.

Mr. NEAL. Thank you very much, Mr. Chairman. Madame Ambassador, this is a line of questioning that I've raised with the trade representative's office in the past.

I'm aware of the postal privatization going on in Japan, and I'm hearing that there is a growing concern that the Japanese government will permit financial giants of Japan Post to begin selling insurance products of the private sector before the new entities have demonstrated they fully comply with all the rules and come under the same supervision that applies to private companies.

Wouldn't that situation amount to a violation of Japan's General Agreement on Trade in Services (GATS) commitment to provide national treatment? If the answer is yes, what is the United States doing to enforce GATS in this situation, and do we have a commitment from Japan that this concern is unfounded?

Ambassador SCHWAB. Thank you for that question, Congressman Neal. This is an issue that we are tracking very closely. It's an issue we have a great deal of concern about. Privatization of their postal program is fine in theory unless it turns out that they are creating an unfair advantage, an un-level playing field when it comes to package delivery and some of the other issues that—some of the other commercial matters that the Japanese Postal Service has responsibility for.

We are monitoring it very closely as we are going through these changes. I have personally raised it with the last two trade ministers, Japanese trade ministers. We will continue to raise it and we will make sure that either they are ideally going to do it in such a way that they're not creating new barriers to trade that would be in violation in contravention of their WTO commitments, their GATS commitments. Or we will, if necessary, seek litigation.

Mr. NEAL. Thank you. It's very important to me, because I have been consistent in terms of raising this question with you in the past.

Lastly, DOHA. For somebody like me who follows the trade issues every day in daily publications, one of the things I'm struck by with DOHA is it's almost like trying to determine what the

score of a baseball game is. One day the game has been rain delayed. The next day the game has been canceled. The third day, there's a double header. It's really tough to follow.

I know some of you are counterparts from other positions they have held in governance during the past, but some clarification would be very helpful, not only to Members of this Committee but to the American people as well.

Ambassador SCHWAB. Oh my, the nine lives of the DOHA Round. The DOHA Round, as you know, was launched in 2001 in the wake of September 11, 2001, in an effort primarily to focus on global economic growth, particularly in developing countries.

It has sputtered and started and sputtered and started ever since then. There was a framework agreement. There was a declaration. Then last July we got down to the wire, and a group known as the G6—and that's the United States, the EU, Brazil, Japan and Australia sat down in a room to see if we could come up with a proxy for what an outcome, what a breakthrough would look like.

Those talks failed. They failed largely over market access issues and market access issues in agriculture and manufacturing versus how much discipline should be put on trade distorting agricultural subsidies. We then walked away from what would have been a bad deal that we could not—that I could not in good conscience recommend to the President of the United States and that we could not in good conscience as an Administration have recommended to you even knowing that Fast Track was going to expire, the nature of trade promotion authority and the trust inherent in that.

Since then we have had to step back from the name calling, the finger pointing, all the numbers that you read about in the paper that you alluded to in your comments, and said, "Let's look at real trade flows. Let's look at real trade flows and the potential for real trade flows rather than these sort of macroeconomic numbers" because it turned out where we broke down the framework has this really interesting, progressive, tariff-cutting formula both for agriculture and industry, meaning the highest tariffs that are out there get cut the most, which is really a benefit to the United States because we have much lower tariffs in agriculture and industry than anybody else in the world or virtually anyone else in the world, excepting a country like Singapore or a few others.

So, for us that tariff-cutting progressivity is very useful because other countries have shielded their most sensitive products using high tariffs. Well, it turned out that there were flexibilities built into this framework, loopholes that countries could use to avoid taking these dramatic tariff cuts. Not surprisingly, everybody assumed that they would have to cut their most sensitive tariffs a great deal and that the other country would be shielding your priority exports, our priority exports, using these flexibilities, using these loopholes.

So, what we've done since last July is sit down very quietly in terms of serial bilaterals, bilaterals going on with a number of countries, not just between the U.S. and other countries but between other countries and each other, saying, "What are your real sensitivities, your real red lines and what are your real priorities, and are there ways that we can ensure new trade flows in the priorities in spite of the sensitivities without throwing these top line

numbers at each other that really didn't make a whole lot of sense?"

That's the approach we're on now. I am cautiously optimistic that that ultimately will generate a breakthrough that is ambitious, that is robust, and that is a balanced outcome for the United States.

Chairman RANGEL. Chair recognizes Mr. English for three minutes.

Mr. ENGLISH. Thank you, Madame, Mr. Chairman. Ambassador Schwab, in my view, the United States Trade Representative (USTR) is very much to be applauded for finally bringing a WTO complaint against China, for providing what are clearly WTO, illegal, export and import substitution subsidies.

We recognize of course that these subsidies only account for a small fraction of the support that the Chinese government provides Chinese exporters. If you could, speak briefly to the prospects of this case. Could you also comment on whether USTR intends to further pursue China's other massive domestic subsidies such as loans at preferential rates from state-owned banks and the conversion of debt to equity by state-owned asset management companies.

Ambassador SCHWAB. Thank you, Congressman English, and thank you for your remarks about the subsidy case. We have, as you know, in the last week, requested formal consultations through the WTO with China.

We have identified nine subsidies. Six, we believe, are prohibited illegal export subsidies. Three of them are, we believe, prohibited import substitution subsidies. We know that these subsidies go to foreign invested enterprises, Chinese firms. The key there is that those subsidies can impact U.S. workers, manufacturers, particularly small and medium sized firms that haven't invested in China and can affect U.S. economic interests that try to compete in the Chinese market, that compete with Chinese products here in the U.S. market and that try to compete with Chinese products in third country markets whether in Europe or Japan or developing countries.

So, that is the fundamental. We know that foreign invested enterprises account for 58 percent of China's exports, so this could be a fairly significant case as it moves forward.

Our ideal in terms of this case is to resolve it, is to get the subsidies eliminated. If we need to litigate, we will litigate. That decision will be made within the next 60 days, and then we will work—the process would work its way through the WTO process.

In terms of other subsidies, we are always on the lookout for other subsidies and other potential cases. We work very closely with American companies that have an interest or that can identify such subsidies.

In some areas, such as intellectual property rights, we're now going to the provincial level to look at IP issues. Some subsidies are at the provincial level. They're hard to identify in many cases, but if there are specific subsidies that are identified, we'd be happy to hear about them.

Mr. ENGLISH. Thank you, Ambassador. In my view, the whole question of fair trade with China is what is going to dominate the public perception of the trade agenda for the next couple of years

and is central to any efforts we may make to lower our trade deficit.

So, I ask you to focus on it, focus on it like a laser beam, and certainly work with your counterparts in Treasury on the overarching concerns that we have about China currency. I thank you, Mr. Chairman.

Chairman RANGEL. The Chair recognizes Mr. Tanner for three minutes.

Mr. TANNER. Mr. Chairman, thank you. Welcome, Ambassador.

I have always thought there are two Committees in the house that should be nonpartisan. One is Armed Services; we have only one defense. Ways and Means; we have only one economy.

We've had some rough times around here. We've had a take it or leave it attitude, and because I believe so strongly that engagement is better than nonengagement, a lot of times I was on the receiving end of a take it or leave it attitude.

I think this Congress has a unique opportunity, the 110th, to rediscover a true bipartisan consensus on trade. I think it's going to be absolutely critical that we do so, because otherwise we're going to have a very, very hard time explaining to the American people the non-harmful aspects of trade deficit that is reaching historic levels.

The perception is a lot of trade is going overseas, that trade is responsible for a lot of our jobs going overseas. True or false, it's a perception. So, it's my view that we've got to develop a new framework here in the 110th Congress, in this Committee, in order for us to move ahead in a manner that I think our country needs to.

I think this new framework ought to continue to try to remove barriers from foreign markets to the extent we can. It should also—we should also have a very aggressive enforcement of the agreements that we already have. Third, and perhaps this is where we can work together sooner rather than later, a sensitivity of addressing the perception of the negative consequences of trade.

We have not done a very good job—nobody, but you have, and the Administration has, I think, a better microphone than perhaps we do.

This new framework, and I look forward to what the Chairman said earlier about us meeting again informally to talk about this, but I want to commend the Chairman and Mr. McCrery for—I think—I hope I put into words what they feel about it in terms of moving ahead on trade.

Could you just respond generally to that? I know I only have three minutes, but I really feel strongly about this.

Ambassador SCHWAB. Congressman Tanner, I feel equally strongly about the importance of bringing bipartisanship back to U.S. trade policy. I commend your leadership in this.

The Chairman has said that we should be looking for not a Republican trade policy or a Democratic trade policy; we should be looking for an American trade policy. I think that is absolutely right.

The President believes that as well. In my confirmation hearing last year, it was the top priority that I articulated in terms of why I was so grateful to have been asked to take on this task. I spent

some time as a Senate staffer in the 1980s when trade was much more bipartisan and there was much less rancor.

It is—you have my commitment, and I have given my commitment to the Chairman, to Congressman McCrery to work with this Committee to see that trade does, in fact, return to more of a bipartisan basis.

Thank you.

Mr. TANNER. All right. I'm instructed to recognize Mr. Doggett next. Thank you.

Mr. DOGGETT. Let's get this all in order.

Ambassador, I really believe that more than a few Americans will be surprised to hear that your reaction to the headlines in this morning's paper, that the United States has a record trade deficit in 2006 for the fifth consecutive year, that your reaction to that is "upbeat" and that as with so many other policies that I view as misguided of this Administration, that you believe we just need to stay the course.

Yesterday's "Financial Times" reported that you now agree that "international labor standards should be added to the pending trade deals." Was that accurate?

Ambassador SCHWAB. Congressman, to respond to both of your points, one, in terms of the trade deficit, I think it is important to look behind the number, but——

Mr. DOGGETT. You had said that, and given my three minutes, let me just ask you if you agree that the Financial Times article was accurate or it's inaccurate. I just want to know one way or the other.

Ambassador SCHWAB. Congressman, I have made a commitment to Chairman Rangel, to Congressman McCrery, to work with this Committee on a bipartisan basis to try to bridge the differences on labor rights in trade agreements, yes.

Mr. DOGGETT. Does that mean the story was accurate?

Ambassador SCHWAB. I'm afraid I didn't read the story, so I think I——

Mr. DOGGETT. The story said that international labor standards should be added to the pending trade deals.

Ambassador SCHWAB. Congressman, the approach that I would take is let's see if we can get a substantive agreement between the Administration and the Congress on what the nature of those labor rights commitments should be in trade agreements, and then let's have a conversation subsequent to that about the form that it should take.

We don't believe that it should be necessary to reopen existing trade agreements, but the first thing to do is see if we can bridge the substantive gap, and then we can talk about how it's——

Mr. DOGGETT. So, you don't favor reopening any of the pending trade agreements?

Ambassador SCHWAB. We don't believe that that is necessary, but I think that before we have that conversation, I think it's important to keep the conversation——

Mr. DOGGETT. One other area of concern. As you know, sometime after 9 o'clock last night some of the 11 Members of this Committee who wrote you a month ago about our desire for a bipar-

tisan policy that addressed our concerns about the environment, received a fax response from your office.

I don't believe it addressed any of our specifics. In the seconds that remain, let me just ask you if you agree or disagree with our observation in that letter that it is vital that our trade agreements require countries to fully implement and enforce obligations made through multilateral environmental agreements.

Ambassador SCHWAB. Congressman, I would be happy to visit with you separately when we have more time to talk specifically about the issue of multilateral environmental agreements. The key I think that we all agree upon is the importance.

Mr. DOGGETT. I appreciate that, and I'd be delighted to visit with you. I just want to know if you agree or disagree with the question that we raised to you a month ago that I don't believe your letter last night responded to.

Ambassador SCHWAB. I believe our letter responded to the letter that we received.

Mr. DOGGETT. Do you agree or disagree that in our trade agreements we should require enforcement of multilateral environmental agreements to which the partners have agreed?

Ambassador SCHWAB. Congressman, I think the issue is, as with many trade issues, much more complicated than a yes or no answer. If the Chairman would allow me the time, I'm happy to answer in some detail. Otherwise, as I said, I'd be happy to visit with you separately and go through the issues.

There are some multilateral environmental agreements (MEAs)—there are many MEAs out there as you know. The U.S. is a signatory to some. Other companies are signatory to others. I think there is clearly a consensus that we need to use our free trade agreements to further environmental objectives. Sometimes we do that within FTAs, sometimes we do that separately.

For example, I just recently signed an MOU with Indonesia on illegal logging.

Chairman RANGEL. Maybe we can make arrangements for you to send your response in writing or you can get in touch with that office. I'm very anxious that everyone has an opportunity to inquire.

Mr. Weller, for three minutes.

Mr. WELLER. Thank you, Mr. Chairman, First let me commend you and Mr. McCrery for the commitment you have made to advance our trade agenda and to work in a bipartisan way. I consider that real progress and I want to support you in your leadership in this effort to move forward on our trade agenda.

Ambassador, it's good to see you. Welcome. Time is limited so I'll get right to the point.

My colleague from Texas raised an issue that I want to raise. First I want to congratulate you on the progress you've made on Peru and Colombia and soon to complete on Panama. Latin America is suffering from the unfortunate march of populist authoritarianism in different parts of Latin America and strengthening our relationship with our friends and allies, the democracies, particularly of Colombia, Peru and Panama, I believe is extremely important on all fronts.

The issue of labor of course is coming up. Since these agreements have been reached, I have friends that want to do more on labor. Looking back on the Dominican Republic Central American Free Trade Agreement (DR–CAFTA), I'm interested in knowing from you, as based on the DR–CAFTA model and the commitments that were made, have there been significant accomplishments from the standpoint of enforcing greater protections for workers, greater enforcement of existing laws and expanding opportunities for workers in the DR–CAFTA countries as a result of the DR–CAFTA agreement, the ratification by this Congress?

Ambassador SCHWAB. Thank you, Congressman Weller. Yes, as you know, we have DR–CAFTA entry into force with four of the six DR–CAFTA agreement signatories. Those have been during the last year—entry into force took place. In each one of those cases, we can articulate commitments and improvements that each of those countries made.

Mr. WELLER. Now the leadership of each of these countries issued the white paper, which is part of that commitment. Can you give some specific examples of what, from a bipartisan viewpoint, would be considered progress on enforcement as well as giving new rights to workers in these countries?

Ambassador SCHWAB. No, the white paper was very, very significant. In particular it set in motion a process involving the international labor organization and capacity building that we were able to provide so that on an individual basis, whether it is the right to organize, whether it is addressing child labor, whether it is addressing others of the internationally recognized standards, there have been tangible improvements in those countries.

I would be happy, if you would like a more specific assessment, happy to bring that back to you, but in each of the countries involved, each of the four countries where we've had entry into force, the white paper has been taken very, very seriously. Simply to engage on these issues in a way that they would not have engaged absent a free trade agreement, absent CAFTA DR I think is significant.

Mr. WELLER. Madame Ambassador, three minutes goes by very quickly, but if you could provide for the Committee a list of examples of what all of us would consider to be progress both in enforcement and in expanded rights for workers based on this white paper and other agreements as part of the DR–CAFTA process, I know I would appreciate it and I believe my colleagues would.

Ambassador SCHWAB. I would be happy to do that.

Mr. WELLER. Thank you, Mr. Chairman.

Chairman RANGEL. The Chair is pleased to recognize Ms. Tubbs Jones for three minutes.

Ms. TUBBS JONES. Thank you very much. Madame Ambassador, nice to see you again. How are you?

I'm particularly concerned when we have this whole discussion about unemployment rate of 4.6 percent and how great it is. In Ohio, the unemployment rate isn't 4.6. In fact, in the city, my congressional district is 13.7 percent. We've lost a significant number of jobs in Ohio, and I keep repeating those numbers over and over again at these hearings.

I want to focus on trade adjustment assistance, which you talked about momentarily. What—even though it's administered by the Department of Labor, it is through your work and your effort that we are able to bring workers—because in Ohio workers, fact or fiction, believe that their jobs are gone because of the trade policies of our Government and the failure of our Government to use all of the tools that they have to enforce trade relations.

Tell me what I can tell my people in Ohio that the Ambassador is going to do to ease the unemployment rate and their worry.

Ambassador SCHWAB. Congresswoman, thank you very much for that question. You're absolutely right. There is a serious perception problem that trade somehow is the cause of significant unemployment in the United States, when in fact unemployment is at 4.6 percent, when we're creating more than 2 million jobs a year more than we're losing.

You mentioned trade adjustment assistance. Trade adjustment assistance is available for workers who have lost their jobs because of trade. I think a better answer to your question—and as I noted earlier, the President is fully committed to extending trade adjustment assistance to working with this Committee and with the Congress to do so, but I think the real answer to your question is opening more barriers, removing barriers abroad so that we can enhance our exports.

We know that U.S. jobs that are related to exports pay 13 to 18 percent more than average jobs in the United States.

Ms. TUBBS JONES. The dilemma I have with your response, and I'm almost out of time, is the fact is that the workers who are unemployed as a result of loss of manufacturing jobs are not getting jobs that they are capable of taking care of their families at a level. So, my position is that we collectively, in a bipartisan fashion have to fix it, and it's not solely perception that trade has lost us jobs. It's a reality that they've lost us jobs. It may not be as many as people believe, but there is a reality to the fact that people are not doing work in the United States as a result of work being done all over the country [sic.]

I guess my time is about up, so I'm just looking forward to the opportunity to fight for the workers of Ohio and not fight with you but fight for them to have jobs. Mr. Chairman, I thank you for the time.

Chairman RANGEL. Well, let me share with the gentlelady from Ohio that the trade representative—fully appreciate, as does the ranking Member that there are many people that are looking for jobs that are not included in the number of unemployed. We can't give them numbers and say how good the economy is. We can't talk about the historic 4.5.

Once we realize, statistics notwithstanding that we have to do something, it makes our job selling free trade a lot easier. I tell the gentlelady that we are working in a bipartisan way to make certain that we avoid the pain when we can, and if we cannot, we'll make adjustments to help the people who unfortunately went away of progress.

Ms. TUBBS JONES. Thank you, Mr. Chairman.

Ambassador SCHWAB. Congresswoman, I look forward to working with you to see that that happens. Thank you.

Chairman RANGEL. The Chair recognizes Mr. Brady.

Mr. BRADY. Thank you, Chairman. I want to add my voice to those. Encouraged by the discussions, Ambassador, you're having with our Ways and Means leadership, Chairman Rangel and others, to try to find some common ground. We really do need to speak with one voice around this world when we're talking about a level playing field for our companies and our workers.

I'm convinced, after working on DR–CAFTA that the goal on improving workers rights and improving the environment are much more the same than people imagine. It's how we get there that's the debate. I think the discussions you're having are very healthy.

I also think in this debate on trade we ought to be a little more intellectually honest about this trade deficit. It is not caused by our trade agreements, just the opposite. Eighty percent of our trade deficit comes from countries we don't have trade agreements with. The trade agreements we do have are producing real sales and real jobs for American companies and the truth is America is a great country to invest in, which drives up our trade deficit.

We spend so much and save so little. We're such a huge consuming country. The fact of the matter is we need to spend a little less, save a lot more, and we need, through your negotiations, to open up new markets and produce—turn countries into spending more themselves for our products.

Here is the question I have for you. Last week, in a very good hearing, Gene Spurling recommended to the Committee that we pursue a limited extension of trade promotion authority focused on the DOHA Round. My concern is that with our bilateral agreements producing so many more sales for American companies and the DOHA Round being very important, but as we all know—Uruguay Round took eight years, far less complex.

Today the issues are far more complex. We have more countries in WTO, making that much more difficult to reach a consensus. Yet, I'm convinced we stay at DOHA and use the rain dance approach, which is—the key to a successful rain dance is you keep dancing until it rains. The key to a successful DOHA Round is we stay engaged until it's the right agreement for America in the global system.

What are your thoughts on a balanced TPA that gives us the bilateral negotiations and also keeps us at the table with DOHA?

Ambassador SCHWAB. Thank you very much.—You will notice that when the President of the United States called for a renewal of trade promotion authority, there were no specifics in terms of how broad and how long. That was not an accident, and it is not an accident the Administration has not submitted a specific proposal. The nature of trade promotion authority is one that is going to ultimately be worked out between the executive and legislative branches. Trade promotion authority is a contract between the two branches of Government.

I would say this. Every president needs and should want trade promotion authority, and not just for a Doha round. Not just for a multilateral trade round. For multilateral trade agreements, for the bilateral free trade agreements, for regional agreements, whether it is Western Hemisphere or Middle East, for pluralateral agreements, for agreements that are sectoral in nature that cut

across regions, for example, in intellectual property rights in areas where we have interest.

So, I would say the broader, the better, the longer term, the better. I look forward to working with you, with this Committee, Mr. Chairman, with Mr. McCrery and all Members of this Committee to try to forge that contract, forge that consensus.

Mr. BRADY. Thank you, Ambassador. Thank you, Mr. Chairman.

Chairman RANGEL. The Chair recognizes Mr. Thompson for three minutes.

Mr. THOMPSON. Thank you, Mr. Chairman. Ma'am, every time that we've had an opportunity to meet with someone from your shop, I have asked this or a similar question regarding what you are doing to deal with—it's kind of an intellectual property issue, but in China, they make bad wine in China and they label it with the Napa Valley. It seems to me that that's something that you guys ought to be able to have some leverage on. They call it Na Pa He Gu, which means Napa Valley. It's clearly an infringement in regards to geographical designation, and it's something that's hurting a business in my district that's important not only to California but to the country.

Could I get an answer as to what you guys are doing? It's been three years I've been asking the question, and everybody's, yes, we'll look at it. What are you doing?

Ambassador SCHWAB. Congressman, thank you. This is an issue that we have raised with the Chinese. This is an issue that fits in with a broader set of intellectual property rights concerns and geographic indications concerns that we have.

In particular, when it comes to China, as you know, we've got a variety of intellectual property rights issues that we're trying to address, whether it has to do with falsified labeling, whether it has to do with copyright protection, whether it has to do with——

Mr. THOMPSON. Could you—because my time is limited, could you send me a letter explaining what it is you're doing and when we can expect some resolve on this?

Ambassador SCHWAB. Congressman, I'd be happy to do that.

Mr. THOMPSON. Can I expect a letter sometime soon? The three-year window is I think a little long.

Ambassador SCHWAB. Yes, sir.

Mr. THOMPSON. Thank you. The other issue——

Chairman RANGEL. We don't have time. No, no. Go ahead.

Mr. THOMPSON. The other issue I want to talk to you about, and Mr. Doggett brought it up, and that's the international labor standards. There are lot of us on this Committee who really wanted to vote for some of the past trade bills, but because of the environmental neglect and the labor neglect, we just—we couldn't do it. Is it my understanding from your answer to Mr. Doggett that we can expect—and these are countries that said, yes, put the ILO standards in. We're fine with that. Then I don't know if it was the Committee or the majority on the Committee or the Administration that stopped that from happening.

Is there any harm that can come to anybody if we have strict labor standards and strict environmental standards?

Ambassador SCHWAB. Congressman, you have my commitment to work with this Committee, with the Chairman, with Congressman McCrery, with other Members of the Committee to bridge the gap if at all possible on the labor standards issue and on the environment issues.

Mr. THOMPSON. Do you see any harm that can come to anyone if we have strict labor and strict environmental standards in these trade bills?

Ambassador SCHWAB. I am committed to seeing that we bridge the gap that existed last year, and to see if we can do so in a way that contributes to rather than detracts from U.S. economic interests.

Mr. THOMPSON. Thank you.

Chairman RANGEL. The Chair would like to recognize Mr. Porter for three minutes.

Mr. PORTER. Thank you, Mr. Chairman, appreciate you being here today. I guess a global question, and it may have happened before I was here, because of a prior appointment, I couldn't be here. As we look at Europe and kind of the trading roles between Europe and the U.S. and then compare that to the emerging markets in South America, it seems to me that that's the next frontier as far as trade, economic development, and with this globalization.

China seems to have also the focus on South America and the expanding markets. Just kind of give me an overview on your perspective of where we need to be short term, long term in our trade South America, as it's now the next frontier for economic development.

Ambassador SCHWAB. Congressman Porter, thank you. One of the advantages of a multilateral trade round is that you are able to negotiate with a wide swath of countries and regions, whether it is Europe, Japan, Asia. Bilateral trade agreements, regional trade agreements, such as the ones with the Western Hemisphere, though, enable us to be much more targeted in our approach, and this Administration has been utterly committed to enhancing economic growth through trade, democratization, through trade through greater commercial interaction in this hemisphere.

If we, whether you're looking at the Peru Free Trade Agreement (FTA), which we hope will come before this Committee shortly, the Colombia FTA, which we hope will come before this Committee shortly, the Panama FTA that we're just closing out, these are of fundamental importance. If you look at a map of the hemisphere, with enactment of those three free trade agreements into law, you will see a line of trade agreements going from the tippy top of Canada right down through the Horn.

Chile was one of our first FTA partners after Mexico, Canada, obviously, and that has been tremendously successful. We believe that these kinds of trade agreements are fundamental not just for commercial regions but also for geopolitical reasons. In the Andean region, also in terms of our anti-narcotics objectives.

Mr. PORTER. With the Central America piece, I think that from a—Homeland Security may have looked the other way for a few years, and now is that a major corridor? I appreciate your perspective.

Ambassador SCHWAB. The Central America piece, DR–CAFTA, is a fundamental part of that equation, yes, absolutely.

Mr. PORTER. Thank you.

Ambassador SCHWAB. Thank you.

Chairman RANGEL. Mr. Larson is recognized for three minutes.

Mr. LARSON. Thank you, Mr. Chairman. Thank you, Madam, for your testimony and service to the country. There was a story printed earlier today in the Post, I believe. At the end of the story, there was a quote from a Peter Schiff, who is the president of Euro-Pacific Capital, a brokerage firm in Darien, Connecticut. His comment was that instead of producing products, we are just printing money. How do you respond—and that we are—the country is in serious trouble. How do you respond to that?

The corollary question to that is one that you touched on in your remarks about the benefits of globalization, and that certainly Americans have benefitted. It's been my experience in my district that while some Americans may be benefitting, not all Americans are benefitting from quote/unquote "globalization."

With respect to the comment that was made by Mr. Schiff with respect to that, do you think the United States takes full advantage of the global transactions that happen all over the world? Is our current Tax Code, the way we look at trade, antiquated in response of need for us to provide for those who may be left out of this economy the opportunity to be retrained, to be reeducated and foster other future economic development?

Ambassador SCHWAB. Congressman, I will not pretend to be a tax expert. I think the fundamental questions you are raising, though, are absolutely the right questions to be asking.

In the case of manufacturing, U.S. manufacturing output has gone up dramatically, has gone up in the last ten years over 38 percent. This is our manufacturing. Capacity utilization in manufacturing——

Mr. LARSON. I don't mean to interrupt you, but I'm from a State where we're losing over 40,000 manufacturing jobs on a regular basis, and we're a high tech, aerospace, defense-oriented, pharmaceutical State, and yet we still continue to shed manufacturing jobs.

Ambassador SCHWAB. There, Congressman, you are talking about questions of causality. If in fact, as is the case, manufacturing output in the United States is up, and capacity utilization, is at a 33-year high, then the question is, where we are shedding manufacturing jobs to what we can—what can we attribute that to.

Labor productivity is part of that issue. Part of it has to do with when you look imbalance in our import/export composition, part of it has to do with different rates of economic growth, the fact that we save less than a lot of other countries. Other countries, developed countries are growing less fast than we are.

You alluded to questions about education. We've talked about trade adjustment assistance. Enabling individuals to be able to tackle today's economy, the global economy. If look at the difference in earning power of someone with a college degree as opposed to someone without a college degree, that is a huge gap, and it has gone up dramatically. That gap has grown dramatically in the last several decades.

So, I think there are multiple causes here. We need to look for solutions that don't jeopardize the successes that we do have in terms of manufacturing and exports.

Mr. LARSON. I'll get back to you in writing on the printing of money as opposed to productivity, because it's——

Chairman RANGEL. I'd like to share with the gentleman of Connecticut that the U.S. Trade Representative fully realizes that people who are working think better about trade whether they're involved or not. Even though it's not in her direct portfolio, she shares with me and the Ranking Member that her title is the U.S. Trade Representative.

So, therefore, the Administration has agreed to have other people perhaps sitting at the table to deal with the negative impact sometimes that progressive trade policy brings about. So, we are working very hard to find the language to make trade a popular thing.

The Chair recognizes the gentleman, Mr. Ryan, from Wisconsin.

Mr. RYAN. I thank the Chair for yielding. I've been enjoying this conversation, and I'll just try and add my little contribution to it, and then just quickly follow up with a request more than a question.

It seems to me we have pretty good road map on how we can accomplish TPA moving forward by looking at some of the recent successes we had. Two agreements that I was very involved in, Bahrain and Oman, involved side agreements with respect to labor and core ILO standards. It was—it took a lot of time and effort and work to get these side agreements, probably more than was necessary, but nevertheless, they occurred.

We just got this letter from the finance minister dated 6 February, from the finance minister of Oman, stipulating that they basically implemented all those labor laws we asked them to implement. If I recall here, they implemented not only the core ILO labor standards, but also the United Nations (UN) protocols and some additional agreements.

So, in Oman we basically achieved what we all want to achieve, what we're hearing here, we did it outside of it. So, now how do we come up with a model that put this within TPA so that we sort of standardize this process so it works a lot more efficiently and so that we can address these key critical issues?

That's what we need to work together on. At the same time I want to put out just one little word of caution. As I understand it, there's a possibility that a new labor regime, if not properly crafted, may possibly leave us subject to dispute settlement and possible trade sanctions because our superior labor laws are questioned. So, the devil's in the details. That would be a bad situation that would undermine the reason we enter into these trade agreements in the first place, to help American workers and businesses.

In addition, I simply think we need to be mindful that we don't want to adopt a model that would dissuade potential trade partners from negotiating with us in the first place. If we demand too much, we end up with nothing, not even the improvements in labor like we have been using with the current standards, like we got with Oman and Bahrain. All these new labor laws in those countries would never had occurred if it were not for our trade negotiations.

So, I also worry that if we make it too difficult for partners to partner with us and get these agreements, then these other would-be trading partners will simply go to the EU, they'll go to China, and they'll cut easier, better deals with them and freeze us out.

So, we are in a competitive atmosphere here. So, we have to find that sweet spot. We have to find that right area where countries want trade agreements with us, where we do advance these very common sense labor causes. In my opinion these are common sense things. We've got to do it in such a way that we don't set up our own laws for more litigation, for sanctions and dispute settlement. So, that's where the devil in the details exists. If you could just kind of elaborate for me how to get that done. I know—I guess we're on three minutes and my time's kind of out—perhaps in writing. That would be very helpful.

I think we can do this. I think we should do this. If we don't do this, all these other countries are going to trade and get better deals with our competitors, and we will lose because of that, and we will not advance this labor cause.

So, we've got to get this done. Thank you.

Chairman RANGEL. Mr. Ryan, no one understands that better than our trade representative, and we if she didn't find it—if it wasn't difficult, we would have done it a long time ago. So, I look forward for your input in helping us to reach that point where it's in the best interests of the United States and we get broad-based support for the trade agreements. I thank you for the cooperation that you—and the input that you've had in the past, and hope that you continue to work with us. Thank you.

Mr. Blumenauer is recognized for three minutes.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I would state from the outset that I am one Member who is very interested in watching the development of the Administration's agricultural policies and perhaps giving you greater latitude for the United States to be more forthcoming in the agriculture arena, particularly for poor and developing countries.

I would hope that maybe some of that same spirit about the special and differential treatment that we're talking about maybe in Doha also finds its way into some of the FTAs with some of these countries themselves that are developing. I must say that I find a little of that wanting when we're looking at the agreements with Peru and Colombia.

I am gratified by the leadership that is being exhibited by our Committee, by Chairman Rangel and Ranking Member McCrery.

It was in that sort of spirit of trying to move and reestablish the bipartisan trade consensus that we're going to need that you did receive the letter from us dated January 17th. Some of us got faxed late last night a response. I want to add my voice as saying, with all due respect, that response I hope was just dashed off by some staff member who wanted to have something in our hands before this hearing, because it doesn't go very far towards developing a sense of momentum dealing with these environmental issues as far as I'm concerned. In talking to my fellow signatories, they feel the same.

May I ask respectfully for maybe another shot at it? Let me offer just a few very brief comments, maybe get something back in writ-

ing to see if there's somewhere in USTR we can do a better job. Has the United States ever brought a complaint pursuant to the provision of our trade agreements requiring domestic environmental laws be effectively enforced? Under what conditions would USTR consider bringing such a complaint?

An example. Where it's document that there are illegal logging in the Rio Planto Bioreserve in Honduras, which is on the list of endangered world heritage sites, would that be an appropriate case to bring under the environmental chapter of DR–CAFTA? We've got the Singapore FTA where we've got massive transshipments of illegal log timber through the ports of Singapore.

I sat on the plane coming out from the Northwest this last week with a lumber executive that I've been having embarrassing comments with in the past. We've got a trade in illegally harvested timber that is posing a threat to his companies and others around the country, losses I've heard of a billion dollars a year in revenue because of these imports.

Now since it's clearly, it would seem, a trade issue which impacts both conditions abroad and in the United States, could we have addressed this issue of illegal harvested timber in a more forthright fashion, negotiating the trade agreement with Peru?

I'd like—I don't want to trap you, but I would like maybe a more detailed response in writing that speaks to what we've done, can we do it in the case of these illegal logging, the illegal transshipment, and putting teeth into these agreements that we have coming before us now that give some of us pause?

Chairman RANGEL. The Chair would like to recognize Mr. Nunes for three minutes.

Mr. NUNES. Thank you, Mr. Chairman. Ambassador, I want to be very quick with this. On the Korean FTA, it's come to my attention that some of the agricultural products are not being zeroed out in terms of zero duty. Specifically, this troubles me for crops that are not even grown in Korea.

So, I hope we will send a very clear message to the Koreans that they won't have my support if they're going to try to put duties on products that they don't even grow in their own country. So, that's, of course, parochial to me, but of concern.

I want to get to a question in regards to perishable agricultural products. Given the short timeframe here, I will be very brief, but you know of the seriousness that we have with trying to get agricultural products into foreign markets, specifically dealing with the FIDO sanitary barriers to trade that they put up.

What I'd like to get from you is what do you think of an establishment of a perishable commodity export indemnification program perhaps operated by the USTR? Are there any indemnification programs for any U.S. exports today? In other words, getting more people on the ground to try to get this handled more quickly than it happens now.

Ambassador SCHWAB. Congressman, in terms of Korea, I think you just sent a very effective message. I would say—I would note that we have this round of the Korea-U.S. Trade Agreement negotiations going on this week here in Washington.

As far as the United States' position, the United States' position is very, very clear that these have to be comprehensive agreements

that nothing is off the table, regardless. Nothing is off the table. That's the position we take. That is the set of commitments that we've made in terms of market access, even though sometimes that's difficult for us.

In terms of Sanitary and Phytosanitary Standards (SPS) issues, sanitary, FIDO sanitary issues, they are a constant source of problems in trade that we have, particularly in terms of our exports, but also other countries would argue that we have a system that is less efficient than it should be. Other countries would argue that.

I have worked with Secretary Johanns, and will continue to work with Secretary Johanns to see what kind of facilitative measures we can take. In terms of SPS barriers being used against U.S. exports, we are very active in terms of getting those eliminated, making sure that other countries also adhere to globally recognized standards.

Mr. NUNES. I think we have an opportunity with this farm bill coming up to try to help with some of these long outstanding issues. It seems like these never go away. I don't know if it's that the USTR is understaffed or if the staffing levels aren't appropriate at the foreign level in the other countries, but anyway, we're optimistic that we can try to get something done this year with this farm bill that would be beneficial for market access.

Ambassador SCHWAB. I will look forward to working with Secretary Johanns and with the agriculture Committees on this.

Mr. NUNES. Thank you, Ambassador. Thank you, Mr. Chairman.

Chairman RANGEL. Thank you. The Chair will now go back to those Members that were here when the gavel fell, which is Mr. Becerra, Mr. Kind, Mr. Pascrell, Ms. Berkley, Mr. Crowley, Mr. Meek, Ms. Schwartz, and then we'll go to Mr. Pomeroy and Mr. Van Hollen.

The Chair recognizes Mr. Becerra for three minutes.

Mr. BECERRA. Thank you, Mr. Chairman. Ambassador, again, thank you very much for being here. I'm actually very delighted at some of the questions and conversation that's taken place, because it seems like this year we're seeing conversation about worker rights, worker protections occurring on both sides of the aisle in this discussion, and I think that's great.

However difficult we have found it to promote our protections and our interests in things like our commodities, beef, crops, or our goods, heavy equipment, or even things you can't touch like intellectual property, we've always done the best job we can to protect our interests, to promote them as well abroad.

So, when we have provisions in our trade agreements which say that if we find a country is violating our intellectual property rights on movies or CDs, not only can we enforce actions against that country's crops or other products unrelated to CDs or movies, but we can actually require them to change their domestic laws to make sure that they are criminally sanctioning people who pirate our intellectual property. I think that is absolutely essential for us to be able to promote our interests abroad.

I'm wondering if you could tell me if you think it's difficult for the United States to promote and protect our interests of our work-

ers in America and workers, of course, in those countries, trading partner countries as well, as we go about fashioning a trade agreement that not only talks about worker protections but also includes it within the body of the agreement to be able to enforce protections and interests of American workers and interests of those—the worker interests in those trading partners as well.

Ambassador SCHWAB. Congressman, thank you for raising the question. As I have indicated and will reiterate, the Administration and I am fully committed to working with this Committee to see if it is possible to bridge the gap in terms of how we address worker rights. Congressman Blumenauer was talking about environment issues. We have——

Mr. BECERRA. My question was more focused on whether or not you as our ambassador believe that—I think it was Mr. Ryan who said it's difficult—it can be difficult to get these trade agreements signed if we go too far on some of these rights for workers. I don't think we spared any negotiating tool when it came to protecting our rights to our intellectual property, our rights to make sure our farmers can sell their crops for a decent price abroad, our rights to make sure that our heavy equipment that we send to other countries gets a fair price.

I'm just wondering if you could tell me if you believe that it's too difficult to negotiate an agreement that includes protections that will make sure that, for example, in China where in their industrial heartland, that industrial worker will make about 64 cents an hour compared to in America where an industrial worker probably will on average make about $22 an hour, or in Mexico where the minimum wage is less than $5 in a day compared to our deplorable $5.15 an hour minimum wage.

How do we make sure that as we go about making these agreements that we're protecting the interests of workers not just in our country but in those trading partner countries as well to make sure that, just as we protect product, intellectual property, commodities, we'll protect workers as well?

Chairman RANGEL. You may respond.

Ambassador SCHWAB. Thank you. Let me echo Congressman Ryan's comment that if this were easy, we would have done it a long time ago. We spend an inordinate amount of time and energy trying to make sure that we have solid and productive components, labor rights components, and environmental components, I might add, in our free trade agreements.

I believe that our free trade agreements are the single best vehicle that we have to improve the situation in terms of labor rights in other countries, and we have pursued that as actively and as avidly as we have pursued intellectual property rights and other services investment and so on.

We do need to—if it were easy, we would have done it some time ago. Let us recall that when we put together these free trade agreements, they're very complicated. They have to be comprehensive, and there are tradeoffs for everything. I have made the commitment to work with this Committee to see if we can bridge the gap on the labor rights issues.

Mr. BECERRA. Thank you. Thank you, Mr. Chairman.

Chairman RANGEL. I want to be as positive as I can about what the gentleman referred to. It means that we would like to see that with the same enforcement as the other areas, as difficult as it may be, because we know it's a question of trade policy, and we know that what you come up with is going to be in your opinion in the best interests of the United States of America. That doesn't mean that the legislative branch may differ with the executive branch as to what's in the best interest of the United States, especially when we're giving that authority to the President of the United States.

So, to some extent—and we'll have to have experts to support it—we may have a different opinion as to what's in the best interests of the people of the United States of America. So, I know you say that you've tried hard, but I'm more confident that we'll be trying harder to work together, because it makes the difference as to whether or not we're going to have a bipartisan trade policy.

I know you believe that, but the gentleman from California was not privy to the many, many meetings we have had, and we hope to please you as well as the majority Members of this Committee.

Let's see now.

Mr. BECERRA. Mr. Chairman, I'm hoping to be pleased as well.

Chairman RANGEL. Okay. Mr. Kind will be recognized for three minutes.

Mr. KIND. Thank you, Mr. Chairman. Thank you, Ambassador Schwab. This actually has been a very helpful discussion that we've been having throughout the morning. You've been very patient, and we appreciate it.

I'm going to eventually ask you about the Doha round, our ag bill coming up, but also the Canadian WTO challenge, ag challenge that's recently been filed against us, but before I do, this is tough stuff. I think the comments you've heard her reinforces that. You've got one of the toughest jobs in Washington today in helping us try to form a new bipartisan consensus and how we can move forward on a trade policy that makes sense for our country. I think it's worthwhile in doing, because I think trade is incredibly important for our country, for future growth prospects for our constituents. I believe it's important to our national security, because I believe when goods and products cross borders, armies don't. I believe it's an important tool in our diplomatic arsenal and in how we engage the rest of the world, but especially the developing world at this crucial time.

I also believe it's an opportunity of trying to elevate standards globally, both at home and abroad. To me, trade is all about the harmonization of rules and how we're going to engage one another on an economic basis. The real question is, and what's in the minds of our constituents back home, are we going to work hard to try to harmonize upwards, or are we going to encourage a race to the bottom, where we have no worker rights, no labor enforceable standards, no environmental protections, no level playing field for our constituents in which to compete, too? That's really the great challenge that we're trying to get at.

I, along with a few of my colleagues, spent a week in Geneva after Thanksgiving to get more insight on the Doha round, and there's nothing more dangerous than Members of Congress going and spending a week on an issue and coming home and being ex-

perts, but it's clear that all eyes are on us in regards to what we do with TPA, and especially on what we do with our egg bill coming up this year, but somehow we've managed to position ourselves as being the scapegoat or the bad actor in all this in Geneva right now. So, there's a lot riding on this.

I was hoping to be more encouraged with the Administration's farm bill that was sent up recently, especially with the Title I commodity program, so-called "Amber Box" payments. I think we need to go further, and I know it's just a starting point for negotiations with the egg bill, but obviously there was a round of criticism of both Europe and in the developing world on what the Administration was proposing under Title I. That's a concern.

Now I hope you might have an egg expert on staff that can come up and brief me on where things like in Doha and what we need to accomplish with the egg bill. I would hope maybe it's the same person that can give me an update on the Canadian challenge. We already had our hands handed to us with the cotton challenge, and we face a very serious challenge now with what the Canadians are arguing. Maybe if we can get something written from your office as well, that would be much appreciated.

If you could just comment on the importance of making sure we produce the right agriculture bill and what that means in the multilateral round.

Ambassador SCHWAB. Thank you, Congressman. We welcome Members of Congress going to Geneva, talking to WTO members and getting up to speed on a lot of these issues, because some of them are very arcane, they're very complicated, and we very much appreciate it when you take the time to do that.

Just a couple of very quick observations. One, obviously, I would be happy to come up and see you, or our chief agricultural negotiator or a team to come up and talk about the relationship between the farm bill and what's going on in Doha in agriculture.

Let me make one very emphatic comment, though, which is the farm bill, the Administration's farm bill, is not our Doha round agriculture offer.

Mr. KIND. Right.

Ambassador SCHWAB. What the United States is prepared to do in terms of cutting our trade distorting domestic support, whether it's Amber Box or Blue Box or other, or aggregate, has everything to do with how much agricultural market access, how much market access there is in this agreement. Those were—it was that tension that brought the talks down last July. So, we are pushing very hard to have a more ambitious market access outcome so that we can have a more ambitious conversation about trade distorting domestic support.

You mentioned the corn case. Mr. Chairman, this really bears some thought. In the absence of a successful Doha round negotiation, I think it's very clear we're going to see more litigation, and that includes more litigation like the corn case. We believe our programs are consistent with the WTO. We believe the new farm bill would be consistent with the WTO. Other countries don't necessarily feel that way, and litigation is what happens when you aren't able to resolve things through negotiation.

Mr. KIND. Thank you.

Chairman RANGEL. The gentleman from New Jersey, Mr. Pascrell, is recognized for three minutes.

Mr. PASCRELL. Thank you, Mr. Chairman. Thank you, Madam Ambassador. Madam Ambassador, I hope someday that trade will someday be a tool for economic security within our country and other countries as well, as well as national security, which I think it can serve a vital, vital part of that. There's not enough time to get into that today. I want to take some exceptions to what you've said, if you'll permit me to do that.

Your answer to the Chairman on his question about why do so many people believe that trade is really the bottom line, it's not good for the rest of the—many workers in this country, and you said, you responded to him because of misconceptions.

That is why I—I hope I was not out of order, but that is why I responded to you before when you brought up the subject of Valentine's Day for flowers. I know where those flowers come from. You know where those flowers come from. Cocoa, which goes into chocolate, a lot of chocolate going out today to bevel off the edges with many relationships, chocolate does it, but many times that cocoa comes from places where you can't organize, and they use child labor.

So, I want to ask you a question, if I may, about a subject that I didn't bring it up, the gentleman from Wisconsin brought up, on Oman and Bahrain. I proudly voted against both of those trade agreements. In those agreements, it was promised—they promised, both of those countries, to strengthen their laws in order to secure passage of their respective FTAs.

Bahrain recently issued a decree banning strikes in numerous public and private sectors, and Oman has not adopted laws necessary to implement what they promised. It appears that it is enough for the USTR to obtain promises regardless of whether the promises are kept. I'd like to know in 15 or 30 seconds, what are you going to do that the promises are being kept? We can't accept promises that are not being kept by most of the countries that we trade with. What are you going to do about it?

Ambassador SCHWAB. Let me begin by respectfully disagreeing with your underlying premise.

Mr. PASCRELL. Which is?

Ambassador SCHWAB. First that the agreements are not being kept. In the case of Oman, Oman has fully complied with the commitments that it made in terms of changing its trade laws, royal decrees, in terms of regulations. They are now in place. The trade agreement has not yet even entered into force, so.

Mr. PASCRELL [continuing]. Know that.

Ambassador SCHWAB. Those are in place. In the case of Bahrain, Bahrain made significant commitments. Bahrain is, to my understanding, acting in a manner consistent with those commitments. I just heard of the claim that you described, and our office is looking into that to make sure that they are addressed.

Let me note the obvious, though, which is absent free trade agreements with Oman and Bahrain, there would be nothing whatsoever that the United States could have done to improve labor rights in either of those countries. None of those laws, none of

those regulations would have gone through, and we would have no mechanism to enforce them.

So, I'm happy to say that we have those agreements in place and we have the dispute resolution mechanisms available to us.

One last point, Congressman. That is, in my written presentation, I specifically noted that of the long-term unemployed, there are approximately 3 percent of those whose jobs have been lost directly attributable to trade. We understand there is a problem. It is not—it is not a huge problem statistically. It's a huge problem for those individuals in those communities.

Mr. PASCRELL. Yes. We're talking about human beings. We're not talking about——

Ambassador SCHWAB. That's exactly right, and we're committed to helping them.

Mr. PASCRELL. We're not talking about widgets. The previous President did not have fast track, and yet he had very specific trade deals with the WTO, with the Permanent Normal Trade Relations (PNTR) in China. Why do we need to have fast track? Why do we need to be kept out of things in order to come to these agreements?

Chairman RANGEL. The Chair would like to recognize——

Mr. PASCRELL. Thank you, Mr. Chairman.

Chairman RANGEL [continuing]. Ms. Berkley for three minutes.

Ms. BERKLEY. Thank you, Mr. Chairman, and a belated welcome, Ambassador. I'm going to change topics a bit. I think we can agree that our participation in international trade through the framework of the WTO is advantageous for a number of reasons.

So, I'm wondering if you can help me. What happens when the United States finds itself in a situation where we're judged by the international community to be in violation of WTO principles which we have agreed to follow? I'm specifically referring to the case that Antigua and Barbuda have brought before the WTO alleging that the United States is in violation due to our confusing and may I say hypocritical stance on Internet gaming. According to the Justice Department, any gaming conducted over the Internet is illegal.

This Congress in its infinite wisdom included a ban on Internet gaming in the port security bill that was passed right before we adjourned for the election. I have never been able to figure out how banning Internet gaming had any connection whatsoever with this Nation's port security, but included in that ban was an exception for horse racing. So, I have to think poker bad, horse racing good.

As a result, our Government has prevented operators based in Antigua and elsewhere from offering online gaming within our Nation's boundaries, citing our Nation's moral objection to Internet gaming at the same time we are allowing online betting for horse racing.

The WTO of course has disagreed with our Justice Department's position and will shortly issue a ruling that confirms we are in violation and that Antigua may and can retaliate. What are we going to do about this contradictory policy? What do you recommend that Congress does? Ought we not study the problem or the issue of Internet gaming before we ban it, in violation of WTO?

Ambassador SCHWAB. Congresswoman, you have been very patient waiting to ask this question.

Ms. BERKLEY. You have no idea.

Ambassador SCHWAB. This is quite a question. Let me offer the following. One, because this is a matter still under litigation in the WTO, I would just as soon not get into any specifics. What I would appreciate is if you have the time, if I can come in with some of our compliance attorneys who are working on this case. The United States takes the position we believe that our laws are consistent with our WTO obligations, but if you would permit, I'd like to be able to come in with some of our attorneys to get into more details and respond more fully to your question.

Ms. BERKLEY. I would appreciate that, but the idea that we're going to spend a fortune litigating an issue that I think could be easily taken care of in Congress with a simple vote seems a waste of taxpayers' money, but I would welcome sitting down with your attorneys and talking to them about this issue.

Ambassador SCHWAB. Thank you, Congresswoman.

Chairman RANGEL. The Chair will now recognize my colleague from New York, Chairman of the Queens County Democratic Organization for what international input he would like to place in this issue before us. Mr. Crowley.

Mr. CROWLEY. I need a moment, Mr. Chairman.

[Laughter.]

Mr. CROWLEY. Let me just—get back to where I'm at. Thank you, Mr. Chairman, as always. Ambassador, thank you for being here. It's great to see you again.

I just want to follow up very quickly on the question Mr. McDermott asked earlier, and that is pertaining to the LDCs, Least Developed Countries. As you know, I have an interest in—primarily, in a number of those countries, in particular, Bangladesh, Sri Lanka, just to name a few of them, and an interest to see them advance in terms of their society and the need to have more free access to our markets.

During the Doha development agenda, WTO members would move to adopt the initiative which promotes duty free, quota free market access for the LDCs. By 2008, this initiative would be applicable to all products originating from LDCs, with the aim to move towards greater equity in international trading opportunities for those countries.

When Mr. McDermott asked you the question in regard to 100 percent duty free and quota free access, you raised the issue of the African nations' objection to that. Recent economic studies, including the International Food Policy Institute, which is a conservative institute, show that 100 percent duty free, quota free access would not adversely affect apparel exports from Africa, and in fact—and moreover, the Africa countries have expressed support for 100 percent duty free, quota free access for all LDCs.

One, I'm going to ask you to respond to that. Before I ask you to respond to that, if you could, just another note, because time is of the essence here, I mentioned to you briefly in private the issue of Oracle and their difficulties in India, specifically, they face difficulty working through the Indian bureaucracy. India's Securities and Exchange Commission and Fed leaked the sale within India that increased the stock price there. They changed the filing fee

during the process from $1,058 to $6.6 million. It's a software company dealing with banking software.

Oracle is in the process again of purchasing that within India. It would be the largest forward directed investment in the history of India, over $2 billion. They were told that they could have 100 percent ownership within India. They've only been able to secure 84 percent ownership. So, a lot of double dealing is the sense that Oracle has gotten in their dealings with India.

Can you comment on that and tell me what it is you are doing as Trade Representative and what our ambassador, Mulford, has been doing or saying to the Indians in India? Thank you.

Ambassador SCHWAB. On your second question, the issue of Oracle's acquisition in India, this is one that we are following, very familiar with, and between Ambassador Mulford and our office, has been raised with Indian authorities. I will continue to raise that in context of the India-U.S. Trade Policy Forum, which was created last year, and that will be meeting again in the next several months.

In terms of duty free, quota free, the duty free, quota free decision—and this was an agreement reached in December—of the Doha—in the Doha agreement of the WTO members, was for 97 percent of products to be duty free, quota free. Countries that want to do more can do more.

Ninety-seven percent was a position that a lot of countries agreed on. We have currently a Federal Register notice out asking for input, asking for comments on what should or should not be included, because we do—we are fully committed to making the duty free, quota free provisions as useful to the least developed countries as possible.

There are preference erosion issues that need to be considered not just in terms of African countries, although I hear a lot of concerns from African countries, AGOA members in particular, but also other preference holders, other countries that already have extensive preferences in our market.

We will be using this request for information, request for input process, public input, to get a sense of where this would fall out. It is our expectation and our desire to make sure that the maximum possible benefits to developing countries are derived from this 97 percent.

Mr. CROWLEY. Well, I look forward to working with you on this in the future, Ambassador. Thank you very much.

Ambassador SCHWAB. Thank you, Congressman.

Mr. CROWLEY. Thank you, Mr. Chairman.

Chairman RANGEL. The Chair would like to recognize Mr. Meek of Florida for three minutes.

Mr. MEEK. Thank you, Mr. Chairman, Madam Secretary, thank you for coming before us. I know that many of the questions that many of us on the bottom row had for you have already been answered, but as you know, I'm from Miami, Florida, and I'm the only Member on this Committee that represents Florida, and trade is something that, like the pork industry says, we're the new white meat as it relates to trade, because some of the issues or some of the issues that are facing Americans, loss of jobs, what have you,

that's being blamed on trade, did not affect Florida like it affected Ohio and some of the other States and South Carolina.

As you know, we had the Free Trade of Americas that we attempted to try to promote, and we know the status of that now. Also, CAFTA, DR–CAFTA, which I understand there's still some discussions that still need to take place for that to be in full effect. Now we have the Hope legislation that was passed in the closing of the last Congress. I represent more Haitian Americans than any other Member of Congress, and we know the situation in Haiti, the poorest country in the Western Hemisphere. I know that the Administration has really been looking to do a lot, not only in South America, but in our own hemisphere to promote trade.

I also would like to hopefully give some questions to your staff for the record so that you can give me some feeling of where we're headed as it relates to Haiti. A very difficult, very technical international community is there trying to do the best they can. I just want to make sure that we're putting our best foot forward. I voted against DR–CAFTA for the main reason that we had the Hope legislation or Hero or what have you before us, and it wasn't getting the attention that it deserved from the Administration. It did not come up for a vote, and when it was coming up for a vote, thanks to the Chairman, it was so watered down under the previous Chairman, it wasn't even worth bringing it up, but I'm glad that our present Chairman and the previous Chairman worked to get the Hope legislation up.

I want to just ask you very quickly as it relates to Haiti, what kind of forward lean does your office have as it relates to getting the implementation of the Hope legislation moving fast? Faster than it's doing now. I understand that we may be in a DR–CAFTA experience, and it's just one country.

Ambassador SCHWAB. Congressman Meek, thank you for asking the question. We have committed our office, and we're working with the Customs and Border Patrol for their side of it. We have committed to have expeditious implementation of the Hope legislation. That is within a timeframe ideally within 90 days of enactment. That takes us into March. We're moving very quickly, and I am optimistic that we will be able to meet that timeline.

You are absolutely correct that Florida is an incredible beneficiary of an open trading system, particular Western Hemisphere trade, and the Hope preference program I hope will be of significant benefit. We believe very strongly that DR–CAFTA, when it's fully implemented, again, has fundamentally important implications for Florida and the Peru and Colombia and Panama free trade agreements when those come before this Committee, when they are enacted will also be very, very significant in terms of Florida and other countries in the region, including Haiti, gaining the benefits that are possible from international trade.

Mr. MEEK. Thank you very much, and I look forward to following up with you and your staff on the issue. Thank you.

Ambassador SCHWAB. Yes. I forgot to mention, if you've got specific questions, we will be very happy to receive them and respond to them promptly. Thank you.

Chairman RANGEL. I'd like to make your job easier, because when we have these—the Ranking Member and I agree that when

we have these informal meetings, some of the questions that people have of their own district other Members would be interested in getting these answers so that you'll have a Committee that's more in line with our full trade policy rather than just what hits our district.

We would be better informed, and I want to thank you again for your willingness to have these informal meetings.

Ms. Schwartz is recognized for three minutes.

Ms. SCHWARTZ. Thank you, Mr. Chairman, and thank you for your patience, too, in hearing all of our questions. I wanted to really ask about—more about the issue of enforcement. I mentioned it to you before the hearing, but one of the concerns, and the Chairman expressed it in the beginning, that there is skepticism about these trade agreements really being helpful to either American businesses or to the workers of course they employ. So, what that means is that we work hard to get language in legislation in these trade agreements, but then the issue of enforcement is clearly a major one.

So, specifically, Congress did insist in the China WTO accession agreement and the China PNTR that the legislation include the special anti-surge agreement that would allow the United States to act against unfairly traded Chinese imports. The anti-surge mechanism known as—you referred to it as the 421 provision—is a major reason that the China PNTR was passed.

Since the law went into effect, a number of U.S. industries have sought to use the anti-surge mechanism and to seek relief under this law. In four out of six of the cases, the independent U.S. International Trade Commission found that the U.S. firms did in fact need relief, but in every one of those cases, this Administration rejected those petitions, often reaching beyond the parameters of the Congress's intention, and looked for justifications for the rejection.

I have a business in my district. I wrote to you about this. I'll represent it's a standard pipe manufacturer located in the city of Philadelphia, in the northeast section. I can tell you just—this is an example. The standard pipe imports from China increased from 10,000 tons in 2002 to 663,000 tons in 2006. That's not a small increase. It's a staggering figure. As a result, this particular company has had to cut back and has laid off workers' hours.

This is true for standard pipe companies across the Nation. While you might say, and I hope you do, that you would speak to the specific concerns I have about this company, I am really asking more as we go forward, I'm asking more the question as we go forward, as we seek to build in language that will in fact offer this kind of potential relief as we go through—sometimes it's a transition, sometimes it's actually really sort of an anti-dumping provisions as well—can we count on the Administration to find only reasons to reject the opportunity for relief for American industry and companies?

Or in fact will we see some enforcement from the Administration, from you and from the President? It's an assurance I think that we need going forward to make sure that as we want to promote trade policies in this country that work for American business and American workers, we need to have that assurance going forward.

I would like to have you speak again to the specific or to the general notion of enforcement. Thank you.

Ambassador SCHWAB. Congresswoman, thank you. Let me speak both to the specific and to the general. General first. We are absolutely committed as an Administration, as the U.S. Trade Representative's Office where we have jurisdiction, and the Commerce Department in anti-dumping countervailing duty areas where they have jurisdiction, we are absolutely committed to effective enforcement of trade agreements.

It is not a good use of anyone's time for us to go out and negotiate trade agreements and discuss them here and debate them and enact them into law and put them into effect if we are not actively enforcing those agreements. If, for example, you look at the—you mentioned the case of China.

If you look at cases that we have brought related to auto parts, the most recent subsidies case, prohibited subsidies case, involving export subsidies, involving import substitution subsidies, some of the issues that we're debating over intellectual property rights and so on, we are showing that we will be rigorous in our enforcement of trade agreements.

Ms. SCHWARTZ, but not in the anti-surge.

Ambassador SCHWAB. In terms of anti-dumping and countervailing duty, the anti-surge mechanism 421 that you reference, that is a provision of law that we respect, that we implement in good faith.

In the case of the Standard Pipe decision, that decision and the previous decisions, the President needs to make a determination, we make a determination as to whether it is in the national interest to impose these special safeguards.

In that particular case, we found that there were more than 40 other producers of this product, countries exporting that product to the United States, and that a safeguard put on one imports from China, would not have done any—provided any real benefit to U.S. producers. In fact, it would have harmed U.S. users.

You have our commitment, and Carlos Gutierrez, Secretary Gutierrez, I'm sure would say the same thing if he were here, that this is a provision of law that we will faithfully implement.

Chairman RANGEL. The Chair would like to recognize Mr. Pomeroy for three minutes.

Mr. POMEROY. Thank you, Mr. Chairman. Madam Ambassador, is sugar secure as a sensitive product in your negotiations with, among others, least developed countries?

Ambassador SCHWAB. Congressman, it would have been lovely if you had been able to ask that question about the same time that the two congressmen were here asking me why duty free, quota free——

Mr. POMEROY. You're on my time. Question, please.

Ambassador SCHWAB. The answer is, we have committed that 97 percent of imports would come in duty free, quota free from the least developing countries in the world if there is a Doha round agreement. We have not made any commitments as to what would be contained in that 3 percent. We have a Federal Register notice that we have recently issued to get comments on that very subject. I am assuming that any——

Mr. POMEROY. Sugar is insecure relative to be in sensitive product exclusion at the present time. Is that right?

Ambassador SCHWAB. We have not made any determination as to what will be——

Mr. POMEROY. All right.

Ambassador SCHWAB.—within that allocation.

Mr. POMEROY. Watching the Doha round, it reminds me of a one-bidder auction with recalcitrance, intransigence by our trading partners, the United States just tossing more and more on the table. I believe that in light of restricted market access that is very different from the open market we allow, the extraordinary European subsidies, which are very different than what we have in our own farm programs, this approach is ill advised.

Not only have we been wimpy in negotiating, we are wimpy in trade enforcement, and this is where I would direct the rest of my time. Two issues. Transshipment of sugar through Canada under NAFTA—I'm sorry, through Mexico under NAFTA, as we have the NAFTA 2008 date arriving with unlimited amounts of sugar allowed in from Mexico, what resources are allowed—are you allocating to make sure there's no transshipment, which is clearly prohibited under the terms of the signed agreement?

Second and very different issue, but I think it reflects upon the array of areas where trade enforcement has been lacking, is the privatization of Japan post exposing a $50 billion a year life insurance presence in Japan, what resources do you have dedicated to the privatization of Japan post? Have you had discussions with Japan relative to national treatment of Japan post as they're in this transition toward privatization?

I thank you and yield—and look forward to your answer.

Ambassador SCHWAB. Congressman, you raised two questions and accused us—accused me of being a wimpy negotiator, and I must——

Mr. POMEROY. Our trade policy generally, Madam Ambassador.

Ambassador SCHWAB. Well, let me suggest, Congressman, that Exhibit One for our determination to make sure that any Doha round outcome is clearly in the national interest of the United States was walking away from the table in July. There was a bad deal on the table. It had insufficient market access in agriculture, in manufacturing, and in services. We walked away from the table even knowing that that was our last chance to use trade promotion authority. That is because we are determined when we negotiate free trade agreements, when we negotiate multilateral trade agreements like the Doha round, that there has to be market access. In terms of what we are or are not prepared to do, in terms of our trade distorting domestic support in agriculture, that has everything to do with how much market access is on the table.

So, first, foremost, most important. In terms of sugar, in terms of sugar and NAFTA, as you know, and as you implied in your answer, the market ultimately becomes fully open between the United States and Mexico next year in terms of sugar and a number of other products that are very sensitive to, for example, the Mexican government and sensitive to Mexico, sensitive to the United States. We will need to make sure that transshipments do not occur, because it is important that if there is going to be trade

within this NAFTA agreement it is fair trade and it is trade that was anticipated by the agreement, not trade with third countries.

Finally, on Japan post, it is an issue that we are concerned about. We need to make sure that with this transition in Japan there is a level playing field at the end of the day and that U.S. rights under the WTO that Japan has allocated are not eroded by this change, we will continue to work with the Japanese to make sure that happens.

Mr. POMEROY. Thank you.

Chairman RANGEL. The Chair recognizes Mr. Davis for three minutes.

Mr. DAVIS. Thank you, Mr. Chairman, Ambassador Schwab. I apologize for getting here and delaying your departure. I had some weather issues today.

Let me go back to Ms. Schwartz's questions about countervailing duties. As you're probably aware, Mr. English and I have had a bill in the last Congress that we'll be introducing soon, which unambiguously—which gives unambiguous authority to U.S. Commerce Department to apply countervailing duties in the event of subsidies by the Chinese. The reason it's difficult to do that now, as I understand it, is because of the determination of the term "nonmarket economy."

Two questions. Is there any good economic reason or any good substantive reason why the United States should be reluctant to treat China as a country for whom these provisions are applicable? Is there a reason that the Administration has been resistant to interpreting the current law in such a way that allows countervailing duties to be applied? Is there a good reason why this legislation shouldn't be implemented by the Congress? Give me a brief answer to that.

Ambassador SCHWAB. Congressman, thank you. On the issue of Chinese subsidies and countervailing duties, as you know, there is currently under review, under consideration, a specific case before the Commerce Department related to coated paper that I can't comment on where the Commerce Department has decided to review whether or not and how applicable countervailing duty laws are and whether they should be applied in this case. That is obviously at a sensitive stage, and I won't comment on that specific case.

In terms of addressing Chinese subsidies, this is an area where we have a great deal of concern, and where it is very clear that China has subsidies that are illegal or clearly inconsistent with their WTO obligations, we are acting. Most recently, we announced that we are seeking formal consultations under the WTO——

Mr. DAVIS. Let me stop you simply because my time is about to run out. The concern that some of us have, Ambassador, is I understand there's a current case in controversy that you don't want to wade into. It's not your job to wade into that here today, but the concern that some of us have is this. There is a lingering concern in the American economy, on both the employer level and the labor side, that we have not been zealous in enforcing the trade provisions that currently exist with respect to China.

If we were to provide unambiguous authority to the Commerce Department to make this determination, some of us think that that

would strengthen our hand with the Chinese. I hear the argument that's advanced that, well, we don't want to needlessly upset the apple cart with China. I certainly understand the arguments about the need for constructive engagement.

I would just end with this point. China has as much incentive as we do to constructively engage if we're willing to show some sticks as well as carrots. I don't think that we're somehow going to push the Chinese off the international market if we get more aggressive with enforcement actions. Certainly if we add this tool that's available for all kinds of economies around the world, if we add that to our arsenal of sticks, I don't think it's going to push the Chinese away. I think it will be a demonstration of seriousness on our part.

Finally, this has to go both ways if we're looking to build the kind of political support that we need. As the Chairman has made clear to you, as other Members have made clear to you, we have to serve constituents who empower us every two years to come back, and they have to hear something from us more than the long-term benefits of trade or the 15-year benefits of trade. They have to hear some sense of current reciprocity, and they have to hear that we take seriously the laws we have in place. I'll end on that observation.

Ambassador SCHWAB. Thank you, Congressman.

Chairman RANGEL. The Chair would like to recognize Mr. Ramstad for three minutes.

Mr. RAMSTAD. Thank you, Mr. Chairman. Ambassador Schwab, nice to see you again. I'll be brief. I just want to commend you for the progress you've made with respect to the Doha round negotiations. I realize much work is left to achieve a breakthrough, but you have done a yeoperson's job in leadership in terms of progress with respect to Doha.

I also want to commend you for your leadership on trade promotion authority, and I certainly hope that a majority of Congress understands how absolutely critical it is. We need trade promotion authority obviously to implement Doha, and to negotiate regional and bilateral agreements to open those new markets which are critical certainly to my State of Minnesota, a State that has a great high tech industry, a lot of agriculture as well as financial services and others. So, thank you for your work there as well.

Also I commend you for the progress that's been made on the various trade agreements. I think you probably have the second or third toughest job in this town, but I appreciate the work that you've done, and there has been real progress on those pending enactment as well as ongoing negotiations.

Finally, I want to commend you for your impressive record of success with respect to enforcement and dispute resolution. So, I just wanted to say thank you and keep up the good work, Madam Ambassador.

Ambassador SCHWAB. Congressman Ramstad, thank you very much.

Chairman RANGEL. The Chair recognizes Mr. Herger.

Mr. HERGER. Thank you. Ambassador Schwab, I'm eager to see the U.S.-Korea free trade agreement because I believe that Korea would be an immense market for our goods and services.

I also want to make sure that any agreement meets our usual high standards by being comprehensive and aggressive. In addition, I believe the agreement should include a robust investor state dispute settlement mechanism, and I'm alarmed by reports that Korea wants to limit this mechanism severely. This mechanism is essential to preserving the rights of U.S. investors abroad.

Do I have your commitment to principles on investor state issues that we've used in our prior agreements?

Ambassador SCHWAB. Congressman, as you know, the eighth round of the Korea-U.S. free trade negotiations are going on this week. It is a tough negotiation. This is our seventh largest trading partner. We are trying to move this agreement in as fast a manner as we can in the hopes that if we can get a mutually acceptable deal, we can do it before this allocation of trade promotion authority runs out.

You do have my commitment that when it comes to investment issues, investor state issues, we will be as tough and seek the same degree of comprehensive inclusion when it comes to investment issues with Korea as we have in other FTAs, yes. Thank you.

Mr. HERGER. Thank you.

Chairman RANGEL. Thank you again, Madam Ambassador, and as much as I appreciate your willingness to meet with individual Members that need some answers, because of your generosity with your time, the Ranking Member and I are prepared to call the full Committee, at least those who want to participate, in the library or some other place so that it will save you time and we could be better informed. Is there anything that you could suggest that I and the Ranking Member do to improve our ability to support the trade policies of our country?

Ambassador SCHWAB. Mr. Chairman, thank you. Thank you for your offer to hold executive sessions where we can get into more specifics, and in some cases, I can be more candid than I can be in an open session. I think the most important thing you can do, you're doing right now, which is to make sure that there is an active and bipartisan dialogue about U.S. trade policy, whether it is trade negotiations, whether it is enforcement and compliance, whether it is trade agreements. You have my commitment, this Administration's commitment to work with you, to work with Congressman McCrery, Congressman Herger and whatever we need to do to be part of that partnership.

U.S. trade policymaking is a difficult and complicated exercise for governance, in governance in the United States, and anything that we can do to work with you, we're prepared to do.

Thank you.

Chairman RANGEL. Thank you for your time. You can see that the participation of the full Committee shows the interest that this Committee has.

Thank you so much for your time.

Ambassador SCHWAB. Indeed, thank you.

[Whereupon, at 12:53 p.m., the hearing was adjourned.]

[Questions submitted by the Members to the witness follow:]

WAYS & MEANS COMMITTEE QUESTIONS FOR THE RECORD

U.S. House of Representatives
Committee on Ways & Means

Hearing on
"The Administration's 2007 Trade Agenda"
February 14, 2007

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE CROWLEY

1. Duty Free Quota Free in Doha Round

During the Doha Development Agenda, WTO Members moved to adopt the initiative which promotes duty-free, quota-free (DFQF) market access for the least-developed countries (LDCs). By 2008, this initiative would be applicable to all products originating from LDCs with the aim to move towards greater equality in all international trading opportunities. With no end in sight to the round, what are your thoughts on the United States talking unilateral action and providing duty-free, quota- access to our market?

Answer:

The Administration shares your view on the importance of expanding the trading opportunities for LDCs. At the last WTO ministerial meeting in Hong Kong in 2005, WTO Members made a commitment regarding duty-free, quota-free market access (DFQF) for products from LDC's that will be implemented as part of the overall results of the DDA. The Hong Kong commitment calls for developed countries to provide DFQF on 97 percent of tariff lines by 2008 or the start of the implementation period for the DDA. For the United States, these efforts will be implemented through our unilateral preference programs, such as GSP.

We have begun the formal consultation process to inform our deliberations on implementation. On January 18, 2007, the Administration requested public comments on issues related to implementation of DFQF in a Federal Register notice. The deadline for these comments was March 15. On February 16, 2007, USTR sent a letter to Chairman Pearson requesting the USITC to provide an analysis of the probable economic effects on U.S. producers and consumers of providing DFQF to the LDCs.

Implementation of the Hong Kong commitment will undoubtedly broaden access to the U.S. and other developed-country markets. Since developed-country markets are largely open, however, we continue to believe that the most significant prospective gains for LDC exports are in other developing countries, particularly the large emerging economies. Ultimately, a strong overall market access outcome from the Doha negotiations that creates meaningful new trade flows in agriculture, industrial goods and services, will be the critical determinate of the impact of the

DDA on economic growth and poverty alleviation in the poorest countries. Therefore, this Administration remains committed to a successful and timely conclusion to the DDA.

2. Doha Services

The bulk of the attention in the Doha Round has been put on agriculture, and I am very concerned that a deal could finally be made on agriculture at the 11th hour, with no time left to conclude a good services deal. Do you share my concern that this scenario could play out to the disadvantage of our great services companies?

The Bureau of Labor Statistics projects that virtually all new job creation in the United States over the next several years will be in the service sector, where we clearly have a competitive advantage. How do we ensure that the Round gives maximum scope to this competitive advantage?

Answer:

Removing barriers to trade in services is a high priority for the United States in the Doha Round. While it is true that agriculture has so far attracted most of the attention, we have made it clear to WTO Members that there cannot be a final deal unless it includes a strong services component alongside agriculture and goods.

Therefore, we are pushing very hard, placing particular emphasis on achieving real market openings from key emerging markets such as Brazil, India, China, Indonesia, and Malaysia. We are meeting with these countries at high levels and pressing for the removal of significant barriers in key sectors such as financial services, telecommunications, computer, energy, express delivery, distribution, environmental, and audiovisual services. These barriers include foreign equity restrictions, prohibitions on branching and other forms of establishment, prohibitions on supplying cross-border services, nationality requirements, and favorable treatment for government entities.

We are using every source of leverage at our disposal. At the same time, it is important to note that the single most significant request by our trading partners is to provide improved market access through temporary entry of foreign service suppliers (so-called Mode 4). Many countries will surely weigh their response to our priorities relative to our response on theirs.

Our expectation is that our trading partners will steadily improve their services market access because it's in their own economic self-interest to do so. In order to be competitive in the international marketplace, countries will need access to lower cost and technology-rich service providers. As with most trade liberalization, the outcome is win-win, and we will continue to press this reality for the most ambitious outcome in services as possible.

3. China Services

My City has a strong comparative advantage in the financial services sector. New York companies are world leaders in financial services. Yet, many of these firms continue to have trouble gaining full access to the Chinese market even as our own markets remain open to both Chinese goods and services.

Can you describe some of the regulatory barriers to entry for U.S. firms into the Chinese financial services market? What is the Chinese government doing to reduce those barriers? Why do those barriers continue to exist even now, five years after China's entry into the WTO?

Very specifically, despite China's many economic reforms, China continues to maintain a clear regulatory distinction between Chinese and foreign companies. Those distinctions create barriers to U.S. firms and disadvantage Chinese consumers. What steps is China taking to eliminate differential treatment of U.S. firms in China, and what should they be doing to speed up that process?

Answers:

1. Can you describe some of the regulatory barriers to entry for U.S. firms into the Chinese financial services market?

The U.S. is working hard to eliminate barriers faced by U.S. financial services companies seeking to do business in China. Nevertheless, some impediments remain, which vary depending on the particular financial sector (banking, insurance, securities, asset management, and other financial services). For example, in a variety of these sectors, the U.S. continues to press China to improve the transparency and predictability of its licensing process; to further liberalize foreign equity rights so that wholly foreign-owned subsidiaries are possible; to remove remaining discrimination between foreign and domestic companies in application of laws and regulations; and to avoid overly burdensome regulatory requirements (e.g., requirements for high minimum capitalization, or the obligation to have operated a representative office in China for several years prior to establishing a branch or subsidiary).

2. What is the Chinese government doing to reduce those barriers?

While many challenges remain, in response to U.S. engagement, the Chinese Government is pursuing a general initiative to improve transparency of licensing and related regulatory processes. Related to this development, some Chinese financial services regulators are making serious efforts to allow public input into the development of new regulations. Regarding existing restrictions on foreign equity participation, China already has phased in greater foreign equity participation for certain sectors (banking; many types of insurance) as required by its GATS commitments, although the United States has been clear that it expects more comprehensive liberalization. The United States also continues to stress the importance of non-discriminatory treatment of U.S. financial institutions. For example, the United States is closely monitoring China's implementation of recent regulations on foreign banks, which seem to provide foreign subsidiaries – but not foreign branches – the same rights as Chinese companies for initial entry and expansion. On the topic of burdensome regulatory requirements, following

its WTO accession, China has taken some steps to reduce the level of minimum capital requirements applying to the banking and insurance sectors, although the United States continues to advocate for further reductions.

3. Why do those barriers continue to exist even now, five years after China's entry into the WTO?

Progress in reforming and implementing regulations and other policies and practices to expand market access and create a more open and predictable business environment has varied by financial sector. In its WTO accession China made important commitments to eliminate market access restrictions, including limitations on foreign equity, in some sectors such as non-life insurance, while retaining these restrictions in other areas, such as life insurance and securities. The United States continues to press China to commit to further liberalization in these important sectors. Even in areas where China has already made significant market access commitments, however, U.S. industry has identified some areas where regulation and licensing procedures have served as impediments to market entry and expansion.

In some cases where concerns have been raised, China has justified its approach by pointing to lack of technical expertise at the relevant regulatory agency, or the need to further reform and restructure the affected industry before changes can be made. Where problems have been identified, the United States has urged China to take action to resolve the issues. We are using bilateral mechanisms such as the newly-formed Strategic Economic Dialogue, chaired by Treasury Secretary Paulson, with the participation of Ambassador Schwab and other Cabinet members, as well as the USTR-led Insurance Dialogue and the Treasury-led Financial Sector Working Group to move forward on these issues. The United States has also raised these concerns multilaterally, through such fora as the WTO Transitional Review Mechanism for China, where WTO members have the opportunity to raise their concerns about China's WTO implementation efforts.

Very specifically, despite China's many economic reforms, China continues to maintain a clear regulatory distinction between Chinese and foreign companies. Those distinctions create barriers to U.S. firms and disadvantage Chinese consumers.

4. What steps is China taking to eliminate differential treatment of U.S. firms in China, and what should they be doing to speed up that process?

China has taken a variety of steps to harmonize regulations applying to foreign financial services firms and those applying to domestic firms, but some differences remain. For example, the United States is closely monitoring the new banking regulations that appear to enable foreign financial institutions that establish as subsidiaries in China to be regulated in the same manner as domestic Chinese banks with respect to initial entry and expansion. However, in some cases, even where the Chinese regulator has stated that foreign firms will be treated in the same manner as domestic firms, we see that differences in outcomes remain. One example can be found in the insurance sector, where foreign insurers are only granted approvals to open one branch at a time,

while domestic insurers are approved to open multiple branches simultaneously. We are intensively engaging China to try to ensure that this kind of differential treatment no longer occurs. As China's financial markets mature and the privatization of many state-owned companies continues, Chinese regulators will have both greater ability and incentive to ensure a fairer and more predictable business environment. However, where this progress is too slow, the United States will continue to seek to resolve the problems through all available bilateral and multilateral mechanisms.

4. China Market Access for IP Products

I know piracy has been a topic that has loomed large over the past few years, especially in China. I strongly believe that the elimination of China's trade barriers in audiovisual, software, and IT goods and services has the potential to help solve China's piracy problem. Since a USTR delegation just returned home from China this week I hope you can share with us if this topic was brought up and if so what the Chinese had to say in response?

I think that if the Chinese were to remove the current limitations on foreign ownership in distribution and video replication, publishing, TV stations, and theater holding companies many of our piracy issues would be solved by the market.

Answer:

We agree that piracy and counterfeiting are partly a result of China's market access restrictions, which artificially limit the availability of foreign content and thus lead consumers to the black market. On many occasions over the last several months, including in February of this year, USTR officials have met with their Chinese counterparts and raised a variety of market access concerns on behalf of U.S. copyright-intensive industries. These discussions have principally focused on obtaining China's adherence to commitments that China made in its WTO accession agreement relating to the rights of foreign entities to import and distribute goods such as books, periodicals and audio and video products in China. Currently, China does not allow foreigners trading rights in these goods and prohibits or restricts many distribution activities. While attempting to resolve these concerns, we have also explored China's willingness to remove other limitations that affect the ability of U.S. copyright-intensive industries to operate in China. To date, China has not been able to accommodate our concerns, and we are now actively considering other options, including the possibility of WTO dispute settlement.

5. New York State Corning Issue

The U.S. optical fiber industry faces significant non-tariff barriers abroad. I am concerned that we will reduce our tariffs on optical fiber without eliminating these non-tariff barriers. Quite frankly, I don't want us to unilaterally disarm. Can you ensure that we will not trade off our tariff without eliminating the non-tariff barriers and ensuring that U.S. our optical fiber manufacturers have market access.

Answer:

The United States seeks comprehensive tariff elimination in our bilateral trade agreements and usually does not consider a priori exclusions on specific products in the context of our multilateral negotiations. However, any commitment to reduce tariffs goes hand in hand with our working to resolve any non-tariff barriers to ensure that our agreements provide real market access for U.S. exports. We look forward to working with your staff and U.S. industry on any specific non-tariff barrier concerns you have with optical fibers in the context of our bilateral or multilateral negotiations.

6. Arab League Boycott of Israel

As part of the free trade agreements with Bahrain and Oman, your office successfully secured commitments to stop their participation in the Arab League Boycott of Israel. We believe such political reforms are essential components of FTAs, and go to the heart of expanding economic cooperation with the Middle East. Your predecessor, Rob Portman, also made dismantling the boycott a priority, and secured a commitment from Saudi Arabia during WTO accession negotiations that he described as "a legal obligation to provide most-favored-nation treatment to all WTO Members, including Israel." Yet, it appears Bahrain and Saudi Arabia may be flouting their commitments, as a recent Department of Commerce report indicates. This report confirms that there's been an increasing number of requests from these countries asking U.S. companies to abide by the boycott of Israel.

How do you intend to hold these countries to their anti-boycott commitments to the United States?

What progress has Bahrain made in dismantling its boycott of Israel? For example, have its domestic laws been adequately changed to meet the terms of its free trade agreement?

Malaysia, as you know, boycotts Israel economically as well as politically. The Malaysian Central Bank issued a directive prohibiting the use of the Shekel, and banning deals with "the State of Israel, or their residents." Malaysia also informally bans Israelis from visiting the country, requiring Israelis – and only Israelis – to submit visa applications to the Ministry of Internal Security rather than the Ministry of Tourism.

Have you raised these issues in the FTA negotiations? Do you believe you will be as successful securing a commitment from Malaysia to dismantle the boycott as you were with Bahrain and Oman?

Answer:

The United States has raised our concerns on the requirements Malaysia places on trade with Israel in talks that parallel the FTA negotiations and we are seeking to secure a commitment to eliminate these requirements before an FTA is concluded. Appropriate U.S. agencies are seeking to address the issues of visa application requirements and currency prohibitions. While Malaysia is not a member of the Arab League and there is significant trade between Malaysia and Israel ($250 million in two-way trade in 2005), it is the United States' longstanding policy to actively oppose any form of the Arab League boycott.

With respect to Bahrain, we have consulted with the government on this matter and have every indication that Bahrain has fully lived up to its commitment to cease application of the Arab League boycott of Israel

We have confirmed that Bahrain has closed its boycott office, which had been the sole entity responsible for enforcing any aspect of the Arab League Boycott of Israel.

As we reported, when Congress was considering the Bahrain FTA implementing bill, Bahrain eliminated the secondary and tertiary aspects of the boycott in 1994 –those aspects of the boycott that would directly affect trade between Bahrain and the United States.

Bahrain has circulated a memorandum to all government Ministries to ensure that any boycott language has been removed from government contracts.

When advised of residual references to the boycott in government contracts, the Government of Bahrain has moved immediately to reaffirm this position and correct the situation.

In addition, Bahrain has changed whatever domestic laws are necessary to meet the terms of the free trade agreement.

As you noted, during its WTO accession negotiations, Saudi Arabia made several commitments regarding the Arab League Boycott.

Saudi Arabia specifically confirmed that it had ended all aspects of the secondary and tertiary boycotts of Israel. The Saudi Government has circulated a memorandum directing all government ministries to comply with decision ending these aspects of the boycott. When advised of residual references to the boycott in government contracts, the Government of Saudi Arabia has been cooperative in correcting the situation.

At the time of its accession to the WTO, Saudi Arabia did not invoke the non-application provisions of the WTO Agreement with respect to any Member, and therefore has taken on all WTO rights and obligations, including most-favored-nation treatment, with respect to all Members, including Israel. In our view, continuing the primary boycott of Israel would not be in keeping with these commitments.

Since accession, there have been conflicting signals from Saudi officials on their understanding of their MFN commitment. We have taken every available opportunity to raise this issue with

Saudi authorities to remind them of their commitment and our expectation that they honor this commitment.

7. Middle East Free Trade Area

The Administration is committed to creating a Middle East Free Trade Area by 2013, and has already begun by pursuing the individual FTAs that will act as its foundation. The benefits of MEFTA would be as much political as they are commercial, and this Committee views it as essential that Israel be fully integrated into the trading bloc. We applaud your success in beginning this effort through the FTA commitments of Bahrain and Oman for a complete dismantlement of the Arab League Boycott.

Do you intend to continue this process by requiring future FTA partners in the Middle East to likewise dismantle all elements of the boycott?

Apart from working to dismantle the boycott, do you have additional ideas that would facilitate Israel's integration into the region?

Answer:

The United States government has a long-standing policy of opposition to the Arab League boycott of Israel in all of its forms. The Administration continues to work for the removal of the boycott and strongly supports the political process that will encourage the parties to resolve their fundamental differences.

- As part of the President's initiative to promote trade and investment with and among Middle Eastern nations, the U.S. Government has made clear that the Arab League boycott of Israel distorts trade and retards the development of economic relationships and prosperity for all countries in the region.

- The United States government has made clear that successful congressional consideration of a Free Trade Agreement will depend on a country's adherence to its WTO obligation to allow MFN trade with all WTO Members, including Israel.

- In addition, a team of anti-boycott experts from the Departments of Commerce and State regularly visits the region to discuss efforts to eliminate the boycott.

The United States has also made clear in laying out the objectives of the MEFTA that stimulating intra-regional trade and investment is a major goal of our MEFTA strategy. Integrating Israel into the MEFTA is an important element of meeting this goal.

8. Russia

The Administration recently signed a bilateral agreement with Russia that essentially paves the way for its membership in the WTO. Russia has long sought WTO membership, and President Putin has made it a personal goal of his presidency. Yet, this agreement was reached at the very time Russia was actively working against U.S. national security interests vis-à-vis Iran. Russia worked to ensure that the U.N. Security Council Resolution was as limited as possible and contained as many exceptions as could be managed. Since that time, Russia has continued assisting Tehran's nuclear pursuits and has armed Iran with advanced weaponry, including 29 surface-to-air missile systems to defend its nuclear facilities, and pledges to upgrade Iran's aircraft and battle tanks.

The Administration effectively ceded a valuable piece of leverage in signing the bilateral agreement, when it could have been used to help secure a Russian commitment to press Iran on its UN obligations. Do you intend to request that Congress grant Russia permanent normal trade relations?

Answer:

While my colleagues at the State Department have the lead on the security issues you raise, USTR shares your concerns about Russia's arms sales to Iran and the broader proliferation threat posed by Iran's nuclear program. The Administration has intensified our work with our European allies and at the United Nations Security Council to address the Iranian nuclear threat. Although we have had some differences with Russia on this subject, Russia has urged Iran to suspend its enrichment related and reprocessing activities, respect its international commitments on non-proliferation, and to cooperate fully with the International Atomic Energy Agency's (IAEA) investigation. Russia joined the other members of the United Nations Security Council in voting unanimously in favor of two Security Council resolutions – 1696 and 1737 – which hold Iran accountable for its harmful and destabilizing activities. Such actions are consistent with U.S. efforts and help to reinforce our message.

The Administration has also repeatedly raised with Russia, at the highest levels, our concern about its arms sales to Iran. These ongoing discussions are reinforced by our actions in international and multilateral organizations. Several Russian entities and individuals have been sanctioned under the Iran Nonproliferation Act and the Iran and Syria Nonproliferation Act because there was credible information indicating they had transferred to or acquired from Iran or Syria certain goods, services and/or technology related to weapons of mass destruction, ballistic missiles, cruise missiles or advanced conventional weapons. Despite differences, we continue to maintain a constructive dialogue with Russia on this critical issue.

The Administration remains committed to terminating application of the Jackson-Vanik amendment to Russia and USTR along with other agencies will work with the Congress on determining the appropriate time for such action. Obviously, Russia's progress on WTO accession - including improving enforcement of intellectual property rights, implementing our

bilateral agreements concluded in November last year, and adopting WTO rules - are among the questions we will need to consider.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE VAN HOLLEN

1. In a GAO report commissioned by Senator Charles Grassley in 2002, members of all the federal trade advisory committees and the trade negotiators who work with these advisory committees were surveyed to determine how well the consultation process between the committees and agencies was working.

GAO found that the federal trade advisory consultation process was not working as well as it could. In USTR's response to that GAO finding, Associate USTR Josette Shiner, responding on behalf of Ambassador Zoellick, listed a number of steps the Office of the USTR would take to address GAO's recommendations. These steps included developing internal guidelines to clarify procedures for consulting trade advisory committees; seeking more qualified candidates to serve on the committees; and pursuing efforts to coordinate communication strategies among USTR and the Departments of Agriculture, Commerce, Defense, Labor and the EPA.

Has the Office of the USTR implemented the recommendations proposed in your office's response to the GAO and, if so, what specific measures have you taken and what impact have they had on the consultation process?

Also, in the same report, agency officials suggested ways the advisory committees could be adapted to better advise trade negotiators. I am interested in your views, as the nation's chief trade negotiator, on ways the advisory committees could be adapted to better the serve the policy and advisory purposes for which they were created.

Finally, trade agreements now address vital public health issues, including the right to enforce domestic regulations that protect the public's health and the environment, privatization of health care and water supply, tobacco and alcohol control, and access to affordable medicines. Despite that fact, federal trade advisory committees include virtually no public health representatives. As a result, since 2005, influential public health organizations, coordinated by the Center for Public Analysis on Trade and Health (CPATH), have campaigned to include legitimate public health representatives on each tier of the trade advisory committees, to meet the legal requirement for balanced interests on the committees, and to provide important perspectives to Congress and the Administration on trade negotiations. In December, 2005, the USTR solicited public health nominees for two trade committees that address intellectual property, but have taken no action to make appointments.

Will you and your colleagues identify representatives of organizations that work to assure equitable public access to affordable health-related services and products, and to promote the health of individuals, communities and population, and immediately appoint these representatives to the ACTPN, to a new Tier 2 public health advisory committee and to the

ITACs 3,4,5,8,12,14 and 15? If so, what specific measures do you plan to adopt and what is your schedule?

Answer:

USTR considers the advisory committee system to be an integral part of the U.S. trade policy making process, and it provides us with valuable input as we advance the United States' ambitious trade agenda to improve economic opportunities for America's farmers, workers, businesses, and consumers.

In September 2002, a GAO report identified several ways in which the trade advisory committee system could be strengthened and improved. I am pleased to report that over the past four years, USTR has worked closely with the Departments of Agriculture, Commerce, and Labor, and the Environmental Protection Agency to implement specific improvements in response to the GAO report.

The GAO subsequently reviewed the Executive Branch action to implement the recommendations. GAO identified 40 separate recommendations for action by one or more of the agencies (USTR, U.S. Department of Agriculture (USDA), U.S. Department of Commerce (DOC), U.S. Department of Labor and the Environmental Protection Agency) involved in the management and/or operation of all or a part of the statutory advisory committee process. These 40 recommendations addressed measures which would make the advisory committee consultation process more meaningful and reliable as well as ensure that the system remained more relevant to the current U.S. economy and trade policy needs.

By July 2005, GAO concluded that USTR, had already fully implemented 100 percent of the recommendations relevant to USTR such that it considered all of those recommendations closed. That aggressive and sustained effort by USTR, as well as the other Executive Branch agencies, led GAO to state the following at the end of the 2006 review, "… (I)t has been gratifying to see the serious thought and committed effort USTR and other agencies have put into more effectively engaging the advisory system, and ensuring it plays a meaningful role."

Some of the specific steps we have taken included adopting new internal procedures and guidelines to ensure that advisory committee input is sought on a continual and timely basis. In 2003, USTR created a secure encrypted advisors' website with password protection. Confidential draft texts of trade agreements are posted to the secure website and advisors are promptly notified by email on a continual basis, to allow advisors to provide comment to U.S. officials in a timely fashion during the course of negotiations. This has enhanced the quality and quantity of input from cleared advisors, especially from those advisors who reside outside of Washington, DC.

Also in response to the GAO report, the industry trade advisory committee system was streamlined and consolidated in 2004 by USTR and Commerce to ensure that the committees reflect the 21st century U.S. economy, since the original committees had been put in place more

than twenty-five years ago. The new structure reflects important changes in the U.S. economy since then, such as the growing role of services and technology.

USTR also introduced additional procedural innovations. To keep committees better informed, USTR instituted monthly teleconference calls with the chairs of all 27 advisory committees, for the purpose of briefing them on the key events and milestones in the trade agenda for the 30-60 days ahead. This serves to better inform committees in advance of upcoming negotiating rounds or initiatives on which they may wish to comment. It also helps USTR and its partner agencies to improve the information flow between committees. Additionally, to supplement individual advisory committee meetings, USTR and Commerce instituted periodic plenary sessions of all 16 ITAC committees. Similarly, USTR and the Department of Agriculture instituted plenary sessions of the agriculture committees. For policy level advisory committees, USTR in conjunction with EPA and Labor, respectively, have held more frequent staff-level meetings of the Trade and Environment Policy Advisory Committee and the Labor Advisory Committee. USTR also expanded representation on the Intergovernmental Policy Advisory Committee, and holds monthly teleconference calls to keep members apprised of issues of interest. USTR has implemented and increased the use of all-advisor teleconferences to provide timely briefings on topics such as FTA negotiations.

In 2005 and 2006, USTR also expanded the Trade Facts series of fact sheets to provide advisors and the public with information on key trade agenda items and created a periodic electronic newsletter, Trade Talk, sent to all advisors and also available to the public by free email subscription on USTR's website, www.ustr.gov

With respect to the appointment of public health representatives to the advisory committee system, in January 2007 USTR and Commerce appointed two public health representatives to the industry trade advisory committees: a representative of the National Nursing Center Consortium, to the Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Service (ITAC 3), and a representative of MAP International to the Industry Trade Advisory Committee on Intellectual Property Rights (ITAC 15). Previously in 2006, USTR and Commerce also appointed a representative of the Generic Pharmaceuticals Association to the Industry Trade Advisory Committee (ITAC 3) for Chemicals, Pharmaceuticals, Health Science Products and Services. In 2005, USTR and USDA appointed a representative of Campaign for Tobacco Free Kids to our Agriculture Technical Advisory Committee for Trade in Tobacco, Cotton, and Peanuts. Also, the Trade and Environment Policy Advisory Committee includes a representative from the Consumers Union.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE KIND

1. He would like an analysis from USTR regarding the Canadian WTO complaint.

Answer:

On January 8, 2007, Canada requested WTO consultations with the United States on subsidies and other domestic support for corn and other agricultural products.

The consultation request makes three groups of claims. First, Canada alleges that domestic support for U.S. corn producers (including direct payments, counter-cyclical payments, marketing loans, and export credit guarantees, as well as payments under comparable expired programs) have caused serious prejudice to Canadian corn producers in the form of price depression or price suppression in the Canadian corn market in the period since 1996. Corn prices have increased dramatically in the last year, well surpassing levels that would result in any counter-cyclical payments or marketing loan-related subsidies for the current marketing year.

Second, Canada claims that export credit programs, including GSM-102, GSM-103, and SCGP, with respect to corn and all other commodities not provided for in the U.S. WTO schedule of export subsidy commitments, are prohibited export subsidies. The United States suspended the GSM-103 and SCGP programs, and substantially modified the GSM-102 program, in the light of the WTO rulings and recommendations in the *Cotton* dispute. The adequacy of these modifications is already being examined by the WTO compliance panel in *Cotton.*

Third, Canada claims that direct payments, counter-cyclical payments, and comparable expired programs (production flexibility contracts and market loss assistance) should be classified as product-specific "amber box" domestic support for each relevant commodity. According to Canada, if these payments are so classified, the United States provided domestic support in excess of its WTO commitment level (currently $19.1 billion) in each of the years 1999, 2000, 2001, 2004, and 2005. The U.S. WTO notifications for 1999-2001 classified payments under production flexibility contracts as "green box" payments and classified market loss assistance as non-product-specific amber box support within the allowable *de minimis* level (5% of the value of total agricultural production). Thus, neither set of payments was included in the U.S. reported "aggregate measurement of support" in those years. The United States has not yet notified to the WTO its domestic support for 2002 and subsequent years.

Consultations were held in Geneva on February 7. The United States accepted requests to join the consultations (i.e., to attend primarily as observers) received from Argentina, Australia, Brazil, the European Communities, Guatemala, Nicaragua, Thailand, and Uruguay. Canada has the right to request the WTO Dispute Settlement Body to establish a panel in this matter any time after March 9, 2007.

2. He would like a response on if the President's farm bill proposal is WTO compliant and could help further the DOHA round.

Answer:

In developing the Administration's farm bill proposals, a primary goal has been promoting good farm policy. This means a more market-oriented approach that is predictable and balanced, an approach that provides farmers and ranchers with a safety net, yet doesn't distort market signals.

A better farm bill should be able to withstand WTO challenge in order to ensure that our farm policy is predictable and being written by the United States, rather than our foreign trading partners.

Yet while these farm bill proposals may be viewed as a commitment towards further reform, they should not be confused with our WTO proposal to cut domestic support that we made in October 2005. The Farm Bill proposal is not a new Doha offer and the Doha offer made 15 months ago is not the basis for the new Farm Bill.

3. Finally, he would like an Ag & Farm Bill briefing from the USTR standpoint for members.

Answer:

Ambassador Crowder, Chief Agricultural Negotiator, is willing to do this briefing and has been in contact with your staff to determine an appropriate time.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE NUNES

Question 1:

The agreement under negotiation with Korea has the potential of being the most significant trade agreement we have witnessed in many years, directly benefiting my constituents. However, I have to share with you that there is a lot of concern; a lot of skepticism about whether we will get this right. We need real market access.

I hope you will not send to this Congress an agreement that fails in this regard and I hope the Korean government understands that they wont get our approval--- they wont get my vote---on an agreement that does not make real progress in opening their market across the entire spectrum of agriculture commodities.

By way of example, it is my hope that USTR will seek immediate zero duty on any crops that are not grown in Korea. No long term-phase outs. If they don't grow it, they shouldn't get a free pass to delay our access.

Can you assure us this message is getting through to the Koreans and that USTR will not send to Congress an agreement unless it contains significant market access improvements for agriculture?

Answer:

We have sent a clear message to the Koreans since day one of the KORUS FTA negotiations -- obtaining a good deal on market access for American agriculture is a key priority for the United States, and is essential for the successful conclusion of the FTA. Agriculture is one of the most

difficult sectors of the KORUS FTA negotiations. Korea has one of the most closed agricultural markets in the world. Korean farms are small and inefficient, and the Korean farm population is aging. We have told the Korean negotiators that we will work with them to address their sensitivities, but that we must conclude a comprehensive agreement that provides substantial benefits to U.S. farmers and ranchers. As we begin the final stages of the KORUS FTA negotiations, We are confident that we will obtain an agreement that is in the best interest of the U.S. agricultural community.

Question 2:

I frequently hear from agriculture exporters that they are facing unfair sanitary and phytosanitary trade barriers. These crops are highly perishable and exporters face significant losses, even after they comply with all of the laws governing agriculture trade. Ag exporters do everything we ask- they do everything foreign governments demand, and still they get blocked at ports of entry. Some of these ports are in countries we have negotiated free trade agreements with. Our agriculture exporters need security against these unfair practices. What do you think about the establishment of a perishable commodity export indemnification program; perhaps operated by USDA? Are there indemnification programs for any U.S. exports today?

Answer:

USTR is concerned about the use of unfair sanitary and phytosanitary (SPS) measures as trade barriers to U.S. agricultural exports and has made the elimination of these measures a high priority. We are mindful that, as tariffs come down, our trading partners may use SPS measures to try to protect their domestic sectors. We will continue to work with USDA and other regulatory agencies to press our trading partners to fulfill their obligations under the WTO SPS Agreement through negotiation, consultation and, if need be, dispute settlement at the WTO, as was the case in the *EC - Beef Hormones* and *Japan - Apples* disputes. To this end, we would be interested in hearing of any specific problems that have been brought to your attention.

We are uncertain as to what is envisioned by an "indemnification program" for U.S. perishable commodity exports, but would be happy to discuss this issue further. We are not aware of any current indemnification programs for U.S. exports and would note the potential concern that such a program might be interpreted to be an export subsidy. We also would note that compensating exporters for losses due to SPS barriers raise difficulties, given that many importers, like the United States, impose such barriers for legitimate human, animal and plant health reasons.

Question 3:

I have been informed that there continues to be lingering concerns about fair competition in the Japanese market in relation to the sale of insurance – which some have called a clear violation of national treatment obligations under the General Agreement on Trade and Services (GATS). These concerns surround the privatization of Japan Post and their emergence into the open market. Unfortunately, it appears that Japan Post will be allowed to sell competitive products on

the open market that compete directly with private companies. While competition is good for the market, this situation is not a level playing field because of the lingering government-approved advantages provided to Japan Post. Over time, this will create a significant distortion in the market and will put American insurance companies at a distinct disadvantage. Therefore, I pose the following questions:

1. Can you provide this committee an update on the situation and what USTR is doing to address the issue?
2. What specific resources and levels of personnel have you devoted to dealing with the Japan Post privatization issue?
3. What steps, including placing stronger emphasis on Japan's commitments under the GATS in this context, do we need to take in order to convince Japan that is in their interest to ensure a level playing field exists before any new postal products are permitted.

Answer:

The Japanese Government is currently developing reforms to its postal insurance and banking system, and plans to begin implementing these reforms starting in October. Since the reforms are still under debate, it is hard to reach any conclusions about whether the final rules and regulations are consistent with GATS rules. As the reform process moves forward, we will evaluate any additional regulations and requirements carefully, and make clear we expect Japan to comply fully with its international trade obligations.

We recognize the importance of this issue to our industry and will continue to work in close consultation with them to ensure the reforms to Japan Post are consistent with Japan's international obligations. We will continue to urge Japan to establish equivalent conditions of competition between the private sector and the new Japan Post insurance, banking and express mail entities. In the case of the insurance sector, we have been and will continue to stress that Japan adopt these principles as a precondition for Japan Post to sell new financial products.

We also have been making clear the importance of this issue in our bilateral trade agenda. The Administration has consistently raised this issue with Japan at the highest levels over the past several years, and we will continue to do so. We also address these issues at the working level under the Regulatory Reform Initiative and in our bilateral insurance consultations. We will continue to work closely with the Departments of State, Commerce, and Treasury, as well as other U.S. agencies, to urge that Japan in fact create a level playing field in the privatization process.

Question 4:

Dairy producers have been supportive of the WTO Doha negotiations and have been very involved throughout the past few years' discussions. However, my dairy producers are concerned that they may not be treated fairly by the final agreement. There's a concern that at the 11th hour of the talks, countries with important but very sensitive dairy sectors - such as Canada, Japan,

Switzerland, and India to name a few – will receive special treatment while American dairy producers are asked to shoulder a greater burden. What can I tell my dairy producers to help alleviate these concerns?

Answer:

We appreciate the support and advice that we have received from U.S. dairy producers. As we move forward, we will continue these consultations. Our objective in the Doha negotiations is to deliver substantial improvements in market access, including for U.S. dairy producers. While it is true that market access for dairy markets is a sensitive issue for some of our trading partners, we cannot accept an unfair deal for U.S. dairy.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE BLUMENAUER

1. I appreciate the administration's newfound willingness to work with Members of Congress on both sides of the aisle to address the concerns that we've raised about U.S. trade policy because it is my hope that we can find that "sweet spot" which allows for continued market opening and trade liberalization while addressing concerns about labor, the environment, the impact of our trade policies on poor people abroad, while leaving some policy space for countries to protect public heath, access to essential services, and so on.

I believe that such a sweet spot exists, but that reaching it will require a good deal of flexibility from the administration on the range of issues which go beyond the issue of market barriers, yet undermine the trust and social compact necessary for further liberalization, so I am hopeful that we can reach an ambitious agreement, instead of efforts at a labor-only fix as some have suggested. In the long run, rebuilding trust at home and abroad in a dynamic, global economy, is critical to ensuring the future of such an economy and that some accommodation is in the enlightened self-interest of trade advocates. Certainly, I've heard support for this effort from businesses I talk to. Do you share my belief that we both can and should achieve a comprehensive agreement on these issues in order to move forward in a positive direction?

Answer:

The Administration is committed to working with Congress to open markets for U.S. exports around the world and promote fair, rules-based trade. Trade Promotion Authority ("TPA") is a critical element in helping us bring down barriers to exports that our companies, workers, and farmers produce. Under TPA, Congress sets negotiating goals, the President consults closely with Congress before and during negotiations, and the President reports on the progress he has made in meeting Congress's negotiating goals. In return, Congress agrees to vote without amendment and within a fixed time on legislation approving and implementing trade agreements that the President brings back. With TPA in place, the United States speaks with one united voice at the negotiating table.

The current TPA is set to expire at the end of June this year. We look forward to working with the trade committees in exploring how TPA can be enhanced and improved. I am committed to working with Congress to build bipartisan support for the U.S. trade agenda.

2. As we moved toward passage last year of Permanent Normal Trade Relations with Vietnam, I was troubled by the inclusion of an unprecedented arrangement where, contrary to the procedures in statute, the U.S. government has agreed to self-initiate anti-dumping remedies in the textile and apparel sector. This program already chilled U.S. investment in and trade with Vietnam's most important export sector, placed a stumbling block in our bilateral relationship, and eliminated many of the benefits to PNTR for districts like mine that depends on trade with Asia. Could you please identify for me the specific statutory authority for the decision to self-initiate these remedies without requiring that a domestic producer show standing to bring a complaint? Second, was the intent behind this program to impact all Vietnamese exports in the textile and apparel sector or only those that directly compete with U.S. produced goods?

Answer:

Given concerns over possible unfair competition in the U.S. market if Vietnam continues to offer prohibited subsidies to its textile and apparel sector, the Administration committed to monitor U.S. imports of textile and apparel goods from Vietnam, and reaffirmed that we would enforce our existing antidumping laws in the event the facts warranted such action. The Department of Commerce (Commerce) began implementing the monitoring program in January when Vietnam became a WTO Member, and the program will cease at the end of this Administration.

This commitment is fully consistent with U.S. law and WTO rules, and will be applied in a manner consistent with those provisions. U.S. antidumping law provides Commerce with the authority to self-initiate antidumping investigations. *See* 19 U.S.C. § 1673a. Commerce will examine whether self-initiation is warranted under both U.S. law and the applicable WTO rules, and if the requirements of U.S. law and the WTO rules are not satisfied, no investigations will be initiated.

USTR is working closely with Commerce to ensure that the monitoring process is as open and transparent as possible, and that all stakeholders – including domestic producers, workers, retailers, importers, and the Government of Vietnam -- have a full opportunity to present their views on how the program should operate.

With respect to the products covered by the program, Commerce is monitoring imports within five product groups - trousers, shirts, underwear, swimwear and sweaters. Within these five groups, Commerce is focusing on those traditional three-digit textile and apparel categories of greatest significance based on trade trends, composition of the U.S. industry, and input from parties, as appropriate. The Administration does not intend to monitor products without commercial purpose. We will not initiate an antidumping investigation if a product is not made in the United States.

3. Global warming is one of the foremost challenges of our generation and I am intrigued by the notion that our tariff structure and trade policy can play a role in addressing this issue. Do you see any potential for providing special trade benefits to companies that reduce their carbon footprint or using targeted tariff reductions to help speed the adoption of green technologies? Are there any other avenues you see to use trade policy to address this pressing issue?

Answer:

As the President has noted, the best way to confront climate change is to speed the development of and access to cleaner, more efficient technologies. We are working together with our trading partners to research, develop and promote trade in new technologies, so that all nations, in particular developing countries, can advance economically and reduce greenhouse gas emissions.

USTR has been working to identify and address trade barriers to these important greenhouse gas reducing technologies, and submitted its first report to Congress on the subject this past October, pursuant to the Energy Policy Act of 2005 (available on our website).

As part of the Doha negotiations, USTR has been leading the efforts among a group of countries, including the EU, to eliminate tariff and non-tariff barriers to environmental goods and services, including renewable energy technologies like solar panels and wind turbines. These efforts have the potential to liberalize trade in environmental technologies on a global scale. We are also pressing a related initiative in APEC.

On the bilateral and regional trade front, the United States has liberalized trade in environmental technologies with all of our FTA partners, with tariffs on most of these products going duty-free immediately. Our efforts have already resulted in increased trade in these important technologies. For example, U.S. exports to Chile of renewable energy and air pollution control equipment have increased nearly 10 percent since the implementation of the U.S.-Chile FTA, from $461 million in 2004 to $506 million in 2005. We are also working with China to promote environmental technologies through the Strategic Economic Dialogue (SED).

4. Despite agriculture being only a small part of the U.S. economy, it is agriculture that has emerged at the center of the Doha round of trade negotiations. Yet, the impasse over agriculture, despite recent progress, continues to hold up very significant agreements on trade in goods and services. Given this, as well as the fact that U.S. agricultural exports to developing countries depends more on income levels than on market barriers, don't you think it makes economic sense for the U.S. to improve its offer on domestic trade-distorting subsidies, which will help lift incomes in the developing world, in the hope of breaking through the deadlock?

Answer:

We recognize that any breakthrough in the Doha talks will necessarily involve manufacturing and services, as well as agriculture. However, today a quarter of U.S. agricultural cash receipts come from export sales. Moreover, dollars from exports mean not only income for farmers and ranchers but jobs for America. According to USDA, in 2004 every dollar of export activity

generated $1.48 in supporting economic activity. This means that agricultural exports translate into over 800,000 jobs – roughly divided between those on farms and those in the assembling, the processing, and distribution activities needed to get products to the consumer.

Moreover, reforming global agricultural trade is widely recognized as an important step towards expanding economic development and is forecasted to lift millions out of poverty. The World Bank estimates that elimination of global trade barriers would enhance global economic welfare by $290 billion per year by 2015. The World Bank emphasizes that all the real gains are from market access – over 90% of the economic benefit from new trade flows come by cutting tariffs.

Without an ambitious, comprehensive and balanced agreement that includes significant new market access you do not get new trade flows and without new trade flows you do not get economic growth and development. We have said we would be willing to go even further when it came to trade-distorting subsidies – but only if significant new agricultural market access offers are on the table.

5. Might there not be some principles from the Doha round negotiations that we should also apply to bilateral FTAs with developing countries, such as "special and differential treatment," which would impose different obligations on developing countries as on developed countries? Instead, in the Peru and Colombia agreements, the U.S. exempted 47 lines, mostly in sugar-related products, from tariff elimination while insisting that our trading partners not exclude any. Similarly, the agricultural safeguard mechanism for Peru is both weak and temporary. Isn't this an area where we should show special sensitivity to achieve long-term benefits in poverty reduction and stability?

Answer:

As you know, the Administration does not independently select the countries with which we are negotiating in the Doha round, since this is a multilateral negotiation. In contrast, the Administration affirmatively chooses trading partners with which it negotiates free trade agreements (FTAs). In making such decisions, we carefully consider the views of interested Members of Congress and their staff and of private sector (non-governmental) groups. Within the Executive Branch, we consider a number of criteria, including a potential trading partner's readiness to fully liberalize its tariff and non-tariff barriers, independent of its level of development. As part of this readiness determination, we discuss in detail with a potential FTA partner the breadth and depth of the commitments we will expect if an FTA negotiation is launched, including the commitments on agricultural market access.

We do not fashion the provisions in an FTA on the basis of the level of development of the Parties, but we do very carefully tailor the details of the agricultural market access provisions to reflect the level of sensitivity associated with a particular sector or group of products for an individual country. By doing this, we have successfully concluded agreements with a number of partners, including on products that are sensitive for one or both sides. The Peru and Colombia Trade Promotion Agreements, which are comprehensive, are a perfect case in point of this

approach yielding agreements that provide significant benefits for both our FTA partners and the United States.

The details of the agricultural safeguards in the Peru and Colombia Agreements were negotiated carefully and agreed as part of sectoral packages that included many other elements, *e.g.*, base tariff rates, tariff phase-out periods, and tariff-rate quota (TRQ) in-quota quantities. These safeguards are a tool available during the tariff phase-out period (rather than after tariffs are eliminated), since safeguards are aimed at providing temporary "breathing room" for import sensitive industries *as* tariffs are reduced.

In conclusion, it is important to consider ways in which free trade is supportive of U.S. development and poverty alleviation goals. In the case Peru and Colombia, their exporters gain permanent duty-free access to the U.S. market for more than 95 percent of their agricultural exports upon entry into force of the FTAs. In addition, the provisions in these pacts will lower the cost of inputs for many Peruvian and Colombian agricultural producers, *e.g.*, in the beef, pork, and poultry sectors, thereby enhancing their competitiveness.

6. I am particularly concerned by censorship practices, most notably in China, but across the world. However, I am also concerned that possible Congressional responses would have a negative impact on U.S. technology companies and actually set back freedom of information. Instead, it would seem to me that censorship is a non-tariff trade barrier for U.S. internet content providers, such as Google or Yahoo!, and should be addressed in trade negotiations. Do you see any role for this issue in future negotiations? Might it be possible to include a basic commitment to free flows of information in the proposed Korea-US FTA, as both countries are content exporters with traditions of free speech?

Answer:

The Administration is very concerned about the problems created by censorship, and the State Department actively addresses this important issue internationally. USTR, for its part, is vigilant in trying to assure that other countries' "content review" processes do not create non-tariff barriers proscribed by our international trading rules. The Internet has proven to be an effective tool for communication and commerce across the world. We recognize that barriers to the free flow of information are issues of concern in this rapidly developing medium. In the KORUS FTA, we have proposed provisions that recognize the importance of avoiding unnecessary barriers to the free flow of information, both generally, and in particular in the financial services sector, where U.S. companies have a specific interest. USTR will continue to engage with U.S. industry to monitor trade-specific issues related to the Internet.

7. With the recent trade deficit numbers, there is going to be much frenzied discussion of global imbalances, yet I am struck by how much of the trade deficit can be traced to one particular factor: energy. In fact, the largest contributor to the rise of deficits since 2001 is neither a macroeconomic savings-and-consumption trend nor a currency matter, but the price of energy. In 2002, Americans paid $121 billion for 4.2 billion barrels of imported oil, 4 trillion

cubic feet of natural gas, and some assorted purchases of coal and Canadian electric current. Since then, prices have tripled. This past year's energy-import bill is accordingly likely to be around $370 billion, though energy imports have risen only incrementally. The "energy-only" trade deficit has thus grown from $121 billion in 2002 to a likely $335 billion in 2006. Would it not be appropriate for the office of the U.S. Trade Representative to play a greater role in promoting energy efficiency, conservation, and renewables in order to decrease our massive energy trade deficit?

Answer:

We agree that rising energy prices have helped increase the U.S. trade deficit. In fact, between 2005 and 2006 the increase in the price of imported petroleum accounted for almost 90 percent of the increase in the overall U.S. goods and services deficit. However, the macroeconomic context is tremendously important. When our imported energy bill increases, the way Americans respond - with regard to how much they will adjust purchases of both energy and non-energy imported products - will be strongly influenced by the overall growth rate of our economy, and household incomes. It is similarly the case for U.S. exports. Even as energy prices rise, our ability to expand exports to offset the cost of rising imports will be strongly influenced by growth rates of our foreign trade partners. Those are macroeconomic factors.

While we certainly believe that increased energy efficiency and conservation are laudable goals, USTR's responsibilities involve coordination of U.S. trade policy, the negotiation of agreements to reduce barriers to U.S. trade and active enforcement of existing trade agreements to assure that our U.S. companies, workers, ranchers and farmers enjoy the full benefit of what has been negotiated.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE JOHNSON

Question 1:

Ambassador, as recent articles in the Financial Times and the Economist have shown, foreign investment in India is proving to be an important factor in sustaining its extraordinary levels of economic growth. Even though the US has been one of India's major sources of investment capital since its investment liberalization policies commenced in the 1990s, actual statutory investment barriers exist in a number of Market sectors, including retail, insurance and telecommunications. These FDI barriers are highlighted in the United States Trade Representative's National Trade Estimate on Foreign Trade Barriers.

There are sectors that, under current policies in India, do allow for 100% FDI. The most well known sector is in information technology. However, it has come to my attention in at least one instance, when it comes to acquiring an Indian asset, 100% FDI is unachievable as a practical matter, due to regulations and guidelines that have no analog in the US and other market-based economies. I find this disturbing at a time when we are seeing an increase in the number of foreign acquisitions made by Indian firms. US-based Oracle Corporation has acquired 83% of i-

flex, a software company based in Mumbai, but faces a number of non-market barriers that prevent it from wholly owning i-flex.

Ambassador, I know your office has been looking into this issue, and appreciate your interest in making sure that 100% FDI in India means 100% in practice for US firms. Could you give us an update on this specific non-market barrier challenge in India, and the issue of investment barriers in general?

Answer:

One of the Administration's key goals is to broaden the economic relationship between the United States and India. Indeed, India has undertaken numerous reforms over the past two decades to liberalize its economy and better facilitate trade and investment flows. However, India's reforms, liberalization, and market opening are a work in progress. India's policies, laws and regulations continue to impede investment in certain sectors. While some U.S. companies (such as IBM) have succeeded in establishing 100 percent ownership in the information technology (IT) sector, we are aware of the difficulties Oracle is facing in achieving 100 percent ownership due to India's policies governing the delisting of publicly traded companies. Some of the relevant Indian policies remain out of step with international norms, though generally speaking the problems appear to be systemic and appear not to reflect discrimination targeting U.S. firms. That said, we have been told that Indian regulators are preparing to make further modifications to the regulations in the near future.

We are in close contact with Oracle to discuss their concerns. My staff, in coordination with our colleagues elsewhere in the Administration, is working to ensure that the Indian government understands the importance of further regulatory reforms and makes good on its commitment to full participation by foreign investors in the Indian market. The U.S. Consulate in Mumbai has met with the Security and Exchange Bureau of India (SEBI) (similar in role to our SEC) to better understand India's regulatory process and to identify the shortfalls and to discuss SEBI's plans for further reforms. In fact, a senior member of my staff is traveling to India this month and will discuss these matters with SEBI, other Indian government agencies, and private sector stakeholders.

We take every opportunity to raise with our Indian government counterparts our concerns about market access in India. I will chair the next meeting of the Trade Policy Forum (TPF) with my counterpart, Commerce Minister Nath, in April in New Delhi. The TPF provides a forum for accelerating the pace of growth in our bilateral trade, including addressing barriers to bilateral trade and investment. In addition, I recently wrote a letter to the Indian government urging for senior-level attention to help sort out the problems faced by Oracle.

Question 2:

Last Congress, this Committee held a hearing on Trade with Japan, and on a *very* bipartisan basis, we expressed many concerns about how the Japanese are treating U.S. exports and industries – including U.S. medical devices. I know that USTR has been working closely with

the U.S. device industry on trying to address these issues – and I thank you for that work. Ambassador Zoellick and OMB Director Portman became personally involved.

Can we count on you to become personally engaged in this process this year to help yield meaningful reforms to streamline the regulatory approval processes in Japan, as well as stem the tide of government price cuts on U.S. medical technology?

Answer:

The need for Japan to improve its regulatory processes for medical devices and take steps that ensure that innovative products are fairly rewarded remains a key issue in our bilateral trade agenda with the Japanese government.

We have been briefed by industry representatives on these issues and have pledged that I, along with others in the Administration, will continue to raise concerns with the status quo and call on Japan to make meaningful progress.

We are also directly addressing these issues at senior and working levels under the United States – Japan Regulatory Reform Initiative. We will continue to work closely with U.S. industry and with other U.S. Government agencies to urge Japan to make needed improvements in this important area.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE MEEK

1. Do you expect to be able certify Haiti to receive full tariff preferences within the 90-day period set?

Answer:

We are working very closely with the Government of Haiti on implementation of the HOPE legislation with the goal of ensuring that Haiti meets the eligibility criteria within the time frame established by the statute.

2. How would you characterize Haiti's progress towards fulfilling the implementation criteria of the HOPE legislation?

Answer:

The Government of Haiti is demonstrating a tremendous amount of political will and interest to work with us and is making good progress toward fulfilling the criteria.

3. In your expert opinion, in what other areas do you see potential for the United States to assist Haiti in the realm of trade—provisions such as agricultural quotas for example?

Answer:

U.S. Government agencies are working with Haiti to carry out programs that can help diversify exports, and bring more market conditions to the Haitian agricultural sector. Many Haitian agricultural products already enter the U.S. under current preference programs.

The USAID Mission provides support to small producers under its current Development Assistance Program through September 2007. A wide range of activities are implemented through this project, including seed production, livestock, tree planting, food crops, and rural credit. These activities are implemented mostly in vulnerable production zones. The Mission is developing its new Multi Year Assistance Program to replace this program in October 2007.

The USAID Mission is also working to develop a new Market Chain Enhancement Project with major focus on agriculture; and this project is expected to begin this summer.

Additionally, USAID has been providing technical assistance and training to farmer organizations that produce or market high value food crops, such as mangos, coffee, and cocoa—with a focus on new approaches for natural resource management. This project entitled, Hillside Agricultural Program, ends on March 30, 2007 after having benefited approximately 60,000 farmers.

4. How best can we work together to improve the dire conditions in Haiti?

Answer:

We have been in close partnership with Haiti, to improve the lives of Haitian people for many years through U.S. trade policy. Haiti has been designated as a beneficiary country under U.S. trade preference programs, which increases the type and number of products eligible for duty-free treatment and also helps make Haiti a more attractive source for U.S. investment.

Haiti was designated a "least developed" beneficiary developing country for purposes of the Generalized System of Preferences (GSP) in 1985. This designation provides Haiti with duty-free access to the U.S. market for a substantial number of products. For example, products imported duty-free under the GSP program in 2006 included guavas, mangos, iron, steel, and leather. Notably, imports of guavas and mangos grew more than 600 percent compared to 2005. The 2006 trade data also indicates that Haiti has begun importing several new products that have not been imported under the GSP program during the previous two years.

Additionally, Haiti receives benefits under the Caribbean Basin Initiative program, including apparel benefits through the Caribbean Basin Trade Partnership Act (CBTPA). Under the CBI program, the value of apparel that Haiti exported to the United States grew by almost 151 percent from 2001 to 2006 (from US$145 million to US$365 million in 2006)—a strong upward trend.

The work from other U.S. Government agencies to revitalize infrastructure and promote stability strengthens Haiti's opportunities and the climate for investment. The initiatives in progress for good governance and stability are crucial lynch-pins to economic growth in Haiti. The USG is Haiti's largest bilateral assistance donor. In FY2004-2006 the U.S. spent more than $640 million for improving governance, security, rule of law, economic recovery, and critical humanitarian needs. Haiti receives approximately $35 million of food aid every year (under PL480 Title II). This benefits about 350,000 poor and vulnerable Haitians. Other USAID programs expand and improve the quality of primary education, assist out of school youth with education and job skills, deliver basic healthcare to poor Haitians, especially mothers and children, as well as treat and prevent HIV/AIDS.

In February 2007, the U.S. Government announced that in addition to its ongoing assistance to Haiti, the U.S. will provide $20 million for a stabilization initiative in Haiti. The initiative aims to improve access to police and justice, strengthen local governance, provide vocational training, and to create jobs through infrastructure and public works projects.

The initiative will support the ongoing joint efforts of the Government of Haiti and the United Nations Stabilization Mission in Haiti (MINUSTAH) to establish conditions for good governance and economic growth in Cite Soleil. It will support other U.S. efforts to foster conditions for longer-term assistance projects and private investment, and could serve as a model to be replicated by other donors throughout the country.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE BRADY

1. According to the Bureau of Labor Statistics, nearly 90 million Americans are employed in the service sector. Given the importance of this sector, what is being done to reduce barriers to trade in services?

Answer:

The U.S. services sector employs 4 out of 5 Americans, creates almost all of the net new jobs in the country, and enjoys a sizeable trade surplus. America's economic success clearly depends on maintaining a vibrant services sector and creating more market access opportunities for our world-class services exporters, and this is therefore one of our foremost trade priorities.

The Doha Round presents a rare opportunity to lock in new market access opportunities around the world, and the United States has been making it very clear to WTO Members that there cannot be a final deal unless it includes a strong services component alongside agriculture and goods. We are using every source of leverage at our disposal. At the same time, it is important to note that the single most significant request by our trading partners is to provide improved market access through temporary entry of foreign service suppliers (so-called Mode 4). Many countries will surely weigh their response to our priorities relative to our response on theirs.

But we are also pursuing market-opening opportunities in a wide range of bilateral and multilateral fora. We are negotiating FTA's with Korea and Malaysia, both of which are

important markets for our services providers. Our Strategic Economic Dialogue with China and our Trade Policy Forum with India both have significant services market-access components. In addition, APEC has become a leading forum for work on facilitating trade in services.

We use all of these opportunities to make the case that it is in our trading partners' economic self-interest to open their markets and gain access to lower cost and technology-rich service providers, which has become critical to being competitive in the international marketplace. As with most trade liberalization, the outcome is win-win, and we continue to press this reality for the most ambitious outcome in services as possible.

Finally, where our services exporters are being illegally discriminated against, we will continue to bring cases in order to level the playing field.

2. As one of the co-chairs of the newly formed Congressional Caucus on Services, we've heard that the WTO services negotiations are lagging behind those for agriculture and goods. Is that true, and if so, why? What is your assessment of the services negotiations? What stands in the way of greater progress?

Answer:

Key emerging markets have insisted that, after a half a century of seeing little progress in agricultural trade negotiations, they will balance their services offers against the deal they see coming out of the agriculture negotiations. In this way, we can proceed no faster in the services negotiations than we can in agriculture. However, we have made it clear to WTO Members that there cannot be a final deal unless it includes a strong services component alongside agriculture and goods.

Therefore, we are pushing very hard, placing particular emphasis on achieving real market openings from key emerging markets such as Brazil, India, China, Indonesia, and Malaysia. We are meeting with these countries at the highest levels and pressing for the removal of significant barriers in key sectors such as financial services, telecommunications, computer, energy, express delivery, distribution, environmental, and audiovisual services. These barriers include foreign equity restrictions, prohibitions on branching and other forms of establishment, prohibitions on supplying cross-border services, nationality requirements, and unreasonable advantages for government entities.

We are using every source of leverage at our disposal. At the same time, it is important to note that the single most significant request by our trading partners is to provide improved market access through temporary entry of foreign service suppliers (so-called Mode 4). Many countries will surely weigh their response to our priorities relative to our response on theirs.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE DOGGETT

Question 1:

In a letter sent by 11 members of the Ways & Means Committee on January 17, 2007, a number of critically important objectives were outlined that the U.S. should pursue to promote the important goals of environmental protection during any bilateral trade negotiation, including the necessary renegotiation of the Peru and Columbia Free Trade Agreements (FTAs). The USTR's late night response to that letter sent on February 13, 2007, describes the Administration's on-going approach to environmental provisions. However, the January 17th letter called for a change to the current policy and in that spirit, we request on the following clarifications:

1. When will the USTR begin renegotiating the text of the Peru and Colombia Trade Agreements in order to fully address, in the language of the agreements, the rapidly growing international trade in illegally logged timber?

Answer:

We believe that the Peru and Colombia agreements are comprehensive and include commitments relevant to illegal logging on transparency, customs cooperation and rules of origin. All of these are important in efforts to combat smuggling, illegal logging and illegal trade in wildlife. Moreover, the obligation to effectively enforce environmental laws, such as those implementing the Convention on International Trade in Endangered Species (CITES), can address situations involving illegal logging.

2. As the importer of more than 90% of Peru's mahogany, fully describe what the United States is doing through the text of our trade agreement to stop the destruction of valuable forests, uphold the rule of law on endangered species and bring an end to the competitive disadvantage created for U.S. timber producers beyond the information included in the Ambassador's response of February 13, 2007.

Answer:

As a consequence of the listing on Appendix II of the Convention on Trade in Endangered Species of Wild Fauna and Flora (CITES), all U.S.-Peru mahogany trade must be accompanied by documents that certify legal origin and sustainable production. The US-Peru Trade Promotion Agreement will support implementation of this requirement. The agreement will reinforce existing CITES obligations (through the obligation to effectively enforce environmental laws) and will also provide opportunities to further strengthen efforts to assist Peru in building its capacity to meet these requirements.

In light of the points raised in the question, it may be useful to clarify the current situation with respect to mahogany under CITES. Following the advice of advisory bodies convened under the framework of CITES, Peru uses an export quota as a mechanism to help ensure that mahogany exports are sustainable. In 2005 (the first year a quota was used), the quota was set at 23.6 thousand cubic meters. This quota was significantly below (less than two thirds of) the average volume of mahogany exports over the previous five years.

In fact, the United States no longer consumes 90 percent of Peru's mahogany exports. In 2005, shipments to the United States accounted for 93 percent of Peru's export quota. In 2006, the quota was slightly reduced (to 23.2 thousand cubic meters) and the United States consumed only 74 percent of the quota. This year the quota was substantially reduced, to 13.5 thousand cubic meters. In 2006, U.S. imports of mahogany were roughly half the average level of imports over the period 2000-04.

In order to assist Peru in implementing the quota, over the course of the year, the U.S. Fish and Wildlife Service regularly informs Peru about the quantity of shipments received, including shipments received through third parties.

Additionally, the TPA will provide opportunities to build on current capacity building assistance to Peru. The United States currently provides forestry-related assistance to Peru through USAID and through funding provided to the International tropical Timber Organization (ITTO).

3. Fully describe how trade agreements currently under negotiation and renegotiation will close the critical gaps left in the enforcement of international environmental standards that is created by the language currently being used by the USTR that only requires enforcement of countries' domestic laws.

Answer:

It is important to clarify that the obligations a trading partner undertakes under Multilateral Environmental Agreements (MEAs) are generally incorporated into the trading partner's domestic law, either through self execution of the MEA or through domestic legislation. This is the case, for example, with obligations under the Convention on Trade in Endangered Species of Wild Flora and Fauna (CITES). Such obligations are therefore typically covered by the FTA's effective enforcement obligation. Further, if a trading partner experiences particular problems in implementing its obligations under CITES or other MEAs, we can and do address such problems through environmental cooperation activities. For example, we are working closely with the CAFTA-DR countries to strengthen their environmental institutions so that they are better able to implement and enforce environmental laws, including obligations undertaken pursuant to MEAs.

4. Fully describe when and how US free trade agreements will be drafted to require countries to fully implement and enforce obligations made in the multilateral environmental agreements that have been ratified by both countries involved in the bilateral trade agreements.

Answer:

U.S. free trade agreements already require parties to effectively enforce their laws that implement relevant agreements. Moreover, this obligation can be enforced through FTA dispute settlement procedures.

5. Fully describe when and how our trade agreements will provide explicit parity between the dispute settlement provisions of the FTA chapters related to the environment and those chapters that related to trade in goods and services.

Answer:

Under existing FTA provisions governing environmental disputes, a Party found to be in violation of its obligation to effectively enforce its environmental or labor laws would be required to pay a monetary assessment that would be used towards addressing enforcement difficulties and other environment-related issues in that Party. This innovative mechanism allows for a more targeted approach than would be the case with remedies for disputes under other FTA chapters. More generally, we believe the provisions on dispute settlement for environmental disputes ensure "equivalence" in the treatment of environmental and commercial disputes, consistent with the policy guidance Congress provided under the Trade Act of 2002.

6. When will the "comprehensive environmental provisions" that Ambassador Schwab referenced in her February 13, 2007, letter include making the environmental chapter and the labor chapter subject to the same dispute settlement mechanism as the trade in goods and services rather than excluded from that process.

Answer:

The key substantive obligation in our FTA environmental chapters – to effectively enforce domestic environmental laws – is already subject to the dispute settlement procedures under our free trade agreements. While these procedures chapters provide for the possibility of monetary assessments as remedies in the first instance, they provide for trade remedies if the assessments are not available to remedy a failure to effectively enforce environmental or labor laws.

7. Fully describe how the investor rights provisions in our trade agreements will be changed to clearly and unambiguously reflect the principle that foreign investors are provided "no greater substantive rights" than U.S. citizens receive under U.S. laws.

Answer:

None of our FTAs provides foreign investors in the United States "greater substantive rights" than U.S. investors receive under U.S. laws.

The obligations of our FTA investment chapters are fully consistent with U.S. laws on the treatment of investments in U.S. territory. The national treatment and performance requirements obligations of our FTAs, for example, which have been in U.S. agreements for many years, merely offer foreign investors protections that they already enjoy under U.S. laws. But we also routinely include in our recent FTA investment chapters several provisions that directly respond to the "no greater substantive rights" guidance of the Trade Act of 2002.

On expropriation, the Trade Act called for us to establish standards consistent with U.S. legal principles and practices. Consistent with that guidance, the FTAs clarify that only property rights or interests in an investment are entitled to protection against uncompensated expropriation. Our FTAs also clarify that nondiscriminatory regulatory actions designed and applied to protect the public welfare generally do not constitute indirect, or "regulatory," expropriations. In determining whether an indirect expropriation has occurred, the FTAs direct international arbitral panels to examine factors embraced by the U.S. Supreme Court in *Penn Central*, the seminal Supreme Court case on regulatory expropriation.

The Trade Act also called for us to establish fair and equitable treatment standards consistent with U.S. legal principles and practices, including due process. Our FTAs define such treatment to include the obligation not to "deny justice" in adjudicatory proceedings in accordance with "due process" protections provided in the principal legal systems of the world, including the United States.

8. Fully describe when and how the language in FTA's currently under negotiation and renegotiation will be revised to include a clear set of across-the-board exclusions for environmental and public health protections that are not arbitrarily discriminatory in order to ensure that our agreements are not undermining our national environmental and public health laws, regulations, and governmental actions.

Answer:

Like the WTO agreements, our FTAs contain exceptions for environmental and public health measures. Our FTAs incorporate by reference Article XX of GATT 1994 and Article XIV of GATS. Accordingly, an FTA Party may employ non-discriminatory measures necessary to protect human, animal and plant life or health, even if, but for the exceptions, such measures would be inconsistent with particular FTA obligations. In fact, our FTA texts clarify that the measures a Party may take as exceptions to its ordinary obligations include environmental measures necessary to protect human, animal and plant life or health.

9. In the USTR's response to the January 17, 2007, letter, "robust provisions on public participation…including groundbreaking mechanisms in the CAFTA-DR" were cited. However, in CAFTA, the Bush administration announced only $1 million total would be available for the six countries we negotiated with for environmental issues.

a) Fully describe how much money has been spent for environmental capacity building tied to CAFTA
b) Fully describe how money has been spent for environmental capacity building tied to other agreements?
c) Fully describe where the money comes from; whether it is new and additional money; and what proportion of this money (or which of these activities) would not have been spent otherwise.
d) Which of these projects were already ongoing?

Answer 9a:

The Administration allocated $1 million in FY 2005 and $19 million in FY 2006 to environmental capacity building projects. The projects provide for: environmental law and enforcement capacity; public participation and transparency to support informed decision-making; biodiversity and conservation; market-based conservation programs to create a culture of environmental protection and conservation; improved private sector environmental performance; and CAFTA-DR specific obligations including support for an independent secretariat to receive public submissions on environmental enforcement matters, and benchmarking, monitoring and evaluation.

An important part of our cooperation activities is establishing the independent Secretariat for Environmental Matters, to accept submissions from the public on environmental enforcement matters. The Secretariat was established pursuant to Article 17.7 of CAFTA-DR. On February 18, 2005 the CAFTA-DR countries signed the Understanding Establishing the Secretariat for Environmental Matters designating the Secretariat for Economic Integration of Central America (Spanish acronym SIECA) as the host of the Secretariat. In July 2006, the CAFTA-DR Parties signed the Secretariat Agreement and designated an individual to lead the Secretariat as General Coordinator. The Secretariat for Environmental Matters is in operation and able to receive submissions from groups or individuals of the CAFTA-DR countries.

Answer 9b:

With respect to developing countries, specifically the CAFTA-DR Parties, please see the answer to question 9a. Our cooperation with Chile includes a number of environmental projects, including the development of a pollutant release and transfer registry, improving environmental performance, reducing mining pollution and improving agricultural practices.

We are working with EPA on a variety of environmental capacity building projects in the Middle East region, including marine conservation in Oman, air pollution control in Bahrain, and development of environmental regulations for particular industrial sectors in Morocco.

In our FTAs with developed countries, where there is no need for environmental capacity building, we have focused on ways to advance mutually agreed environmental goals, including through regional activities. For example, in connection with the Singapore FTA, we have sought to promote better enforcement of CITES through regional workshops.

Answer 9c:

Beyond CAFTA-DR, the Administration has worked with existing agency appropriations to address capacity-building in implementation of environmental cooperation mechanisms associated with free trade agreements. For example, we are working with agencies that have technical expertise to offer, such as the EPA and USAID, to ensure that our trading partners are given priority consideration in capacity building activities.

Answer 9d:

We have ongoing environmental capacity building projects in place with all of our developing country FTA partners. For example, as mentioned earlier, our CAFTA-DR projects are in the process of being implemented.

The original eight projects identified in the Chile FTA environment chapter are mostly completed or in the final stages of completion. In 2007 the United States and Chile negotiated a new work plan for the period 2007-2008.

QUESTION #2

Please also provide the following information regarding tobacco:

1. Describe fully all instances since January 2004 where USTR has promoted the sale or export of tobacco or tobacco products.

2.Describe fully all instances since January 2004 where USTR has sought the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products.

Describe fully all tobacco-trade matters since January 2004 that have involved the USTR. Please include the foreign government concerned and a summary of the dispute. Note whether USTR consulted with any federal agency regarding whether the policy would adversely affect public health and provide a copy of the federal agency's recommendation.

Answer:

Our General Counsel will send you a letter in response to your letter re the "Doggett amendment" shortly.

QUESTIONS FOR AMBASSADOR SCHWAB FROM REPRESENTATIVE LEWIS

I would like to thank Chairman Rangel for holding today's hearing. Ambassador Schwab, we truly appreciate your commitment to an open and honest dialogue on U.S. trade policy.

In many of the agreements that have been considered under Fast Track, labor standards have been an after-thought of most negotiations. I was struck by the testimony from Mr. John Meier, the Chief Executive Officer of Libbey Glass, Inc. during our trade hearing a few weeks ago. It was encouraging to hear an American businesses leader who is committed to fair labor standards and just trade policy both at home and abroad.

Question #1

Why is it so difficult to push for substantive labor standards in the actual text of a trade agreement or to promote incentives like the Cambodia case that enjoyed such widespread support?

Answer:

The Administration is committed to working with Congress to address the concerns with labor provisions in free trade agreements and to build bipartisan support for the trade agenda. We have been creative in seeking to promote labor practices consistent with international standards in our FTA partners within the scope of Congressional guidance in TPA. We are working closely with Members and staff of the Finance Committee and the Ways and Means Committee to determine how to improve our approach with respect to labor standards, while preserving Congress' authority to write labor laws.

The Cambodia model has been highly regarded, but we do not believe it could be replicated in an FTA. The basic premise of the model was that Cambodian firms were allowed to sell more apparel in the U.S. market through additional quota access if they improved working conditions and made progress in respecting workers' rights. The Multi-Fiber Agreement expired at the end of 2004, so granting additional quota access is no longer an option. Additionally, the Cambodia model was limited to the apparel sector and expanding the model to require third party verification of adherence to labor standards for all sectors in an economy may well prove cost prohibitive, even assuming an organization capable of taking on such a task could be found. Further, delegating responsibility to a third party throughout all sectors may undermine a country's responsibility to improve the capacity of its labor ministry to ensure effective enforcement of its labor laws. The Cambodia agreement also depended on the interest of a limited collection of apparel buyers (principally from the United States and Europe) to choose to do business in Cambodia based on the reports of a third party monitor, something which would be much more difficult involving all sectors and a global array of investors.

QUESTION #2

A few weeks ago, the World Economic Forum's Annual Meeting announced a major declaration on climate change. It is an historic first step of linking business, development, trade, and the environment. Does the United States plan to be a strong supporter of the Climate Disclosure Standards Board established at the Forum? Is the USTR leading the effort to ensure that American officials and experts are committed and engaged in the success of the Board?

Answer:

This Administration strongly supports increased transparency in the private sector and sees this as an important component to improved corporate governance. In that respect, we believe that the Climate Disclosure Standards Board can make a useful contribution to better understanding the many steps that are being taken by private industry to reduce greenhouse emissions. Given that the Board was only recently created, discussions are ongoing in terms of which U.S. government agency might take the lead in interacting with U.S. experts.

QUESTION #3

Ambassador Schwab, I understand that there's a proposal in Japan where Japan's privatized postal financial companies will be given more favorable treatment for accessing the post office's distribution network. How are you working to ensure that the U.S. industry will continue to have fair access to this distribution channel under the General Agreement on Trade in Services?

Answer:

The Japanese Government is currently developing reforms to its postal insurance and banking system, and plans to begin implementing these reforms starting in October. Since the reforms are still under debate, it is hard to reach any conclusions about whether the final rules and regulations are consistent with GATS rules. As the reform process moves forward, we will evaluate any additional regulations and requirements carefully, and make clear we expect Japan to comply fully with its international trade obligations.

We also have been making clear the importance of this issue in our bilateral trade agenda. The Administration has consistently raised this issue with Japan at the highest levels over the past several years, and we will continue to do so. We will continue to work closely with the Departments of State, Commerce, and Treasury as well as other U.S. agencies to urge that Japan in fact creates a level playing field in the privatization process. We will also continue to work in close consultation with U.S. industry to ensure the reforms to Japan Post are consistent with Japan's international obligations.

QUESTION #4

I would just like to underscore the concerns of my colleagues who share my concerns on health policy both at home and abroad. It is critical that trade agreements do not undermine access to medicines and general public health standards for our trading partners. What progress has been made to address the concerns outlined time and time again about balance and fairness on the Industry Trade Advisory Committees that relate to public health? Why is it taking so long to make these appointments?

Answer:

We agree that it would be helpful to have public health representatives on some of our advisory committees where significant health and trade issues are most likely to arise, and are pleased to have made several appointments of public health representatives to the advisory committee system. In January 2007 USTR and Commerce appointed two public health representatives to the industry trade advisory committees: a representative of the National Nursing Center Consortium, to the Industry Trade Advisory Committee on Chemicals, Pharmaceuticals, Health/Science Products and Service (ITAC 3), and a representative of MAP International to the Industry Trade Advisory Committee on Intellectual Property Rights (ITAC 15). Previously in 2006, USTR and Commerce also appointed a representative of the Generic Pharmaceuticals Association to the Industry Trade Advisory Committee (ITAC 3) for Chemicals, Pharmaceuticals, Health Science Products and Services. In 2005, USTR and USDA appointed a representative of Campaign for Tobacco Free Kids to our Agriculture Technical Advisory Committee for Trade in Tobacco, Cotton, and Peanuts. Also, the Trade and Environment Policy Advisory Committee includes a representative from the Consumers Union, which advocates on public health issues.

[Submissions for the record follow:]

Statement of Advanced Medical Technology Association

We thank the Committee for holding this important Hearing today on the U.S. Trade Agenda. As you may know, AdvaMed represents over 1,300 of the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. Our members are devoted to the development of new technologies that allow patients to lead longer, healthier, and more productive lives. Together, our members manufacture nearly 90 percent of the $86 billion in life-enhancing health care technology products purchased annually in the United States, and nearly 50 percent of the $220 billion in medical technology products purchased globally. Exports in medical devices and diagnostics totaled $25.5 billion in 2005, and imports were $23.7 billion. The medical technology industry directly employs about 350,000 workers in the U.S.

The medical technology industry is fueled by intensive competition and the innovative energy of small companies—firms that drive very rapid innovation cycles among products, in many cases leading new product iterations every 18 months. Accordingly, our U.S. industry succeeds most in fair, transparent global markets where products can be adopted on their merits. We strongly support the Administration's effort to expand market access for U.S. products abroad through the World Trade Organization (WTO negotiations and new free trade agreements (FTAs), as well as oversight of market access barriers in countries with which we have strong trade relationships.

Global Challenges

Innovative medical technologies offer an important solution for industrialized nations, including Japan and European Union members that face serious health care budget constraints and the demands of aging populations. Medical technologies also provide a way for emerging market countries, like China, India, and Korea, to improve healthcare to their people, who are increasingly expecting substantially better healthcare to accompany rapid economic development. Advanced medical technology can not only save and enhance patients' lives, but also lower health care costs, improve the efficiency of the health care delivery system, and increase productivity by allowing people to return to work sooner.

To deliver this value to patients, our industry invests heavily in research and development (R&D). Today, our industry leads global medical technology R&D, both in terms of innovation as well as investment. The level of R&D spending in the medical devices and diagnostic industry, as a percent of sales, more than doubled during the 1990s—increasing from 5.4% in 1990 to 8.4% in 1995 and over 11% last year. In absolute terms, R&D spending has increased 20% on a cumulative annual basis since 1990. Our industry's level of spending on R&D is more than three times the overall U.S. average.

Despite the great advances the medical technology industry has made in improving patient quality of life and delivering considerable value for its innovations, patient access to critical medical technology advances can be hindered by onerous government policies. Patients and health care systems experience much less benefit from our industry's R&D investment when regulatory procedures are complex, non-transparent, or overly burdensome—all of which can significantly delay patient access and drive up costs. In the future, patients will be further disadvantaged if reimbursement systems fail to provide appropriate payments for innovative products—which will subsequently affect the availability of R&D funds and the stream of new technologies.

The medical technology industry is facing these challenges around the world as governments enact more regulations. While we support those regulations that ensure product safety and efficacy, many others are being imposed without scientific justification, and in non-transparent processes, which only adds to costs and delays without improving patient outcomes.

As governments prioritize difficult budget decisions, they sometimes look to short-term decreases in health care expenditures without accurately assessing the long-term implications. In most cases, governments do not effectively measure the contributions medical technology makes in enhancing patient outcomes and productivity as well as expanding economic growth, which would more than offset the costs of providing these products. Instead, governments often inappropriately include reduced reimbursement rates as part of overall budget cuts.

In some cases, governments seek to reduce prices of medical technologies in their country by comparing and referencing prices in other countries. By fixing ceiling

prices based on the prices found in other countries, governments are imposing price controls on medical technologies that do not appropriately account for different market conditions and contract terms. Our industry is witnessing a spread of these reference pricing schemes. In the longer-term, patients in these countries and around the world will experience less access to innovative medical technologies, as research and development funds decrease.

AdvaMed applauds continued progress on international trade initiatives, including bilateral, regional and global trade negotiations, such as newly concluded free trade agreements (FTAs) in Latin America, and the Doha Development Agenda in the World Trade Organization (WTO). We support new efforts with our other trading partners to provide U.S. exports of medical devices duty-free treatment. We are hopeful that future bilateral agreements, including the U.S.-Korea FTA and the U.S.-Malaysia FTA, can also include directives to knock down tariff and non-tariff barriers for medical technologies. In addition, the President and U.S. Trade Representative (USTR) should continue to pursue trade liberalization in the medical technology sector with our major trading partners.

AdvaMed believes the USTR, Department of Commerce (DOC) and Congress should monitor regulatory, technology assessment and reimbursement policies in foreign health care systems and push for the creation or maintenance of transparent assessment processes and the opportunity for industry participation in decision making. We look to the Administration and Congress to actively oppose excessive regulation, government price controls, foreign reference pricing schemes, and arbitrary, across-the-board reimbursement cuts imposed on foreign medical devices and diagnostics.

Continued U.S. Leadership Needed to Fight Trade Barriers in Japan

The Administration's efforts with Japan under the U.S.-Japan Partnership for Economic Growth are critical for the medical technology industry to maintain access to the Japanese health market.

After the U.S., Japan is the largest global market for medical technologies at $25 billion. Yet the situation facing the medical technology industry in Japan is getting more difficult every year. Japan's system for approving use of new medical technologies is the slowest and most costly in the developed world. Although Japan is one of the wealthiest countries in the world—the second largest economy in the world—its spending on health care is among the lowest of major developed countries. On a *per capita* basis, Japan's spending of about 8.0% of GDP is lower than 18 other Organization of Economic Cooperation and Development (OECD) member countries.

In April 2005, Japan compounded the problem by imposing even more burdensome and costlier regulations, thereby penalizing the U.S. medical technology industry. Japan's latest regulations are expected to cost our industry over $1.5 billion just to achieve compliance to 2010.

Even after creating a new agency in 2004 to process applications for medical technology products, Japan has a huge backlog of unprocessed applications. A problem for this new agency is the number of staff reviewing applications for approval of medical technology products—about 40 officials, compared to over 700 in the U.S. Due to the long approval process, the medical technologies patients receive in Japan are often several generations behind the products in the U.S., Europe, and even developing countries like China, India and Thailand. Lengthy approvals also translate to higher costs for the U.S. medical technology industry, which must maintain out-of-date product lines just for Japan.

At the same time, Japan has made significant reimbursement reductions for medical technologies that impact the medical device industry in many ways, including limiting the availability of funds that could be devoted to R&D of new and innovative products. Inventing products that save and enhance lives requires large investments. Deep cuts for medical technologies in Japan have put downward pressure on companies' ability to invest in R&D.

The Japanese government sets the maximum reimbursement rates, which usually act as ceiling prices for all medical technology products. These prices are reviewed and usually reduced every two years. For the period April 2002 to March 2006, the total revenue loss from these reimbursement reductions was about $3 billion—a significant share of which would have gone toward R&D. On top of this, Japan imposed additional cuts of several hundred million dollars in April 2006.

Before 2002, Japan adjusted prices according to a process it called "reasonable-zone" or "R-zone." In brief, MHLW surveys its hospitals for prices paid to distributors, and allows for a reasonable margin (or "zone") for discounts off of the government's reimbursement rate. While there are some difficulties with this system—as identified in bilateral Market-Oriented, Sector Specific (MOSS) negotiations between

the U.S. and Japanese governments—our industry recognizes that it is at least based on factors in the Japanese market.

In 2002, however, Japan also adopted a system called Foreign Average Pricing (FAP). This system calls for the establishment and revision of reimbursement rates on the basis of prices paid for medical technology products in the U.S., France, Germany, and the United Kingdom (U.K). The prices of medical technology products in Japan are designed to be based not on that market's requirements, but on completely unrelated conditions in foreign markets.

The U.S. medical technology industry has strong objections to this system for calculating reimbursement rates. As a methodology for setting reimbursement rates, it is not economically sound to compare prices in foreign markets that operate under vastly different conditions. Japan is a far costlier market for our industry to operate in compared to other countries. Additionally, Japan's FAP system is an attempt to compare prices for products that are not the same in Japan as they are in other countries. Due to Japan's regulatory delays, U.S. manufacturers must incur the cost of maintaining older or outmoded production lines for sale in Japan.

Going forward, industry seeks U.S. Government and Congressional support to help ensure an open dialogue with Japan that would seek to identify alternatives to the current reimbursement system and improvements in Japan's regulatory practices. The goal would be to ensure that Japan's regulatory and reimbursement policies promote the timely introduction of innovative medical technologies and do not negatively and unfairly impact U.S. medical technology manufacturers.

Regulatory and Reimbursement Obstacles Impede Market Access in Asia-Pacific

AdvaMed looks to the U.S. government to pursue trade liberalization throughout the Asia-Pacific region, including in China, India, Taiwan and Korea. AdvaMed and its member companies have identified a number of real and potential barriers to doing business in these countries. While most of the barriers pertain to unnecessary or redundant regulatory requirements, there are increasing concerns in the areas of reimbursement and intellectual property.

China has quickly become an important market for the U.S. medical technology sector. The American Chamber of Commerce in China estimates that the Chinese market for medical technology exceeds $8 billion and is growing rapidly. It is on pace to surpass some of the key European markets for medical technology in a few years. As global leaders, U.S. medical technology firms already account for a significant portion of sales in China and the position of these firms underscores the importance of ongoing efforts with the U.S. government to open the Chinese market further.

AdvaMed looks forward to working with Congress and the Administration to address the following barriers:

A Lengthy and Costly Product Registration Process
Redundancy in the Registration Process
Lack of Transparency in Decision-Making
Inappropriate Price Controls
Counterfeiting and piracy of Medical Technology

For the medical technology industry, the Bush Administration's efforts with China under the U.S.-China Joint Commission on Commerce and Trade, as well as in less formal meetings, are critical for allowing U.S. medical technology firms broader access to the burgeoning Chinese health care market. The recently-launched U.S.-China Health Care Forum initiative, led by the U.S. Department of Commerce and supported by AdvaMed and other health care partners, holds great promise as another vehicle for addressing many of the trade-related and health policy-related barriers confronting U.S. medical technology firms in China. We also endorse including healthcare under the Strategic Economic Dialogue.

Korea is another important market for U.S. medical technology exporters. Last year, U.S. manufacturers exported more than $500 million worth of medical technology products to Korea, an increase of 24 percent over the previous year. However, access to this market remains marred by antiquated product-testing requirements; inappropriate requirements to re-register products following a change in manufacturing location; and pricing and reimbursement policies that discriminate against foreign manufacturers. Korea was not a party to the Uruguay Round zero-for-zero tariff agreement on medical technology, and maintains import tariffs on a range of medical technology products. AdvaMed recommends the fastest possible elimination of tariffs and non-tariff measures applied to medical technology products by Korea. AdvaMed is also concerned that Korea's current reimbursement policies create incentives to re-use medical devices designated for a single-use in multiple procedures

within several different patients, with the attendant risks of cross contamination and degradation of product quality. AdvaMed looks forward to working with Congress and the Administration through the U.S.-Korea Free Trade Agreement negotiations to address these issues.

India, with its rapid economic growth and large population, will be an important market in the future. India is in the process of developing its regulatory system for medical technologies. The Department of Commerce has provided AdvaMed invaluable assistance in working with the Government of India on its approach to regulations.

Europe: Seek Appropriate Policies That Improve Patient Access to Innovative Medical Technologies

Efforts to oversee foreign policies impacting the export and sale of U.S. medical technologies abroad should also focus on the European Union (EU). U.S. manufacturers of medical devices export nearly $8.8 billion annually to the EU. Within the EU, Germany ($20 billion) and France ($8 billion) are the largest markets for medical devices.

Despite opposition from Congress and the Administration, in 2005, the European Commission approved a directive to up-classify all shoulder, hip and knee joint implants from Class IIB to Class III. Industry now is focused on fair and transparent implementation of the directive, so as to minimize disruption of this important market.

In addition, the EU continues efforts towards over-regulation of industry through the implementation of burdensome regulatory measures such as the Medical Device Directive revision, the REACH chemicals initiative, the WEEE/ROHS, and a possible ban on the use of DEHP in medical devices. Industry also remains concerned about the potential termination of an EU exception that allows U.S. exporters to include both metric and non-metric labeling on their products. Elimination of the exception would require U.S. manufacturers exporting to the EU to develop metric-only labeling for the EU.

Finally, as new methods of reimbursement and health technology assessment (HTA) spread throughout Europe, EU Member States should be encouraged to adopt policies for product reimbursement and health technology assessment systems that are transparent, timely, and adequately account for the benefits of innovative technology. Breakthrough products available in the United States to a majority of patients are still available to only a small fraction of eligible patients in the major European markets. Industry should be allowed to participate in the HTA process.

Specific recent issues of concern include onerous new national tendering policies in the United Kingdom and Italy, where product prices will be unilaterally reduced without sufficient regard to quality or innovation. Because U.S. manufacturers are benchmark leaders in the most innovative, high technology products, these policies have a disproportionate impact on our U.S. companies and threaten to drive innovation out of the marketplace. Because it further becomes less attractive to invest in these markets and conduct research, it increasingly means that the burden for R &D is shifted more to American markets.

Product Reimbursement in Brazil

In December 2006, the Brazilian product registration authority, ANVISA, issued Technical Regulations that require the most sweeping and complex submissions of foreign reference pricing data of any market in the world. Consistent with U.S. policy for other foreign markets, we encourage Congress and the Administration to oppose this policy, as it will seek to artificially fix prices in the Brazilian market, stifle innovation and deny Brazilian patients the benefits of U.S. medical technologies.

Utilize Multilateral, Regional, and Bilateral Forums to Eliminate Tariff and Nontariff Barriers to Trade that Unnecessarily Increase the Cost of Health Care

We encourage Congressional and Administration efforts to eliminate significant tariff and nontariff barriers to trade for medical technology maintained by many countries, particularly developing countries. Such barriers represent a self-imposed and unnecessary tax that substantially increases the cost of health care to their own citizens and delays the introduction of new, cost-effective, medically beneficial treatments. For example, the medical technology sector continues to face tariffs of 15–20% in Mercosur countries, 9–12% in Chile, Peru, and Colombia, and 6–15% in China.

The Doha Development Agenda offers an important opportunity for the United States to ensure global access to medical technology by securing global commitments on lowering tariff and nontariff barriers for the medical technology sector while expanding upon the access to medicines goal at the heart of the Doha declaration. We

support resumption of negotiations on this important multilateral trade round. We encourage the U.S. government to build upon the zero-for-zero tariff agreement on medical technology achieved in the Uruguay round by expanding the product coverage and adding countries throughout Latin America and Asia as well. AdvaMed has proposed a sectoral initiative that would achieve this objective to the Administration. Moreover, elimination of nontariff barriers such as burdensome import licensing regulations and non-transparent government procurement policies will help developing countries ensure patient access to lifesaving medical technologies.

Utilize Multilateral Opportunities to Establish Basic Regulatory and Reimbursement Principles to Expand Global Trade and Patient Access to New Technologies

We commend the WTO's recent efforts to ensure global access to medicines and medical products. While all economies seek to provide high quality, cost effective healthcare products and services to their citizens, they should also ensure timely access to state-of-the-art, life-saving equipment and implement compliance procedures that are efficient and effective. To further expand patient access to safe and effective medical devices and ensure cost effective regulatory compliance, USTR should seek to ensure that economies around the world make their policies and practices conform to the relevant and appropriate international trading rules established by the WTO.

Member economies should agree to make their medical device regulatory regimes conform to these guiding principles:

Acceptance of International Standards;
Transparency and National Treatment;
Use of Harmonized Quality or Good Manufacturing Practice Inspections;
Recognition of Others Product Approvals (or the Data Used for Those Approvals);
Development of Harmonized Auditing and Vigilance Reporting Rules;
Use of Non-Governmental Accredited Expert Third Parties Bodies for Inspections and Approvals, where possible.

Similarly, many economies require purchases of medical technologies to take place through centralized and/or government-administered insurance reimbursement systems. To ensure timely patient access to advanced medical technologies supplied by foreign as well as domestic sources, member economies should agree to adopt these guiding principles regarding the reimbursement of medical technologies.

- Establish clear and transparent rules for decision-making.
- Develop reasonable time frames for decision-making.
- Data requirements should be sensitive to the medical innovation process.
- Reimbursement rates should be based on conditions in each country.
- Ensure balanced opportunity for the primary suppliers and developers of technology to participate in decision-making, e.g., national treatment.
- Establish meaningful appeals processes.

The medical technology industry is committed to working with Congress and the Administration on upcoming trade policies and agreements to ensure patients throughout the world have access to medical products.

Conclusion

AdvaMed appreciates the shared commitment by Congress and the President to expand international trade opportunities and encourage global trade liberalization. We look to the U.S. Government to aggressively combat barriers to trade throughout the globe, especially in Japan. AdvaMed is fully prepared to work with Congress to monitor, enforce and advance multilateral, regional and bilateral trade agreements, particularly with our key trading partners.

Baughman, Laura M., Coalition for GSP, letter

Coalition for GSP
February 28, 2007

The Honorable Charles Rangel
Chairman
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, DC 20515

Dear Chairman Rangel:

The Coalition for GSP is pleased to have the opportunity to provide the following views in response to the request by the Ways and Means Committee on the direction and content of U.S. trade policy. In particular, we intend to focus our comments on whether U.S. preference programs are effective in promoting growth and economic development, particularly in low-income and least developed countries. The Coalition for GSP is an ad hoc group of U.S. companies and trade associations that use the Generalized System of Preferences (GSP) program to improve their competitiveness, both as farmers and manufacturers, and as suppliers of consumer goods to American families. Over the years, GSP has become an integral part of our businesses. Our members import a wide range of goods under GSP, from jewelry to plywood to batteries to spices.

The Coalition appreciates the Committee's particular interest in ensuring that the benefits of GSP effectively promote economic development, particularly in least-developed countries (LDCs). Over our many years of using the program, which has been in effect since 1974, we believe we can explain some of the dynamics of international sourcing that influence the extent to which we purchase goods under GSP from LDCs or from other GSP beneficiaries. We offer three key factors that are critical in the sourcing decision:

Local trade capacity;
The length of GSP renewal; and
China.

Local Trade Capacity

Committee members are well aware of the abysmal infrastructure that pervades so many LDCs: poor or even non-existent roads, unpredictable power supply, inadequate communications, untrained manpower (including an understanding of what it takes to meet preference program rules of origin), even corruption at ports and in the customs departments. Trade capacity must be improved before trade can flow. The World Trade Organization, the World Bank and other international organizations have embraced these projects, and even the Doha Development Agenda talks recognizes the need for the developed countries to assist the LDCs with trade capacity improvements if they are to reap the benefits of trade liberalization.

Until these significant hurdles are addressed, it matters little if the United States extends a trade preference program only to LDCs. U.S. duty savings under GSP generally do not offset the costs associated with importing from them under these infrastructure conditions. If the Committee wishes to encourage increased sourcing under GSP from LDCs, it should focus its attention on targeting U.S. foreign assistance to infrastructure projects. In addition, the Committee should ensure that the rules of origin and other requirements for taking advantage of preference programs are as simple and straightforward as possible. Complicated rules drive up compliance costs, which can also negate the benefits of the duty savings under GSP.

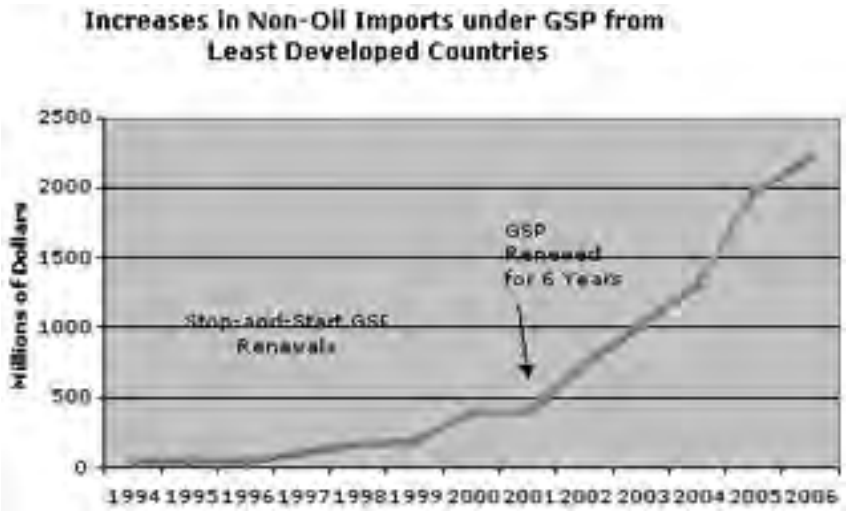
Length of GSP Renewal

Our ability to use the duty-free benefits available under the program is most effective when we know those benefits will be available by the time we need to import the product or products of interest to us. While the time from design to order to importation varies for each of us, for some companies it can be quite long. For example, some products take as long as one year from design to importation. For others, the products are advertised in catalogues with a shelf life of at least six months. In all cases, we need to know what the duty-status will be for the imported product at the very beginning of that process. If we can count on receiving duty savings under GSP, we can incorporate those important cost savings into our pricing. But if the program expires mid-stream in the order-to-delivery process, we can be caught with a serious financial burden. We cannot always adjust our prices to our customers to pass on the unexpected duties, especially if those prices are advertised in catalogues. So we have to evaluate the risk of losing GSP mid-stream against the

benefits of the duty savings. If the program is likely to expire, we often cannot incorporate the duty savings into our sourcing plans, and our prices to our customers will need to be higher to offset the risk.

With those planning constraints in mind, you can see how short-term renewals of GSP in the 1990s, compared to the long-term period from 2001–2006, have affected our use of the program. From July 1993 through September 2001, Congress renewed GSP in fits and starts (largely due to the need to meet "pay-go" constraints). Planning our sourcing using GSP was difficult if not impossible. Over this period, from 1994 to 2001, U.S. imports under GSP actually declined an average 2.2 percent annually. But in 2001 Congress renewed GSP for six years, and as a result, imports from GSP beneficiary countries to the United States have increased an average 13.2 percent annually.

A long-term renewal of the program is important in encouraging sourcing from countries that do not yet have the infrastructure or production capability to be competitive suppliers of GSP-eligible products. You can see from the Chart below how the long-term renewal of GSP has increased interest in sourcing from poorer beneficiary countries. To the extent that some of our members are interested in investing in new overseas production relationships, we need time to grow these suppliers. Short-term renewals of the program do not encourage this, and keep us focused on more traditional GSP-eligible countries.



Thus, the Committee can increase interest in sourcing from LDCs under GSP by ensuring that the program is renewed for at least five years, preferably longer. The current renewal term expires December 31, 2008, just two years after the last expiration.

China

The Coalition urges the Committee to proceed with caution when it examines whether certain beneficiary countries like India or Brazil are competitive and no longer need GSP benefits. Those who promote a "Robin Hood" approach of removing benefits from "rich" GSP countries in order to divert them to "truly poor" beneficiaries wrongly assume that if GSP products could not be imported from, say, Brazil or India, U.S. companies would shift sourcing to Lesotho or Nepal, instead. The choice for U.S. importers is not India vs. Nepal, or Brazil vs. Lesotho, it is India vs. China, and Brazil vs. China. If a country were to lose GSP benefits, U.S. companies and importers will look globally for the best supplier at the lowest cost—suppliers that may not necessarily be other GSP beneficiaries. Indeed, in today's highly competitive markets, China is likely to be the chief winner from such graduations.

Least developed GSP countries need to have not only the capability to produce the products no longer available under GSP from Brazil or India, for example, but as noted above the infrastructure and manpower as well. In most cases, they do not (and China *does*), and most U.S. importers do not have the time or resources to

bring producers in other GSP beneficiary countries up to speed. Not when China looms as a much easier low cost alternative, and GSP tends to expire frequently.

Finally, it is wrong to assume that because a country is competitive in a few sectors that it no longer needs the benefits provided by GSP. As the table shows, supposedly "well off" GSP beneficiaries are still quite poor, by any standard. The Administration should instead use current GSP "rules" that already include a way to deal with the situation of a GSP beneficiary that is a major supplier of a specific product and is competitive in the U.S. market. The competitive needs limitation component of the program can "graduate" certain products from an LDC that is a competitive producer of those products. At the same time the GSP program continues to encourage development in that country by allowing it to continue to receive duty-free benefits on other products where it is not a competitive producer.

Per-Capita Income Levels of Top Ten GSP Beneficiaries, 2005

Country	Gross National Income Per Capita
Angola	1,350
India	720
Thailand	2,750
Brazil	3,460
Indonesia	1,280
Equatorial Guinea	710*
Philippines	1,300
Turkey	4,710
South Africa	4,960
Venezuela	4,810
"High Income" (GSP Graduation Threshold)	$10,726
United States GDP/Capita	43,740

*Most recent data available (2001)

Countries ranked by total exports to the United States under GSP in 2006.

Source: World Bank, *World Development Report 2007 and U.S. Bureau of the Census.*

The Committee will *not* force more sourcing into LDCs by removing the leading users of the GSP program from eligibility. Such removal will merely shift most of the trade with those very poor countries to China.

Conclusion

GSP is a preference program that works. It works for very poor countries and it works for American farmers, manufacturers and consumers. There are changes the Committee could enact to make it work better for LDCs, like simplifying the rules and renewing the program for an extended period. There are other changes the Committee should refrain from making such as ending the eligibility of those developing countries that tend to use the program the most because such a change would not have a positive impact on LDCs.

Sincerely,

Laura M. Baughman
Executive Director

Statement of Center for Policy Analysis

Public Health and Global Trade: Findings

Global and bilateral trade negotiations present important opportunities to promote a healthy, safe and just global community. However, current U.S. trade policies have contributed to social and economic inequality, both within the U.S. and among our trading partners, factors strongly associated with poor health outcomes. Trade agreements provide a basis for altering domestic U.S. laws and policies that protect the public's health and access to health care and medicines.

Federal legislation mandates that the United States Trade Representative receive domestic input into trade negotiations from interested parties outside the Federal Government. There have been limited opportunities for public health advice in reviewing trade policies, and as a result trade negotiations do not reflect a public health perspective.

Federal law also mandates Congressional oversight of U.S. global trade negotiations. Presidential Trade Promotion Authority undermines Congressional oversight and has limited Congress' ability to ensure that trade agreements promote social and economic equity.

We urge Congress and the U.S. Trade Representative (USTR) to adopt the following enforceable Public Health Objectives, as a basis for amending pending trade agreements and to guide any future agreements, and to initiate a review of bilateral, regional and multilateral agreements for their adherence to public health principles.

Public Health Objectives for Global Trade

1. **To assure democratic participation by public health and transparency in trade policy** by:
   a. Appointing to all relevant trade advisory committees representatives of organizations that work to assure equitable access to affordable health-related services and products, and promote the health of individuals, communities and populations,
   b. Opening all proceedings and documents of trade advisory committees to the public, and
   c. Requiring USTR's consultation with all relevant committees of the House and Senate in the development, implementation, and administration of U.S. trade policy, without renewing presidential trade promotion authority.
2. **To develop mutually beneficial trade relationships that create sustainable economic development** for the U.S. and our trade partners in an increasingly interdependent world.
3. **To recognize the legitimate exercise of national, regional and local government sovereignty to protect population health,** and to ensure that countries do not weaken or reduce, as an encouragement for trade, sound policies that contribute to health and well being, including laws on public health, the environment and labor.
4. **To exclude tariff and nontariff provisions in trade agreements that address vital human services** such as health care, water supply and sanitation, food safety and supply, and education, including licensing and cross-border movement of personnel in these fields.
5. **To exclude tobacco and tobacco products**, which are lethal, and for which the public health goal is to reduce consumption, from tariff and nontariff provisions of trade agreements, including advertising, labeling, product regulation and distribution.
6. **To exclude alcohol products**, which present serious hazards to public health. Policies designed to reduce the harm caused by alcohol products should not be subject to compromise in exchange for other trade benefits.
7. **To eliminate intellectual property provisions related to pharmaceuticals from bilateral and regional negotiations,** as these are more appropriately addressed in multilateral fora, **and promote trade provisions which enable countries to exercise all flexibilities provided by the Doha Declaration on Public Health**, including issuing compulsory licenses for patented pharmaceuticals, parallel importation, and other measures that address high prices and promote access to affordable medicines.

Statement of Stephen Coats, U.S./Labor Education in the Americas Project

The U.S./Labor Education in the Americas Project (US/LEAP) is a twenty year-old independent non-profit organization that supports the basic rights of workers in Latin America. The greatest source of US/LEAP's financial support comes from individuals. We also receive support from foundations, unions, and the U.S. religious community.

US/LEAP supports global trade, but believes that without trade rules that protect the rights of workers, trade agreements and trade programs will not spread the benefits of trade to workers abroad and will accelerate the race to the bottom for workers in this country.

US/LEAP Experience on Trade and Worker Rights

US/LEAP has been actively engaged in linking U.S. policy on trade and worker rights since 1992 when it filed a Generalized System of Preferences (GSP) worker rights petition on Guatemala with the Office of the U.S. Trade Representative (USTR). Since then, US/LEAP has had extensive experience in using the worker rights conditions of both the GSP and the Andean Trade Preferences Act (ATPA) preferential trade programs. As Members of the Committee know, these and other U.S. preferential trade programs condition U.S. trade benefits on the beneficiary country taking steps to improve workers' internationally-recognized worker rights.

Worker Rights Conditions Can Work. US/LEAP has seen that effective enforcement of worker rights conditions in U.S. trade programs can improve labor rights and help level the playing field in global trade. For example, the GSP worker rights petition process was used by USTR with Guatemala in the 1990s to secure labor law reform, an increase in the minimum wage, new labor courts, improved enforcement mechanisms, and even a break-through in the wall of impunity, resulting in the first conviction of criminals for violence against trade unionists in decades.

But They Need to Be Strengthened. It is also clear that worker rights conditions need to be strengthened and much more effectively enforced. They should be, as part of a fundamental strengthening of U.S. trade policy on ensuring respect for basic worker rights. Global trade must be built on a solid foundation of a level playing field for workers here and abroad. Instead of a strengthening, we have seen the reverse approach over the past ten years, a weakening of U.S. commitment to worker rights as part of U.S. trade policy. In Latin America, protections for worker rights provided for by the Central America Free Trade Agreement (CAFTA), and pending agreements elsewhere, represent a huge step backwards from those contained under the GSP and ATPA programs. CAFTA and the pending trade agreements both lower standards (to national law rather than international standards) and weaken enforcement mechanisms (replacing trade sanctions with modest fines paid back to the offending government). The Bush Administration's trade-worker rights policy is going exactly in the wrong direction, with negative consequences for workers here and abroad.

Upsurge of Violence in Guatemala Since Passage of CAFTA. The level of violence against trade unionists in Guatemala has increased since the passage of CAFTA. As many trade unionists have been murdered in Guatemala in the past two months than in the three years before CAFTA was passed. Those who are opposed to the exercise of basic rights in Guatemala know full well that the leverage of the U.S. government and of organizations like US/LEAP that seek to apply that leverage has been drastically reduced with the passage of CAFTA and the replacement of GSP worker rights conditionality with the labor chapter of CAFTA.

II. COLOMBIA

This submission pertains primarily to the pending Free Trade Agreement with Colombia.

US/LEAP is a leading U.S. non-governmental organization working on Colombia worker rights. In the past year, US/LEAP authored *"Justice for All: The Struggle for Worker Rights in Colombia,"* the most comprehensive study of worker rights in Colombia in recent years whose release by the AFL–CIO Solidarity Center generated wide-spread press coverage including by *The New York Times, The Washington Post,* and Voice of America. US/LEAP also leads delegations to Colombia each year while staff travel to Colombia on a regular basis to meet with Colombian and U.S. government officials as well as trade unions and NGOs.

A. Violence

Colombia is by far the most dangerous country in the world for a trade unionist. Not only are more trade unionists murdered each year in Colombia than in any other country, ***more trade unionists are murdered in Colombia than in all***

other countries combined. **This was true last year, the year before, and every year since the Uribe Administration has been in power.**

The Uribe Administration is a year into its second term. Since it took office, over 400 trade unionists have been murdered, raising the total of trade unionists murdered since 1991 to over 2,200.

Preliminary and unofficial figures show that more trade unionists were killed in 2006 (75) than in 2005 (70).

According to the respected Escuela Nacional Sindical (ENS, the National Labor College, an independent NGO whose analysis and statistics are cited by the U.S. government):

- *Public sector unions, especially teachers, have been particularly hard hit.* In 2005, 44 out of the 70 trade unionists killed were teachers. In addition to teachers, municipal workers, judicial workers, and health workers continue to be the principal targets.
- *Most of the violence against trade unionists is a result of engagement in normal union activities.* ENS estimates that over 75% of the anti-union violence that took place in Colombia in 2005 (including murders, attempted murders, kidnaps, threats, etc.) was the result of the victims' normal union activities.
- *Violence against Colombian women trade unionists has increased dramatically in recent years.* Since 2002, human rights violations against women trade unionists have increased nearly 500%. Violations against women trade unionists accounted for nearly 35% of all violations against trade unionists in 2005.

B. Impunity Rate of over 99%

The second and perhaps even more relevant fact for this committee's consideration of the Colombia FTA is the shocking level of impunity demonstrating the inability or unwillingness of the Colombian government to prosecute those responsible for the horrific violence against trade unionists. By the Colombian government's own figures, *the rate of impunity with respect to these murders is over 99%.* That is, less than 1% of murderers of trade unionists have been put behind bars.

Government can't even keep track of the few cases prosecuted. The Uribe government has had a difficult time demonstrating any progress on impunity. In an April 2006 meeting with US/LEAP, Vice President Santos stated that there had been 19 successful prosecutions since President had taken office, out of a case load of over 2,200 murdered trade unionists in the past 16 years. While a ridiculously small number given the large number of cases from which to choose, *the number of successful prosecutions cited by the Vice President in April 2006 was, incomprehensibly, no higher than the number cited in documents provided by the Vice President to members of Congress in October 2004,* a year-and-a-half earlier. (To compound the confusion, in May 2006, the Ministry of Social Protection provided US/LEAP with a report documenting only 15 successful prosecutions.)

The inability of the Colombian government to provide internally consistent reports on prosecutions of murderers of trade unionists is itself a damning critique of the priority to which the government gives this issue.

ILO Chastises Colombia. An ILO report released in November 2006 takes Colombia to task for failing to address violence and impunity. In its November 2006 report, the ILO's Committee of Freedom of Association, " . . . *once again urges the Government [of Colombia], in the strongest possible terms, to take the necessary steps to pursue the investigations that have been initiated and to put an end to the intolerable impunity that currently exists."*

C. Non-Violent Attacks on Worker Rights

Workers in Colombia face not only violence but also non-violent attacks on the exercise of their basic rights. These include the failure of the government to enforce labor law, inordinate delays in the approval of union recognitions, and a weakening of labor law protections in the early 1990s that, among other things, permit the extensive use of temporary workers to block the exercise of freedom of association.

Case study: Worker Rights in the Flower Sector. The denial of worker rights in the Colombian flower sector is widespread, as revealed in a recent report cited on National Public Radio on Valentine's Day. Indeed, the most important flower grower in the country and the largest exporter of flowers from Latin America (Dole Fresh Flowers) is currently in the process of closing its largest flower plantation in the face of the most important union-organizing effort in the Colombian flower sector in the past five years. The flower sector should be of particular interest to U.S. trade policy makers, since nearly every flower from Colombia enters the U.S. duty-free under the ATPA program and Colombia provides about 60% of all flowers sold in the U.S.

For an extensive documentation on the attack on worker rights in Colombia, see the June 2006 report, *Justice for All: The Struggle for Worker Rights in Colombia.*

The combined violent and non-violent assault on worker rights in Colombia has been successful, with a sharp reduction in the number of workers covered by collective bargaining agreements. Less than 5% of the Colombian work force is now unionized, a third of its previous level.

Conclusion

The pending FTA with Colombia should never have been negotiated, given the level of violence and impunity with respect to murders of trade unionists. As stated in testimony before USTR in March 2004, US/LEAP's position is that the Bush Administration should have conditioned the initiation of negotiations with Colombia on an end to impunity with respect to murderers of Colombian trade unionists and a real reduction in the level of murders.

What has subsequently been negotiated is completely unacceptable, representing a huge step back in current U.S. trade policy commitments to worker rights. Any FTA, with Colombia or any other country, must include at its core enforceable protections for acceptable conditions of work and for core ILO conventions, accompanied by effective measures to ensure full compliance.

But Colombia is a special case. Even if an FTA is renegotiated to include acceptable provisions on worker rights, no FTA with Colombia should be approved until the government demonstrates the political will to end impunity.

One could list a host of worker rights violations in Colombia as reasons why stronger worker rights conditions are needed in a FTA with Colombia and why the current FTA should be opposed.

But there are really only three facts that members of Congress need to know for why the current FTA should be rejected:

1. More trade unionists are killed each year in Colombia than in all other countries combined.
2. The rate of impunity for murderers of trade unionists in Colombia is over 99%.
3. The first two facts have not changed under the government of President Alvaro Uribe.

Rejecting the pending FTA with Colombia provides the clearest opportunity for Congress to reverse the destructive free trade policy of the Bush Administration. Conversely, approval would make a mockery of any expressed U.S. commitment to constructing a global trading system built on a level playing field that ensures respect for worker rights. And approval would give a green light to those who wish to deny workers abroad their basic rights and accelerate the race to the bottom for workers at home.

Statement of EXPORAMERICA

This statement is submitted on behalf or EXPORAMERICA, an association of Peruvian apparel companies whose objective is to promote increased trade between Peru and the U.S. Fostering the development of the Peruvian textile and apparel industry has been a true success of U.S. trade policy, and one that has maximized the benefits of globalization both to Peru and to manufacturers, workers and consumers in the United States, while minimizing its costs. The successes generated by this policy to date can be extended through the passage of the Peru Trade Promotion Agreement (PTPA), which has already been ratified by the Peruvian Congress and whose approval by the U.S. Congress is pending. Similarly, if the opportunity to pass the PTPA is lost and existing trade preferences expire, both the U.S. and Peruvian economies will suffer significant negative effects.

I. U.S. "Peru Trade in Fibers, Yarns, and Apparel" A Mutually Beneficial Relationship

Since the implementation of the Andean Trade and Drug Eradication Act (ATPDEA) in 2002, trade in textiles and apparel between the U.S. and Peru has grown considerably.[1] In Peru's case, apparel exports have nearly doubled since 2001 and Peru has surpassed Colombia to become the leading Andean exporter of textiles and apparel to the U.S. Although Peru supplied only 1% of total U.S. apparel imports in 2005, it was the fifth largest source of knit cotton shirts and blouses, with shipments of $644 million (equal to 78% of U.S. textile and apparel imports from Peru) and a 5% marketshare.[2]

Peru's growth has also led to significant benefits for the U.S. as demand in Peru for raw materials has outstripped supplies. As noted by the U.S. International Trade Commission (ITC), U.S. cotton for use in the textile and apparel industry is a major export product to Peru,[3] and the provisions of the PTPA are likely to have a significant positive effect on U.S. cotton exports to Peru.[4] In addition, according to the ITC, tariff liberalization under the PTPA will likely result in a large percentage increase in U.S. exports of textiles and apparel to Peru. These exports consist mostly of yarns, fabrics, and garment parts.[5]

Reflecting the mutually beneficial nature of the U.S. and Peru industries' relationship, the Peruvian Textile and Apparel Industry Association, the National Council of Textile Organizations (NCTO) and the National Cotton Council (NCC) have expressed support for the PTPA, and have urged prompt consideration and approval of the PTPA by the U.S. Congress.

The PTPA builds upon the benefits of the ATPDEA (which, without further extension, will expire in mid-2007), and its predecessor the Andean Trade Preference Act (ATPA) of 1991. A direct outgrowth of the ATPDEA is the increasing interconnectedness of the U.S. and Peruvian textile and apparel industries, a mutually beneficial trade relationship *that will permit industries in both countries to face the stiff competition coming from China and other Asian producers, which largely do not use U.S. inputs in their textile and apparel production.* Moreover, Chinese and Asian producers, in many instances depend on subsidies; artificially low exchange rates to promote exports; and labor that in many cases does not conform with minimum, internationally-recognized labor standards, none of which occurs in Peru, a country that scrupulously observes the 71 International Labor Organization (ILO) agreements to which it has subscribed. The PTPA will permit the already thriving U.S.-Peruvian relationship to grow, and thereby help the two industries face new competitive challenges together.

II. Benefits to the U.S. Economy:

A. *Cotton*

As is shown in the chart below, the U.S. is Peru's primary trade partner and the destination for nearly one third of the country's exports. As indicated earlier, Peru's growing exports also benefit the U.S. In the case of apparel, 95% of Peru's exports are manufactured from cotton fiber. Given that there is a shortfall of cotton production in Peru for use in export garments, the country must import cotton to meet the demand of its textile and apparel sector. According to the ITC, Peru imported an average of 39625 MT of cotton annually from 2000–2005, of which 27,155 MT,

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3 United States International Trade Commission, "The Impact of the Andean Trade Preference Act"—Eleventh Report 2004, USITC Publication 3803, September 2005, p. 2–38.

4

5 Ibid p. 3–22.

or more than two-thirds, were imported from the United States.[6] This growing consumption of U.S. cotton has been spurred by the ATPDEA and will be further encouraged by approval of the PTPA.

It should be noted that, at present, U.S. cotton exports to Peru are currently subject to a 12% import duty on the CIF value. Upon implementation of the PTPA, this import duty will be eliminated immediately. This will further encourage U.S. cotton exports to Peru and in turn make Peruvian apparel more competitive price-wise in the U.S. market. Moreover, Peruvian imports of a variety of synthetic fibers, demand for which has grown on a daily basis, are also likely to increase significantly. However, allowing the ATPDEA to lapse without the PTPA in place would immediately threaten this thriving relationship and hurt Peruvian apparel producers and their U.S. cotton suppliers.

Source: SUNAT (Peruvian Tax Authority)

The United Status is our primary commercial partner

Recognizing the benefits to the U.S. cotton industry of increasing exports of U.S. cotton to the ATPDEA countries, as referenced above, the Memphis, TN-based, National Cotton Council (NCC) passed a resolution supporting the adoption of the PTPA and its strong rule of origin requirements, and informed the USTR that the NCC had determined that the agreement will be beneficial for U.S. cotton producers and for U.S. textile and apparel manufacturers.[7] The chart below shows the growth in U.S. cotton exports to Peru over the last five years.

U.S. Cotton Exports to Peru (including U.S. Pima and U.S. Upland)

YEAR	VOLUME M.T. FIBER	CIF VALUE IN U.S. $	TOTAL IMPORTS %
2001	22,141.82	30,461,312	60.33
2002	32,910.34	38,909,099	77.00
2003	34,374.10	50,018,140	86.03
2004	23,774.70	43,311,251	66.87
2005	34,672.84	48,484,849	74.57

B. *Yarns and Fabrics*

The rules of origin agreed to under ATPDEA, and the PTPA, are designed to foster the use of inputs produced in member countries (the use of yarn or fabrics from third parties) as is the case in some of the countries that participate in the CAFTA-is not allowed in PTPA except in specific cases). Once the PTPA is in place *Peru is expected to increasingly meet its unsatisfied demand for yarn and fabrics with products manufactured in the U.S., because this is the only way in which apparel will qualify for duty free treatment in the U.S. under the rules of origin.*

As the ITC notes, U.S. textile firms generally support the rules of origin for textiles and apparel under the PTPA because the rules ensure that the agreement benefits both parties and will further regional integration goals.[8] Under the agreement, *yarns and fabrics produced in the U.S. will enter Peru duty free immediately upon implementation.* This will boost imports from the U.S., which will have an advantage vis-à-vis yarn and fabric suppliers that pay a 25% customs tariff to enter Peru. Again, expiration of the ATPDEA, without the PTPA in place, will interrupt this

[6] ITC May 2006 report, p. 3–8.

[7] "Cotton's Week" (NCC Newsletter), February 17, 2006, referring to letter from John Maguire, NCC senior vice president, Washington Operations to Ambassador Portman.

[8] United States International Trade Comission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects"—USITC Publication 3855, May 2006, p. 3–23.

flow and will threaten the growth in trade between both countries that would otherwise be expected from a smoother transition from the ATPDEA to the PTPA.[9]

C. *The Apparel Value Chain in the U.S. and Other Considerations*

In addition to the direct benefits to the U.S. cotton and textile industries noted above, growing apparel imports from Peru under the ATPDEA have generated benefits to the U.S. economy across the entire transportation, distribution, and retail chain. In this regard, if for example a clothing garment has a FOB Callao-Peru value of US$6.00, the price at which the same garment is sold in the U.S. generally ranges from US$40 to 50. This price differential indicates that a greater portion of the value chain involved in Peruvian apparel exports remains in U.S. hands. These considerable benefits are distributed among U.S. sea, air, and land transporters; couriers; ports; warehouses and distribution facilities; and finally retailers. *It is also safe to say that the Peruvian apparel industry supports thousands of U.S. jobs along the value chain associated with this trade.* Finally, the last link of this value chain is, of course, the U.S. consumer who as a result of the ATPDEA has had access at more competitive prices to high-quality apparel containing in many instances cotton and animal fibers unique to Peru.

In this regard, it is important to mention that Peruvian apparel exports include those manufactured with wools from species in the camelid family such as the alpaca, llama, and vicuña. This uniquely Peruvian production has grown rapidly in recent years, does not compete with U.S.-produced apparel, and has resulted in concrete conservation and environmental benefits in Peru.[10]

Under both the ATPA, and its successor the ATPDEA, Peru's growing apparel industry, its capacity to generate employment, and its need for imported and domestically grown cotton and other inputs, has also contributed to Peru's success in reducing illegal coca-leaf cultivation and providing alternative, legal employment for tens of thousands of Peruvians. This is an important U.S. strategic objective in the war on drugs, the struggle against narcotics trafficking towards the U.S., and keeping illegal drugs out of U.S. communities and neighborhoods. This is also a key reason for approval of the PTPA.

Figures from the ITC noted that net coca cultivation decreased dramatically from 115,300 hectares in 1995 to 27,500 hectares in 2004.[11] Although coca cultivation has risen slightly in Peru in the last two years, it is important to note that since 2000, coca cultivation in the Andean region as a whole has declined by nearly 30% to 158,000 hectares, according to the United Nations Office on Drugs and Crime (UNODC).[12] Given that the ATPDEA has been in place since 1991, it is clear that this program has been an invaluable tool in reducing coca cultivation by spurring the growth of the apparel and other export-driven industries in Peru.

In observing the overall picture, it is also important to note that Andean apparel exports to the U.S. do not even reach 1.1% of total U.S. imports. Therefore, there is no risk of displacement or damage to the U.S. from Peruvian apparel imports.

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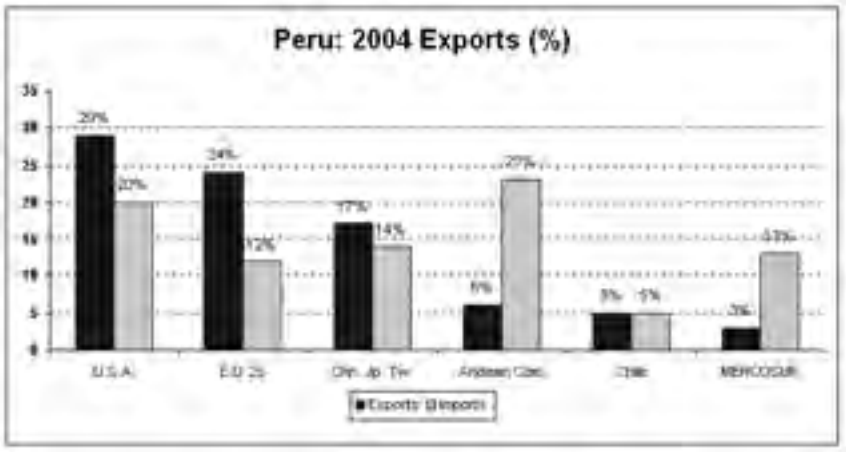
[9] The National Council of Textile Organizations (NCTO), another major U.S. association based in Gastonia, NC, which represents numerous yarn and fabric producers throughout the U.S., but who are mostly concentrated in North Carolina, South Carolina, and Georgia, is also pleased that the PTPA addresses all the major negotiating objectives, which significantly enhances the hemispheric supply chain and makes these improvements permanent. The structure and rules of the PTPA will benefit textile and apparel producers in both countries.

[10] Once endangered wild vicuña herds, which have some of the finest fibers in the animal kingdom, are making a comeback in the impoverished Andean highlands thanks to export markets created in the last 15 years for apparel made with their wool..

[11] 4–14

[12] UN Office on Drugs and Crime, "Coca Cultivation in the Andean Region: A Survey of Bolivia, Colombia and Peru," June 2006, Preface.



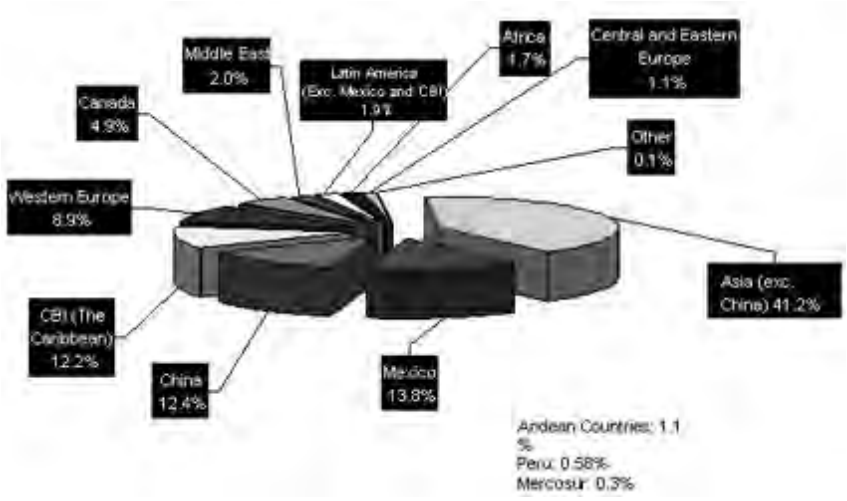
Source: U.S. International Trade Commission (USITC)

United States: Regional Textile and Apparel Imports – 2004

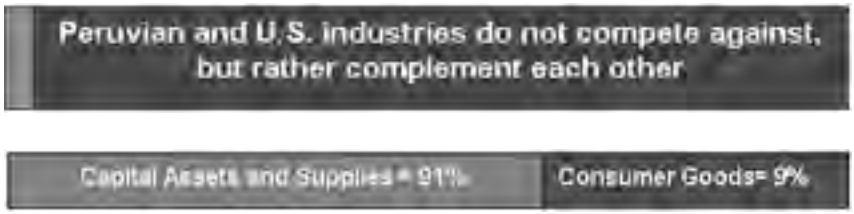
It should be considered that, as shown in the chart below, Peruvian and U.S. economies are complementary in many aspects and barely compete against each other, and therefore, a bilateral agreement generates a win-win situation for both countries.

In this regard, it is estimated that *for every dollar exported by the ATPDEA beneficiary countries to the U.S., 94 cents worth of U.S. goods are in turn imported by the ATPDEA countries,* whereas by way of comparison the Asian countries only buy 14 cents out of every dollar exported to the U.S.[13]

[13] The ATPDEA beneficiary countries are Bolivia, Colombia, Ecuador and Peru.



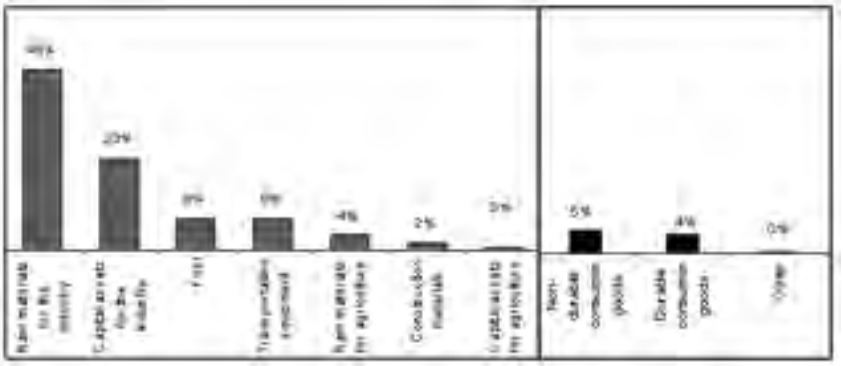
Peru: U.S. imports for 2004
Millions of US$CIF



III. Importance of the Textile and Apparel Industry to Peru's Economy

The textile and apparel manufacturing industry represents around 10% of Peru's total exports. It is one of Peru's leading industries and an estimated source of direct and indirect employment for over 500,000 Peruvians. As such, it accounts for nearly 20% of the country's manufacturing jobs and almost 10% (considering an average family size of 5) of Peru's population of 28 million depends on this industry for its livelihood.

It is also one of Peru's fastest growing export industries. In 2006, Peru exported approximately US$1.4 billion worth of textiles and apparels, compared to US$664 million in 2001. These exports increased by nearly 13 percent from 2005 to 2006. Approximately 79.2% of Peru's exports were destined to the U.S. market. This industry has become successful in large part thanks to the ATPDEA.



The qualitative importance of apparel exports to Peru becomes evident when considering that 70% of Peru's exports correspond to minerals (gold, copper, lead, silver, zinc, etc.) and fish meal, all of which represent commodities and have little or no value-added. In this regard, it is estimated that an article of clothing multiplies the value of the fiber approximately 12 times. Peru's apparel industry allows for substantial value added because, unlike neighboring Colombia or the Central American nations which are overwhelmingly maquila (cut & sew) oriented, its industry is vertically integrated throughout the productive chain and its niche market is the "full package" product. Approximately 80% of Peru's textile and apparel exports are represented by cotton garments and fabrics. Of this amount, about 80% are knit fabrics.

IV. Peru TPA and Labor

The growth of globalized, export-based industries in Peru has been such that in parts of the country such as Ica and La Libertad there is full-employment year round and extreme poverty has been reduced by an astounding 36% comparable to levels experienced nationwide by countries such as Chile. The cotton, textile and apparel industries located in these regions have helped to contribute to these successes. Moreover, workers in these industries earn good wages by Peruvian standards which is helping to reduce Peru's extreme poverty levels. For example, former Peruvian Prime Minister Pedro Pablo Kuczynski annouced that extreme poverty dropped from 24% to 18% between 2001 and 2005.

In terms of its commitment to global labor standards, Peru has ratified 71 ILO conventions, including the eight "core conventions." It has been praised multiple times by the ILO for its progress in improving labor laws. In addition to all of the ILO's Core Labor Rights Conventions, the PTPA's labor standards exceed those of five other previously-ratified trade agreements: Jordan, Chile/Singapore, CAFTA, Bahrain and even the ATPDEA, which does not make ILO or national standards mandatory.

The PTPA goes beyond many other free trade agreements in the enforcement of worker rights and dispute resolution. The PTPA-created Labor Affairs Council develops public participation in reporting and funding to ensure implementation of the agreement and improved cooperation and capacity-building mechanisms. Additionally, the PTPA holds member countries accountable to effectively enforce existing labor laws, under penalty of fines, which are used by the PTPA commission to fund projects improving labor right protections. Noncompliance results in the formation of an arbitral panel, which may fine violating parties up to $15 million per year and suspend tariff benefits to the party complained against if necessary to cover the assessment.[14]

V. Investment and Dispute Resolution

The PTPA's Investment Chapter will facilitate transactions for U.S. industries and banks, as well as commercial and service companies, among others, that have investments or are interested in investing in Peru. U.S. investors will be treated equally as local institutions. Moreover, they will have full freedom to remit investments and profits. Therefore, it is possible that U.S. textile companies will install

[14] Peru Trade Promotion Agreement, Chapter Twenty-One: Dispute Settlement

industrial plants and trading companies in Peru, which will use supplies produced in the United States, such as state-of-the-art fibers, yarns and fabrics.

It should also be pointed out that the PTPA contemplates a dispute settlement mechanism, designed to provide security to U.S. investors in Peru given that any controversy will be resolved on a fair and equitable basis, without the intervention of political or other considerations in the settlement of disputes.

VI. Concluding Remarks

The Peruvian economy, as shown in the chart below, is very small in comparison to the U.S. economy. However, as a direct result of the duty-free access afforded to Peru in the ATPA and ATPDEA, a strategic alliance has developed between the U.S. cotton industry, U.S. yarn and fabrics manufacturers, and participants in the U.S. apparel value chain on one hand, and the Peruvian textile and apparel industry on the other. As discussed in these comments, this alliance has brought significant and widely dispersed benefits to both the U.S. and Peruvian economies, and it will continue to thrive under the PTPA. The PTPA is an excellent opportunity to ensure the continued prosperity of these U.S. and Peruvian industries, and by extension raise overall living standards in Peru, and ensure the continuation of the benefits enjoyed by U.S. industries, workers and consumers.

Source: Brigham Young U. In terms of GDP

Statement of the Haiti Democracy Project and Manchester Trade

In December 2006, Congress passed an important humanitarian measure in support of the poorest country in the hemisphere. The HOPE act, while limited, has the potential to restart the motor of job creation in one of Haiti's few remaining viable industries. In a country where those few who have work make an average of a dollar a day, and where the number of textile manufacturers has dropped from ninety in the late 1990s to fifteen today, the HOPE concession is crucial to Haiti's recovery. The HOPE act sets forth eligibility requirements under Section 5002(d). Criteria include progress in creating a market-based economy, rule of law, elimination of trade barriers, anti-poverty and -corruption policies, and respect for workers' rights and for internationally-respected human rights. By mid-March President Bush can certify that Haiti has met these requirements and make HOPE operational.

The Haiti Democracy Project and Manchester Trade believe that Haiti either meets these conditions or is making continual progress toward them. "Haiti" in this case must be understood not as merely the government of Haiti, for the functioning of government in Haiti has been seriously impaired for more than two decades; this is indeed the definition of the problem of Haiti. Despite the recent progress evidenced by fair and accepted elections, the resultant government has not yet consolidated and is only beginning to function effectively.

Rather "Haiti" is here better understood as the complex of government, civil society, private sector, the supportive international community, and the concerned Haitian diaspora that make up what Haiti has in terms of functioning institutions. The question is whether these components working together meet Haiti's eligibility requirements. Let us review the requirements and also some of the serious objections that have been raised to Haiti's eligibility.

Section 5002(d)

Haiti shall be eligible for preferential treatment under this section if the President determines and certifies to Congress that Haiti

(A) has established, or is making continual progress toward establishing

(i) a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets.

Haiti indeed has a market-based economy based on private property and has considerably less government involvement in the economy than most U.S. free-trade partners.

(ii) the rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law;

Political pluralism is flourishing in Haiti and legal rights are enshrined in the constitution and are actively promoted by civil society and the population. One cannot state that the rule of law exists throughout Haiti. Due to Haiti's tragic history over the past quarter century, 82 percent of Haiti's trained professionals live abroad. There are a great number of poorly educated and poorly paid civil servants prone to corruption.

However, substantial progress is being made to spread the rule of law through the island. The government has focused on creating a capable judiciary system a crucial component in assuring there is rule of law. We have been very impressed with the quality of the new appointments. The Haitian police force supported by the U.N. forces on the island has become proactive in pursuit of the kidnapping rings that have sown terror in Haiti. The police and U.N. have recently launched an offensive against the gangs' strongholds in Cité Soleil and other areas, scattering the leadership of the gangs and establishing government presence in these areas for the first time in years. The international force is assisting in training and establishing internationally accepted standards for all elements of law enforcement and the judiciary.

(iii) the elimination of barriers to United States trade and investment, including by C (I) the provision of national treatment and measures to create an environment conducive to domestic and foreign investment; (II) the protection of intellectual property; and (III) the resolution of bilateral trade and investment disputes;

The government and society of Haiti welcome U.S. investment, and the improvement of the investment climate was one reason why Haiti strongly backed the HOPE initiative. It is no deliberate policy but sheer lack of infrastructure, security, and legal capacity that is the main impediment to investment, both domestic and foreign. The HOPE act, by reviving a crucial Haitian industry, begins to address this crucial constraint. Unlike other countries including some FTA partners, Haiti has always welcomed foreign investment and treated it as favorably as it treated local investment.

(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through microcredit or other programs;

The present government launched a "social-appeasement" policy aimed at countering the lure of the gangs, and Haiti's international partners have pledged, and begun to disburse, billions of dollars to address basic human needs. The Haitian-American diaspora also pours in more than $1 billion a year in family remittances. If security can be reestablished and investment resumed, we believe these policies and concrete actions will begin to show success in reducing mass poverty and improving health and education.

(v) a system to combat corruption and bribery, such as signing and implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions

Corruption and bribery have unfortunately become ingrained in Haiti's government and folkways, as is the case in many other developing countries, and constitute a fundamental obstacle to progress. However, progress has been made recently. The previous government that of the interim prime minister Gerard Latortue did Haiti credit by establishing two investigatory commissions in Haiti that found serious embezzlement by the previous president, Jean-Bertrand Aristide. The Latortue government also launched a lawsuit in U.S. federal court seeking recovery of these stolen assets. The U.S. government is helping by trying and convicting a number of highly-placed drug traffickers who had operated with impunity in Haiti for many years. Together these investigations and convictions are effectively countering the long tradition of impunity enjoyed by corruptionists in Haiti.

These efforts are aided by Haitian civil society, the diaspora, and the international presence. Haiti has a chapter of Transparency International. A senatorial committee is looking into the corruption among its ranks, and the proceedings are followed by the media and civil society. A government-appointed prosecutor has expressed the will to root out all of the major corruption among the "untouchables" of Haiti, frequently powerful officials of previous governments. The administrator of the electoral commission was able to intercept fraud and hold three fair and accurately-counted elections in 2006.

A U.S. trade association representing U.S. protectionist textile interests and having no experience in Haiti, in a statement to the U.S. trade representative on February 13, 2007, has cited Haiti's corruption as the main reason why President Bush should delay any decision to find Haiti eligible for the benefits of HOPE. The National Council of Textile Organizations claimed that Haiti would not produce textiles at all but would merely smuggle in Chinese finished products using its HOPE quota, and that it would be shielded in doing so by its endemic corruption, beyond the effective purview of U.S. customs enforcement.

This is simply not correct. Haiti is benefiting from special textile provisions under the CBI and has never been cited for violations involving transhipments. The fact is that the Haitian companies themselves realize the danger of such violations.

The law requires Haiti to present U.S. customs an acceptable visa system of control. It is at that time that the U.S. government will decide whether Haiti has a system capable of preventing transhipment. If it has such a system, it will be certified for HOPE benefits. The U.S. trade association's arguments are premature and prejudge a system that is currently being created and will be judged by U.S. authorities in the future.

We also note that the trade association has dramatically shifted its argument since last September. Then, it claimed that Haiti's low-cost production would seriously harm U.S. textile manufacturing. Now it is claiming just the opposite: that Haiti would not produce at all but would sneak in others' goods.

The common point in the organization's stance has remained opposition to HOPE, under which Haiti's now-minuscule market share could rise to 1 percent of the U.S. garment market now and 2 percent in five years.

While ceding the point of Haiti's ingrained corruption, we strongly question the claim that Haiti would not produce but merely smuggle. Haiti has the capacity and desire to produce.

In recent years, Haiti's instability has grown and disrupted Haitian manufacturers' ability to win and keep overseas customers. Many were forced to close, as noted, but many also sought to keep their plants open or intact, pay their workers something even when there were no orders, and keep going somehow. This testifies to their desire to produce. This idle capacity and employer-worker bond remains and will be quickly reactivated with the economic incentive provided by HOPE.

During recent decades, Haiti's workers and employers displayed impressive prowess in low-cost garment production. They do not need to smuggle out Chinese finished goods. They can make much more money by weaving Chinese and other yarn and assembling the products in Haiti. They know how to weave and sew. They have the experience, the capacity, and the willing and dexterous workers. There is a Haitian manufacturers' association, there are trade unions, and the self-interest of these sectors will insure that no one be allowed to endanger Haiti's access under HOPE by smuggling finished goods.

(vi) protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; (B) does not engage in activities that undermine United States national security or foreign policy interests; and (C) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

In the 1980s and 1990s, as U.S. activists rightly expressed concerns about overseas "sweatshops," Haitian manufacturers got the message and took the steps to make sure that their market access would not be affected by this issue. It was relatively easy for them to do so because they could easily exceed Haiti's low minimum wage and remain competitive. Also, the cost to them of assuring adequate lighting, ventilation, and work hours was low. The Haiti Democracy Project has visited factories in Haiti and found conditions to be decent.

Haiti has freedom for union-organizing and even militant and largely-political unions have appeared in the textile sector.

Haiti's government does not engage in human-rights violations. Politically, there is a threat to certain individuals' rights from armed remnants of the Aristide government (two regimes ago), but it is not widespread nor countenanced by the present government.

Altogether, then, the Haiti Democracy Project and Manchester Trade consider that Haiti meets the criteria of the HOPE act. The scenario put forward by the U.S. textile association, that Haiti would hide behind its corruption to ship finished Chinese products, appears to us to be completely unrealistic in the Haitian scene. Knowing many of Haiti's manufacturers personally, and with abundant experience with young, able Haitians who desperately seek remunerative work, we find it inconceivable that they would stand by idly and watch someone deprive them of their livelihood in this manner. On the contrary, Haitians can be very assertive in demanding their rights. They most definitely would be so if they saw the opportunity afforded by the HOPE act being threatened.

As progressive organizations the Haiti Democracy Project and Manchester Trade are also extremely sensitive to the claim of the American textile interests that workers in the rural South would lose their jobs. We simply find, however, that Haiti's market impact, well below 1 percent now and allowable to a maximum of 2 percent in five years, is too minuscule to have the claimed effect. Furthermore, if there is competition with anyone, it is with China, not the United States. The textile association itself acknowledged this when it claimed that Haiti would ship finished Chinese goods rather than produce. By producing, Haiti would then displace Chinese goods, not American.

Since the expiry of quotas on January 1, 2005, it is China that has been the nine-hundred-pound gorilla in the world textile market with its low-cost labor and strong fabric industries. "Haiti's production is so small that it's not going to have any effect on the United States," said apparel specialist Don Truluck of High Point, N.C., noting some factories in China produce more than all Haiti combined.

The jobs in question long ago left America. The United States now exports far more to Haiti than it imports. With the United States being the largest exporter

to Haiti, the business generated by development in Haiti, as stimulated by the HOPE act, will go to U.S. exporters above all.

The humanitarian and policy reasons for the prompt execution of HOPE are also compelling. Even if it came at the expense of U.S. economic interests, which it does not, HOPE would be eminently defendable on humanitarian grounds alone simply because of Haiti's intense poverty. From a policy point of view, it makes no sense whatever to maintain a U.N. mission in Haiti at the cost of a half billion dollars a year, and not to stimulate the Haitian economy so as to hasten the day of the mission's departure.

Thus the Haiti Democracy Project and Manchester Trade present this testimony to the Ways and Means Committee, certainly as a supporter of Haiti and the cause of Haiti's unfairly deprived and desperately poor masses, but not in a blindly partisan sense. We remain highly aware of the ills of Haiti, yet strongly believe that the government assisted by the private sector, civil society, the international community, and the Diaspora is making continual progress. Designation under HOPE will accelerate this progress and even help Haiti become ready to negotiation an FTA with the United States.

We would point out that in a number of areas Haiti is ahead of U.S. free-trade partners. In other areas, it is making continual progress in meeting HOPE criteria. It is our expectation that by the time certain HOPE provisions providing special access expire in about three years, Haiti will fully satisfy these conditions and could be ready to enter into a free-trade agreement with the United States. The possibility of such a step would galvanize the whole island to meet these conditions since HOPE only covers garment production and Haiti has the possibility of being competitive in many other sectors.

Not only would such exports help alleviate poverty and create jobs in Haiti, they would remove the discrimination that Haiti is currently experiencing vis-à-vis its neighbors who are members of FTAs. They would also displace imports from the Far East. Haitian imports would contain a significant amount of U.S. components, thus benefitting U.S. workers. The Asian imports it would replace contain hardly any U.S. components. The reciprocal elements of an FTA would also assure more exports to Haiti that will create jobs in the United States.

Statement of Charles D. Lake II, American Chamber of Commerce in Japan

I. Introduction

Given the size of its economy and its close relationship with the United States, Japan must be carefully considered when formulating U.S. trade policy. U.S.-Japan economic ties are strong, but there remain a number of areas across Japan's economy where U.S. trade policy can be instrumental in ensuring businesses meaningful market access and a level playing field to the benefit of U.S. companies, workers, and farmers alike.

With Japan increasingly shifting its trade, investment, and foreign policy focus toward Asia and away from the United States, the time has come to reexamine the effectiveness of the current framework for addressing trade and investment issues with Japan and in Asia to ensure that the U.S.-Japan economic relationship remains strong and leveraged strategically by both nations to further contribute to prosperity and stability in the region.

Accordingly, the American Chamber of Commerce in Japan (ACCJ) recommends that the United States and Japan articulate a clear vision for the future of this critically important bilateral economic relationship. Both nations should commit to promoting further U.S.-Japan economic integration as the necessary foundation for continued sustainable growth in the Asia-Pacific region and initiate talks on laying the groundwork for concluding an Economic Integration Agreement (EIA).

II. Economic Focus Shifting to Asia

The U.S.-Japan relationship began over 150 years ago with the arrival in Uraga of Commodore Matthew Perry, which led to the signing of the U.S.-Japan Treaty of Peace and Amity in 1854, ending more than 200 years of Japanese isolation. Six years later, the relationship took off when Japan sent its first official mission to the United States. Since then, despite the devastating experience of World War II, the two countries have overcome tremendous challenges to forge a strong and wide-ranging bilateral relationship based on common interests and values.

Clearly, both the United States and Japan benefit from the close win-win relationship, but over the past five years, bilateral trade has remained relatively flat, as both countries have been lured by the attractive opportunities in other parts of East Asia. Indeed, trade between the United States and Asia is growing at a rapid pace, in 2005 amounting to $817 billion and far outstripping U.S. trade with the European Union, which stood at $492 billion.[1] Although Japan accounts for around a quarter of the United States' trade with Asia, the United States has been deepening its trade ties with other countries in the region at a faster pace.

From the Japan side, its international trade and investment, which have traditionally been focused on the United States, are increasing with East Asian countries as well, especially China. From 2001–2005, for example, Japan's total trade with Asia* increased from $312 billion to $473 billion, with China's share of that total nearly doubling from $93 billion to $179 billion.[2] During the same period, Japan's total trade with the United States declined from $193 billion to $189 billion.[3] Japan's outgoing investment has also taken a similar shift. While Japanese investment into the United States fell from $14.1 billion to $12.1 billion from 2000–2006 (reaching a low of $7.0 billion in 2001), its investment into Asia** rose sharply from $2.1 billion to $16.2 billion, with China's share of that total increasing from $0.9 billion to $6.6 billion.[4]

Indeed, the Government of Japan has made increased integration with Asia one of its key economic growth policies, often to the exclusion of the United States. Its initiatives in this area include an aggressive program of negotiating bilateral free trade agreements with Asian nations, increased joint business/government diplomacy in Asia; and an agreement to negotiate a trilateral investment treaty with China and South Korea and conduct joint research on a trilateral FTA. Most notable, however, is Japan's proposal for an East Asian free trade agreement, to be com-

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[1] U.S. Department of Commerce, International Trade Administration, Office of Trade and Industry information (OTII), TradeStats Express 2005.

* China, Hong Kong, South Korea, Singapore, Taiwan, Indonesia, Malaysia, the Philippines, and Thailand.

[2] Japan External Trade Organization (JETRO), from Ministry of Finance data. Figures converted to dollars from yen using U.S. Federal Reserve Board annual exchange rate averages.

[3] Ibid.

** China, India, Hong Kong, South Korea, Singapore, Taiwan, Indonesia, Malaysia, the Philippines, and Thailand.

[4] Japan External Trade Organization (JETRO), from Ministry of Finance data.

posed exclusively of ASEAN plus Six+ members. The Government of Japan proposed this initiative in 2006 and continues to expend considerable effort to push it forward, with some senior government officials favoring this Asia-only approach over the United States' more inclusive Free Trade Area of the Asia-Pacific (FTAAP).

In sum, despite the widely reported political tensions between Japan and its Asian neighbors such as China and South Korea, the macro- and micro-economic data as well as substantial progress in government to government initiatives make it clear that Japan's integration into the Asian economy continues rapidly, and that this trend will continue. These developments raise serious strategic implications for the United States, not only with regard to economic and trade policy, but also in terms of our national security interests.

III. A New Vision Needed for U.S.-Japan Economic Ties

With this backdrop, the ACCJ urges the United States to redouble its efforts to ensure that the U.S.-Japan economic relationship remains strong and continues to play a key role in maintaining prosperity and stability in each nation and in the Asia-Pacific region. The United States and Japan enjoy common values, including a commitment to representative democracy, freedom of speech, and the rule of law. Each nation considers the alliance a core aspect of its security and diplomatic relations globally and in Asia.

Conditions for greater bilateral economic integration between the United States and Japan are better than ever. Both the overall health of bilateral relations and Japan's economy are their strongest in decades. For U.S. companies, the Japanese market is more open, with more opportunity than ever before, thanks to structural reforms. Despite recent slowing trends, Japanese companies continue to invest in the United States, with U.S. production for some Japanese companies exceeding 50 percent of total output.

The two countries have a demonstrated ability to work together to resolve issues in a mutually beneficial manner that extends across many decades. The Economic Partnership for Growth, a bilateral mechanism established in 2001, for example, provides a government-to-government forum to discuss and work through such economic-related issues as macroeconomic policies, structural and regulatory reform, financial and corporate restructuring, foreign direct investment, and open markets.

Challenges for further U.S.-Japan economic integration do remain, however.

IV. Challenges for Further U.S.-Japan Economic Integration

A. Japan's Domestic Challenges and Prime Minister Abe's Vision

Domestically, Japan faces an array of difficult issues, including a declining population and an aging workforce; an unprecedented level of public debt; difficult monetary and tax policy environments; and low research and development (R&D) productivity. Continued commitment by the Government of Japan to implement market-based reform will be necessary to overcome these potential impediments to continued growth. The Government of Japan must stay firm in its resolve to further reforming Japan's economy to make it more efficient and better able to compete in increasingly globalizing markets. Dealing with these challenges will be key to achieving enhanced economic integration between the two countries.

Prime Minister Abe has recognized these challenges in policy speeches and has laid out a vision for addressing them. The Prime Minister's vision includes a goal of attaining "sustained and stable economic growth" by promoting foreign direct investment (FDI); aggressively pursuing Economic Partnership Agreements in Asia; and promoting initiatives such as his "Asian Gateway Vision," which aims to position Japan as a conduit for the flow of people, goods, money, culture, and information between Asia and the rest of the world and "Innovation 25," which is designed to foster innovation through a range of programs in medicine, engineering, and information technology.

The Prime Minister has also pledged to continue the structural reforms started by his predecessor. These include major efforts to enhance efficiency by continuing to devolve authority to local governments and by reducing government involvement in the market through the sale of government assets; following through with postal privatization; consolidating other public financial institutions; and opening certain public services to competition from the private sector.

Finally, the Government of Japan has set a goal to turn Tokyo into a global financial center on par with New York and London. A 2006 survey by the Corporation of London found that Tokyo, while an important regional financial center, does not

+ ASEAN nations are Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam; "plus Six" nations are Australia, China, India, Japan, New Zealand, and South Korea.

meet two important standards for global financial centers.[5] Tokyo is not yet a city where "business is conducted between organizations from all over the world using financial instruments from all over the world" nor is it one that has "an intense concentration of a wide variety of international financial businesses and transactions in one location." In fact, according to another 2006 study, Tokyo is not even the most competitive financial center in Asia, ranking well behind Hong Kong and Singapore in several key categories, including availability of skilled personnel and access to suppliers of professional services, regulatory environment and government responsiveness, and access to international financial markets.[6]

The Government of Japan is taking action to achieve further reform in this area. Three government-sponsored panels are currently studying ways to reform Japan's financial system to encourage the development of Tokyo into a true global financial center, with the government expected to incorporate their findings into a strategy by the summer of 2007.

B. Sector-Specific Challenges and Recommendations

In its recent Business White Paper: "Working Together, Winning Together," the ACCJ provides a snapshot of the state of the Japanese economy after the implementation of key economic structural reform measures and an assessment of progress made in the last five years. The ACCJ Business White Paper also identifies immediate and longer-term measures that the ACCJ believes are key for the United States and Japan in partnering for success in a globalizing economy. Respective chapters address different areas of Japan's economy, but they contain common themes such as transparency, stakeholder participation in decision-making, like rules for like competitors, independent and accountable regulators, global standards, innovation and improving efficiency for growth, and sound regulation to promote healthy competition.

As part of its trade policy agenda, the U.S. Government is urged to engage Japan on a wide range of outstanding issues, including the following—drawn from the ACCJ Business White Paper— which represent challenges for U.S.-Japan economic relations. These challenges could be the subject of consultations under existing bilateral mechanisms and, in the medium- to long-term, be included in negotiations ultimately resulting in the successful conclusion of an Economic Integration Agreement. For a full discussion of the ACCJ's vision for increased economic integration between the United States and Japan, please refer to the full ACCJ Business White Paper (the ACCJ stands ready to provide additional copies as necessary).

Financial System

Tremendous progress has been made in restructuring Japan's financial system to make it more competitive since the government introduced financial reforms in the mid-1990s. Two examples are the government's shift to the Financial Service Agency's (FSA) more transparent, rules-based regulatory approach and the successful reduction of major banks' non-performing loans, which has allowed Japan to shift its focus from "financial system stability" to "financial system vitality." Despite this progress, however, more is required to achieve the government's stated goal to transform Tokyo into a true global financial center to rival New York and London.

Recommendations

Continue improving the transparency of Japan's financial rulemaking process (including its practice of consulting outside advisory groups) and ensure that it is fair for all stakeholders, including foreign companies.

Ensure that Japan's regulatory reform process promotes innovation, particularly through reform of Japan's capital markets.

Ensure that Japan fulfills its international treaty obligations by ensuring like regulation for like service providers. Japan Post's financial institutions, for example, are financial service providers with significant portions of Japan's banking and insurance markets that enjoy special treatment inconsistent with Japan's World Trade Organization (WTO) obligations under the General Agreement on Trade in Services (GATS) and are not subject to full oversight and supervision by the FSA.

Ensure that Japan Post's financial institutions are prohibited from expanding their businesses until a level regulatory playing field between Japan Post and its private sector competitors is established.

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[5] Corporation of London, "The Competitive Position of London as a Global Financial Centre," November 2005.

[6] Hong Kong Securities and Futures Commission, "Hong Kong as a Leading Financial Center in Asia," August 2006.

Healthcare System

The Government of Japan should focus on reforms that bring about a healthcare system that facilitates speedy patient access to the best medical technologies, pharmaceuticals, and services the world has to offer.

Recommendations

Ensure that reform of Japan's healthcare system addresses several fundamental issues: inefficiencies in the healthcare system; the slow and cumbersome approval process for new medical technology; and the system for establishing reimbursement rates.

In the area of pharmaceuticals in Japan, create an efficient, science-based regulatory approval for new technologies, fundamentally revise the current drug pricing rules, recognize and reward innovation in the pharmaceutical industry, fully protect intellectual property rights, support R&D and improvements in the reimbursement system for medical treatments, increase its commitment of fiscal resources, and improve patient access to information.

In the area of healthcare services in Japan, permit medical institutions to operate as commercial corporations to expand the choices available to healthcare providers as well as patients.

Physical Infrastructure

Physical infrastructure has taken on heightened importance as globalizing markets have increased demand for the rapid movement of people and goods across borders. Japan's economic prominence depends on a vast physical infrastructure to support its regional and global commerce. Japan, however, pays an unnecessarily high price through over-regulation, high operating costs, and inadequate or redundant infrastructure, in part due to low external competitive pressure. This has hindered Japan's international competitiveness and threatens to reduce its role as a nexus for trade in Asia and globally.

Recommendations

- Ensure that the Government of Japan provides all stakeholders with a fair process for engaging in dialogue on issues related to airports, aviation, customs, and the privatization of Japan Post.
- Increase the transparency with which Japan conducts oversight and planning of its national air transport system, including commercial, business, and cargo aviation.
- Ensure that Japan Post is subject to identical regulations as its private sector competitors, including customs clearance, transportation, and security regulations, with no cross-subsidies among the postal products or operating companies.
- Information Technology and Communications
- The Government of Japan's IT strategy identifies information technology as critical to achieving the structural reforms necessary to meet Japan's needs in a broad range of areas, setting as a national goal the creation by 2010 of a "ubiquitous network society." This is an admirable goal, and one that will require a sustained and cooperative effort to achieve.
- *Recommendations*
- Refrain from micro-managing the development of IT and applications.

Governments contribute to innovation by sustaining an environment that allows companies and individuals to compete in the marketplace to bring new ideas and technologies to the consumer. Attempts by governments to "pick winners" or to favor one technology over others, distort the competitive discipline of the market and ultimately slow innovation. The Government of Japan should consider these points as it weighs its role in information security and privacy, IT procurement, telecom policy, and the protection of intellectual property rights.

Consumer Products and Food

Consumer products and food markets annually generate 35 percent of all retail business in Japan, providing a solid base for creating a more balanced economy driven by domestic demand. However, although Japanese producers of manufactured goods have often been at the forefront of extending the benefits of consumer products to consumers around the world, Japan's own consumers lack full access to the world's most innovative products in several key areas.

Recommendations

Create simple, fair, and transparent regulations consistent with global best practices. Allowing all stakeholders meaningful opportunities to comment on proposed rules would be an important step in the right direction.

Streamline the approval process for specific additives commonly used in the United States and Europe and use a single standard for both imported products and those already approved in Japan.

Legal System

Although different kinds of legal systems can facilitate the development of large market economies, no one doubts the importance of having one that meets the needs of the domestic economy and is compatible with global practices. A solid legal infrastructure is conducive to providing efficient international legal services to domestic and foreign companies and individuals, which will contribute significantly to the health of Japan's economy.

Recommendations

Extend the public comment period to a full 60 days and to include government-drafted legislation submitted through the administrative process, implement measures to further strengthen corporate governance in Japan, remove remaining limitations on foreign lawyers and law firms operating in Japan, and develop clearer and more consistent privacy rules.

Communicate to ministries and agencies full support of the No Action Letter system, educate them on how to most effectively implement the system, and have them proactively encourage the submission of requests for No Action Letters to those with questions regarding regulatory interpretation.

Human Resources

In an increasingly integrated global economy, national and corporate competitiveness are closely linked to the availability and flexibility of human resources. Although Japan has been justifiably proud of its economic accomplishments, changing economic realities, increased competition for foreign direct investment, and its rapidly aging population are just a few of the forces at work that require it to re-evaluate its post-war approach to human resources.

Recommendations

Consider a wide array of reforms, including: improving the teaching of English at all levels of the educational system; encouraging more competition and differentiation among Japanese universities; providing recognized Foreign University, Japan Campuses with the same tax status as recognized Japanese universities; revising the current Labor Standards Law to more clearly define its abusive dismissal doctrine; establishing clear statutory rules concerning changes in working conditions; and implementing, in a comprehensive and proactive way, policies and procedures that will facilitate the entry and integration of foreigners and their families.

Government Reform, Procurement, and Privatization

Efficient, predictable, and transparent government administration is key to achieving sustained growth in any economy. The Government of Japan has taken a range of measures in recent years designed to streamline and improve its core functions, including strengthening competitive bidding procedures and passing legislation to privatize state-owned enterprises (SOE). However, more work must be done in government procurement and privatization of SOEs, two areas where actions by the government have tremendous impact on the marketplace.

Recommendations

Reform Japan's IT procurement policies to further promote openness and transparency. The Government of Japan's policies should also be neutral with respect to competing technologies, ensure equal opportunity for all companies, eliminate unnecessary layers, and utilize a "lifecycle" approach to cost assessment.

Implement changes to increase Japan's defense procurement efficiency while enhancing defense industry competitiveness and national security. Adoption of multiple-year equipment purchases, more flexible licensed production programs, more practical payment schedules, and increased incentives for efficiency are just a few of many needed reforms.

V. Economic Integration Agreement

The ACCJ believes that it is vitally important that the governments of the United States and Japan make every effort to complete the WTO Doha Round negotiations. Both Japan and the United States would reap substantial benefits from a successful

Doha Round. The Government of Japan estimates an economic impact of approximately $401.8 billion, while the U.S. Government anticipates a boost in U.S. household income by $500 billion, or $4,500 per household.

If multilateral negotiations are the most effective means to open markets, why is the ACCJ now urging the governments of Japan and the United States to start work on concluding a bilateral EIA? There are many factors that have led the ACCJ to this conclusion.

First, major economic issues between the United States and Japan are currently less about market access and more about the need for improvements in our overall respective business environments. Many of the issues that make doing business in Japan complicated and expensive would not be addressed at the WTO level, but could be addressed in a comprehensive EIA.

Since most traditional trade barriers, such as tariffs, have largely been reduced, an EIA between the United States and Japan would have to embody a broad and forward-looking vision, and promote institutional cooperation in areas such as standards and certification, IT security, intellectual property rights, as well as security and trade. Such an agreement could serve as a model for agreements with other countries, establishing best practices for the next generation of trade agreements. Indeed, a comprehensive EIA would have to encompass and build on all aspects of bilateral economic activity, while maintaining all the measures contained in existing bilateral trade agreements and building upon them. Such a high-level bilateral agreement would have to meet WTO standards on Free Trade Agreements (FTA) for goods and services coverage, including agriculture, and extend to non-tariff measures that inhibit trade and investment. In other words, an EIA would be an ambitious "FTA-Plus" agreement.

In addition, such an agreement would complement and strengthen, not replace, multilateral efforts at the WTO. It could even give a strong push to other countries to move the Doha Round to a successful conclusion. Given the sheer size of the two economies, an EIA between Japan and the United States would create a sense of urgency among other major trading nations, spurring progress at the WTO level much as the conclusion of the North American Free Trade Agreement did in the Uruguay Round of negotiations more than a decade ago.

VI. New Mechanism for Bilateral Economic Dialogue

Finally, the ACCJ urges the governments of the United States and Japan to restructure and reinvigorate the Economic Partnership for Growth.

A. U.S.-Japan Ministerial Economic Forum

Over the past decades, the United States and Japan have benefited greatly from a deep relationship between the two nations built upon shared principles of political and economic freedom, democracy, the rule of law, and respect for human rights. Leveraging this relationship, the new bilateral economic initiative should include a U.S.-Japan Ministerial Economic Forum (Ministerial Forum). Under the Ministerial Forum, Cabinet-level leaders could meet to discuss key strategic bilateral, regional, and global issues facing the two economies and possible areas for cooperation. The Ministerial Forum would be an essential complement to existing Ministerial-level mechanisms with other key trading partners in East Asia, including China and South Korea.

The Ministerial Forum would remain informal and flexible, providing the Cabinet-level leaders a setting to address both immediate as well as long-term strategic matters as appropriate. The Cabinet-level leaders would also report progress to the prime minister and president as necessary. Likely themes include building political and economic stability in the Asia Pacific Region; assisting the developing world achieve economic growth and stability; cooperating in multilateral and regional bodies; and taking common approaches to global regional economic issues.

B. U.S.-Japan Economic Cooperation Working Groups

While the Ministerial Forum would provide direction, context, support, and momentum for the overall bilateral economic initiative, the new bilateral economic initiative should also include several working groups, which would be tasked with submitting semi-annual or annual reports to the prime minister and president through the Ministerial Forum. These reports would address any immediate issues relating to trade and investment and identify areas where material mutual benefit could be gained through further bilateral economic cooperation.

VII. Role of the Private Sector

The private sector can play a critical role by supporting analytical studies of the impact of a U.S.-Japan EIA, identifying specific impediments, and helping build political and public support. Indeed, a comprehensive EIA between the United States

and Japan would bring tremendous benefits to U.S. and Japanese companies and consumers alike, stimulating economic growth, generating high-productivity employment, and increasing U.S. and Japanese competitiveness in the global economy.

The United States and Japan share many common values. The two nations also face many common challenges—including rapid globalization and aging populations. A U.S.-Japan EIA will provide an essential foundation for continued sustainable growth in the Asia-Pacific region and can become a key tool enabling both countries to work together to become more competitive in the new global environment.

VIII. Conclusion

The ACCJ wishes to express its sincere gratitude for the opportunity to submit these comments and stands ready to work with the executive branch and our leaders in Congress to promote further U.S.-Japan economic integration, which is the necessary foundation for sustainable growth in the Asia-Pacific region.

Lawson, Eugene K., U.S.-Russia Business Council, letter

U.S.-Russia Business Council
February 26, 2007

The Honorable Charles Rangel
Chairman, Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Rangel:

The U.S.-Russia Business Council (USRBC) is pleased to present this statement to the Committee on Ways and Means in connection with the hearing on February 14, 2007, on the direction and content of U.S. trade policy.

USRBC is a Washington-based trade association that represents the interests of approximately 300 member companies operating in the Russian market. The Council's mission is to expand and enhance the U.S.-Russian commercial relationship through advocacy efforts and by promoting dialogue between the private sector and U.S. and Russian decision makers. The Council strongly supports Russia's integration into the global economy and the rules-based system of the World Trade Organization (WTO).

Securing a Commercially Strong Agreement on Russia's WTO Accession

After more than a decade of negotiations on Russia's WTO accession, the U.S. business community applauded the signing of the historic bilateral accession agreement between the U.S. and Russia on November 19, 2006. It is a strong agreement and it benefits U.S. interests. In combination with Russia's side letter commitments, it represents an important step forward in solidifying economic opportunities for U.S. firms and farmers, which can have a positive effect on jobs here in the United States.

We congratulate the Bush Administration, and the Office of the U.S. Trade Representative in particular, on their stellar work in addressing the concerns of the U.S. business community in the bilateral negotiations with Russia to ensure that the agreement was commercially meaningful. We appreciated the efforts of the leadership of the Committee and your staff who, in a bipartisan fashion together with your colleagues on the Senate Finance Committee, provided helpful input to the Administration to help ensure this effective result.

The bilateral agreement is not the endgame, however. We look forward to building upon the good communication we have established with the Committee to encourage the proper implementation of Russia's side letter commitments and move forward the multilateral negotiations. The U.S. business community understands that before Congress can move forward with action on Russia's graduation from Jackson-Vanik and the extension of Permanent Normal Trade Relations (PNTR), significant progress must be achieved in the multilateral negotiations and in connection with bilateral commitments Russia has made to the United States. However, when the negotiations near their end point, it is critical for the U.S. business community that the Congress be prepared to act promptly on Jackson-Vanik and PNTR. The competitiveness of U.S. companies engaged in trade with Russia is at stake.

Once negotiations are completed, Russia will be eligible to join WTO, with or without PNTR. Because our own WTO commitments require us to provide unconditional most-favored-nation trade status to any WTO member, only when the U.S. graduates Russia from Jackson-Vanik and extends Russia PNTR status will U.S. firms and farmers be able to share in the tariff reductions and other liberalizations that form Russia's WTO commitments. Passage of PNTR vote therefore will be critical for U.S. companies and farmers to stay competitive with other foreign competitors.

Additionally, there are benefits of Russia's accession to the U.S. business community that are difficult to quantify, but, over the longer term, are even more important than tariff concessions to U.S. firms. For example:

- Russia's WTO accession will require Russia to comply with transparency and notification requirements and provide a stronger basis for U.S. companies to assert their commercial rights in the Russian market.
- As a WTO member, Russia will need to bind its tariff levels, preventing unilateral increases for purely protectionist reasons. For example, WTO rules would have prevented Russia from tripling its tariffs on U.S. combine harvesters as it did late in 2005.

- Having Russia in the WTO will allow the U.S. to seek redress with Russia through the WTO's dispute settlement procedures if Russia steps outside the boundaries of accepted WTO norms. Without PNTR, the U.S. will be ineligible to use these mechanisms of the WTO vis-à-vis Russia.
- A basic tenet of the WTO is national treatment requiring that foreigners are subject to the same rules and enforcement practices as domestic parties (with exceptions for national security and balance of payment requirements). As a WTO member, Russia will need to honor its commitments placing foreign companies on a level playing field with their domestic competitors.

Requiring U.S. companies to pay higher tariffs than their competitors and denying them the other advantages of Russia's WTO concessions would be tantamount to ceding to our competitors one of the world's fastest growing and attractive markets. Russia is a key emerging market for U.S. manufacturers, service providers and farmers. It is currently the 10th largest economy in the world, and, with current growth trends expected to continue (Russia has had average annual GDP of 7% over the last eight years), it may be the 5th largest within another decade. Its highly-educated population and vibrant consumer sector make it an attractive export market for U.S. value-added goods and services. U.S. exports to Russia grew 20% in 2006, after growing more than 30% in 2005. And while Russia currently does not rank among the top U.S. trade partners, companies from high technology to services to natural resources to manufacturing see Russia as an important part of their global competitiveness strategy.

For more than a decade, the U.S. has found Russia to be in compliance with its Jackson-Vanik commitments regarding freedom of emigration. Accordingly, the U.S., by an annual Presidential waiver, has extended normal trade relations to Russia on an annual basis. As Russia moves closer to full WTO membership, it should be clearer than ever that Jackson-Vanik, an outdated measure with no relevance to today's Russia, does not advance U.S. interests or its agenda with Russia. On the other hand, graduating Russia from Jackson-Vanik and granting PNTR to Russia will represent a Congressional vote of confidence in U.S. firms, farmers and workers; it will give the U.S. business and agricultural communities the green light to compete on an equal footing with their European and Asian counterparts in the Russian market.

Finally, USRBC strongly supports Russia's accession to WTO not only because of the important market liberalizations that offer opportunities to U.S. firms, but also because we understand that the U.S. and the global trading system itself can only benefit when one of the world's largest economies abides by the rules of the world trading system. Adherence to WTO rules will bring more certainty to an often uncertain environment which will have ramifications well beyond the Russian market.

Building on the bipartisan spirit you and Ranking Member McCrery have demonstrated as this Congress begins, we look forward to engaging this Committee in a bipartisan fashion at the appropriate time to ensure that the U.S. business community is on a level playing field with foreign competitors as Russia accedes to the WTO.

We thank the Committee once again for this opportunity to share our views regarding this important commercial issue, and we look forward to working with you.

Sincerely,

Eugene K. Lawson
President

Statement of Raymond C. Offenheiser, Oxfam America

Oxfam believes that trade can be an important engine for development and poverty reduction. Well-managed trade has the potential to lift millions of people out of poverty. We believe it is important that trade agreements, which set the rules for ongoing trade relations, work to improve livelihoods and reduce poverty in developing countries.

1. Introduction

The U.S. trade agenda shapes the welfare of people in this country as well as across the globe. Conditions of poverty, ill health and lack of economic opportunity in developing countries are a human tragedy. But they also have implications for America's long-term security and prosperity. While U.S. foreign policy seeks to address such problems, U.S. trade policy often exacerbates them by imposing hardships on developing country farmers, making access to affordable medicines more difficult, and constraining the kinds of policies developing country governments enact to protect their own citizens. U.S. trade policy can and should do much better. Trade rules that serve to strengthen developing country economies ultimately help to generate economic growth abroad, which will, in turn, increase demand for U.S.-produced goods and services and ease the social and political tensions that result from economic exclusion.

U.S. trade policy should therefore have development as a core objective and should seek to ensure that trade rules will help reduce poverty and inequality. U.S. trade policy in recent years has failed to do this in practice, and instead has run at cross-purposes with U.S. foreign policy on international development and drug eradication. Moreover, non-conformity with certain international trade rules generates animosity among our trading partners, as illustrated by the Brazilian WTO case that successfully challenged U.S. cotton subsidies, and the more recent Canada case challenging U.S. corn subsidies.

Trade can be an engine for economic growth and poverty reduction, but only if the rules actually benefit poor people and developing countries. Despite many scholarly attempts to demonstrate a direct association between trade liberalization and economic growth, a growing consensus is emerging that trade liberalization in and of itself does not lead to economic growth. Countries that have benefited from trade in their process of industrialization did so with unique combinations of policy interventions, macroeconomic stability, investments in human capital, and land reform. In most cases, including the United States, countries benefited from the combination of selective liberalization along with government support.

Today, however, international trade rules increasingly limit the kinds of trade and industrial policies that developing countries can implement to promote their own industrialization, while facing unprecedented pressures from the United States and other industrialized countries to liberalize their own markets. In recent years, the U.S. trade agenda has contributed to these burdens in at least three ways.

First, the U.S. has not complied with certain global trade rules while using the WTO's Doha Development Round of negotiations to continue pressuring for additional market access from developing countries.

Second, U.S. trade policy in recent years has been designed to spur a competition for liberalization, predominantly by engaging small developing countries in bilateral or regional trade deals that limit their ability to use trade and investment policies to promote development. These Free Trade Agreements (FTAs) not only force full and radical market openings on developing economies, they also impose far-reaching rules in areas such as intellectual property and investment that give corporations free reign, while limiting the very policies developing countries need to fight poverty.

Third, while pressuring developing countries to open their markets to U.S. goods, the United States restricts entry for many key products produced by developing countries—particularly agricultural products and labor-intensive apparel and textiles. To make matters worse, the U.S. continues subsidizing the production of agricultural commodities for export that compete directly with those produced by developing countries.

2. World Trade Organization (WTO) and the Doha Development Round

In 2001, in the wake of September 11th, the countries of the world agreed to launch a new round of trade negotiations under the auspices of the World Trade Organization. The round was launched in Doha and took the title of the "Doha Development Agenda" in recognition of the importance of focusing the outcome of this negotiation on the needs of developing countries, which have been seeking redress of problems they face in trade rules.

More than five years later, the negotiations are at a standstill or, according to latest media reports, possibly reviving, though they clearly have a long way to go before conclusion.

Oxfam's analysis is that the United States and other developed countries bear most of the blame for the failure of the Doha Round to make progress. To date, the key elements of importance to developing countries have yet to be resolved. And developing countries have grown understandably skeptical, leading to the emergence of several important blocs of countries to promote developing country interests: the G–20, the G–33, and the NAMA 11, among others.

Currently, developed countries capture about 70% of world trade flows worth $20.6 trillion, while poor and developing countries representing 81% of the world's people—many of them living in extreme poverty—get 30%. While the share of developing countries overall has been growing, for many of the poorest countries the share of global trade flows has actually been shrinking. Africa, in particular, has seen its share of trade fall to just 2.6%, while the share of all LDCs is below one percent.

While there are many factors contributing to the increasing economic marginalization of poor countries, unfair trade rules play a significant role. For example, tariff levels on the products that poor countries export—like apparel and agricultural commodities—are higher than tariffs on the products that dominate developed economies' exports. Trade rules also permit developed countries to use grossly unfair agriculture subsidies that distort trade and result in dumping of agricultural products on developing countries' markets.

The Doha Round offers the opportunity to address these concerns, although it has not yet done so sufficiently. The current state-of-play demonstrates:

- Little to no progress on agricultural dumping, except for the proposed elimination of export subsidies, which are now a marginal part of the total subsidy arsenal of developed countries.
- Bigger demands on developing countries to open up their markets than during the previous round, with strong adverse implications on vulnerable livelihoods in most developing countries in the agricultural and industrial sectors.
- Little improvement in market access for developing countries in agriculture and industry due to proposed exemptions, and little progress on non-tariff barriers.

Oxfam strongly believes that multilateral negotiations are the best forum to address these concerns. Most economic analysis shows that the benefits for all players are much higher from producing global agreements than from regional or bilateral agreements.

But the U.S. negotiating posture has been highly mercantilist, failing to recognize our longer-term interest in robust economic growth in developing countries. The evidence is strong that U.S. exporters benefit from strong growth in developing countries, which need flexibility to determine for themselves how and when they open up their markets. However, U.S. demands for greater market access risk increasing poverty and wreaking damage to many developing countries with high levels of poverty and inequality. The U.S. should stop treating development issues as concessions rather than as critical components of a development-friendly agreement.

3. Free Trade Agreements (FTAs)

The FTAs negotiated under the current Trade Promotion Authority (TPA) require accelerated trade liberalization with little regard to a country's level of development or economic vulnerability. In addition, these FTAs require extensive intellectual property and investment protections that limit the policy options developing countries need to effectively govern their economies. In many cases, our trading partners have agreed to FTAs because they feared losing access to U.S. markets that had been provided as part of long-standing regional trade programs. The negotiating pressure of withdrawing market access for Central American and Andean countries induced them to agree to measures in the FTAs that are contrary to their interests in development and poverty reduction.

3.1 Agricultural trade

Under FTA rules on agriculture, developing countries are granted no special treatment to address their development needs. Yet since the founding of the GATT over 50 years ago, it has been a principle of the multilateral trading system that developing countries need not grant reciprocal commitments to reduce or remove tariffs and non-tariff barriers to trade. This basic principle was enshrined in the WTO under the rubric of Special and Differential Treatment, which recognizes important

existing asymmetries between developed and developing countries and permits the latter to forgo making concessions similar to those expected from the former.

Yet consider the situations that Peru and Colombia will face as a result of their FTAs, which allow extensive U.S. domestic agricultural supports and subsidies that enable U.S. products to be exported below their cost of production. These countries will be forced to eliminate their price-band system, which stabilizes prices of sensitive products and protects them from the trade-distorting effects of U.S. subsidies. Furthermore, the agricultural safeguard mechanism included in the FTAs is weak and temporary and can only be used for a limited number of goods, rendering it ineffective to protect vulnerable farmers.

Furthermore, Peru and Colombia were not able to exclude any products from tariff elimination, yet the U.S. excluded 47 tariff lines for sugar, sugar substitutes and products with high sugar content. The U.S. was also granted a special mechanism for sugar compensation, allowing greater policy flexibility to avoid imports causing damage to our domestic producers. Such policy flexibility is not at all available to Peru and Colombia. In addition, although longer tariff elimination periods were granted for some of their products, duty-free quotas beginning immediately will offset advantages that such delays in tariff reductions might provide to cushion impacts on their farmers.

Thus, these FTAs dismantle mechanisms for the protection of agricultural products vital for food security and the livelihoods of small farmers who produce for their domestic markets, leaving them with few options for preserving their income. In Peru and Colombia, where half the population lives in poverty, the majority in rural areas, the lack of employment alternatives, limited access to credit, lack of basic services, adverse climatic conditions and geographic isolation further compound the problems facing displaced farmers. Farmers in these countries are in a vulnerable position and could face pressure to turn to the cultivation of coca in a region that provides more than 98 per cent of world supply, thereby undermining U.S. drug policy and billions of taxpayer dollars invested to reduce the supply of cocaine.

3.2 Intellectual property rules and access to medicines

U.S. trade policy also hurts development abroad by raising the cost of essential medicines to populations already facing hardships. In TPA § 2102(b)(4)(C), the U.S. Congress instructed USTR to "ensure that future trade agreements respect the Declaration on the TRIPS [Trade Related Aspects on Intellectual Property Rights] Agreement and Public Health," adopted by the WTO at its Fourth Ministerial Conference on November 14, 2001. This Declaration affirmed the primacy of public health over intellectual property rules and was motivated by profound concerns that such rules could limit access to medicines in developing countries.

Yet new intellectual property rules in FTAs extend the monopoly rights of the international pharmaceutical industry, restricting or delaying generic competition and reducing access to affordable new medicines in developing countries. In most developing countries, national health-care budgets are deficient and the majority of people lack insurance and must pay for medicines out-of-pocket. In particular, U.S. FTAs include the following rules, which exceed commitments established in the TRIPS Agreement and will lead to price increases for newer medicines in developing countries:

Extension of the patent terms: Provisions extend patent protection beyond the 20 years established in the TRIPS Agreement to compensate for delays in granting the patent and in granting marketing approval. These measures exceed even U.S. law, which includes limitations to ensure that the product is a truly novel medicine and which put a ceiling on the extension period.

Exclusive use of test data: Provisions create a new system of monopoly power, separate from patents, by blocking the marketing approval of generic medicines for five or more years, even when no patent exists. Drug regulatory authorities are prevented from using the clinical trial data of the patented medicine to approve the marketing of a generic drug that has already been shown to be equivalent to the original one, thereby delaying or preventing generic competition. The TRIPS Agreement protects only "undisclosed data" to prevent "unfair commercial use" it does not confer either exclusive rights or a period of marketing monopoly.

Linkage between marketing approval and patent status: Drug regulatory authorities are prohibited from registering generic versions of medicines until after the patent has expired, with no exceptions. Thus, these public agencies charged with verifying a medicine's safety and efficacy would have to become a sort of "patent police" with the burden of enforcing private property rights, instead of leaving the patent owner with the responsibility of using the judicial system to that end. Unlike U.S. law, the FTAs do not include any measures to ensure timely resolution of pat-

ent disputes when generics producers challenge such patents, resulting in de facto patent extension.

3.3 Investment rules

The investment chapters in FTAs prevent developing country governments from regulating foreign investment once it enters the country and ban the use of all "performance requirements." These rules prevent governments from screening foreign investment to ensure it contributes to the development needs of their economies. Investment provisions in FTAs also prohibit governments from requiring foreign companies to transfer technology, train local workers, or source inputs locally. Additionally, they restrict the ability of governments to regulate capital flows, thereby exposing fragile developing country economies to undue financial risks. Under such conditions, as seen with NAFTA for example, investment fails to support the domestic economy to the fullest extent possible by creating jobs that provide decent employment conditions and wages. These goals are critical to ensuring that the livelihoods of the poor are improved in countries that enter into an FTA with the United States.

Investment rules in FTAs also allow foreign investors to sue governments for passing laws that investors believe could restrict their ability to profit from their investment. This has the potential to restrict governments from upholding their responsibility to enact and enforce regulations that ensure the well-being of their citizens, such as measures to protect health, safety, the environment, and workers' rights. Through the investor-state dispute settlement system, private investors can challenge the legality of such laws and, in so doing, undermine the ability of developing countries to balance private interests and public rights. The impact of U.S. efforts to foster development is vastly diluted by the enactment of these provisions, which are harmful not only to development and poverty-reduction, but also to democracy.

3.4 Recommendations: Pro-development rules are needed

U.S. trade agreements with countries that have high levels of poverty must allow for special and differential treatment in agricultural market access in order to enable developing country governments to enact policies that ensure food and livelihood security and promote rural development. For example, developing countries should be allowed to exclude sensitive products from tariff elimination and establish more gradual market openings. Until the U.S. fully eliminates trade-distorting domestic supports and subsidies, trade agreements must allow developing countries to use a price-band system or other tariff mechanism that will serve to compensate for the effects of these subsidies. Furthermore, there should be an agricultural safeguard mechanism that can be triggered by changes in price, can be applied to all sensitive products even after tariffs are fully phased out—as is being negotiated as part of the WTO Doha Round, and does not prohibit use of the WTO safeguard mechanism.

Intellectual property rules in trade agreements should eliminate those patent and related provisions that restrict or delay generic competition and exceed the rules established in the TRIPS Agreement. Trade agreements must respect the Doha Declaration on the TRIPS Agreement and Public Health and enable developing countries to make full use of safeguards to ensure the primacy of public health over patent rights. Outside of FTAs, the USTR should not exert pressure on developing countries that enact and use public health safeguards to reduce the price of medicines, and should stop employing the Special 301 Review Process to force developing countries to implement intellectual property standards that exceed their obligations under TRIPS. Furthermore, the U.S. should not use other trade negotiation venues, including the WTO Accessions Process and the TRIPS Council, to impose stricter intellectual property rules on some of the world's poorest countries.

Investment rules in trade agreements should not restrict the right of governments to impose capital controls on foreign investment and performance requirements that encourage joint ventures, technology transfer, and local sourcing. Furthermore, dispute settlement mechanisms should not give greater rights to foreign investors than the rights conferred to national investors. International arbitration should only be available to foreign investors after exhausting all options for resolution through national judicial systems, and only for compensation for "direct expropriation" by a government.

4. Trade Preference Programs

U.S. trade preference programs have for decades provided important duty-free market access to developing countries, which have used these benefits to build businesses, create jobs, and gain export earnings. Indisputably, these programs have contributed to improving the livelihoods of many people through the jobs they have

created. At the same time, however, U.S. preference programs could be further improved to have an even greater impact on reducing poverty and improving livelihoods in developing countries.

First, U.S. preferences should be made permanent. Since U.S. preference programs are temporary in nature, their potential revocation means that investors, local businesses, governments, and workers cannot be positive that duty-free benefits will continue into the future. This level of uncertainty can have a chilling effect in terms of attracting new investment into developing countries. By making its preference programs permanent, the U.S. would send a strong signal that it is committed to increasing the share of developing countries in world trade. The programs should maintain their conditionality requirements, as well as the petition process to challenge a country's eligibility if it fails to comply with these conditions. However, making preference programs permanent would increase their potential to contribute to economic growth and poverty reduction in developing countries.

Second, the eligibility criteria that countries must meet in order to receive duty-free benefits should be strengthened, so that these programs contribute more to improving workers' rights as well as transparency and governance in developing countries. Countries should be required to comply with core International Labor Organization conventions, including employment and occupation discrimination, which is presently omitted from current eligibility criteria. Moreover, eligibility criteria pertaining to good governance, anti-corruption efforts and respect for human rights need to be strictly and consistently applied. Special attention should be paid to the issues of corruption and mismanagement that are all too prevalent in countries rich in natural resources (e.g., oil, gold, diamonds, other precious minerals and timber). In these cases, eligibility criteria should include the existence of systems designed to transparently publish revenues received from these natural resources, as well as key terms of contracts between private companies and the state for the development of such resources. Such transparency measures, in line with U.S. support for the Extractive Industries Transparency Initiative, would increase the ability of citizens to monitor the use of government revenues derived from extractive industries.

Third, the list of products covered by U.S. preferences should be expanded so that developing countries can better utilize the programs, particularly in agriculture. Because several important products are excluded from eligibility, countries that produce these goods are unable to benefit from U.S. preferences.

Finally, many poor countries face capacity problems that prevent them from being able to benefit from trade. Trade capacity building assistance can help overcome these constraints, providing economic aid that enables countries to use trade as an engine for growth. Trade capacity building can include enhancing worker skills, modernizing customs systems, building roads and ports, improving agricultural productivity and export diversification. However, such assistance should be recipient-driven, additional to existing development aid, free of economic conditions, adequate, predictable, and complementary to—and not a substitute for—better and fairer trade rules. While trade capacity building is important, particularly for the poorest countries, it does not equal development, and it cannot compensate for the adverse effects of bad trade deals on a country's national development and poverty eradication efforts. The U.S. should do a better job of providing trade capacity building in a manner that is transparent, well-coordinated, and consistent with recipient countries' development strategies.

5. Presidential Trade Negotiating Authority

Oxfam believes that strengthening multilateralism is central to global governance, as international cooperation is necessary to address the challenges of poverty, inequality, unemployment and environmental destruction in an increasingly more interdependent world. While the WTO needs reform, multilateral cooperation remains fundamental to ensure that trade can reach its potential as an engine for development and poverty reduction.

In order to complete the WTO's Doha Development Round of negotiations, Congress will need to grant new negotiating authority to the President. Yet progress on substance must come first. An extension of presidential negotiating authority will not lead to conclusion of the Doha Round if there is not the political will to do what is necessary to reach agreement. To that end, G7 countries, including the United States, must put significant new offers on the table before negotiations can be successfully concluded so that developing countries are able to realize the gains from trade they have long been promised in the multilateral trading system.

In any case, trade negotiating authority should not be extended to continue with a policy of "competition for liberalization" as has been done during the last five years. For developing countries, particularly the poorest countries, U.S. trade objec-

tives should incorporate broad-based economic growth, poverty reduction, and stability, rather than a blind focus on market access and U.S. market share.

Oxfam believes that a new framework of objectives and priorities is needed for Congress to grant presidential trade negotiating authority, ensuring that trade policy is not a tool strictly for advancing U.S. business interests, but for shared prosperity, increased integration, and cooperation. Trade should be a means to further broad-based growth, development and poverty reduction, and is not an end in and of itself. U.S. trade can and will continue to grow without renewal of presidential trade negotiating authority.

Congress must now ensure that U.S. trade policy is strategically focused on spreading the benefits of trade as broadly as possible, in the developing world as well as in the United States, instead of simply seeking to expand the volume of U.S. trade. In this context, any future presidential trade negotiating authority should:

- Give priority to the multilateral, rules-based trading system that addresses the development needs of poor countries;
- Make all negotiations transparent and open to the public, ensuring a more balanced representation by public interest groups on USTR advisory boards as a counterweight to special business interests;
- Ensure that all trade agreements are accompanied by adequate mechanisms and resources to address the problems of those adversely affected by trade, both in the U.S. and in our trading partners;
- Take into account the asymmetric conditions between the U.S. and our developing country trading partners and ensure that any burdens resulting from new trade agreements are lighter for countries with higher poverty rates and lower levels of development;
- Ensure that all trading partners recognize and enforce international labor and environmental conventions;
- Retain a role for Congress in decision-making over which trading partners to engage and over the parameters of the content of negotiations;
- Exclude from trade agreements any further expansion of intellectual property protections for pharmaceuticals beyond the rules established by TRIPS and re-affirmed in the Doha Declaration on the TRIPS Agreement and Public Health;
- Guarantee that investment rules do not grant greater rights to foreign investors than to domestic investors, undermine national judicial systems, or curtail the ability of governments to make effective policy decisions to protect the public interest and promote national development.

U.S. trade policy should promote a new set of rules that recognize that the welfare of people in the United States is inextricably linked with the well-being of people across the globe. Such rules should seek to ensure that the benefits from trade are more broadly shared and to reverse the trend of increasing inequality that has led to greater exclusion in the global economy.

Statement of Peruvian Asparagus Importers Association, Philadelphia, Pennsylvania

This statement is submitted on behalf of the Peruvian Asparagus Importers Association (PAIA). PAIA is a not-for-profit association of 25 U.S. companies that earn a living by importing fresh asparagus from Peru.[1] Fostering the development of the Peruvian asparagus industry has been a true success of U.S. trade policy, and one that has maximized the benefits of globalization to both Peru and to workers and consumers in the United States, while minimizing—though not eliminating—its costs. The successes generated by this policy to date can be extended through the passage of the Peru Trade Promotion Agreement (PTPA), which has already been ratified by the Peruvian Congress and whose approval by the U.S. Congress is pending. Similarly, if the opportunity to pass the PTPA is lost and existing trade preferences expire, both the U.S. and Peruvian economies will suffer significant negative effects.

The fact that the U.S. market is already largely open to imports from Peru means that the PTPA would essentially make permanent the existing Andean trade preferences, an important step for the economies of the United States and Peru, as detailed herein. On the other hand, the most significant *change* in the current trading relationship between the United States and Peru resulting from the PTPA would be the opening of the Peruvian market to exports from the United States. This is an important factor to consider when evaluating the likely effects of the PTPA on the U.S. economy, and argues for the PTPA to be considered on its own merits. A range of U.S industries would benefit. For example, according to the USTR, more than two-thirds of current U.S. agricultural exports to Peru will immediately become duty free as they enter the Peruvian market. In addition to eliminating often significant rates of duty, the PTPA would remedy a range of non-tariff barriers that have hindered exports from the United States to date.

The overall effect on U.S. exports could be similar to that experienced as a result of the U.S.-Chile Free Trade Agreement (FTA). According to the USTR, U.S. exports to Chile increased by 90 percent due to this agreement, from $2.7 billion in 2003 to $5.2 billion in 2005. Significant increases in exports were noted in sophisticated machinery, vehicles, and parts. We understand that exports to Chile from one U.S. firm, Caterpillar, doubled after the implementation of the U.S.-Chile FTA. Anticipating benefits of this nature, many U.S. industry groups have voiced their support for the PTPA, including the National Pork Producers Council, the American Electronics Association, the Distilled Spirits Council of the United States, the Grocery Manufacturers Association, the National Council of Textile Organizations and the National Cotton Council.

I. *U.S. trade policy on imports of asparagus from Peru has benefited both the United States and Peru*

PAIA's particular area of interest in the larger context of U.S. trade policy is the trade between the United States and Peru in fresh asparagus. Under the Andean Trade Preference Act (ATPA) and its successor, the Andean Trade Promotion and Drug Eradication Act (ATPDEA), imports of fresh asparagus from Peru have been accorded duty-free treatment since 1992.[2] For the future, PAIA strongly supports the actions of U.S. and Peruvian negotiators to maintain this duty-free treatment for imports of fresh asparagus under the terms of the Peru Trade Promotion Agreement (PTPA), and urges the Congress to implement this agreement as soon as possible.

The U.S. policy of providing duty-free treatment to imports of fresh asparagus from Peru, which has been in effect since 1992, has resulted in pronounced economic benefits in the United States as well as Peru. As we discuss further in these comments, U.S. consumers, U.S. importing companies, U.S. distributors, U.S. transportation companies, and the many other companies in the domestic commercial chain have benefited as the Peruvian industry has matured and U.S. imports of fresh as-

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[1] The member-companies of PAIA are: Altar Produce Inc.; Alpine Fresh; AYCO Farms Inc.; Chestnut Hill Farms; CarbAmericas Inc.; Central American Produce Inc.; Contel Fresh Inc.; Crystal Valley Foods; Dole Fresh Vegetables Inc.; Fru-Veg Marketing Inc.; Globalex Inc.; Gourmet Trading Company; Jacobs Malcolm & Burtt; Mission Produce Inc.; North Bay Produce; Pro-Act LLC; Rosemont Farms Corporation; Southern Specialties; Team Produce International; Triton International; Yes Fresh, LLC; AL-FLEX Exterminators; Customized Brokers; Hellmann Perishable Logistics ; and The Perishable Specialist, Inc.

[2] The ATPDEA was scheduled to expire as of December 31, 2006, but this program has been extended for at least another six months. We note that imports of fresh or chilled asparagus from Peru are not currently subject to duty-free treatment under the Generalized System of Preferences.

paragus have grown. In addition to the growers and exporters in Peru, the Peruvian economy and the thousands of people in Peru whose livelihood is dependent on trade with the United States receive a benefit from this trade policy.

Unless this policy is continued by implementing the PTPA, millions of dollars in U.S.-Peru trade in asparagus and other crops, as well as thousands of jobs in Peru, could be lost. Such losses would be devastating for Peru, a country that has: witnessed remarkable market-led growth in recent years, and has been a strong regional ally of the United States against populist leaders such as Hugo Chavez as well as a solid partner of the U.S. in the war on drugs. Reversal of the current trade policy with Peru by failure to implement the free trade agreement would put all of these gains in jeopardy.

II. *Economic Benefits to U.S. Workers, Businesses, and Communities of the U.S.-Peru Trade in Asparagus*

Peru is the world's largest exporter of asparagus,[3] and that crop stands squarely at the heart of a dynamic agroexport sector in Peru.[4] As the U.S. International Trade Commission (ITC) has noted in its reports on the ATPA, asparagus is a perennial crop that requires substantial long-term investment. Peru's exceptional climate conditions, its favorable geographic location, and the advances made by Peru in its management of water supply for irrigation, has enabled the country to achieve the highest asparagus crop yields in the world.[5] In turn, the asparagus-growing industry in Peru is estimated to employ nearly 60,000 people,[6] and has enabled regions of the country—such as Ica and La Libertad—to become models of economic development and engines of job creation. Of these sixty thousand jobs, roughly half are held by women, the primary breadwinners in many Peruvian households. The trickle down effects of this industry on tens of thousands of Peruvians and their families are helping to reduce poverty and raise living standards. The Asociación de Gremios Productores y Agroexportadores del Perú (AGAP)—Peruvian Coalition of Agro export Associations—estimates that the Peruvian agro export chain as a whole has generated 600,000 jobs, three times more than were generated in traditional agriculture sectors.[7]

While the Peruvian asparagus industry has created tangible economic benefits in that country, the U.S. has also derived a significant economic benefit from this trade. The vast majority of the value chain generated by sales of Peruvian asparagus in this market remains in this country. For example, PAIA estimates that the value chain for fresh Peruvian asparagus imports is worth between $260 million and $285 million. Of that total, approximately 70 percent remained in U.S. hands, including air, sea and land carriers, importers, ports, storage facilities, distributors, wholesalers and retailers. In other words, for every dollar spent by a U.S. consumer on fresh asparagus imported from Peru, 70 cents remains in the U.S. In addition, imports of fresh asparagus from Peru fuel job creation in the United States. PAIA estimates that aside from the several hundred persons employed or indirectly involved in the process of importing fresh asparagus imports from Peru, these imports result directly or indirectly in the creation of at least 5,000 U.S. jobs in companies throughout the commercial chain.

Furthermore, of the roughly 30 percent of the value chain in fresh and processed asparagus that do remain in Peruvian hands, a large portion is invested in U.S. inputs including: (1) asparagus seeds purchased from U.S. suppliers such as Cali-

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[3] *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook,* Foreign Agricultural Service, U.S. Department of Agriculture (August 2005) at 1 (data provided for 2004). The United States "is Peru's top market, accounting for 75 percent of Peru's fresh asparagus exports in 2004." *Id.* at 3

[4] *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook,* Foreign Agricultural Service, U.S. Department of Agriculture (July 2004) at 2 ("In 2003, asparagus became Peru's leading agricultural export, valued at a record $206 million, bumping coffee to second place.").

[5] *The Impact of the Andean Trade Preference Act: Eleventh Report 2004,* Inv. No. 332–352, USITC Pub. 3803 (September 2005) at 2–20.

[6] *Id.* at 3–14.

[7] *See Improving Competitiveness and Market Access for Agricultural Exports Through the Development and Application of Food Safety and Quality Standards: The Example of Peruvian Asparagus,* A Report by the Agricultural Health and Food Safety Program of the Inter-American Institute for Cooperation on Agriculture (IICA), Tim M. O'Brien and Alejandra Díaz Rodríguez (July 2004) at 4–5.

AGAP discussed this finding in a report that it presented earlier this year to the Technical orking Group for the PTPA from the Congressional Agricultural Commission in Peru. AGAP's president, Felipe Llona Malaga, explained that the high level of employment generated in the agroexport sector is concentrated in crops including asparagus, artichokes, paprika, onions, grapes, and garlic, particularly in the provinces of Lima, Ica, Piura, La Libertad, and others.

fornia Asparagus Seeds; Stacy Seeds; and Jacobs Malcolm and Burtt; (2) glass jars used in canned asparagus by a local branch of Ohio-based Owens Illinois; (3) and fertilizers (Peruvian agriculture used approximately $40 million worth of U.S. fertilizers) and pesticides.[8]

While labor costs in Peru are lower than in the United States, Peruvian asparagus must contend with high freight costs (ex: the air freight cost for an 11 lb. box of fresh asparagus represents between 40 to 45% of the overall cost of production). As of 2005, these costs increased from the traditional $0.85 per kilogram to $1.25/kg. Additionally, exporters bear costs associated with U.S. customs brokers ensuring compliance with the Bioterrorism Act and pre-notice requirements (about $10 to $15 per shipment). Conservative calculations of total freight costs paid annually for asparagus exports from Peru to the U.S., using mostly U.S. airlines and shipping companies, were $71 million in 2005.

Finally, while Peru's U.S. exports have increased, the availability of asparagus at competitive prices in Peru and the development of U.S.-Peruvian joint ventures in Peru have also helped U.S. vegetable companies such as General Mills (Green Giant) and Del Monte to survive in a competitive global market.

III. *Peruvian Asparagus Imports are Counterseasonal to U.S. Asparagus Production, which Reduces Direct Competition between U.S. Farmers and Peruvian Exporters*

Imports of fresh asparagus from Peru also serve a U.S. market demand that cannot be met by domestic growers alone. The most important factor here is that imports of fresh asparagus from Peru are largely counter-seasonal to the U.S. crop. As the ITC has noted, historically, the season for U.S. production has differed somewhat from that of most imports from ATPA countries, with the bulk of fresh asparagus imports from ATPA countries entered during July through the following January when overall U.S. production is low.[9]

According to official U.S. import statistics for 2005, 85 percent of total fresh asparagus imports from Peru entered the United States during the months of July through January; only 15 percent entered during the remainder of the year (February through June). In contrast, the peak production period for U.S.-grown fresh asparagus is February through June; therefore, all or nearly all U.S. production occurs during a period when the level of imports from Peru is minimal.

This is not to say that there are no imports of fresh asparagus from Peru present in the U.S. market during the peak production period for the U.S. crop; as referenced above, imports of Peru during the February-June period represent 15 percent of total annual imports from that country, or approximately 9,794 net tons (2005 data). However, even in this period, imports from Peru largely complement, rather than supplant, the U.S. crop. The vast majority of fresh asparagus imports from Peru enter the United States through the Port of Miami,[10] and are sold primarily in East Coast markets. Because of the distances involved and the high costs for transportation, most of the fresh asparagus produced in California and Washington is sold in West Coast and Southwest markets.

Therefore, even to the extent that there is some degree of overlap between the U.S. production period and imports from Peru, direct competition between these sources is reduced. Most of the imports from Peru that enter the United States during the February through June period are marketed in the East Coast and southeast United States regions. Indeed, the advent of year-round availability of fresh as-

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[8] Transcript of hearing before the United States International Trade Commission: *In the Matter of: U.S.-Peru Trade Promotion Agreement: Potential Economywide and Selected Sectoral Effects,* Investigation No. TA–2104–20 (March 15, 2006) at 33–35.

For example, in 2003 (the last full year for which the complete set of following data are available), the fob value of Peruvian fresh asparagus exports to the U.S. was approximately $78.5 million. The comparable cif value was $132.7 million. The value that accrued to importers was approximately $20 million, while the value that accrued to wholesalers and retailers was approximately $90 million. In addition, other value-added in the U.S. (*e.g.,* for storage, fumigation, etc.) totaled approximately $15 million. These sub-totals sum to $258 million, which represents the approximate retail value of fresh asparagus imports from Peru sold off the U.S. supermarket shelves. In other words, approximately 30 percent of that end-value ($78.5 million out of $258 million) remains in Peruvian hands, while the remainder ($179.5 million out of $258 million) remains here in the United States.

Sources: Aduanas (National Customs Superintendancy of Peru); U.S. International Trade Commission Trade DataWeb; estimates by APOYO Consultoría, and the Instituto Peruano del Espárrago y Hortalizas (IPEH).

[9] *The Impact of the Andean Trade Preference Act: Eleventh Report 2004,* USITC Pub. 3803 at 3–12.

[10] In 2005, 89 percent of imports of fresh asparagus from Peru entered the U.S. through the Port of Miami. Source: U.S. International Trade Commission Trade DataWeb (subheadings 0709.20.1000 and 0709.20.9000, HTSUS), by quantity.

paragus thanks to imports from Peru has allowed U.S. consumers in large geographic portions of the country to gain access to this product at times when supply would simply not exist from U.S. growers, such as Thanksgiving and the year-end holidays. This is one reason why per capita consumption of asparagus in the United States has doubled in the last decade alone, exceeding the rate of growth exhibited by nearly all other fruits and vegetables. As the ITC recently stated, the impact of ATPA on U.S. consumers has been significant in that imports of Peruvian fresh-market asparagus, together with Mexican exports and U.S. production, have resulted in greater availability of fresh asparagus throughout the year. This extended availability of fresh-market asparagus, together with the overall consumer awareness of, and preference for, healthy foods, may be partly responsible for higher per capita annual consumption of fresh asparagus in recent years.[11]

Notwithstanding the seasonality and regionality aspects of supply and consumption discussed above, the fundamental fact is that since at least 1998, U.S. consumption of fresh asparagus has outpaced U.S. supply.[12] Imports are *necessary* to meet demand in the United States. In the absence of import sources—meaning, specifically, imports from Peru and Mexico—domestic production would be woefully inadequate to meet U.S. consumer demand. This would inevitably lead to a jump in prices, to the detriment of U.S. consumers, and eventually a drop in consumption, to the detriment of U.S. producers. While domestic production of fresh asparagus may have declined in recent years,[13] the decline would surely accelerate in coming years in the absence of reliable import supply.

IV. *Asparagus and Other Agroexports as a Weapon Against Narcoterrorism*

The intention of the ATPA was to spur the development of alternative industries to assist Peru and other Andean countries in the War Against Drugs; and the struggle against guerrillas and terrorist organizations dependent on the illegal coca trade for funding. In this regard, U.S. trade policy has succeeded. Thanks to the ATPA and the vision of U.S. policymakers, the Peruvian asparagus and a number of other industries were able to blossom starting in the early 1990's. These industries have helped Peru to sustain some of the highest growth rates in Latin America, have provided employment for hundreds of thousands of Peruvians, and have helped reduce poverty levels. Just recently, for example, the former Peruvian Prime Minister, Pedro Pablo Kuczynski announced that extreme poverty has been reduced from 24% to 18% between 2001 and 2005. It is estimated that nearly 1 million jobs in Peru are dependent on trade with the United States, most of which is covered by the ATPA program.

As stated earlier the Peruvian agro-export chain has generated approximately 600,000 jobs. 10%, or 60,000 of these jobs are held by workers in Peru's asparagus industry. The Peruvian Asparagus and Vegetables Institute (IPEH) estimates that nearly 40% of the workers in the asparagus industry come from areas that formerly supplied workers to illegal coca cultivation. Asparagus has been a model for other agroexport industries and their growth is having a multiplier effect in terms of their impact on trade, job creation in both countries, reduced illegal coca cultivation, and reduction of poverty in Peru. Peru's paprika industry, for example, has enjoyed export growth of 88% from 2004 to 2005, making Peru now the top world exporter of paprika, an industry which employs 15,000 Peruvians. Another successful example is the Peruvian artichoke industry, which has increased exports by 100% from 2004 to 2005, and also employs about 15,000 workers.

It is clear, therefore, that the ATPA-spurred industries such as asparagus have had a positive impact in the war against drugs in Peru. Coinciding with the rise in asparagus production, from 1995 to 2004, the ITC reported that coca cultivation decreased dramatically, from 115,300 hectares to 27,500 hectares in 2004. While this figure increased to 38,000 hectares in 2005, the overall decrease remains dra-

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[11] *The Impact of the Andean Trade Preference Act: Eleventh Report 2004,* USITC Pub. 3803 at 3–12–14.

[12] Total imports accounted for approximately 60 percent of the U.S. market for fresh asparagus in 2004. U.S. imports from Peru accounted for approximately 60 percent of total imports in 2004, as well. *See also* U.S. Department of Agriculture FATUS data (http://www.fas.usda.gov/ustrade/). Consequently, Peru's share of the U.S. market was about 36 percent (compared to about 40 percent accounted for by domestic production).

Indeed, the quantity of domestic production in 2004 was approximately 87,000 net tons, which exceeded the volume of imports from Peru that year (61,123 net tons) by 42 percent. About one-fourth of domestic production, or approximately 22,000 net tons, was exported.

[13] According to the Commission's most recent report on the impact of the ATPA, domestic production of fresh asparagus declined 4 percent from 2003 to 2004, from 119.4 million pounds to 115 million pounds. However, the value of domestic production increased by 10 percent over that period, from $136.7 million to 150.4 million. *The Impact of the Andean Trade Preference Act: Eleventh Report 2004,* USITC Pub. 3803 at 3–12.

matic, and government coca-eradication efforts remain in effect. The decrease in coca production in Peru helps to reduce the presence of drugs in U.S. communities. These successful eradication efforts have also helped Peru to combat the terrorist guerrillas such as Shining Path that are financed by proceeds from drug trafficking. The PTPA will help consolidate these gains against the scourge that the illegal drug trade has represented for both countries.

V. *Peru TPA and Labor Standards*

In addition to Peru's compliance with ILO's core labor standards and the labor rights provided by the country's constitution, the asparagus and vegetables industry has implemented best labor practice programs (Buenas Prácticas Laborales—BPL) to ensure that the industry is engaged in the creation of a healthy and safe work environment. The Peruvian asparagus and vegetables industry is also committed to help build schools and health facilities that will contribute to improved living standards for their workers, their families, and the rural communities where they live.

The growth of agroexports in Peru has been such that in parts of Peru such as Ica and La Libertad there is full employment year round and extreme poverty has been reduced by an astounding 36% comparable to levels experienced nationwide by countries such as Chile. Workers in these industries make wages of between $5 and $7 per day which is considered a good salary by Peruvian standards.

Peru has ratified 71 ILO conventions, including the eight "core conventions." It has been praised multiple times by the ILO for its progress in improving labor laws. In addition to all of the ILO's Core Labor Rights Conventions, the PTPA's labor standards exceed those of five other previously ratified trade agreements: Jordan, Chile/Singapore, CAFTA, Bahrain and even the ATPDEA, which does not make ILO or national standards mandatory.

The PTPA goes beyond many other free trade agreements in the enforcement of worker rights and dispute resolution. The PTPA-created Labor Affairs Council develops public participation in reporting and funding to ensure implementation of the agreement and improved cooperation and capacity-building mechanisms. Additionally, the PTPA holds member countries accountable to effectively enforce existing labor laws, under penalty of fines, which are used by the PTPA commission to fund projects improving labor right protections. Noncompliance results in the formation of an arbitral panel, which may fine violating parties up to $15 million per year, and suspend tariff benefits to the party complained against if necessary to cover the assessment.[14]

VI. *Peruvian Asparagus and Environmental Concerns*

Since asparagus cultivation is undertaken almost entirely on irrigated desert lands along Peru's coast, the environmental impacts of this industry on existing habitats is negligible. In fact, by contributing to the successful reduction of coca leaf production in biologically sensitive rain forest habitats, the growth of the asparagus industry along Peru's arid coast has had, in an indirect manner, highly beneficial environmental impacts.

The growth of the asparagus industry has created a business that is a global player and as a result has adopted rigorous international standards on environmental management practices and labor standards to comply with import requirements in the U.S., the European Union, and elsewhere. The Peruvian asparagus industry complies with very exacting practices of EUREPGAP and GAP (Good Agricultural Practices) to maintain consumer confidence in the quality and safety of its product.

VII. *Conclusion*

U.S. trade policy beginning in 1992 made imports of fresh asparagus from Peru eligible for duty-free treatment. This policy has served a wide range of economic interests both in the United States and in Peru. In the United States, a steady, year-round demand supply of asparagus enters the U.S. and satisfies the increased demand for asparagus in the U.S that domestic production cannot meet. Asparagus also accounts for about 5,000 U.S. jobs in transportation and distribution.

In Peru, the asparagus industry, thanks to the duty-free access to the U.S. market, has been able to fight extreme poverty by employing at higher wages than other Peruvian jobs. Asparagus in Peru has also indirectly fought coca production and narcoterrorism by providing an alternative source of well-paying employment.

These great changes could not have been possible without the duty-free access afforded to Peru in the ATPA and ATPDEA. The PTPA is now an excellent opportunity to ensure the continued prosperity of these industries, and by extension raise

[14] Peru Trade Promotion Agreement, Chapter Twenty-One: Dispute Settlement

living standards in Peru, and ensure the continuation of the benefits enjoyed by U.S. consumers and workers employed in the asparagus supply chain.

Statement of Retail Industry Leaders Association

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit written comments for today's hearing with United States Trade Representative (USTR) Susan Schwab on the direction and content of U.S. trade policy. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry—retailers, product manufacturers, and service suppliers—which together account for more than $1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

The Successful Completion of the WTO Doha Round Is Essential to American Consumers and Businesses

Continued growth and expansion into new markets is key to America's success in the global economy. First and foremost, RILA believes the United States should continue to place a priority on the successful conclusion of the Doha Round of WTO negotiations, with a particular focus on the dual goals of eliminating or reducing tariffs and non-tariff barriers. As the Committee knows, high tariffs and non-tariff barriers prevent U.S. manufacturing, retail, service, and financial sectors from expanding into other markets. In addition, these barriers place burdens on the U.S. import community which translates into added costs for consumers.

Trade can be a powerful economic force to help people improve their standard of living. Trade liberalization raises productivity and real wages while expanding consumer choice and purchasing power. The Doha Round provides a tremendous opportunity to reduce global tariffs. As the Committee seeks to find ways to spread the benefits of trade to all segments of society, RILA suggests the elimination of disproportionately high tariffs on low-cost items such as footwear and clothing.

Today, U.S. tariffs on consumer goods are regressive; the lowest earners pay the highest rates, in percentage terms. Tariffs on some products are in the double digits, such as on certain clothing, footwear, luggage, dinnerware, and food such as butter and cheese. Some of the highest tariffs apply to the types of goods that people of modest means tend to buy, and lower duties are imposed on similar products that are more often purchased by upper-income individuals. For example, tariffs on low-end sneakers range between 48 and 67 percent, but tariffs on higher-end sneakers are only 20 percent, and for leather dress shoes, the tariff is 8.5 percent. This trade policy forces consumers with limited means to pay a greater percentage of their disposable income on life's necessities. RILA recommends reducing the disproportionately high tariffs on everyday consumer products, and recognizes that the Doha Round represents the best opportunity to achieve those reductions around the globe, and particularly in key markets.

In addition to reducing tariffs, RILA believes it is equally important to also eliminate or reduce non-tariff barriers. As the Doha negotiations continue, RILA urges negotiators to (1) protect retail brand names by making it easier for retailers to safeguard their brand names in other countries; (2) establish transparent customs administrations that facilitate rather than hinder the movement of goods and services across national boundaries, which are essential to a modern distribution economy; and (3) prioritize market access improvements in distribution services (broadly defined as retailing and wholesaling as well as ancillary services such as express delivery, telecommunications and financial services). More specifically, RILA supports the elimination of local equity requirements that cap foreign retail investment at 49 percent, the elimination of competitive need limits or investment screening tests, the easing of restrictions on the repatriation of profits, liberalization of telecommunications and transportation sectors, and the removal of unwarranted restrictions on store size and operating hours.

Congress Should Renew Trade Promotion Authority (TPA)

RILA and its members recognize that Trade Promotion Authority (TPA) provides a practical and positive mechanism to facilitate trade, an area in which Congress and the President have shared responsibility. By establishing parameters for consideration of trade agreement implementing legislation by Congress on trade negotiations, requiring continuous consultations and exchanges between the Administration and the Congress, and providing congressional guidance on the contents of U.S. trade agreements, TPA allows the United States to negotiate and conclude economically meaningful, comprehensive trade agreements that benefit the U.S. economy. Since the enactment of TPA in 2002, the United States has negotiated a number of new free trade agreements (FTAs) and is pursuing negotiations with countries that hold significant new market opportunities such as South Korea and Malaysia.

Global integration is a reality, and the question for U.S. lawmakers is not whether to participate in the global economy, but how to create the best opportunities for U.S. businesses to compete and win. TPA provides the necessary tools to promote and shape trade policy in a way that can benefit all Americans.

RILA and its members are champions for trade expansion and recognize that trade is essential to providing U.S. consumers with the quality and variety of products they expect at prices they can afford, and to creating opportunities for U.S. retailers to offer goods and services to customers around the world. New trade agreements simply will not be possible without TPA, and the United States cannot afford to let that happen.

Countries around the globe increasingly recognize the benefits of open trade. Regional FTAs are proliferating between countries in Asia, Europe and South America. The rise of such agreements highlights the competition for global market share that is key to growth and prosperity in the 21st century. Some have proposed a "strategic pause" or moratorium on trade negotiations. While on its face this might seem like a legitimate proposal, doing so would only come at the peril of U.S. businesses, consumers and employees. The United States can ill-afford to halt the expansion of U.S. FTAs when doing so means other countries continue to expand services and operations globally without America.

Congress Should Pass All Currently Negotiated FTAs While Aggressively Pursuing New Opportunities

U.S. trade with Columbia, Panama and Peru has nearly doubled over the past seven years, and the United States has an opportunity to expand our trading relationships as well as strengthen diplomatic ties by approving the FTAs that have been negotiated with those countries. These agreements provide meaningful opportunities for U.S. businesses to export and import products. For example, under these agreements, eighty percent of U.S. consumer and industrial products, and a majority of the most competitive U.S. farm exports, will enter these Latin American markets duty-free immediately upon enactment.

Negotiations with South Korea and Malaysia have the potential to be the largest and most economically meaningful FTAs since the enactment of the North American Free Trade Agreement (NAFTA). With a population approaching 50 million people, U.S. businesses are eager to gain a foothold in South Korea's market. Meanwhile, Malaysia is the United States' tenth largest trading partner, with $44 billion in two-way trade in 2005, and an FTA would significantly increase opportunities for more bilateral trade and investment. Beyond the economic benefits, FTAs with South Korea and Malaysia provide opportunities for enhanced diplomatic relationships with strategic allies in a volatile region. The Committee should encourage USTR to continue to aggressively pursue the successful conclusion of those agreements.

Conclusion

RILA and its member companies are grateful for the opportunity to provide comments to the Committee on the U.S. trade agenda. RILA believes it is critical that the United States continue to pursue an aggressive trade agenda. Expanding export and investment opportunities overseas increases the purchasing power of American consumers while providing important jobs domestically. In today's economy, global integration is both a challenge and an opportunity for U.S. policy makers. The key to America's continued prosperity is to seize the opportunities and mitigate the challenges. RILA respectfully urges the Committee to consider these comments, and we stand prepared to work lock-step with you to help all Americans feel the benefits of open trade. If you have any questions on this statement or require any assistance, please contact Lori Denham, Executive Vice President, Public Affairs, or Andrew Szente, Director, Government Affairs.

Statement of Alexandra Spieldoch, Institute for Agriculture and Trade Policy

On behalf of the Institute for Agriculture and Trade Policy, I would like to thank the Ways and Means Committee for the opportunity to provide written testimony on the Hearing on the U.S. Trade Agenda. The Institute is based in Minneapolis, MN, and also has offices in Geneva and Vienna. Our mission is to promote resilient family farms, rural communities and ecosystems around the world through research and education, science and technology.

U.S. AGRICULTURE & TRADE POLICY AT A CROSSROAD

U.S. farm policy has come under extensive scrutiny from both at home and abroad in recent years. Trade negotiators point to distortions in world markets created by the Farm Bill. They identify billions of dollars in farm subsidies, along with the U.S. policy of pressuring other countries to lower their tariffs, as the primary cause of export dumping. Weak enforcement of U.S. antitrust law against oligopolistic multinational agribusinesses headquartered in the U.S. has accelerated concentration in global agriculture markets, often to the detriment of farmers. Health experts and environmentalists criticize the export of U.S. food habits and the food system those habits depend on.

In 2007, the World Trade Organization is scheduled to complete the Doha Round of negotiations while the U.S. will write a new Farm Bill. These two events were supposed to converge and complement each other. But with the collapse of the Doha talks and an electoral party change in Congress, the Farm Bill will likely be written more to reflect budget constraints and a domestic political calculus. Congressional leaders have said they will not try to "anticipate" the results of a Doha deal on agriculture. House Agriculture Chair Colin Peterson, D–Minn., has gone so far as to say, "I want to write a Farm Bill that's good for agriculture. If somebody wants to sue us [at the WTO], we've got a lot of lawyers in Washington." [1]

As the Farm Bill debate begins in earnest, we have an opportunity to reflect on ways to improve U.S. farm policy in support of small farmers, rural development and livelihoods around the world. Specifically, we will look at how the Farm Bill directly affects trade, subsidies, dumping, food aid, market concentration and public health.

Dancing with the WTO

Criticism of U.S. farm policy at the WTO has been substantial. Among WTO members, the U.S. government is perhaps the loudest advocate of market liberalization alongside Australia and New Zealand. Repeatedly, the Bush administration has denied poor countries the flexibility to protect certain crops critical to their food security and rural development by insisting that development depends on open markets. Yet the billions of dollars the U.S. government spends on agricultural programs contradicts the "free market" rhetoric and makes trading partners both skeptical and cynical about U.S. intentions.

The U.S. has also taken steps to undermine the WTO's ability to implement rules for domestic subsidies. For example, the U.S. has not reported and categorized its domestic support payments to the WTO since 2001—the year before the last Farm Bill was passed. By not reporting how the payments fit within WTO rules, the U.S. makes it difficult to know whether the Farm Bill is complying with WTO rules.

In addition, the U.S. has been slow to comply with WTO dispute panel rulings.[2] In 2004, the dispute panel ruled that U.S. cotton subsidies were causing harm to Brazil's industry by suppressing prices in the world market. The U.S. had until July 1, 2005 to comply with the ruling, but has yet to fully comply. Brazil has now formally requested a new WTO dispute panel to force the U.S. into full compliance.[3]

Empty Proposals

The Bush administration's October 2005 proposal on agriculture has also hurt its credibility at the WTO. When announcing the proposal, the U.S. trade representa-

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[1] Quaid, Libby. "Lawmakers, White House Set to Battle on Farm Bill." Associated Press. January 16, 2007. <http://www.yorkdispatch.com/business/ci_5023411>

[2] Morrison, Nneka. *Strengthening Compliance at the WTO.* Institute for Agriculture and Trade Policy. September 2006. <http://www.iatp.org/iatp/publications.cfm?accountID=451&refID=89107>

[3] *Inside U.S. Trade.* "U.S. Blocks Brazilian Request for Cotton Compliance Panel." September 8, 2006.

tive (USTR) characterized it as "bold," "ambitious" and "substantial."[4] But the proposal largely involved the re-categorizing of subsidy payments from the restricted Amber Box to the less restricted Blue Box, and would leave actual spending virtually unchanged.[5] In addition, the proposal required other WTO members to drastically cut their tariffs in agriculture and requested an extension of the Peace Clause, which would exempt Farm Bill subsidy programs from legal challenge at the WTO. In 2006, the European Union and nine other WTO members asked for an economic simulation of the various agriculture proposals at the WTO. The simulation found that under the U.S. proposal, U.S. agriculture spending could legally increase.[6]

Domestic Markets Favored

U.S. farmers have less and less interest in exports, especially after two decades of promised prosperity through exports have not materialized. In fact, U.S. farm exports have remained relatively flat over the past few decades.[7]

Instead, the dramatic growth in demand for most U.S. commodities over the past year has come from the emerging biofuels market. For example, if only a quarter of the ethanol plants currently proposed in the Midwest do come on-line and if the corn needed to supply these plants and the plants currently under construction were to be diverted from exports, Midwest corn exports could be cut in half by 2008.[8] "Meeting the domestic demand for biofuel and animal-feed markets is the primary concern of U.S. producers. And it's also a primary concern of Congress in the next Farm Bill. "We can and I believe we must, formulate and pass a Farm Bill that accelerates the rural production of energy for the whole nation," Senate Agriculture Chair Tom Harkin, D–Iowa, said as he opened Farm Bill hearings in January.[9] The growing importance of biofuels in the U.S. has changed the context of the Farm Bill debate and may ultimately affect the agriculture negotiations at the WTO. It is unclear what impact demand for biofuels in the U.S. will have on other countries, but there are already concerns that developed countries will "dump their energy demand" on the South with potential disastrous consequences—for example, expansion of palm oil plantations into the rain forests of Indonesia.

Setting Subsidies, Not Prices

Through a variety of programs, the Farm Bill sets the various types of subsidy programs, how much money will be spent and which crops will be supported. U.S. commodity programs written in the Farm Bill cover 20 different crops but the vast majority of money and resources go to corn, soybean, wheat, cotton and rice. Fruits and vegetables are not part of the commodity programs because when the programs were first established in the 1930s they were only for crops that could be stored for long periods of time.

The U.S. is heavily criticized for its subsidy programs, which have been associated with commodity dumping that depresses world prices. But the focus on U.S. subsidies often misses its mark. U.S. farm subsidies, as categorized by the WTO, have risen over the past 10 years from just over $7 billion in 1995 to a high of $23 billion in 2000.[10] The wild fluctuations in subsidies each year occur because several forms of subsidies depend on the market price. If the market price for corn is higher, subsidy levels drop. If the price is lower, subsidies increase. This explains why U.S. farm subsidies ultimately do not dictate price fluctuations; rather, the market price dictates overall subsidy levels. And subsidies play only a marginal role in the cropping decisions of U.S. farmers. Instead, the significant increase in U.S. subsidies over the past ten years is tied almost directly to the removal of supply management

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[4] U.S. Trade Representative. "U.S. Offers Bold Plan on Agriculture to Jumpstart Doha Round." October 10, 2005.

[5] Murphy, Sophia. *The U.S. WTO Agriculture Proposal of October 10, 2005.* Institute for Agriculture and Trade Policy. October 25, 2005. <http://www.iatp.org/iatp/publications.cfm?accountID=451&refID=77195>

[6] WTO Committee on Agriculture. "Agriculture Domestic Support Simulations." May 22, 2006. <http://www.tradeobservatory.org/library.cfm?refid=87952>

[7] Muller, Mark. *Where are Future Markets for Midwest Agriculture?* Institute for Agriculture and Trade Policy. March 2006. <http://www.iatp.org/iatp/factsheets.cfm?accountID=421&refID=80441>

[8] Schoonover, Heather and Mark Muller. *Staying Home: How Ethanol Will Change U.S. Corn Exports.* Institute for Agriculture and Trade Policy. December 2006. <http://www.agobservatory.org/ library.cfm?refid=96658>

[9] *Brownfield Ag News.* "U.S. Senator Harkin Picks Renewable Fuels for First Hearing." January 11, 2007 http://www.thepoultrysite.com/poultrynews/10740/us-senator-harkin-picks-renewable-fuels-for-first-hearing>

[10] Environmental Working Group. Farm Subsidy Database. <http://www.ewg.org:16080/farm/regionsummary.php?fips=00000>

tools in the 1996 Farm Bill, i.e., agricultural market "deregulation," which had required farmers to set aside a percentage of their acreage to qualify for government payments. Without those tools, U.S. farmers overproduced at such levels that the market price for most major crops dipped well below the cost of production. According to the Agriculture Policy Analysis Center at the University of Tennessee, simply eliminating U.S. farm subsidies would do little to slow U.S. crop production. Rather, it would likely shift production to different commodity crops"but the fundamental problems of oversupply and low prices would persist.[11]

Ironically, the 1996 Farm Bill, written to comply with WTO rules, required most farm subsidies to be phased out by 2001 through a mechanism called "decoupling," which removed the historical tie between farm payments and the crops produced. But when farmers were allowed to produce as much as they could, prices collapsed and the subsidies were restored in the form of "emergency payments." In 2002, Congress transformed those "emergency" payments into a permanent part of the Farm Bill, calling them different names: "countercyclical", "decoupled" and "marketing loan" payments.

In 2006, the growth of the ethanol market sent corn prices higher than they had been in a decade and has had a ripple effect on other crops, particularly other animal-feed crops like wheat and soybeans. Ethanol's growth and rising prices had an immediate impact on farm subsidies, which went down from $24.3 billion in 2005 to an estimated $16.5 billion in 2006.[12] The U.S. Department of Agriculture projects prices to continue to rise in 2007 and subsidies to again decline. It is unclear whether the price increases due to ethanol are a brief bump, as the U.S. experienced in 1995 prior to the writing of the 1996 Farm Bill, or part of a longer-term systemic shift in U.S. agriculture prices. However, if efforts by the Bush Administration succeed in removing the existing 54-cent per gallon tariff on imported ethanol, corn prices could collapse along with ethanol prices, dragging down prices of other crops as well.

The Devastation of Dumping

Over the past decade, the Farm Bill has intentionally driven prices down with a focus on expanding export markets. In many cases, crops from the U.S. were actually exported at prices below the cost of production (known as dumping). Agricultural dumping creates an unfair trading advantage for U.S. agribusiness firms because they depress international prices and narrow or even eliminate market opportunities for producers in other countries.[13] This structural price depression can have two major effects on developing countries whose farmers produce competing products. First, without substantial governmental support, developing-country farmers are driven out of their local markets by the below-cost imports. Second, farmers who sell their products to exporters find their market share undermined by the lower-cost competition.

The full effects of dumped exports have to be considered in light of the push over the past 20 years at the World Bank and International Monetary Fund to reduce tariffs in developing countries as a condition for access to international financing.

Agricultural development in less-developed countries is a catalyst for broad-based economic growth and development.[14] Research shows that domestic food productivity is more effective in stabilizing developing-country food security than the reliance on inexpensive (i.e., dumped) food imports.[15] A fair price for the farmer's production will also help stabilize demand for wage labor in the local economy.[16]

Multinational agribusiness firms based in the U.S. and European Union have been the most involved in agricultural dumping. The Institute for Agriculture and

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[11] Ray, Daryll, Daniel De La Torre Ugarte and Kelly Tiller. *Rethinking U.S. Agricultural Policy.* Agricultural Policy Analysis Center, University of Tennessee. September 3, 2003. <http://www. agpolicy.org/blueprint.html>

[12] U.S. Department of Agriculture Economic Research Service. *Briefing Room for Farm Income and Costs.* <http://www.ers.usda.gov/Briefing/FarmIncome/nationalestimates.htm>

[13] Houck, James P. *Elements of Agricultural Trade Policies.* Prospect Heights, Ill.: Waveland Press, Inc. 1996.

[14] E.g.: Peters, G.H. and Joachim Von Braun, editors. 1999. *Food Security Diversification and Resource Management: Refocusing the Role of Agriculture?* Proceedings of the Twenty-third International Conference of Agricultural Economics held at Sacramento, California, August 1997. The International Association of Agricultural Economists.

[15] Barrett, Christopher B. "Does Food Aid Stabilize Food Availability?" Staff paper, Department of Agriculture, Resource and Managerial Economics, Cornell University. January 1999.

[16] Timmer, C. Peter. *Getting Prices Right: The Scope and Limits of Agricultural Price Policy.* Cornell University Press: Ithaca, N.Y. 1986.

Trade Policy has documented the high dumping levels of U.S.-based firms since 1990.[17]

Farm Bills Driving Dumping

The last two U.S. Farm Bills, which encouraged over-production and low priced commodity crops, have played a major role in agricultural dumping by U.S.-based multinational firms. Each of the five major export commodities saw a significant jump in export dumping when comparing the seven years prior to the 1996 Farm Bill (1990–1996) to the subsequent seven years (1997–2003):[18]

- Wheat dumping levels increased from an average of 27 percent per year pre-1996 Farm Bill to 37 percent per year post-1996 Farm Bill.
- Soybean dumping levels increased from an average of 2 percent per year pre-1996 Farm Bill to 11.8 percent post-1996 Farm Bill.
- Maize dumping levels increased from an average of 6.8 percent per year pre-1996 Farm Bill to 19.2 percent post-1996 Farm Bill.
- Cotton dumping levels increased from an average of 29.4 percent pre-1996 Farm Bill to an average of 48.4 percent post-1996 Farm Bill.
- Rice dumping levels increased from an average of 13.5 percent pre-1996 Farm Bill to an average of 19.2 percent post-1996 Farm Bill.

Food Aid: Time to Get It Right

The U.S. Food Aid program is included in Title III of the Farm Bill. The Farm Bill decides how much and what type of food aid will be allocated. Food aid is often held up as an example of the good that the U.S. agricultural bounty affords. Yet U.S. programs are the most controversial of all bilateral food aid programs, attracting criticism from international trade and aid officials alike. One criticism is that almost all the aid is in the form of food produced, bagged, fortified and shipped in the U.S. by U.S.-based firms, rather than as cash to buy food wherever it can be sourced most effectively—at a good price, as close to the final destination as practical and with a view to supporting long-term agricultural capacity in the area suffering food shortages. This makes U.S. food aid both slower and more expensive than it should be—up to twice as expensive as prevailing commercial prices.[19] Local purchases ought to be the first recourse for food aid to minimize the risk for future dependency and to provide an injection of cash into the local economy.

Most food aid donors have shifted their policy to give money instead of food. Canada and the U.S. are the only significant food aid donors that do not use a cash-based system to give food aid.

In 2005, the Bush administration proposed designating an additional $300 million for food aid purchased from local or regional sources, but Congress rejected the proposal. An unlikely alliance of interests persuaded Congress to maintain the status quo. The alliance is composed of U.S. shipping firms guaranteed all food aid business; U.S. agribusinesses that provide the food; and U.S. nongovernmental organizations (NGOs) that often deliver food aid, particularly project aid for development purposes and humanitarian aid in emergencies. The NGOs sell a portion of their food aid in recipient countries to generate funds for their development work, a process known as monetization. The costs of monetization are considerable, but it represents resources that the U.S. government would be unlikely to replace with cash for development.

Food Aid and the WTO

U.S. food aid has been the subject of negotiation at the WTO, particularly during the recent Doha negotiations, under the heading of export competition. U.S. food aid poses two main problems for rival exporters. First, the government's use of export credits to sell program food aid effectively prices commercial exporters out of the market. Second, increasing monetization of food aid. The U.S. has resisted any meaningful new discussions on food aid, particularly on monetization.[20] Rather than risk new trade rules that could reduce total food aid by reforming delivery, recipient governments have been inclined to support the U.S.

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[17] Murphy, Sophia, Ben Lilliston and Mary Beth Lake. *WTO Agreement on Agriculture: A Decade of Dumping*. Institute for Agriculture and Trade Policy. February 2005. <http://www.iatp.org/iatp/publications.cfm?accountID=451&refID=48532>

[18] Ibid.

[19] Murphy, Sophia and Kathleen McAfee. *U.S. Food Aid: Time to Get It Right*. Institute for Agriculture and Trade Policy. July 2005. <http://www.iatp.org/iatp/publications.cfm?accountID=451&refID=73512>

[20] Murphy, Sophia. *Food Aid: What Role for the WTO?* Institute for Agriculture and Trade Policy. November 17, 2005. <http://www.iatp.org/iatp/publications.cfm?accountID=451&refID=77567>

With the Doha talks now suspended, it is not clear whether U.S. food aid will change in the new Farm Bill. President Bush's Farm Bill proposal including more money for the purchase of food aid by recipient countries. And a number of the largest U.S. NGOs involved in providing food aid are moving away from their support for monetization. However, a few vocal NGOs still remain committed to the existing system.

Market concentration hurting competition

There is pressure from farm groups and some members of Congress to include a Farm Bill title that addresses market concentration in agriculture. Market concentration describes how many different companies control a specific market. Increased market concentration and market power of agricultural input, production and processing companies has dramatically affected the agricultural market in the U.S. Market power is defined as the ability to affect price (setting buyer prices above and/or supplier prices below open market levels) and to reduce competition. U.S. farmers have fewer companies from whom to purchase inputs and fewer companies to which they can sell. The result has been a squeeze from both sides of the supply chain resulting in a steady decline in farm income.

Currently, only four beef packers control 83 percent of the U.S. market, four pork packers control 64 percent of the market, four flour milling companies control 63 percent of the market, and three soybean-crushing companies control 71 percent of the market. Many of these sectors are not only horizontally integrated, where a few companies dominate a given sector, but also vertically integrated, where companies are dominant across several sectors in the supply chain. For example, Cargill is one of the top beef packers, turkey producers, animal-feed suppliers, flour millers and soybean crushers.[21] Vertical integration allows companies such as Cargill to internalize a number of costs and realize significant competitive advantages over their competition.

Technological innovations in the areas of transport and communications have revolutionized food production, processing and distribution. We now live in a truly globalized food economy, and many U.S.-based agribusinesses including Cargill, Archer Daniels Midland, Monsanto, Tyson Foods, Smithfield Foods and ConAgra have operations in multiple countries around the world.

U.S. Based Agribusiness' Global Reach

Cargill—63 countries[22]

Archer Daniels Midland—U.S., Canada, Latin America, Europe, Asia and Pacific Rim and Africa[23]

Monsanto—61 countries[24]

Tyson Foods—80 countries[25]

Smithfield Foods—8 countries[26]

Wal-Mart—15 countries[27]

The steady downward pressure on tariffs advocated by the U.S. at the WTO and World Bank has opened up markets and aided U.S.-based food companies doing business on a global scale.[28]

Challenging market power

Inside the U.S., weak antitrust enforcement by the Federal Government has increased the market power of U.S.-based food companies.[29] "As Congress heads toward a new Farm Bill in 2007, there is a growing recognition inside and outside Congress that reform is needed. Vertical integration leaves the independent producer with even fewer choices of who to buy from and sell to. And, it hurts the abil-

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[21] Hendrickson, Mary and William Heffernan. Concentration of Agricultural Markets. Department of Rural Sociology, University of Missouri. February 2005. <http://www.nfu.org/wp-content/uploads/2006/05/Concentration%20Tables%202005.pdf>

[22] Cargill Web site. <http://www.cargill.com/about/index.htm>

[23] Archer Daniels Midland Web site. <http://www.admworld.com/naen/about/locations.asp>

[24] Monsant Web site. <http://www.monsanto.com/monsanto/layout/about_us/locations/default.asp>

[25] Tyson Foods Web site. <http://www.tyson.com/Corporate/AboutTyson/CompanyInformation/>

[26] Smithfield Foods Web site. <http://www.smithfieldfoods.com/upload/sfd_ar06.pdf>

[27] Wal-Mart Web site. <http://www.walmartstores.com/GlobalWMStoresWeb/navigate.do?catg=14>

[28] Murphy, Sophia. Concentrated Market Power and Agricultural Trade. Ecofair Dialoge. August 2006. <http://www.iatp.org/iatp/publications.cfm?accountID=451&refID=89014>

[29] U.S. Department of Agriculture Office of the Inspector General. Audit Report: "Grain Inspection, Packer and Stockyard Administration's Management and Oversight of the Packers and Stockyards Programs," Report No. 30601–01-Hy (January 2006). <http://www.usda.gov/oig>

ity of farmers to get a fair price for their products," said Senator Charles Grassley, R–Iowa.[30]

In January, more than 200 U.S. organizations sent a letter to Congress calling for a competition title to be included in the Farm Bill. Such a title aims to restore fair markets, including an expansion in U.S. Department of Agriculture's role in the pre-merger review process and the establishment of an Office of Special Counsel on Competition within the USDA;[31] fairness and transparency in agricultural contracts between companies and farmers; improved enforcement of the Packers and Stockyard Act, the main legislation for antitrust enforcement in agriculture; and mandatory price reporting.

The 2007 Farm Bill stands a better chance of passing competition-related provisions than in the past, and if successful these efforts would likely impact the operations of many U.S.-based companies around the world.

Opportunities for a Fair Agriculture & Trade Policy

The U.S. Farm Bill has had a dramatic impact on agricultural economies across the globe. U.S. farm programs are targeted at the WTO for violating trade rules. Agricultural dumping from U.S.-based agribusiness firms undercut farmers in poor countries. Food aid is criticized for hindering farming economies of countries facing hunger. A few U.S.-based agribusiness companies are part of a global market that is becoming more concentrated, squeezing farmers in the U.S. and around the world. And the Farm Bill's promotion of artificially cheap raw commodities is adversely affecting health in the U.S. and abroad.

Farm Bill programs that have been so harmful to many in the international community have been extremely beneficial to U.S.-based food companies. These companies are some of the most powerful in Washington. The following recommendations would help move the United States to a more balanced food, agriculture and trade policy for farmers, consumers and rural communities both in the United States and around the world.

Recommendations

A fair agriculture and trade policy would include the following:

- Acknowledgement of the right of all countries to formulate their own food and farm policies to secure a safe and health food system for their own people, as long as those policies do not result in the dumping of commodities onto world markets at below the cost of production.
- Commodity programs that ensure a fair market price for farmers and eliminate export dumping.
- Placing a high priority on negotiating a viable worldwide formula for fairly calculating the cost of production for agricultural crops in a manner that takes into consideration relevant economic differences among countries. Such an international agreement on a cost of production calculation would represent an important first and necessary step towards ending dumping worldwide.
- Support for policies that encourage farmers to shift existing crop acreage devoted to industrial monoculture exports into native perennial plants grown in compliance with sustainability standards to provide feedstocks for bioenergy production facilities that are locally owned and tailored to meet local energy demand first. Such a shift of crop acreage to locally oriented sustainable biomass—Kespecially among major exporting countries—could help curtail unsustainable overproduction and dumping.
- Stronger antitrust enforcement and improved price transparency in the food and agriculture industry could help competition in the global market.
- Support for local food economies, smaller farmers and greater food security would help diversify cropping systems and reduce agriculture exports.
- A transition to untied, cash-based food aid and a phase out of sales of food aid (monetization).

Thank you again for this opportunity to testify.

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[30] Grassley, Charles. "Grassley Works to Ban Packer Ownership of Livestock." January 16, 2007. <http://grassley.senate.gov/index.cfm?FuseAction=PressReleasesView&PressRelease_id=5246>

[31] National Farmers Union *Competition and Concentration.* <http://www.nfu.org/issues/economic-policy/competition-concentration>

Statement of the Honorable Marcy Kaptur, a Representative in Congress from the State of Ohio

Mr. Chairman, I would like to thank you for this opportunity to share my thoughts on the U.S. trade agenda before the House Committee on Ways and Means. Under your skillful leadership, this committee is faced with the challenge and this chance to reform American trade policy and better the lives of millions worldwide.

Even though Article I, Section 8 of the Constitution guarantees the legislative branch "the power to regulate commerce with foreign nations," members of this body will soon consider giving up their own rights to allow President Bush to have almost exclusive privileges to sell to the highest bidder the future of America's trade, our jobs, and our economy.

Even with our 2006 deficit reaching $763.6 billion, the Bush Administration still feels that Trade Promotion Authority, euphemistically referred to as "Fast Track," is in the best interest for our country.

I have never understood why we in the Congress do this to ourselves or to the people who elect us to represent them, much less do such a disservice to the wisdom and vision of the founders.

Let us never forget that "fast track" was the legerdemain by which the Administration rammed the Central American Free Trade Agreement (CAFTA) through the House. President Bush expected to bring this agreement to the floor for a simple up or down vote under fast track. Is that really the way to develop international trade policy? Without discussion, negotiation, or input from those affected?

Free trade ought to occur among free people, and America ought to stand for internationally recognized labor rights, the right to own and farm your land, the right to a clean environment and the right to economic security. We need integration on democratic terms through transparent, democratic processes.

Instead, these free trade agreements passed under fast track represent American as a country that stands for declining real wages, displaced farmers and rural dwellers, environmental travesties, and all the other devastative effects of the "race to the bottom." And they are passed through opaque, secretive negotiations by our executive branch, without even the counsel of Congress.

Even with all its faults, NAFTA was the result of seven years of negotiation. When Congress gives up its rights to participate in negotiations and to amend trade agreements, we turn a blind eye to our constituents and the millions of people world wide affected by our trade policy.

Moreover, Congress has learned the hard way how this President handles extraordinary grants of authority. For evidence, we obviously need to look no farther than the debacle in Iraq. President Bush takes extraordinary grants of authority and then cavalierly transforms them into abuses of power. It would be nothing less than irresponsible for this Congress, knowing what it knows now about how President Bush views the separation of powers, to grant him fast track authority. In short, President Bush has proven that he cannot be trusted with such extraordinary power.

What will be left of our democracy here at home after more trade agreements like CAFTA? What kind of model are we exporting, where freedom is shortchanged, where profits are given the green light? We should only have free trade among free people. We should use trade as a lever to raise living standards, and we should place freedom first. It is truly a joy to be with my colleagues here this evening and to try to fight in freedom's cause.