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THE TRANS-PACIFIC PARTNERSHIP: OPPORTUNITIES AND CHALLENGES

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

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THE TRANS-PACIFIC PARTNERSHIP: OPPORTUNITIES AND CHALLENGES

WEDNESDAY, APRIL 24, 2013

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:10 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Stabenow, Cantwell, Cardin, Bennet, Casey, Hatch, Grassley, Crapo, Enzi, Thune, Isakson, and Portman.

Also present: Democratic Staff: Mac Campbell, General Counsel; Bruce Hirsh, Chief International Trade Counsel; Hun Quach, International Trade Analyst; and Chelsea Thomas, Professional Staff. Republican Staff: Chris Campbell, Staff Director; Everett Eissenstat, Chief International Trade Counsel; and Rebecca Nasca, Staff Assistant.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The committee will come to order.

In the year 1803, with the Louisiana Purchase on the horizon, President Thomas Jefferson sent a confidential letter to Congress. He was seeking the appropriation of $2,500 for "the purpose of extending the external commerce of the United States."

He then instructed Captain Meriwether Lewis and Second Lieutenant William Clark to explore the newly acquired territory. Jefferson wanted to learn more about the people and the land. He wanted to find a water route to the Pacific Ocean to facilitate commerce across the continent.

More than 2 centuries later, we continue to look to the Pacific to expand and to grow. Since 2009, the United States has been engaged in negotiations on the Trans-Pacific Partnership, otherwise known as TPP. Since Day 1, the TPP was conceived as a high-standard 21st-century trade agreement, and TPP leaders have set an ambitious goal to conclude negotiations by the end of this year. The TPP presents tremendous opportunities to expand U.S. exports and support hundreds of thousands of good-paying jobs here in America.

As a group, the TPP countries are the largest export market for United States goods and services. Last year, U.S. goods and exports to current TPP countries totaled $619 billion, representing 40 percent of total U.S. goods exports. U.S. agriculture exports to current

TPP countries totaled $47 billion, making up a third of all U.S. agricultural exports.

Montana, like the rest of the United States, relies upon global markets to maintain and create jobs. One in six manufacturing jobs in Montana comes from exports. In 2012, Montana's farmers, ranchers, and manufacturers exported nearly $2.5 billion worth of grain, beef, and machinery. A third of that went to TPP countries.

In fact, Montana exported more than 117 million bushels of wheat around the world, with almost 75 percent going to Asia. Without those exports and without the TPP countries, every Montanan would have to eat 30 loaves of bread per day in order to make up what we export around the world.

The TPP is exciting, not only because of trade opportunities with current parties, but also because of opportunities with potential new parties. The TPP is a magnet for the fastest-growing economies in the world, those in the Asia-Pacific region.

In 2011, the Gross Domestic Product of nearly all of the Asia-Pacific economies grew faster than the United States' growth rate of 1.8 percent. More than half of them enjoyed growth above the world average of 3.8 percent, and Asia's share of world imports grew from 18.5 percent in 1993 to 31 percent in 2011. The United States needs to share in that growth, and the TPP offers a way to do so.

Since the United States joined negotiations in 2008, six more countries have joined, including fast-growing Malaysia and Vietnam. Just last Saturday, the TPP parties invited Japan to join the negotiations. This represents a huge step towards another key objective, stitching together the economies of the Pacific to expand growth opportunities for all.

U.S. agriculture exports to Japan totaled $13.5 billion last year. With $330 million in pork exports in 2012, Japan is the number-one destination for U.S. pork, more than the next two countries combined. With Japan in the TPP, the agreement will represent 30 percent of global trade and 40 percent of global Gross Domestic Product.

Now, Japan has maintained many barriers to our exports, but when the third-largest economy in the world removes those barriers, tremendous opportunities are created. We saw this in February when Japan allowed more U.S. beef to be imported, and I am proud to say much of the beef is from my home State of Montana.

The United States is now on track to increase our beef exports by nearly 50 percent, to record levels. The TPP will remove more of those barriers and deepen our already strong trade ties with Japan.

On their journey to the Pacific, Lewis and Clark faced challenges, but, instead of turning back, they found creative paths westward. As we continue to expand, we will also face new challenges on the road to concluding the TPP. This agreement will need to address concerns about state-owned enterprises, will need to address unscientific agricultural barriers, and will need to ensure U.S. innovators have robust intellectual property protection and enforcement.

These issues will require creative solutions. I look forward to continuing to work with my colleagues in Congress, with the adminis-

tration, and stakeholders like the witnesses here today, to find solutions. I am also looking forward to working with all of you to renew Trade Promotion Authority and Trade Adjustment Assistance this year.

Fast-track authority will help us conclude the TPP negotiations, and that will bring concrete benefits for American farmers, ranchers, businesses, and workers. I would like to see a bipartisan TPA—that is, Trade Promotion Authority—bill introduced by June.

Lewis and Clark helped to unlock the vast potential of the land between the Mississippi and the Pacific. With this pioneering spirit in mind, let us allow the TPP to unlock the vast potential of the lands across the Pacific. Let us navigate the challenges before us so we can seize this opportunity to continue extending the external commerce of the United States.

[The prepared statement of Chairman Baucus appears in the appendix.]

The CHAIRMAN. Senator Hatch?

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH

Senator HATCH. Thank you, Mr. Chairman, for holding this important hearing. I appreciate our witnesses being here today.

Over a decade ago, Chile, New Zealand, and Singapore launched negotiations to more fully integrate their economies. The vision was simple: to create a high-standard free trade agreement that would serve as a model of integration for the Asia-Pacific region. Joined by Brunei in 2005, this agreement eventually became known as the P–4.

Three years later, in a small conference room on the outskirts of the U.N. General Assembly meeting, Ambassador Susan Schwab formally announced the United States' interest in joining the negotiations. The announcement received little fanfare here in the United States. Had it been known at the time that this small step would eventually lead to what is now one of the most ambitious trade agreements the United States has ever undertaken, the TPP, I am certain that her announcement would have been front-page news.

Now with the recent statement by the TPP partners that a consensus was reached to include Japan in the negotiations, the event takes on even more significance. I strongly support the vision that underlies TPP, and I welcome Japan's participation in these negotiations.

I believe this agreement offers an opportunity to finally open some of the largest and most promising markets to U.S. exports. But we cannot rest on our laurels. While the opportunities presented by TPP are real, so are the challenges. The first challenge we face is concluding an agreement that provides real market access for U.S. goods and services.

Much has been made about the new issues under discussion in TPP, many of which I support. But, in pursuing these new areas of agreement, I hope our negotiators do not lose sight of the fundamentals of free trade and economic integration. Negotiating a 21st-century trade agreement is fine, but not at the risk of locking in 18th-century mercantilism.

Without real and beneficial market access, TPP will never reach its full potential. It remains to be seen whether the Obama administration is willing and able to successfully manage negotiations in some of our most sensitive sectors without sacrificing real market access for U.S. businesses. Any meaningful agreement should set standards and establish rules for trade that will benefit American exporters and innovators well into the future.

Transparency, predictability, and strong intellectual property protection, it seems to me, will be critical to reaching this goal. A successful agreement must include commitments reached under the U.S.-Korea free trade agreement and address new areas as well. Specifically, these new areas include ensuring the free flow of data across borders, robust protection for trade secrets, and discipline for state-owned enterprises.

The agreement should have the strongest possible terms of protection for our innovative industries. This must include following current U.S. law by providing 12 years of regulatory data protection for biologics, a goal that the chairman and I both share.

I have raised this issue at every opportunity, and a bipartisan group of 27 Senators sent a letter to former Ambassador Ron Kirk expressing support for including this provision in the agreement, yet the administration still refuses to table text reflecting our own U.S. law. They repeatedly argue that this bar for data protection for biologics is too high, even though that was fought out long ago.

Of course, such concerns have not stopped the administration from pushing a liberal social agenda in the negotiations. Indeed, many of our trading partners have serious concerns with the administration's approach on issues such as labor and environmental protections, especially their linkage to dispute settlement and trade sanctions.

These issues are only marginally related to trade, yet the administration seems to give them a higher priority than the protection of U.S. intellectual property. To fulfill the vision of TPP, the United States must be able to rise to these challenges. Unfortunately, after 16 rounds and roughly 37 months of negotiations, it is still not clear whether the agreement will ultimately live up to the lofty expectations that we have.

I believe one reason for this uncertainty is that our negotiators simply lack the tools necessary to complete the job. While I appreciate the administration's interest in discussing Trade Promotion Authority, or TPA, I have yet to see any real commitment on the part of the White House to achieving its quick consideration and approval in Congress.

Of course Congress can, and will, develop TPA legislation without the support and input of the White House, but a formal response from the administration for TPA would send a strong signal to our negotiating partners and the proponents of the Trans-Pacific Partnership that the President is serious about making sure the rhetoric surrounding the agreement meets the reality of the negotiating table.

Now, Mr. Chairman, I want to thank you once again for holding this hearing today. I look forward to hearing from each of our witnesses about the opportunities and challenges that they see in ne-

gotiating and concluding what could be one of the most significant opportunities to expand U.S. exports in the last 25 years.

With your announcement yesterday and today, which is sadly reflected upon by, I think, every member of this committee and by many in the Senate, I believe that your remaining time in the Senate is going to be a time of tremendous, prodigious work and accomplishment, and you deserve that kind of support. And we intend to try to see that you have that type of support. But I hope we can change some of these things and get them a little bit straightened out as we finish up this year. This is a very, very important issue for all of us.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Hatch. I especially thank you for those comments. This is a great opportunity for us in this Congress—there is this year, there is next year—to accomplish a lot of legislation that is very good for our country. So, thank you very, very much. It is a great opportunity.

[The prepared statement of Senator Hatch appears in the appendix.]

The CHAIRMAN. I now would like to introduce our panel. We have four witnesses with us here today. First is the Honorable Karan Bhatia, vice president and senior counsel for global government affairs and policy with General Electric Company.

Next is Mr. Bob Hanson, president of the Montana Farm Bureau. Bob is a farmer and rancher from White Sulfur Springs, MT. Thank you, Bob, for traveling this great distance again to come and help us. It is a pleasure to see you.

Next is David Hirschmann, president and CEO of the Global Intellectual Property Center with the U.S. Chamber of Commerce. Mr. Hirschmann, thank you so much.

Finally, Mr. Tom Suber is president of the U.S. Dairy Export Council. Thank you for that perspective, which is clearly vital.

Thank you all. As you know, our usual practice is to have your statements automatically included in the record and get you to summarize your statements. Again, I urge all witnesses to let her rip. Do not pull any punches; say what you think. Thank you very much.

Why don't you go ahead, Mr. Bhatia?

STATEMENT OF HON. KARAN BHATIA, VICE PRESIDENT AND SENIOR COUNSEL, GLOBAL GOVERNMENT AFFAIRS AND POLICY, GENERAL ELECTRIC COMPANY, WASHINGTON, DC

Mr. BHATIA. Thank you. Thank you very much, Mr. Chairman, Ranking Member Hatch, Senators.

I appear before you today in two capacities: first, as a former Deputy Trade Representative who had responsibility for overseeing the agency's work leading up to the launch of the TPP negotiations from 2005 to 2007; and second, in my current role overseeing global government affairs and policy for General Electric.

In both capacities and as a citizen who cares greatly about America's competitiveness, economic growth, and global influence, I strongly support the Trans-Pacific Partnership initiative launched by President Bush and continued and expanded by President Obama.

As a former Deputy USTR, I can attest that the launch of TPP was carefully considered by the Bush administration. As you will recall, this was a very busy period in U.S. trade policy. We were negotiating, ratifying, and implementing multiple FTAs, had an active regional agenda, and the Doha Round was still going full throttle.

But notwithstanding our full plate, the TPP captured our attention. First, it represented a chance to create a sustained path of trade liberalization for the United States going forward. With the expiration of Trade Promotion Authority in 2007, it was not clear what the future of trade liberalization would look like for the U.S. TPP presented an opportunity to keep advancing an international trade agenda, one that reflected U.S. trade policies and enhanced U.S. competitiveness.

Second, with America's relative share of the trade in the region eroding and a number of regional agreements that would exclude the United States having been proposed, there was concern that the U.S. would increasingly be on the outside of the Asia-Pacific region looking in. TPP represented an opportunity for America to continue to engage and grow in this exciting, economically dynamic region.

Third, TPP really presented a unique opportunity: an FTA that was based not on geography or sector, but one based on a common philosophy—a shared commitment to the highest level of ambition for trade liberalization. In time, we believe that this coalition of the most ambitious could create a model agreement that would set a new standard and attract others to join.

At that time, of course, there were some things we could not predict: the global financial crisis, the resulting economic slow-down, the failure of Doha, or the rise of state capitalism. But today I would submit that the decision to launch TPP was prescient.

At a time when all of these unforeseen developments could have led America and its Asia-Pacific trading partners to turn inwards and erect barriers to trade, TPP, which to its great credit the Obama administration has continued to pursue and expand, has helped solidify the commitment of a growing group of countries to trade liberalization.

Now, in my role at GE, I can attest first-hand to the great promise that TPP offers innovative American companies whose growth increasingly depends on global markets. Today, 60 percent of GE's revenue is derived from markets abroad, up from 40 percent just a decade ago, and much of our opportunity for future growth lies in these expanding markets.

Today, exports to countries like Malaysia, Japan, Canada, and Vietnam help support GE operations, making jet engines in States like Ohio and, yes, Montana; gas turbines in South Carolina and New York; health care devices in Wisconsin and Utah; and locomotives in Pennsylvania and Texas.

Last year, GE had revenues of more than $20 billion from the 11 TPP countries, almost 2.5 times our revenues from those countries just 5 years ago. But we believe that with a level playing field we can do even better, which is why we are big supporters of TPP.

We are very hopeful that the agreement will offer American companies like GE an improved operating environment in the region

by strengthening disciplines around government procurement, including addressing disqualifying local content requirements; ensuring a level playing field with state-owned enterprises; promoting enhanced transparency; promoting easier and faster clearance of goods and movement of people; eliminating tariffs on manufactured goods; addressing non-tariff barriers, including those imposed on environmental goods and flows of data; and fostering Trans-Pacific innovation with 21st-century intellectual property disciplines, in particular for the protection of trade secrets.

Above all, we support TPP because we believe that the processes of economic reform and openness that TPP will drive will support broader and more inclusive economic growth. Simply stated, where economies are healthier, more transparent and freer, we, our employees, and our shareholders do better.

In sum, I believe that TPP represents the right course for U.S. trade policy. The U.S. was right to join it, the Obama administration was right to continue the negotiation and to expand it, including most recently to include Japan. It will be critical that the agreement fulfill its original goal, being a very ambitious agreement among countries committed to reform.

I have every confidence that the superb negotiating team at USTR that is pursuing this negotiation, in close consultation with U.S. stakeholders, will obtain just that, and, upon its submission, I hope this committee and this Congress will support its ratification.

Finally, Mr. Chairman, if I might, I would just like to thank you. Having had the opportunity to testify before you on this committee on trade issues on a number of occasions, I know well the enormous contribution that you have made to our country and to the world in this area, and you will be deeply missed. Thank you.

The CHAIRMAN. Thank you so much, Mr. Bhatia.

[The prepared statement of Mr. Bhatia appears in the appendix.]

The CHAIRMAN. Next, Mr. Hanson?

STATEMENT OF BOB HANSON, PRESIDENT, MONTANA FARM BUREAU FEDERATION, BOZEMAN, MT

Mr. HANSON. Thank you, Mr. Chairman, for this opportunity to speak to you about the trade agreement. My name is Robert Hanson, or Bob. I am president of the Montana Farm Bureau, which is the largest agricultural organization in Montana. I am a board member of the American Farm Bureau board. I am a full-time rancher, fourth generation, in Montana.

I would like the opportunity to talk about the Trans-Pacific Trade Partnership, and mainly about Japan entering it. Japan has been a real key issue to Montana. Sixty percent of all the agriculture production in Montana is exported out of the United States, and the majority of that is grain to the Pacific Rim.

The other countries offer some opportunities which we have not experienced yet in Montana, but it is very essential that we have this. The administration is going forward with this. We are very pleased. We would like to have this agreement be as transparent and open as possible.

The two governments work hand-in-hand, the U.S. and Japan. It has been very rewarding that they have moved forward with the

30 months of age for cattle recently, on the 1st of September. That opened a lot of opportunities and lessened some requirements we have in managing our cattle.

Wheat, corn, soybeans, beef, and pork are the main things that go into Japan—not too much corn or soybeans from Montana; we do not do very well there. But it has been very lucrative for us in a very good market. I have had the opportunity to take two trips to Japan on the beef trade, one in 2004 and one in 2005, promoting the beef trade and trying to understand their culture in relation to our product.

I found it to be a very open and a good place to market our products. The people, in general terms, are very eager for our products from Montana, and it would be good to have it opened up so they have full access to our market.

The only other thing I would like to add at this time is, it is quite a shock to us having Senator Baucus resign. He has really been a statesman for the State of Montana whom we really enjoy, and we are going to sorely miss him. We understand why he is making the shift. We were kind of laughing about it in a certain way, because there are not any of his staff who are as old as the time he has been here. All of them are a lot younger than his tenure. So we are going to sorely miss him, but we have 2 years to go forward, and I think he will do a good job on this. So, thank you again for the opportunity to testify.

Senator HATCH [presiding]. Thank you, sir.

[The prepared statement of Mr. Hanson appears in the appendix.]

Senator HATCH. Mr. Hirschmann?

STATEMENT OF DAVID HIRSCHMANN, PRESIDENT AND CEO, GLOBAL INTELLECTUAL PROPERTY CENTER, U.S. CHAMBER OF COMMERCE, WASHINGTON, DC

Mr. HIRSCHMANN. Mr. Chairman, Ranking Member Hatch, members of the committee, thank you for inviting the Intellectual Property Center to testify in this important hearing.

Like you, we believe that effective intellectual property protection is vital to creating jobs into the future of our society and the world society. In fact, IP delivers in at least four ways: it generates jobs; it stimulates innovation; it ensures consumer safety; and, probably not as well understood, there is also enormous investment in taking products to market, so it ensures that we are able to take new, innovative products to markets all around the world.

So, without an intellectual property agreement, you do not really have a full trade agreement, because it is the intellectual property and the ability to deliver that and invest in marketing around the world that really fulfills the promise of trade agreements.

The case for the Trans-Pacific Partnership is very strong. Two billion Asians joined the middle class in the last 20 years, and another 1.2 billion are expected by 2020. According to the International Monetary Fund, the world economy will grow by $21.6 trillion over the next 5 years, and nearly half of that growth will be in Asia.

Trade agreements are crafted to build bridges, create jobs, and promote global economic growth. However, the United States has

been falling far behind. The number of trade accords between Asian countries surged from just three in the year 2000 to more than 50 by 2011, and another 80 or so are in the pipeline. At the same time, the United States has clinched just three trade agreements in Asia.

The TPP is America's best chance to tap into these exciting markets. Its objective is to achieve a comprehensive, high-standard, commercially meaningful trade and investment agreement. The current 12 TPP partners, as the chairman mentioned, would become the U.S.'s largest trading bloc, representing 40 percent of the world's Gross Domestic Product and a third of all trade.

Working closely with the Office of the U.S. Trade Representative and a broad and diverse range of companies and industries, the Chamber of Commerce is helping to lead the business community's advocacy for the inclusion of strong intellectual property protections and disciplines throughout the TPP trade agreement, including market access for goods and services and investment, as well as path-breaking new rules for regulatory coherence, due process, anti-trust enforcement, and state-owned enterprises. The opportunity to create a truly high-standard agreement is simply too important to miss.

Now, why intellectual property? Fifty-five million American jobs depend on intellectual property. They pay 30-percent higher wages on average, and, most importantly for this hearing, 74 percent of our exports are tied to intellectual property.

However, the industries that create these exports are facing challenges all around the world. IP matters for two reasons: it will maximize the benefits of the agreements, both for the U.S. and its partners, but it is also important to remember that some countries are moving in the wrong direction in terms of advancing innovation and IP.

I would be remiss not to single out the recent negative trends, for example, in India. Many of our members across a range of industries are struggling with the very difficult problems in that country. If the TPP is to be a model agreement—as the negotiators said when they laid it out, saying that the ambition levels would be the highest in 2011—it is essential to include binding, enforceable, and robust standards for the protection of intellectual property.

At a minimum, we should seek to meet or exceed the standards for patents, trademarks, copyright, and criminal enforcement of trade secrets theft in the U.S.-Korea Free Trade Agreement, and in some areas such as trade secrets there may be an opportunity to go further.

We would like to especially thank Senator Baucus and Senator Hatch for their letter to the Office of the U.S. Trade Representative calling for strong IP protections. We also urge you to push back on any efforts to weaken IP rights or exclude any sector from protection in the agreement.

In trade negotiations, whenever one party seeks to exclude a given commodity or sector from an agreement, others tend to follow suit, limiting its reach. For the United States to achieve the goal of a truly 21st-century agreement, our negotiators must hold fast to the goal of a comprehensive accord that avoids carve-outs and

exclusions. This is a position that enjoys broad and diverse support not only in business, but from former USTRs and a whole range of officials who have spoken out on this recently.

We know that USTR has been working tirelessly to ensure a high-standard agreement. As part of that, it is essential that this administration propose and secure commercially meaningful opportunities for all biotech and pharmaceutical companies, as Senator Hatch mentioned.

We believe that the 12 years of regulatory data protection for biologic products is essential, as currently provided in U.S. law, and will ensure that companies are able to continue to invest in life-saving innovations.

For the U.S. to remain the world's most competitive, innovative economy, we must ensure that our IP-intensive industries remain confident that copyrights, patents, and trademarks will be protected. We commend this committee for its consistent work to advance that goal. We appreciate your willingness to work now to ensure that the TPP is indeed a high-standard agreement for intellectual property that benefits jobs, innovation, consumer access, and safety, both here and for each of our 11 TPP partners.

Chairman Baucus, I would be remiss in not pointing out that we will sorely miss your leadership here in the Senate. We greatly appreciate the chance to work with you, and congratulate you on what you accomplished, but we also know that, over the next 2 years, you will accomplish a great deal. On behalf of the Chamber, we look forward to working with you to make those accomplishments happen. Your leadership on trade and TPP is just one example.

The CHAIRMAN. Thank you, Mr. Hirschmann. I think you know, as well as my very good friend Bob Hanson, that I do intend to double down. We are going to get this thing done. Thank you.

[The prepared statement of Mr. Hirschmann appears in the appendix.]

The CHAIRMAN. Mr. Suber?

STATEMENT OF TOM SUBER, PRESIDENT, U.S. DAIRY EXPORT COUNCIL, ARLINGTON, VA

Mr. SUBER. Thank you. Chairman Baucus, Ranking Member Hatch, and members of the committee, I appreciate the opportunity to testify today on behalf of the U.S. Dairy Council regarding the challenges and opportunities of the U.S. dairy industry in the Trans-Pacific Partnership.

U.S. DEC supports these negotiations, as it has all the recent agreements that have helped expand our increasingly export-dependent sector. It is important to recognize that, if the administration brings back an unfair result, the U.S. dairy industry will have no choice but to oppose congressional approval of the agreement.

The TPP started with no clear up-side for U.S. dairy. The original few countries involved consisted of prior U.S. FTA partners, a country without significant dairy consumption, and a major competitor with a monopolistic industry structure. Despite this grim outlook, we began work to identify offensive interests to include in

a dairy package that could provide the foundation of a positive TPP outcome.

Today we are pleased that the pieces are in place so that this agreement, properly negotiated, could deliver large and lasting benefits across the U.S. dairy sector. There are several key elements we have identified as necessary in assembling this positive overall dairy package.

The first critical area is broadly shared by most throughout the U.S. food and agricultural community: a high-quality and enforceable sanitary and phytosanitary, or SPS chapter. Non-tariff barriers to trade have proliferated in recent years, making agricultural tariffs a lesser evil in many export markets.

Given this, U.S. DEC has joined with other groups to insist on the importance of securing enforceable SPS obligations that build upon the existing WTO SPS agreement. We believe that a strengthened reliance on scientific and risk-based requirements throughout the TPP region will improve trading conditions while maintaining the ability of all countries, including the U.S., to preserve food, animal, and plant health, just as has been the case with the existing SPS agreement in the WTO.

The next key area for us is export market access, where our industry actually has some of the largest potential gains among all U.S. agricultural sectors. In order to provide a positive potential export up-side for our industry, it is critical that TPP provide fully open access for our products into the Canadian and Japanese markets, as well as into Vietnam and Malaysia. In fact, a large share of the prospect for a positive net outcome for us rests in great part on how the dairy negotiations with Canada and Japan are handled.

U.S. DEC and many others throughout our industry would strongly reject a TPP outcome where the U.S. industry is asked to accept negative trade impacts with respect to other major dairy-producing countries while omitting export gains in other markets, particularly Canada and Japan.

As part of the TPP bilateral discussions on dairy, it is critical this agreement also address the ability of New Zealand's quasi-monopoly dairy firm to use its market power to undermine the efforts of U.S. companies in global markets.

One dairy company in New Zealand is a direct heir of the prior state trading enterprise that today controls 90 percent of the market. It has benefitted dramatically from past government decisions to create and support a national champion.

These government policies granted the firm exclusive access to lucrative overseas import licenses for several years and permitted it to inherit key global accounts through facilitating a consolidation of virtually all New Zealand dairy exports. In the world's single-largest dairy exporting nation, this poses a sizeable concern.

It is simply inappropriate to provide new market access to New Zealand without addressing the excess level of market concentration resulting from these government preferences. This is not simply a strong conviction of American dairy farmers, but is shared by many trade-reliant dairy processing companies within U.S. DEC.

Finally, U.S. DEC believes it is important to use the opportunity provided by TPP to set more reasonable guidelines for the use of common food names, such as parmesan and feta, which are under

attack by the European Union. This is a de facto non-tariff barrier to our cheese exports. As the U.S. prepares to embark on trade talks with the European Union, this issue takes on even greater significance.

In closing, let me repeat that U.S. DEC supports the TPP negotiations and hopes to actively support the final agreement. Economists at the National Milk Producers Federation have calculated that, without major reforms in New Zealand and without other offsetting dairy market access opportunities in the TPP such as in Canada and Japan, U.S. industry would lose $20 billion over the first decade of the agreement.

U.S. DEC's aim is to turn a sizeable loss into a strongly positive figure at the end of the day. Our ability to do so hinges on how key elements of TPP are ultimately decided.

Thank you again for the opportunity to testify. I look forward to any questions you may have and echo the other members of the panel in thanking you for your service over the many years, Chairman Baucus.

The CHAIRMAN. Thank you, Mr. Suber, very much.

[The prepared statement of Mr. Suber appears in the appendix.]

The CHAIRMAN. I would like to ask each of you, what is the major objective you would like to see accomplished in a successfully concluded TPP? If you were to think about one—I will give you two objectives. One might be positive; it might be preventing something bad from happening. But what are the two major objectives that each of you would like to see accomplished in this agreement? I will start with you, Mr. Bhatia.

Mr. BHATIA. Thank you, Mr. Chairman. As I reflected in my opening comments, for us, for a company like GE that is in so many different sectors, that is in all of these different countries, we will stand to benefit, frankly, simply from the general trend of openness, of market reform, that is going to result.

When we see that kind of initiative moving forward, we are going to see growth in those economies; we are going to see greater openness. So it is hard to pick any individual sector, for instance, or any individual point, and say that alone would be critical to our support.

Having said that, I do think there are a couple of points that I would suggest that are a particularly high priority for us. One is in the area of government procurement. As you step back and you look at the world that we are increasingly confronting, the role of governments in economies is growing. It is growing more year by year in some senses, and it certainly took a substantial step forward post-financial crisis.

So, when you have governments acting in economies as consumers, as well as regulators, investors, and so forth, having a strong set of disciplines around how the governments and state-owned enterprises actually procure, what their involvement is in markets, is key.

In that regard, I would flag one specific trend that has been of concern, which is the rise of forced local content requirements that we have seen. Now, these may come through various different forms, various different means, but they are trade-distorting.

I think they ultimately work to the detriment, not just of U.S. companies, but indeed of their own economies. So I would flag a strong government procurement chapter as being a key one. There are obviously many others, some of which were mentioned—state-owned enterprises, IP disciplines, and so forth—but that is one example.

The CHAIRMAN. Mr. Hanson, I take it you are also concerned about the tobacco safe harbor; for example, the other safe harbor provisions that are carve-outs. Mr. Hirschmann mentioned that. But what are the couple of things that come to your mind?

Mr. HANSON. Well, the safe harbor does give us a little bit of heartburn. I guess the problem is that I can understand the comments about tobacco, but the other side of it is—I guess the way I look at it is, it kind of creates a loophole that can create some instability in being able to get your product into the market.

We are concerned that companies might use the safe harbor to create trade barriers related to that. We would like to make sure that the agreement is very transparent and that we can have a consistent process going forward so we know where we are in our production and are able to market it in a steady fashion in the country.

The CHAIRMAN. Mr. Hirschmann?

Mr. HIRSCHMANN. I suppose it would be cheating on the question if I said we wanted it to be comprehensive.

The CHAIRMAN. No, that does not work. [Laughter.]

Mr. HIRSCHMANN. Obviously, there are 29 chapters, and we have teams at the Chamber working on just about all of them. But I will talk my book at the Global Intellectual Property Center. In that regard we hope that it is a high-standard agreement, one that has no exceptions, one that certainly preserves U.S. law, particularly on biologics, and builds on that. I think in intellectual property as in other areas, if you do not move forward, you are indeed falling back. Technology changes.

So I think there is an opportunity to really, not just for our country—I mean, this is the U.S. Senate Finance Committee, so we are talking about the benefits to the United States—but every nation in the TPP will benefit from effective intellectual property protection.

The CHAIRMAN. Good. Thanks.

Mr. Suber?

Mr. SUBER. Well, since 3 of every 5 new pounds of milk produced in the country end up going out of the country, growth is the highest priority we have in the dairy package we are speaking of. That comes from market access. There, Canada stands out as the primary one.

We think that that poses the highest potential new access for us, essentially creating a truly open NAFTA free trade area, which did not happen from the original FTA with Canada and NAFTA itself. But also the issue of the reliability of that access is important, not just with Canada but with the entire TPP region, and an enforceable SPS agreement would bring that.

Making sure that the rules of trade are based on science, transparency, and timely adjudication of issues, bindingly done, is important to make sure that our access is actually delivered and will

make a difference as we go into the European discussions, where those issues will be particularly difficult.

The CHAIRMAN. Right. But how do you deal with New Zealand? I have visited New Zealand. I have visited their dairy farms down there.

Mr. SUBER. They are very good competitors, and they make very good products and are a global player, and they should be. Where the issue becomes tricky is that they have, for years, provided preferences to the single company there called Fonterra. It has essentially created a situation where, either inside of our market or external to our market, we find ourselves playing on an unbalanced playing field.

We are not talking about leaving New Zealand out of the agreement or leaving dairy out of the agreement, but, if you are going to provide new access, you need to reform their industry. If this is going to be a high-ambition agreement in the 21st century, you need to reform that industry which is creating a 90-percent market share for one company.

In the global market, that company controls about 35 percent of the global trade, which exceeds by a factor of 2 what Saudi Arabia controls in oil. So, their market power is substantial, and it should be reformed.

The CHAIRMAN. Thank you very much.

Senator Hatch?

Senator HATCH. Thank you, Mr. Chairman.

Ambassador Bhatia, from your experience as a former senior government official responsible for negotiating and implementing trade agreements in the Asia Pacific and African areas, how important is Trade Promotion Authority to the successful negotiation, approval, and implementation of the Trans-Pacific Partnership?

Mr. BHATIA. Senator Hatch, TPA certainly is important. I think there are probably three real ways in which it is important. I think the first is, it is important to help guide the negotiators. It is, at the end of the day, a mandate from Congress to the negotiators and helps us—helps them—understand what it is they need to accomplish, to bring back, to gain the Congress's approval. So I think it is important in that regard.

I think, second, it is important to close the agreement. I think you find your trading partners are concerned and sometimes skeptical if they think that the agreement is not going to be subject to an up-or-down vote, that it is going to potentially be carved back in certain places. So I think it is important to close the agreement at the end of the day when you hit that point.

Last, I will say it is important as a sign of American leadership in trade. So I think, for all of those reasons, TPA is important.

Senator HATCH. Well, thank you.

Mr. Hirschmann, let me just ask you this. Just yesterday, an article came out focusing on a junior Obama administration Health and Human Services official. Now, this official proudly bragged about his efforts to steamroll USTR by watering down the U.S. intellectual property chapter in TPP in order to advance his vision of "global health policy" objectives.

Now, perhaps this explains why, as you alluded to in your testimony, the Obama administration has thus far refused to commit to

seek 12 years of regulatory data protection for pharmaceuticals in the TPP negotiation, which reflects current U.S. law.

I am concerned that the administration is more preoccupied with placating various left-wing interest groups than it is in protecting innovators and content creators who generate a significant and increasing portion of U.S. jobs.

Do you believe there are steps we can take to assist our trade negotiators in advocating more effectively on behalf of U.S. innovators and content creators? If the administration decides to unilaterally depart from the standards reflected in U.S. law in determining their negotiating objectives for intellectual property and TPP, do you believe that it will do lasting damage to U.S. innovators?

Mr. HIRSCHMANN. Senator Hatch, as you pointed out, it is U.S. law, and it received great bipartisan support in Congress during the consideration of the health care legislation. So I think ultimately negotiators understand that they have to bring back an agreement that will be approved, that this committee will consider.

Twelve years of biologic protection is important, and the reason it has had such support on a bipartisan basis here in the Congress is because it is what is needed to really drive the investment in what are lifesaving drugs. So, as a matter of health policy, it is the right answer as a matter of trade policy.

Just as a matter of negotiating, U.S. negotiators should always start, at a minimum, with U.S. law. I think legislation like what you proposed, the Innovation Through Trade Act, that would elevate the status of IP within USTR, is a good step. I think we should always be looking for ways to strengthen our ability to open markets and to ensure IP protection around the world.

Senator HATCH. Well, thank you.

Mr. Suber, your concerns over the proliferation of trade agreements which enshrine the European Union's use of a geographical indication system are well-founded, in my opinion. I am afraid that, if the United States does not vigorously advocate for an alternative system, many competitive export opportunities will be lost. So, do you believe the administration has an effective strategy for dealing with this problem? If not, how can that strategy improve?

Mr. SUBER. Well, thank you for the question. We have been gratified by the interest that the administration, both at USTR and USDA, has taken on this issue. At first it seemed nettlesome and small, but now, as we have explained it to them, they see very much the same thing we see: it has denied us access; it potentially is a de facto barrier. We do think that they are addressing it in the proper way in the background negotiations related to TPP. These issues are persistent.

The European Union considers this one of their very top priorities, and they put it into all sorts of other trade agreements. So the issue is about monitoring, the issue is about persistence, the issue is about diligence and recognizing that this is something that can spread—already has spread—beyond dairy. It is a food issue about preserving the use of common food names, our immigrant culture, and the heritage that we have from that.

Senator HATCH. Well, thank you.

Just one last question for you, Mr. Hirschmann. How important is it that we establish the highest standards of protection for intel-

lectual property rights in TPP in light of the challenges that U.S. innovators face in markets such as China and India, just to give two examples?

Mr. HIRSCHMANN. In addition to making sure that we know the rules of the road and that companies can continue to innovate and invest in innovative products of all kinds, I think it is important to remember that countries like China, India, and others are watching to see what we do here. So it is good offense, but it is also good defense, and ultimately it will accelerate the path.

In private, I think most Chinese officials understand that intellectual property protection is their future. They just are not sure quite how to get there. I think this will help spur the movement towards strong and effective intellectual property protection around the world.

Senator HATCH. Well, thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Stabenow?

Senator STABENOW. Well, thank you very much, Mr. Chairman, for holding the hearing. I want to start out by saying, Mr. Hanson, that you are not only fortunate that the chairman of the Finance Committee is from Montana, but, speaking as the chair of the Agriculture Committee, I can assure you, nobody fights harder for Montana agriculture than this gentleman. So he is going to be missed in many, many different capacities, but I look forward to working with you, Mr. Chairman.

The CHAIRMAN. I am not going anywhere.

Senator STABENOW. I know you are not. And I am counting on you to help us get a farm bill passed again, so we are looking forward to doing that.

Let me also just echo, Mr. Hirschmann, my strong support for what you said about binding and enforceable standards on intellectual property rights. We have to make sure that this happens. Mr. Chairman, I very much appreciate your holding the hearing. This really is a historic opportunity to open markets.

I would ask and encourage that we also hear from those who have concerns, additional concerns, about making sure we get this right. Of course, I am referring to the auto industry, where Japan's interests now in being a part of this creates a situation where we have a country involved that has spent 80 years blocking our auto industry from fully participating in trade. So I know the USTR is working hard. There are some steps they have taken that are very positive.

But the truth is, at the moment we have an industry that, last year, was 30 percent of the economic growth of this country, that is still in a situation where Japan is sending 120 automobiles to us for every one we can send to them.

So it is not just tariffs, but it is very much non-tariff barriers that they put in place, where Japanese auto dealers cannot sell foreign vehicles. So there are a lot of things that we need to get right on this, particularly for Japan, and I look forward to working with you on that. This is really important, and I am hopeful that we can have an opportunity to hear from them as well.

I also understand, with my Agriculture hat on, how significant this is in opening markets. Our bright light, frankly, in exports is agriculture in terms of trade surpluses. But also, representing a big dairy State, Mr. Suber, I am very concerned about what you said in terms of Canada and Japan, and making sure that we deal with the SPS obligations in the right way so we are not seeing non-tariff trade barriers in that area.

I wonder if you might, just for a moment, talk a little bit more about New Zealand. New Zealand is a huge problem here, with 90 percent of the market being controlled by Fonterra. When we look at, not just the TPP but other things that USTR should be doing right now to really overcome what is a huge home field advantage for New Zealand, I wonder if you have other ideas. We obviously have to get TPP right. But what else should we be doing? What should USTR be doing on this?

Mr. SUBER. Well, New Zealand is within its rights, the WTO rights, to do as it is doing. The issue we are dealing with here within the TPP is how to make it a high-ambition agreement in a way that makes it a more fair and open trading system. And just to use an illustration of, why is this competition unfair? What does it mean to U.S. dairy exporters and suppliers that this concentration creates a problem? I think there is a really relevant and recent example on this.

Last October, New Zealand had a situation where one item that it was spraying on its field was considered to be potentially toxic and was related to the melamine product that had caused such consternation in China. Though they discovered this in October, in collaboration with their own Ministry of Primary Industries they kept it secret from their other competitors in New Zealand, they kept it secret from FDA, they kept it secret from the world, until their flush period, until their big production period had passed so they could secure their contracts, so they could get themselves in place, and then they revealed it to their domestic competitors as well as the world.

Now, it turned out not to be a huge food safety issue, but they clearly had the hush-hush collaboration of their government regulators, who, with the exemption from the antitrust agreement, are supposed to be watching to make sure that they are playing fairly, but are, in fact, preserving their market power.

So that is just an example about robust enforcement that currently is lacking there. And essentially, not an entire dismantling, but a lowering of the concentration of that sector, is in order. That is what USTR should be asking for.

Senator STABENOW. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cardin?

Senator CARDIN. Thank you very much, Mr. Chairman. We had a chance to talk privately, but I just really want the committee to know, and the public to know, that we look to you as one of the major reasons why we can advance legislation such as TPP. You bring us together.

Your legacy has been one of bridging the gaps between, not only Democrats and Republicans, but philosophical differences that exist in the U.S. Senate. You understand more than any of us the impor-

tance of the work that this committee does in getting the policy right for this Nation.

I know we have a year and a half, but I think you are going to be particularly important as we work our way through TPP and Trade Promotion Authority. These issues can divide us, but I am confident, under your leadership, we will find a way to move this forward.

TPP is particularly important because it deals with the rebalance of the Asia-Pacific region, which is an important priority of this country. I chair the East Asian and Pacific Subcommittee of the Foreign Relations Committee, so I am particularly interested in this subject. I thought the manner in which you handled WTO with Russia was the right way. It needed to get done.

You recognized, by combining that with a basic human rights issue, we would not only accomplish two positive aspects but we would broaden the support for moving that legislation forward. The challenge in TPP is that you do have countries that run the gamut on their advancements on labor rights, on their advancements on environmental issues, and on basic values, basic human rights issues.

So we will be looking for your magic, Mr. Chairman, as to how we can advance those causes in a way that broadens the support base on moving forward on these issues. Now, representing my State of Maryland, I will have specific issues, like other Senators will have. We have a high-end suit and shirt manufacturer in our State, and we are very proud of the quality work that company does, the jobs it preserves in my State and our country.

But the yarn-forward rules are going to be very important issues for us to take a look at. We must make sure that we are not allowing, through a TPP country, the importing of fabric that otherwise should not enter our market tariff-free and which puts our manufacturers at a disadvantage. So I do not have any specific questions, but I would be glad to get just your general reactions as to how we can, with such a diverse group of countries, make advancements on issues that are important to us, such as advancing labor, environment, basic rights, et cetera, in a trade bill.

If you have thoughts on that, I would appreciate you making that available to us. I say that in a very positive way, because I do think it is not easy to get these types of bills to the finish line. When you are dealing with the countries that we are dealing with here and the concerns that we would have about respect for basic rights, it is going to be an issue that we are going to have to deal with.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Next is Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. Thank you for your leadership and your open-mindedness as we have talked on these issues, and as we move forward.

Mr. Bhatia, I am concerned about the deeply entrenched state capitalist models, the state-owned enterprises, and what they mean to companies like yours. You have a major presence in my State, for which we are grateful: the lighting business in the north and the jet engines and other business in the south of Ohio.

I sent a letter to Acting U.S. Trade Representative Marantis urging strong disciplines on state-owned enterprises, including considering an injury test to ensure any anti-competitive actions taken by these SOEs under TPP do not result in harm to U.S. businesses. What does GE do if it finds itself, either in this country or in a third country, competing with a state-owned enterprise with the advantages that an SOE has? Where do you go with that?

Mr. BHATIA. Well, Senator, we attempt to do the best we can to close that sale anyway. I mean, it does happen. I was mentioning before, the world we see out there increasingly, the world post-financial crisis in particular, governments and government-owned entities play a bigger role than they did before.

Partly that is sort of the tectonic shift of plates of which countries are coming to the fore. They tend to be countries that have bigger state-owned enterprises and where the public entities are a bigger part of their economies, and partly it is those countries and companies that are going out globally much more. So we are competing with state-owned enterprises in countries around the world.

I know the folks at USTR have given a lot of thought to this, looking at disciplines that might be applied. I think part of it, frankly, comes down to transparency as well—frankly, understanding where the flow of funds is in this area. I know people have been looking at things like the Santiago principles, which were adopted for sovereign wealth funds, being potentially applied in this area. I think those are all useful things.

One other thing that may not be addressed in the TPP, but I would mention it in this area, is the critical importance of mechanisms in the United States itself to be able to allow us to compete on a level playing field, things like the U.S. Export-Import Bank, which are frankly simply, in my mind, deterrence mechanisms against the kinds of competitive challenges we face out there. So I do not know if that answers your question.

Senator BROWN. All right. Talk to me about supply chains. They are disbursing quickly as the world is more interconnected. It may lower the cost of production for U.S. manufacturers, but it does not necessarily create jobs here. Chairman Baucus has talked about that before. It does not necessarily have a particularly good effect on bringing the standard of living up in this country because it can depress wages. Companies have been using off-shoring as a way of leveraging wages and compensation here.

You come—as a major, important company in this country and in the world—to Congress every so often, asking for trade agreements. The question we ask is, how does this actually bring jobs to the United States? Convince me. I mean, the TPP is going to actually—I mean, I know the anecdotal evidence that GE is beginning to re-shore some jobs, but convince me that TPP gets us there.

Mr. BHATIA. So maybe I can approach it from two different ways. One is, simply, the export opportunities that TPP means for a company like GE. So to take aviation, for instance, with its principal point of production, Senator, as you know, in Cincinnati, 80 percent of the jet engines we produced last year were exported, and they were increasingly exported to the markets that we are talking about here today: the fast-growing, emerging markets.

So, absent those emerging markets now and going forward, I can tell you that the thousands of jobs that we have throughout the United States, including in Ohio, it would be hard to maintain and sustain those. So we have to have that, and to the extent that TPP enables us to break down barriers and sell more easily into those markets, I would say it is critical.

The second point that you allude to, the idea of global supply chains and what they do in terms of jobs, I think the point today is, at least in our industry, high technology manufacturing where there is some sort of off-shoring, is over with.

The amount of hourly labor that goes into some of these products has been relatively modest. A small difference in labor costs is not going to make the difference. It is technology, it is training, it is the strength of rule of law. All of those are the key issues that really determine where it goes. So the international global supply chain that we have constructed allows us to be competitive around the world and I think sustain far more jobs in the United States.

Senator BROWN. The other side of that is, look what happens to—I do not want to get into this part now, I have another question—our persistent trade deficits. But let me ask you one other question, if you could sort of share ideas with us.

Mr. BHATIA. Sure.

Senator BROWN. How do you ensure that products from countries like China, non-signatory countries to TPP—how do you ensure that the benefits come to the signatory countries and not particularly the state-owned enterprises in these non-signatory countries?

Mr. BHATIA. You mean, in terms of having them be able to ship products through the TPP countries?

Senator BROWN. Yes. Yes.

Mr. BHATIA. Look, I think that is a matter of trade enforcement. At the end of the day, it is going to be important, as it always has been, that there be strong Customs and other protections to make sure that non-signatories do not get the benefit of it. That is important.

Senator BROWN. So do we write stronger rules of origin language in TPP?

Mr. BHATIA. I think the importance of the rules of origin is really that they be consolidated so that you do not have the very different ones. But I think, to get to your point, it really is a matter of making sure that we have effective Customs and other enforcement so that countries and folks are not cheating and they are not getting goods through that are not really derived from the countries that are signatories.

Senator BROWN. Good. Thank you.

Mr. BHATIA. Thank you.

Senator BROWN [presiding]. I am done. Yes, sir?

Senator GRASSLEY. We have a situation here where a lot of people were ahead of me, but I am the only one here. So I have a short statement and then two questions. Then, if nobody else shows up, I assume we are done, but I will have to clear that with Senator Baucus's staff.

I am very glad that we are holding this hearing today. Whether I am meeting with a group of Iowa farmers, corporate CEOs, or small business owners, they all seem to share similar thoughts

about global trade: that is, expanding international markets is very key to sustaining and growing business.

Farmers are eagerly watching the development of the Trans-Pacific Partnership because they see the potential it holds. It is a chance to gain greater access to markets for their products by lowering tariffs and reducing non-tariff trade barriers and specific sanitary and phytosanitary obstacles. I am going to have a question on that.

Businesses of all types and sizes are looking for global opportunities to sell products and services, whether it is an insurance company in Des Moines or John Deere in Waterloo, expanding trade benefits to all of Iowa's communities and workers. I also, besides the questions then, want to show my support for TPP.

I am going to start with Mr. Suber. Given the global nature of business today, including agriculture, increasing international trade and expanding overseas markets are very important for dairy farmers. With the potential inclusion of Japan in TPP and Canada already at the negotiating table, there are now two major markets where U.S. dairy farmers see tremendous opportunities in TPP.

So I would like to have you explain for each, Japan on the one hand and Canada on the other, why there is such an opportunity for those countries for U.S. dairy, and what do we need to do in the TPP negotiations to seize those opportunities?

Mr. SUBER. Well, thank you for focusing on those two. Those are two of the biggest up-sides for us. Talking specifically about Canada, Canada has a very rigid supply management system which depends almost entirely on very high tariff walls. The existing access that has been there under the WTO is relatively small, and they continually try to nullify that access through technical barriers to trade in order to withdraw those concessions through changing their product standards and playing games with their Customs classifications.

So the issue is, even though it is a large market today, most of our product goes in there and then goes out again. It is under their re-export program. So simply ensuring that there is significant open access into that market over time, considering the similarity of our markets and the fact that we share one of the longest unguarded borders—well, I guess it is now guarded—in the world, makes it a significant opportunity for us.

Now Japan—we do ship a fair amount to Japan today. It is a large market for us, primarily cheese and ingredients, but the large dairy commodities of butter and powder and certain amounts of cheese, processed cheese, are closed to us.

So the issue of making sure that the market access is significant and open over time is what we seek. It is about growth and making sure that the rules of trade are honored in that way.

Senator GRASSLEY. Are we proceeding in regard to what we need to do to seize those opportunities? Do you feel the negotiations are headed in that direction?

Mr. SUBER. Well, they are really just starting with those two countries. Of course, with Japan it technically has not started yet.

Senator GRASSLEY. Yes.

Mr. SUBER. There are a fair amount of words coming out of Japan that dairy is one of their sanctuary products. Should they

come to the agreement, we would expect, of course, that everything would be included, including dairy and the other four sanctuary products they have spoken of.

On Canada, our government has heard us loud and clear. It has acknowledged the importance we attach to Canada and has been helping us on the non-tariff barriers I mentioned. We are hopeful and confident that they will seek full and open access to Canada as well.

Senator GRASSLEY. And then my second question is to President Hanson, as well as to you. The TPP negotiations present a crucial opportunity for U.S. agriculture in areas other than reducing tariffs. In my opening statement, I spoke about the text of the sanitary and phytosanitary chapter that could have a major impact down the road on resolving what are oftentimes delicate issues.

So what is your assessment, your's and Mr. Suber's assessment, of how the negotiations are proceeding on sanitary and phytosanitary issues, and what do you think the SPS chapter will need to include in order to work for our farmers?

Mr. HANSON. Personally, I think the biggest thing we need to do is make sure they are transparent so everybody can see what the game is. But the second thing is that I am not sure how you are going to enforce them, and I guess that is a question that I do not think has been answered yet.

Senator GRASSLEY. All right.

Mr. Suber?

Mr. SUBER. I would share Mr. Hanson's opinion about enforcement. Ultimately, at the end of the day, it is about honoring your agreements. There has been a lot of concern raised in our country that this will compromise our own food safety standards, and I simply have seen no example, credible or otherwise, put forth where our existing food standards have been compromised by either the WTO agreement under SPS or this enhanced SPS enforcement. In fact, our regulators are at the table.

This is a very good thing. It is most unprecedented that the food and environmental folks be there, and I think their contributions will ensure that it meets our needs and protects us, as well as our overseas interests, in trade.

Senator GRASSLEY. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman. Thank you all for being here today and answering our questions about a subject that is awfully important to the American economy and the global economy as well.

I would like to ask Mr. Bhatia, if I might, you were the former Deputy U.S. Trade Representative during the Bush administration. I would be interested in hearing your view regarding the timing of TPA.

Many of us believe that we need Trade Promotion Authority to successfully conclude the Trans-Pacific Partnership and other trade agreements, just as the U.S.-E.U. agreement, yet we know that renewal of TPA is likely to be contentious and is going to take time, obviously, for Congress to process.

Given that reality, do you believe the Obama administration is running the risk of holding up conclusion of TPP if they continue to delay their request for TPA? A follow-up question would be, do you agree, at least with my assessment, that TPA is essential if we want to successfully conclude TPP and other trade negotiations?

Mr. BHATIA. Thank you, Senator. Look, I agree, as I mentioned in response to the question from Senator Hatch, that TPA is very important. It is important to the negotiations and the negotiators, and it will be important to close the deal, so I certainly think it is something I would urge the Congress to move on. The administration has indicated its interest in seeing that as well.

In terms of timing, look, as you can tell, obviously the negotiations have been going forward for several years without TPA. I think that can continue to happen. I do think it gets harder to get to closure on the very tough issues when your trading partners do not have assurance necessarily that the deals that they are going to strike are ones that will ultimately last in the Congress.

So I think, if you are a negotiator, you want to get TPA, and you probably want to get it as quickly as you can. That should not stop the negotiations, though, from proceeding in the interim.

Senator THUNE. Right. But do you share the concern that I have, perhaps even a fear, that if we do not have TPA, that the TPP gets unnecessarily delayed?

Mr. BHATIA. I think at a certain point, while they are moving their way through, we can do it. But, if the goal is to close this agreement this year, I think we need to get TPA, and we need to get it relatively soon.

Senator THUNE. All right.

I want to follow up on some questions that Senator Grassley raised with regard to sanitary and phytosanitary issues in this agreement. To be truly effective—and I guess I would pose this to Mr. Suber and Mr. Hanson—I believe commitments in that area are going to need to be enforceable so that we can hold our trading partners accountable.

You touched on this in response to a question from Senator Grassley: the suggestion, however, that making TPP SPS commitments enforceable in the same way that WTO SPS commitments are already enforceable would somehow put the American food safety at risk. I am just wondering maybe if you could rebut those claims. How important are enforceable sanitary and phytosanitary commitments to U.S. agricultural exporters?

Mr. SUBER. Well, thank you for the suggestion for clarification. I think our regulations are primarily based on science today. I think we can defend our standards based on science. I think we have every opportunity to evolve those if different science comes to the fore that may be different than the science we may have used. In other words, science evolves.

But ultimately it should be about making sure that food is safe and making sure that the best science is used to determine that so it does not get in the way of using food safety as some other goal. It is about making sure you meet customer preferences, both in quality and in safety.

So the enforcement mechanism is fundamentally important, otherwise it becomes a never-ending chain of consultations and discus-

sions without ultimately achieving what the underlying goal is, which is to facilitate trade.

Senator THUNE. Yes. Mr. Hanson?

Mr. HANSON. I concur with what he had to say. The other thing is, if you negotiate an agreement, you have to make sure that what you negotiate, you can enforce. It has no value if you do not.

Senator THUNE. All right.

There are some in the agricultural community who are obviously very excited about this, for obvious reasons. We are very excited about the possibilities and what they could mean for American agriculture. But there are a number of significant outstanding issues that would have to be addressed concerning Japan's persistent barriers to certain segments of U.S. agriculture, and I would be interested in knowing—and I guess this is a question that perhaps any of you could respond to—do you view Japan as more of an opportunity or a challenge with respect to their inclusion in the TPP, and do you believe that the U.S. Trade Representative's office has done an adequate job of securing promises from the Japanese government that they are truly willing to negotiate in some of these sensitive areas? More a general question.

Mr. HANSON. Well, I guess our feeling that they moved on the 30 months of age is an indication that the Japanese government was sincere about their position. In Montana, we have shipped a lot of grain to Japan. The only question that I have had, the way I understand the process, is that the grain is bought in Montana by Japanese companies, but the only salesman they have or person they can sell it to is the government, and then they have to buy it back at a different price. That is, to a certain degree in my mind, a little bit of an issue.

Senator THUNE. All right.

Mr. Hirschmann? Anybody?

Mr. HIRSCHMANN. We welcome Japan's entry and think Japan has agreed to participate as a country seeking a high-standard agreement, and we believe that is the case. We think it will actually make the opportunity out of the TPP far greater and help create momentum forward.

I would add, as you correctly pointed out—and it is not specific to Japan—that countries today have many means of trying to protect their markets that do not involve the traditional trade tariffs. That is why we think this ill-considered safe harbor proposal that the U.S. administration might be considering to exempt a product would actually be the wrong approach and will actually backfire on us and will lead to other countries finding innovative ways to exempt U.S. products from their markets.

Senator THUNE. All right. Great.

Mr. Bhatia?

Mr. BHATIA. Senator, I echo that. I think Japan represents an enormous opportunity. This has been in some ways sort of a major goal of U.S. trade policy for decades, to get Japan to open up and reform. It is an enormous economy. It presents enormous opportunities for American companies in all of our sectors.

But Japan has been a slow-growth place, and it desperately needed reform. If TPP can enable it to gather the political will internally to finally make those tough choices, I think it could be a

tremendously beneficial opportunity for the United States and for American business.

Senator THUNE. All right. I appreciate that. Thank you all very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Casey?

Senator CASEY. Right on time. Thanks very much.

I wanted to first of all thank you for the testimony today. I have a high degree of skepticism about TPP, and it is of long standing. I have had a real concern about it. It seems, even in the last generation, if you look at all the engagements and debates about trade, we have never really developed a trade policy for the country that has been comprehensive and bipartisan. We have had a lot of debates about trade agreements, and they sometimes have shed some light on the problem, but sometimes have been more of a political fight than an advancement to a trade policy.

So I have natural skepticism about this. I have even more skepticism when it comes to Japan, even in light of the recent news. But just the enormous challenge of breaking into the auto market in that country is a great challenge.

By one estimate, their closed auto market has reached a point where we have virtually no penetration at all, even with the commitments that they seem to have made more recently. So, I approach the issue generally with a high degree of skepticism.

Number two, when I evaluate any agreement, any trade agreement, I have to ask two basic questions: the impact on Pennsylvania jobs, either retaining or creating, and also the impact on the national economy and whether or not this will level the playing field, which is difficult to achieve, and does it help our manufacturing base? So that is kind of the Pennsylvania and U.S. test that I have to apply.

But I did want to pursue some of the subjects that each of you raised. I probably only have time for two. First of all, with regard to dairy, Mr. Suber, I was interested in your testimony. I realized that you have some skepticism, and you articulated support for the process going forward, with a lot of conditions.

The concern that I have just about dairy is that you might have, potentially, the perfect storm, where you have a surge of imports from New Zealand, and at the same time no real meaningful progress as it relates to our folks having an opportunity in markets like Canada or Japan. I just wanted to get your thoughts on that basic concern that I have.

Mr. SUBER. Well, you are correct that no new market access into these interesting countries of Japan and Canada, no way of defending our issues because of sanitary and phytosanitary issues, and allowing a virtual state-owned enterprise to continue to operate, would be a very unfortunate outcome, which would lead the U.S. dairy industry to oppose it.

However, generally speaking, the pieces that are in place make this a very positive situation. The negotiations are tough with every country in this group. We think that there are good opportunities that will in fact continue with the growth in the U.S. dairy

industry that there has been. We have grown over 10 times in the last 13 years. We have a trade surplus.

We are confident we can compete globally, but there is that one niggling concern about the virtual state-owned enterprise out of New Zealand. The opportunity is there for an up-side outcome, and we want to continue to work with our government to make that happen.

Senator CASEY. I look forward to further discussion about that.

Mr. SUBER. Thank you.

Senator CASEY. I appreciate it.

I know we do not have much time left, but, Mr. Hirschmann, I wanted to highlight part of your testimony on data exclusivity. We had, over the course of a long period of time—and I have a letter that I can reference here—a great bipartisan effort that has been undertaken on this issue. I am looking at a September 12, 2011 letter.

If I counted the signatures, there were about 37 Senators raising a concern about any reduction in that 12-year time period for data exclusivity. It is signed by maybe the greatest collection of Democrats and Republicans you could get on one letter, a real broad cross-section of the country. Just, your comments on that concern that you raised.

Mr. HIRSCHMANN. Senator, as you pointed out, the reason this gets bipartisan support is because investment in the billions of dollars it takes to invest in biologics and create jobs really is a key American asset, but it is also the best way and offers the most promise for solving the world's most significant health care challenges.

You cannot attract that investment without some certainty, so, in addition to the number of years, the certainty that the Affordable Care Act provided of 12 years on biologics is very important to attract that investment. To begin to walk back on that or create uncertainty for that, actually has a harm that goes well beyond TPP.

Senator CASEY. I appreciate that. I know I am a bit over time, but at another time I will have the chance to maybe question and discuss with our two other witnesses. We are grateful for your presence here, your testimony, and your service.

Mr. Hanson, I hope that in some future time, when I am leaving the Senate, that folks in our Farm Bureau in Pennsylvania express the same, or even somewhat similar, sentiments that you expressed for Senator Baucus here. We are going to miss him. Your heartfelt praise for his service is of great value, and I think is widely shared here in the committee and throughout the Senate.

I guess I can gavel us out, but I do not have a gavel, so I will use a fist. We are adjourned.

[Whereupon, at 11:33 a.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Hearing Statement of Senator Max Baucus (D-Mont.)
Regarding the Trans-Pacific Partnership Trade Agreement

In 1803, with the Louisiana Purchase on the horizon, President Thomas Jefferson sent a confidential letter to Congress. He was seeking the appropriation of $2,500 for "the purpose of extending the external commerce of the United States."

He then instructed Captain Meriwether Lewis and Second Lieutenant William Clark to explore the newly acquired territory. Jefferson wanted to learn more about the people and the land, and he wanted to find a water route to the Pacific Ocean to facilitate commerce across the continent.

More than two centuries later, we continue to look to the Pacific to expand and grow. Since 2009, the United States has been engaged in negotiations on the Trans-Pacific Partnership, or TPP.

The TPP was conceived as a high-standard 21st century trade agreement, and TPP leaders have set an ambitious goal to conclude negotiations by the end of this year.

The TPP presents tremendous opportunities to expand U.S. exports and support hundreds of thousands of good-paying jobs here in America.

As a group, the TPP countries are the largest export market for U.S. goods and services. Last year, U.S. goods exports to current TPP countries totaled $619 billion, representing 40 percent of total U.S. goods exports. And U.S. agriculture exports to current TPP countries totaled $47 billion, making up a third of all U.S. agricultural exports.

Montana, like the rest of the United States, relies upon global markets to maintain and create jobs. One in six manufacturing jobs in Montana comes from exports. And in 2012, Montana's ranchers, farmers and manufacturers exported nearly $2.5 billion worth of grain, beef and machinery. A third of that went to TPP countries.

In fact, Montana exported more than 117 million bushels of wheat around the world with almost 75 percent going to Asia. Without those exports, and without the TPP countries, every Montanan would have to eat 30 loaves of bread per day in order to make up what we export around the world.

The TPP is exciting not only because of trade opportunities with current parties, but also because of opportunities with potential new parties. The TPP is a magnet for the fastest growing economies in the world – those in the Asia-Pacific region.

In 2011, the GDP of nearly all of the Asia-Pacific economies grew faster than the U.S. growth rate of 1.8 percent. More than half of them enjoyed growth above the world average of 3.8 percent. And Asia's share of world imports grew from 18.5 percent in 1983 to 30.9 percent in 2011.

The United States needs to share in that growth. The TPP offers the way to do so. Since the United States joined the negotiations in 2008, six more countries have also joined, including fast-growing Malaysia and Vietnam.

And just last Saturday, the TPP parties invited Japan to join the negotiations. This represents a huge step towards another key objective – stitching together the economies of the Pacific to expand growth opportunities for all.

U.S. agriculture exports to Japan totaled $13.5 billion last year. And with $330 million in pork imports in 2012, Japan is the number one destination for U.S. pork – more than the next two countries combined. With Japan in the TPP, the agreement will represent 30 percent of global trade and 40 percent of global GDP.

Now, Japan has maintained many barriers to our exports. But when the third largest economy in the world removes those barriers, tremendous opportunities are created. We saw this in February when Japan allowed more U.S. beef imports. I am proud to say much of the beef is from Montana.

The United States is now on track to increase our beef exports by nearly 50 percent – to record levels. The TPP will remove more of those barriers and deepen our already strong trade ties with Japan.

On their journey to the Pacific, Lewis and Clark faced challenges. But instead of turning back, they found creative paths westward.

As we continue to expand, we will also face new challenges on the road to concluding the TPP. In this agreement, we will need to address concerns about state-owned enterprises. We will need to address unscientific agricultural barriers. And we will need to ensure U.S. innovators have robust intellectual property protection and enforcement.

These issues will require creative solutions. I look forward to continuing to work with my colleagues in Congress, the administration and stakeholders like the witnesses here today to find those solutions.

I am also looking forward to working with all of you to renew Trade Promotion Authority and Trade Adjustment Assistance this year. Fast Track authority will help us conclude the TPP negotiations, and that will bring concrete benefits for American ranchers, farmers, businesses and workers.

I would like to see a bipartisan TPA bill introduced by June.

Lewis and Clark helped to unlock the vast potential of the land between the Mississippi and the Pacific. With this pioneering spirit in mind, let us allow the TPP to unlock the vast potential of the lands across the Pacific. Let us navigate the challenges before us so we can seize this opportunity to continue extending the external commerce of the United States.

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Testimony of

Karan Bhatia
Vice President & Senior Counsel, General Electric
before
United States Senate Committee on Finance

April 24, 2013

Mr. Chairman, Ranking Member Hatch, Senators – Thank you for the invitation to testify at today's hearing on the Trans-Pacific Partnership Free Trade Agreement negotiation. I appear before you today in two capacities – first, as a former Deputy US Trade Representative under Ambassador Portman and then Ambassador Schwab, who had responsibility for overseeing the agency's work leading up to the launch of the TPP negotiations from 2005-07. And, second, in my current role overseeing Global Government Affairs & Policy for General Electric. In both capacities – and as a citizen who cares about America's competitiveness, economic growth and global influence – I strongly support the Trans-Pacific Partnership initiative, launched by President Bush and continued and expanded by President Obama.

As a former Deputy US Trade Representative, I can attest that the launch of TPP was carefully considered by the Bush Administration. As you will recall, this was a very busy period in US trade policy; we were negotiating, ratifying and implementing multiple FTAs, had an active regional agenda, and the Doha Round was still going full-throttle. But, notwithstanding our full plate, the TPP captured our attention:

- First, it represented a chance to create a sustained path of trade liberalization for the United States. With the expiration of Trade Promotion Authority in 2007, it was not clear what the future of trade liberalization would look like for the US. TPP presented an opportunity to keep advancing an international trade agenda – one that reflected US trade policies and enhanced US competitiveness.

- Second, TPP emerged at a time of growing concern about regional political and economic "architecture." With America's relative share of trade in the region eroding and a number of regional trade arrangements (like ASEAN +3, ASEAN +6, and CEPEA) that would exclude the United States proposed, there was concern that the US would increasingly be on the outside of the Asia Pacific region, looking in. TPP represented an opportunity for America to continue to engage and grow in this exciting, economically dynamic region.

- Third, TPP really presented a unique opportunity – an FTA that was based not on geography (it wasn't about a single country or region) or sector, but rather one based on a common philosophy – a shared commitment to the highest level of ambition for trade liberalization and rule of law. In time, we believed this "coalition of the most ambitious" could create a model agreement that would set a new standard and attract others to join. I used the analogy of a wedding cake viewed from above – the inner circle (at that time, the United States and the P4 partners) would be at the

center, committed to the highest standards of market openness, and over time, the arrangement would expand to capture rings of other countries.

At that time, of course, there were some things we couldn't predict – the global financial crisis, the resulting economic slowdown, the failure of Doha, or the rise of state capitalism. But today, I would submit that the decision to launch TPP was prescient. At a time when all of these unforeseen developments could have led America and its Asia Pacific trading partners to turn inwards and erect barriers to trade, TPP – which, to its great credit, the Obama Administration has continued to pursue and expand – has helped solidify the commitment of a growing group of countries to trade liberalization.

Now in my role at GE, I can attest first-hand to the great promise that TPP offers innovative American companies, whose growth increasingly depends on global markets. Today 60% of GE's revenues derive from markets abroad – up from 40% just a decade ago – and much of our opportunity for future growth lies in these expanding markets. Increasingly, those revenues and opportunities come from emerging markets in the Asia Pacific region, whose growing middle classes create demand for the kinds of infrastructure that GE and its thousands of US suppliers produce.

Today, exports to countries like Malaysia, Japan, Canada and Vietnam help support GE and GE supplier operations making jet engines in Ohio and Massachusetts, gas turbines in South Carolina and New York, MRI machines in Wisconsin, and locomotives in Pennsylvania and Texas.

Last year, GE had revenues of more than $20 billion from the 11 TPP countries – almost 2.5 times our revenues from those countries just 5 years ago. But we believe that, with a level playing field, we can do even better.

Which is why we are such big supporters of TPP. We are very hopeful that the agreement will offer American companies like GE an improved operating environment in the region by: (i) strengthening disciplines around government procurement, including addressing disqualifying local content requirements; (ii) ensuring a level playing field with State-owned enterprises; (iii) promoting enhanced transparency; (iv) promoting easier and faster clearance of goods and movement of people; (v) eliminating tariffs on manufactured goods; (vi) addressing nontariff barriers, including those imposed on "environmental goods" or flows of data; and (vii) fostering trans-Pacific innovation with 21st Century intellectual property disciplines, in particular for the protection of trade secrets.

Above all, though, we support TPP because we believe that the processes of economic reform and openness that TPP will drive will support broader and more inclusive economic growth and technological progress. And – simply stated – where economies are healthier, more transparent, and freer, we, our employees, and our shareholders do better. Indeed, the percentage of GE revenues derived from US FTA partner countries is more than twice their share of global GDP.

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In sum, both as a former Deputy USTR in the previous Administration and as a representative of America's biggest manufacturing company, I believe that TPP represents the right course for US trade

policy. The US was right to join it and the Obama Administration was right to continue the negotiation and to expand it, including most recently to include Japan. It will be critical that the agreement fulfill its original goal – being a very ambitious agreement among countries committed to reform. I have every confidence that the superb negotiating team at USTR that is pursuing this negotiation, in close consultation with US stakeholders, will obtain just that, and, upon its submission, hope this Committee and this Congress will support its ratification.

Thank you.

Questions for the Record
Finance Committee Hearing
The Trans-Pacific Partnership: Opportunities and Challenges
April 24, 2013

Karan Bhatia Responses to Questions for Record from Chairman Baucus

Question 1

The TPP is intended to be a next generation free trade agreement. It aims to be both comprehensive and high-standard. U.S. exports to current TPP countries nearly doubled in the past ten years. With Japan, the TPP covers 39 percent of U.S. merchandise trade. If we are successful, the gains are tremendous. It would be the largest U.S. FTA to date. What is the one thing you will want to see addressed in the TPP negotiations? What is your biggest priority?

Securing strong, WTO+ disciplines on government procurement is our key priority. Recent studies estimate that for industrialized countries government procurement accounts for between 12-20% of their total purchases. For developing countries – increasingly the market for the kinds of infrastructure solutions GE offers -- the percentage can be considerably higher, with government procurement in some countries accounting for 45% or more of total purchases. Expanded disciplines on government procurement are important for companies selling into the government procurement markets, but are equally important for the countries procuring the goods. Effective government procurement disciplines preclude corruption and favoritism, and ensure that the country's resources are spent in the best interest of its people. We would also like to see government procurement disciplines expanded to limit countries' abilities to require local content or local innovation – a growing, pernicious trend that effectively threatens to undermine global trade norms. Another important, related priority for the TPP is to promote a level playing field between private companies and state owned enterprises. Private sector companies like GE increasingly find ourselves competing with companies that are owned or controlled by their governments, who may benefit from unfair advantages in the application of regulations and subsidies.

Question 2

It is important that we keep working to expand opportunities for U.S. exporters, create, and maintain American jobs here at home. The Trans-Pacific Partnership will do just that. The renewal of Trade Promotion Authority will help to facilitate the conclusion of the TPP negotiations. I am committed to working with my colleagues in Congress to renew TPA this year in preparation for Congressional consideration of TPP. And I am also committed to renewing Trade Adjustment Assistance.

How will passing TPA help advance the TPP negotiations?

Having Trade Promotion Authority is important to advance the TPP in several key ways. First, by giving the President standing trade gives the President the authority to negotiate trade

agreements, TPA is a powerful signal of the US's commitment to international trade. Second, drafting TPA is an important exercise in defining negotiating priorities for Congress and other stakeholders. It provides important direction to US trade negotiators and our trading partners of what provisions must be included to ensure ultimate Congressional passage. Finally, it is important to encourage our negotiating partners to bring deals to conclusion. Absent TPA, they may be reluctant to conclude deals, knowing that any agreement may be subject to further amendments once submitted to Congress for passage.

Question 3

We are seeing significant increases in the theft of U.S. trade secrets. This poses a direct threat to U.S. innovation and competitiveness, and it undermines job creation and growth in the United States. I understand that the Administration is working to prohibit trade secret theft and provide for effective enforcement in the TPP, and I strongly support that effort.

Could you please discuss, from an industry perspective, the benefits of having strong protections for trade secrets in the TPP? Would TPP provisions help in dealing with trade secret issues with non-TPP countries like China?

Knowledge is one of US industry's most important assets and a company's competitiveness frequently depends on its ability to protect its know-how. Know-how, protected by trade secrets, drives inventive activity in sectors such as advanced manufacturing, defense, healthcare, transportation, energy and other climate change technologies, making it one of the most valuable assets for American companies today. Thus, trade secret theft directly threatens the revenue and growth potential of American industry.

Strong trade secret protections continue to grow in importance as the way we innovate continues to evolve. Advancing technology efficiently often requires more than the expertise of a single company. We constantly seek out collaborators, across continents and cultures. We work in open, globally distributed innovation environments. Partnerships have also become a necessary part of doing business, and are instrumental in securing market access or developing technology. Innovation, across locations and firms, is most efficient when participants can share critical knowledge.

But the willingness of innovators to pool resources depends on the confidence they have in the security of their know-how. When know-how is stolen or otherwise misappropriated, the impact can be devastating with information that has taken years to innovate lost in a matter of minutes. Such threats can be a powerful deterrent against collaboration. Inadequate trade secret protection chills the sharing of knowledge, slowing down innovation and ultimately hurting America's competitiveness.

The Trans-Pacific Partnership offers a unique opportunity to upgrade, and in some cases, establish, robust trade secret regimes amongst key trading partners. Several TPP members lack codified trade secret laws, making it difficult or impossible to seek relief for trade secret theft or misappropriation. Even amongst TPP members with specific trade secret legislation, protection varies widely and is provided by an uneven patchwork of laws. The resulting uncertainty makes

it difficult for American industry to invest and access the best global talent and resources to stay competitive. Establishing strong protection for trade secrets within the TPP would provide U.S. innovators the necessary tools to protect their technology investments as well as deter the theft of critical assets.

In the face of mounting cyber theft and economic espionage, coupled with the need to continuously collaborate to stay competitive, effective trade secret protection has never been more vital. By including trade secret protection in the TPP, the U.S. would be sending a strong message to those who aim to injure American competitiveness through the theft of knowledge. Many of the most imminent threats to America's know-how originate outside U.S. borders and beyond the immediate reach of the TPP today. Yet, setting a high standard to protect the know-how that serves as the backbone of our investments makes our commitment to a level playing field clear. Without that commitment, our business models will be undermined and American industry will suffer. Our must valuable knowledge must be safe in order to secure America's economic future.

TESTIMONY TO THE

SENATE COMMITTEE ON FINANCE

THE TRANS-PACIFIC PARTNERSHIP:

OPPORTUNITIES AND CHALLENGES

PRESENTED BY:

BOB HANSON
PRESIDENT, MONTANA FARM BUREAU

APRIL 24, 2013

Mr. Chairman, and members of the committee, my name is Bob Hanson, President of the Montana Farm Bureau Federation, and a board member of the American Farm Bureau Federation. I would like to thank you for the opportunity to speak to you today on the 'Trans Pacific Partnership: Opportunities and Challenges' on behalf of both organizations. I am a 4th generation rancher from White Sulphur Springs, Montana.

Trade with Japan has been a vital part of the Montana economy for decades. We produce high quality beef and grain products that are in great demand in foreign markets. It is particularly important to our cattle producers. In fact several years ago a group of Montana Farm Bureau members made a trip to Japan to encourage them to open up their markets after they were closed due to BSE concerns.

The major issue in trade now for the Asia-Pacific region is progress on the Trans Pacific Partnership (TPP) negotiations and the addition of Japan to these talks. The aim of the negotiations is to reach a comprehensive, high-standard agreement that will improve the conditions of trade between the participating countries, which currently include Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam and the United States.

American agriculture is encouraged by the by the action of the Obama Administration and the government of Japan to reach an agreement on Japan's participation in the Trans Pacific Partnership negotiations. Farm Bureau believes the addition of Japan to these negotiations will enhance the significance of the TPP, make the agreement much more encompassing of U.S. goals for agricultural trade, and generate greater interest in and support for the TPP overall. It will also generate fuel among other Asia-Pacific nations for similar opportunities to improve trade relations with the United States and other participating countries.

The joint statement released by the United States and Japan on Feb. 22, 2013, states: "The two Governments confirm that should Japan participate in the TPP negotiations, all goods would be subject to negotiation, and Japan would join others in achieving a comprehensive, high standard agreement, as described in the Outlines of the TPP Agreement announced by TPP Leaders on November 12, 2011." This bolsters our belief that Japan will enter the TPP negotiations under the same conditions as all other new TPP entrants, namely the ability and desire to negotiate issues in all sectors. To be successful, the TPP must be comprehensive and inclusive of all participants in order to achieve effective results in providing commercially meaningful new market access for U.S. farmers and ranchers.

Japan is our fourth-largest agricultural export destination, with $13.5 billion in sales in 2012. While Japan is a top market for U.S. agricultural exports of wheat, corn, soybeans, beef and pork it also has many restrictive policies in place that inhibit U.S. agricultural imports, such as substantial tariffs on dairy, horticulture, rice and other products, along with various sanitary and phytosanitary barriers. The inclusion of non-tariff barriers, specifically the Sanitary and

Phytosanitary Measures (SPS) is an essential part of the agricultural negotiations as these measures have impeded market access for many U.S. agricultural products for years. By agreeing to join the negotiations under the same conditions as other participants, Japan will demonstrate, as it has by its decision to modify restrictive policies against U.S. beef imports, a strong willingness to move quickly to resolve these long-standing tariff and non-tariff barrier issues.

Japan was the second largest export market for U.S. beef in 2012 at $1 billion in sales. On February 1, 2013, Japan implemented new import protocols allowing U.S. beef from cattle harvested under 30 months of age. This step, from the previous limit of imports of beef from cattle under 21 months of age, will improve the opportunities for U.S. beef into Japan.

Other areas of continuing interest to U.S. agriculture in the TPP negotiations include:

SPS Provisions

The U.S. food and agriculture sector has worked extensively with this administration in pursuit of improved science-based disciplines on the application of SPS measures. This reflects the reality that SPS barriers are a significant and growing impediment to market access for a wide range of our products in foreign markets. Obligations that go beyond the WTO SPS Agreement on issues such as risk assessment, risk management, transparency, border checks/laboratory testing and facilitating trade through regulatory coherence measures are critical to increasing trade flows. In order that agricultural traders throughout the TPP region can use these commitments it is essential that the U.S. focus on finding a way to make the WTO-plus commitments in TPP enforceable.

While the Rapid Response Mechanism will help improve trade facilitation and resolve shipment specific issues, the new SPS commitments in the TPP, including the "WTO-plus " elements, must be enforceable with penalties for noncompliance.

Safe Harbor

We support strengthening the rules for international trade in order to diminish the prospect of arbitrary, unnecessary trade-restricting regulations that impede U.S. agriculture from competing in the global marketplace. We are concerned the administration's consideration of a "safe harbor" proposal for tobacco regulation would create a new and troubling precedent that undermines existing trade disciplines. Unlike health-related exceptions that are consistently included in previous trade agreements, the safe harbor would not require that a regulation be "necessary" to achieve a legitimate health policy objective in order to be shielded by the safe harbor. We are concerned this new safe harbor concept will be lead to additional protections and exceptions for products, and lead to regulatory experimentation without the constraints of international trade rules. We are against creating new methods for blocking the export of U.S. agricultural products.

Conclusion

The Asia-Pacific region holds great promise for U.S. agriculture and its role as the food supplier for Americans and the world. Existing barriers, such as tariffs used by Canada to restrict the import of U.S. dairy and poultry products and a variety of SPS barriers across the region, are a challenge that must be addressed in these negotiations. Strong leadership by U.S. government in the current TPP negotiations and in the ongoing trade engagement with the nations in the region will yield positive results in American agriculture's most dynamic international marketplace.

Questions for the Record
Finance Committee Hearing
The Trans-Pacific Partnership: Opportunities and Challenges
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Questions from Chairman Baucus for Bob Hanson

Question 1

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If we are successful, the gains are tremendous. It would be the largest U.S. FTA to date. What is the one thing you will want to see addressed in the TPP negotiations? What is your biggest priority?

Answer. The priority for Farm Bureau is the removal of Sanitary and Phytosanitary (SPS) barriers that have reduced our agricultural trade, such as beef to Japan, and continue to inhibit market opportunities for U.S. agriculture. Enforcement of new SPS measures, those that go beyond the current WTO SPS Agreement, is crucial to the future of science-based standards in agriculture and food trade.

Question 2

I share your concern about the possibility of a safe harbor for tobacco regulations. Trade agreements already include provisions to ensure that countries can regulate health and safety. Carving out specific products from agreement disciplines would set a very troubling precedent.

Is this a serious concern of the agriculture community?

Answer. Yes. We have seen, as with beef, and GMO's, how non-scientific approaches to regulation can inhibit U.S. agricultural trade. A range of U.S. agricultural products could be restricted by countries using a 'safe harbor 'approach to regulating trade.

Question 3

It is important that we keep working to expand opportunities for U.S. exporters, create, and maintain American jobs here at home. The Trans-Pacific Partnership will do just that. The renewal of Trade Promotion Authority will help to facilitate the conclusion of the TPP negotiations. I am committed to working with my colleagues in Congress to renew TPA this year in preparation for Congressional consideration of TPP. And I am also committed to renewing Trade Adjustment Assistance.

How will passing TPA help advance the TPP negotiations?

Answer. TPA is necessary in order to have a dedicated role for Congressional input during the negotiating process and for allowing for the ultimate agreements implementing bill to be considered without amendment. The framing of Congressionally supported negotiating objectives is crucial to showing the commitment of the U.S. to the negotiating process. Farm Bureau supports Trade Promotion Authority.

Question 4

Mr. Hanson, for the past decade, I have fought hard to gain market access abroad for U.S. beef. To me this deal seems like a homerun for U.S. beef. Four of our top ten beef export markets are a part of the negotiations. We can grow them even more with additional market access and fewer unscientific barriers.

What impacts will TPP have on our meat exporters? Is there anything specifically you want our negotiators to keep in mind while they negotiate this deal?

Answer. Improved SPS measures will help open markets in nations such as Vietnam and continue to assure markets, such as Japan, that international trade in meat from U.S farmers and ranchers is safe for consumers. The TPP covers the major growth region for U.S. agricultural exports, including U.S. meat exports. Working to achieve enforceable science based standards, and addressing tariff barriers, will improve U.S. trade opportunities and will also assist in trade among all the members of the TPP.

STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER U.S. SENATE COMMITTEE ON FINANCE HEARING OF APRIL 24, 2013 THE TRANS-PACIFIC PARTNERSHIP: OPPORTUNITIES AND CHALLENGES

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, delivered the following opening statement today at a committee hearing examining the opportunities and challenges of the Trans-Pacific Partnership (TPP):

Over a decade ago, Chile, New Zealand, and Singapore launched negotiations to more fully integrate their economies. The vision was simple: to create a high-standard free trade agreement that would serve as a model of integration for the Asia Pacific region.

Joined by Brunei in 2005, this agreement eventually became known as the P-4.

Three years later, in a small conference room on the outskirts of the U.N. General Assembly meeting, Ambassador Susan Schwab formally announced the United States' interest in joining the negotiations.

The announcement received little fanfare here in the U.S. Had it been known at the time that this small step would eventually lead to what is now one of the most ambitious trade agreements the United States has ever undertaken, the Trans-Pacific Partnership, I am certain her announcement would have been front-page news.

Now, with the recent statement by TPP partners that a consensus was reached to include Japan in the negotiations, the event takes on even more significance.

I strongly support the vision that underlies TPP and I welcome Japan's participation in these negotiations. I believe this agreement offers an opportunity to finally open some of the largest and most promising markets to U.S. exports.

But we cannot rest on our laurels. While the opportunities presented by TPP are real, so are the challenges.

The first challenge we face is concluding an agreement that provides real market access for U.S. goods and services.

Much has been made about the new issues under discussion in TPP, many of which I support. But, in pursuing these new areas of agreement, I hope our negotiators do not lose sight of the fundamentals of free trade and economic integration. Negotiating a twenty-first century trade agreement is fine, but not at the risk of locking in eighteenth century mercantilism.

Without real and beneficial market access, TPP will never reach its full potential. It remains to be seen whether the Obama Administration is willing and able to successfully manage negotiations in some of our most sensitive sectors without sacrificing real market access for U.S. businesses.

Any meaningful agreement should set standards and establish rules for trade that will benefit American exporters and innovators well into the future. Transparency, predictability and strong intellectual property protection will be critical to reaching this goal.

A successful agreement must include commitments reached under the U.S.-Korea Free Trade Agreement and address new areas as well. Specifically, these new areas include: ensuring the free flow of data across borders, robust protection for trade secrets, and discipline for state-owned enterprises.

The agreement should also have the strongest possible terms of protection for our innovative industries. This must include following current U.S. law by providing twelve years of regulatory data protection for biologics, a goal that the Chairman and I both share.

I have raised this issue at every opportunity. And, a bipartisan group of thirty-seven Senators sent a letter to former Ambassador Ron Kirk expressing support for including this provision in the agreement. Yet, the administration still refuses to table text reflecting U.S. law. They repeatedly argue that this bar for data protection for biologics is too high.

Of course, such concerns have not stopped the administration from pushing a liberal social agenda in the negotiations. Indeed, many of our trading partners have serious concerns with the administration's approach on issues such as labor and environmental protections, especially their linkage to dispute settlement and trade sanctions.

These issues are only marginally related to trade. Yet, the administration seems to give them a higher priority than the protection of U.S. intellectual property.

To fulfill the vision of TPP, the United States must be able to rise to these challenges. Unfortunately, after sixteen rounds and roughly thirty-seven months of negotiations it is still not clear whether the agreement will ultimately live up to the lofty expectations.

I believe one reason for this uncertainty is that our negotiators simply lack the tools necessary to complete the job. While I appreciate the administration's interest in discussing Trade Promotion Authority or TPA, I have yet to see any real commitment on the part of the White House to achieving its quick consideration and approval in Congress.

Of course, Congress can, and will, develop TPA legislation without the support and input of the White House. But a formal request from the administration for TPA would send a strong signal to our negotiating partners and the proponents of the Trans-Pacific Partnership that the President is serious about making sure the rhetoric surrounding the agreement meets the reality of the negotiating table.

Mr. Chairman, thank you once again for holding this hearing today. I look forward to hearing from each of our witnesses about the opportunities and challenges they see in negotiating and concluding what could be one of the most significant opportunities to expand U.S. exports in the last twenty years.

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GIPC
Global Intellectual Property Center
U.S. CHAMBER OF COMMERCE

Statement of the U.S. Chamber's Global Intellectual Property Center

ON: The Importance of Intellectual Property in the Trans-Pacific Partnership (TPP) Agreement

TO: U.S. Senate Committee on Finance

BY: Mr. David Hirschmann, President and Chief Executive Officer, Global Intellectual Property Center, U.S. Chamber of Commerce

DATE: April 24, 2013

Introduction

Thank you Chairman Baucus, Ranking Member Hatch, and distinguished members of the Committee on Finance. My name is David Hirschmann, and I am the President and Chief Executive Officer of the U.S. Chamber of Commerce's Global Intellectual Property Center (GIPC).

GIPC was established in 2007 as an arm of the U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

GIPC champions intellectual property rights as vital to creating jobs, saving lives, advancing economic growth and development around the world, and generating breakthrough solutions to global challenges.

I appreciate the opportunity to speak with you today about the importance of including a robust IP chapter in the TPP Agreement.

Economic Contributions of IP

IP-intensive industries create real jobs for Americans in every corner of the U.S., as evidenced by the U.S. Chamber's *IP Creates Jobs for America* study. According to this study, IP-intensive industries directly and indirectly support more than 55 million American jobs – jobs that pay 30% higher wages than those in other industries – and account for 74% of U.S. exports.

Challenges and Opportunities to Protecting IP in the TPP Agreement

The global intellectual property rights (IPR) system is designed to incentivize individuals and businesses small and large to invest in innovation and creativity. This time-proven system also helps provide assurances to consumers that the products they use are authentic, safe, and effective.

America's IP-intensive industries, however, are facing increasing challenges to bringing their creations and innovations to the global marketplace due to unpredictable and insufficient intellectual property systems in a number of foreign markets. Moreover, some foreign governments are actively seeking to weaken IP

in their own countries and in multilateral institutions, which undermine the ability of businesses to innovate, bring the newest and most effective technologies to market, and differentiate brands. And even though they are not currently in the TPP agreement, I would be remiss in not singling out India for special mention. Many GIPC members are struggling with very difficult problems in that country.

While the challenges faced by our IP industries overseas are numerous, there are also important opportunities to seek greater improvements in IP systems around the globe. One of the most important opportunities is the negotiation of the Trans-Pacific Partnership (TPP) Agreement.

If the TPP Agreement is to be "a model for ambition for other free trade agreements in the future," as declared by the TPP leaders in November 2011, it is essential that it include binding, enforceable, and robust standards for the protection of intellectual property. At a minimum, the TPP should establish a high standard of protection for IP and ensure effective enforcement on the basis of U.S. law and the U.S.-Korea Free Trade Agreement's provisions relating to patents, trademarks, copyright, and trade secrets. In some areas, such as trade secrets, the TPP represents an opportunity to establish new and stronger disciplines.

We would like to thank Senators Baucus and Hatch for their letter to the Office of the U.S. Trade Representative calling for strong IP protections, and we urge the U.S. government to show heightened leadership to ensure that the final text of the TPP provide robust protections for creators and innovators as well as the 55 million American jobs supported by IP-intensive industries. This includes pushing back on any efforts to weaken IP rights or to exclude any sector from protection in the Agreement.

The Chamber's support for a strong IP chapter in the TPP is reinforced by our insistence on it being a comprehensive agreement. In trade negotiations, whenever one party seeks to exclude a given commodity or sector from an agreement, others tend to follow suit, limiting its reach. For the United States to achieve the goal of a true 21st century agreement—with state-of-the-art rules on IP, cross-border data flows, state-owned enterprises, investor-State dispute settlement, and other key areas—our negotiators must hold fast to the goal of a comprehensive accord that avoids carve-outs and exclusions. This is a position that enjoys strong support from across the U.S. business and agriculture communities.

We know that USTR has been working tirelessly to ensure a high standard agreement, but it is essential that this Administration put forward any remaining text that secures commercially meaningful opportunities for all biotech and pharmaceutical companies to enter the TPP country markets, as well as provides 12 years of regulatory data protection for biologic products that is already provided under U.S. law. This will ensure that companies can recoup the costs of gathering data and thereby invest in new and innovative drugs.

Conclusion

For the U.S. to remain the world's most innovative economy, we must ensure that our IP-intensive industries remain confident that copyrights, patents, and trademarks will be protected. Sound IP policies and enforcement of IP rights abroad are essential to advancing U.S. economic recovery, driving America's competitiveness and export growth, and creating high-quality, high-paying American jobs.

The GIPC was created six years ago to help U.S. businesses confront the increasingly dire threats to their IP rights they were facing both domestically and abroad. Since that time, the threats have only grown. This Committee has always stood with U.S. innovators seeking to protect their IP rights overseas. We implore you to stand with U.S. innovators now, at this critical moment in the TPP negotiations. We ask that you insist on a high standard agreement on intellectual property, one that will secure rights, promote innovation, and support and create U.S. jobs.

Thank you.

Questions for the Record
Finance Committee Hearing
The Trans-Pacific Partnership: Opportunities and Challenges
April 24, 2013

Questions from Chairman Baucus for David Hirschmann

Question 1

The TPP is intended to be a next generation free trade agreement. It aims to be both comprehensive and high-standard. U.S. exports to current TPP countries nearly doubled in the past ten years. With Japan, the TPP covers 39 percent of U.S. merchandise trade.

If we are successful, the gains are tremendous. It would be the largest U.S. FTA to date. What is the one thing you will want to see addressed in the TPP negotiations? What is your biggest priority?

The 12 TPP countries account for nearly 40 percent of global GDP and about one-third of all world trade. The sheer size of the TPP market should incentivize countries around the globe to emulate its high standards in their own economic policies.

Our chief priority is to ensure that U.S. negotiators can make the necessary tradeoffs in the negotiations to make the TPP the ambitious and comprehensive agreement we need. In some regards, this is not yet happening. For example, Vietnam is seeking improved access to the U.S. market for its apparel products, but the Vietnamese regard the U.S. market access offer in this area as limited. It will prove impossible to conclude negotiations for an ambitious agreement — with high standards in such areas as protecting intellectual property, cultivating the digital economy, and ensuring a level playing field vis-à-vis state-owned enterprises — if all TPP parties fail to put all sectors and commodities on the table.

Question 2

It is important that we keep working to expand opportunities for U.S. exporters, create, and maintain American jobs here at home. The Trans-Pacific Partnership will do just that. The renewal of Trade Promotion Authority will help to facilitate the conclusion of the TPP negotiations. I am committed to working with my colleagues in Congress to renew TPA this year in preparation for Congressional consideration of TPP. And I am also committed to renewing Trade Adjustment Assistance.

How will passing TPA help advance the TPP negotiations?

The Chamber strongly supports renewal of Trade Promotion Authority (TPA). Congress has granted every president from Franklin D. Roosevelt to George W. Bush the authority to negotiate market-opening trade agreements such as TPP in consultation with the Congress. The U.S. Constitution gives the Congress authority to regulate international commerce, but it gives the president authority to negotiate with foreign governments.

TPA rests upon this constitutional partnership: It is a "shared authority" that permits the executive branch to negotiate agreements in close consultation with the Congress; when an agreement is reached, TPA assures that it will receive an up-or-down vote.

Without TPA, the United States risks being relegated to the sidelines as other nations negotiate trade agreements without us — putting American workers, farmers, and companies at a competitive disadvantage. Already, 354 "regional trade agreements" including FTAs and customs unions are in force around the globe, but the United States is a party to just 14 such agreements covering 20 countries.

The Chamber is very pleased that the Chairman and Ranking Member of the Senate Committee on Finance are working closely with the leaders of the House Committee on Ways and Means and the Obama Administration to prepare a TPA bill. The Chamber stands ready to work to ensure TPA is renewed as soon as possible.

Question 3

We are seeing significant increases in the theft of U.S. trade secrets. This poses a direct threat to U.S. innovation and competitiveness, and it undermines job creation and growth in the United States. I understand that the Administration is working to prohibit trade secret theft and provide for effective enforcement in the TPP, and I strongly support that effort.

Could you please discuss, from an industry perspective, the benefits of having strong protections for trade secrets in the TPP? Would TPP provisions help in dealing with trade secret issues with non-TPP countries like China?

The ability of Chamber members to protect trade secrets is essential to their success and America's future competitiveness. Cybersecurity threats to commerce — which are one part of this challenge — are enormous and growing, and they must be tackled head on. The Chamber has provided detailed suggestions to the Administration on ways the TPP can protect trade secrets, and we have urged the administration to prioritize the protection of trade secrets in future trade agreements.

Protecting trade secrets is central to the future success of America's innovative industries. According to a U.S. Chamber study, innovative, IP-intensive sectors support 55 million American jobs and generate 74% of exports, highlighting the necessity for this Administration to put forward a 21st century TPP agreement that protects trade secrets as well as IP.

Finally, we are also pleased that the administration has rolled out a new strategy to protect trade secrets, including against cyber attacks, by enhancing diplomatic efforts, increasing coordination with industry to promote voluntary best practices and information sharing, strengthening enforcement, raising public awareness, and conducting a comprehensive domestic policy review to identify ways to strengthen enforcement and deterrence against trade secret theft.

The Chamber will continue to work with all stakeholders, Congress, and the administration to further implement a strategy that addresses the threat to business caused by trade secrets theft.

Testimony of Thomas M. Suber
President, U.S. Dairy Export Council
On the Trans-Pacific Partnership FTA
Senate Finance Committee Hearing
April 24, 2013

I appreciate this opportunity to testify before the Senate Finance Committee on behalf of the U.S. Dairy Export Council regarding the Trans-Pacific Partnership trade agreement. In addition, the U.S. Dairy Export Council works closely with the National Milk Producers Federation on trade policy issues. In keeping with that, NMPF has submitted a statement of support for the points touched on in my testimony.

USDEC is supportive of TPP negotiations and hopes to be able to actively support the final TPP agreement. Our ability to do so hinges on how key elements of TPP are ultimately handled.

Overview of Sector and USDEC:
The U.S. is home to approximately 50,000 dairy farms, spread across all 50 states. Dairy farm receipts alone contribute approximately $40 billion a year to the U.S. economy. Dairy processing is also a vital part of the U.S. economy, employing 132,000 people and generating over $5 billion in wages. U.S. dairy exports have helped to grow our industry further in recent years, providing a market for 13% of U.S. milk production in the form of various processed dairy products. Last year U.S. dairy exports reached a record high of $5.2 billion. The U.S. dairy industry is a key engine of growth and jobs, particularly in rural communities, and growing export sales have helped to strengthen it.

USDEC is a non-profit, independent membership organization that represents the export trade interests of U.S. proprietary processors, milk producers, dairy cooperatives, and export traders. The Council's mission is to increase the volume and value of U.S. dairy product exports. Our membership includes a large number of this country's leading dairy companies such as Agri-Mark (in the Northeast), California Dairies Inc. (in California), Dairy Farmers of America (nation-wide), Dairigold (in the Northwest), Davisco (based in Minnesota), Glanbia Nutrionals USA (based in Idaho), Leprino Foods Company (based in Colorado), Michigan Milk Producers Association (based in Michigan), Schreiber (based in Wisconsin), Swiss Valley Farms Cooperative (based in Iowa) and many others.

Our membership, particularly the U.S.-based proprietary processors, dairy cooperatives and dairy farmers that collaborate to set USDEC's trade policy priorities, has articulated several key factors necessary to achieving that final positive outcome for our industry. Each would contribute to an overall TPP outcome that would substantially enhance our export growth potential and the future strength of the U.S. dairy industry.

TPP Opportunities and Challenges

The Trans-Pacific Partnership started with no clear upside for the U.S. dairy industry. The original few countries involved consisted of prior U.S. FTA partners (Chile and Singapore at the outset, then also Peru and Australia), a country without significant consumption of dairy products (Brunei) and a major competitor with a monopolistic industry structure (New Zealand). Opportunities were noticeably missing and the industry was skeptical of the benefits of such an agreement. In its testimony to the International Trade Commission in 2010, the National Milk Producers Federation calculated that without major reforms in New Zealand and given the lack of other offsetting dairy market access opportunities in TPP for the United States, open dairy trade between the U.S. and New Zealand would cost the industry $20 billion over the first decade of the agreement. This estimate was based on the facts that New Zealand is already the single largest dairy exporter to the U.S., that New Zealand dairy production is forecast to continue to grow (although less rapidly than in

years past) and that the U.S. market will remain a comparatively lucrative dairy market in comparison with other sales opportunities.

Despite this grim initial outlook, we rolled up our sleeves and began working to identify offensive interests to seek to include in a package that could provide the foundation for a positive TPP outcome, thereby reflecting the more proactive trade stance that our industry has taken since 1995. The first three elements of that package are: 1) strong and enforceable TPP SPS provisions; 2) the protection of common food names such as parmesan and feta, which are currently under threat in foreign markets; and 3) changes in New Zealand government policies that have encouraged extreme industry concentration in that major dairy exporting country. The fourth critical element is market access.

In earlier stages of TPP market access essentially meant Vietnam, an important market for us but one that is already relatively open to dairy imports. However, the addition of Canada and now Japan, has created a new paradigm in the TPP negotiations that, if done properly, could provide a significant boost to the prospects of an overall net positive outcome in the negotiations. I should stress, however, that each element of this package is important in securing a positive outcome; gains in one area do not negate the importance of results in another.

Although we will review a final agreement prior to make a determination and take into account all dairy-related aspects of it, I am confident to state today that the dairy industry will reject any trade agreement that provides access into our markets for New Zealand without changes in their dairy industry structure and without gaining full market access into Canada.

- **Open Access into other TPP Dairy Markets, Especially Canada & Japan**

  In order to provide positive export opportunities for the U.S. dairy industry to capitalize on the significant potential of this agreement, it is critical that TPP provide open access for our products into the Canadian and Japanese dairy markets, as well as into Vietnam and Malaysia. The U.S. should ensure that full market opening is achieved in each of these cases for dairy, phasing-in those commitments over a period of time in some cases. Each of these bilateral negotiations is important; however the market potential in each country differs considerably.

  Prospects for a positive outcome for the U.S. dairy industry rest in great part on how dairy negotiations with Canada and Japan are handled. Many throughout the U.S. dairy industry would strongly reject an outcome in TPP whereby the U.S. industry is asked to accept negative net trade impacts with respect to other major dairy producing countries while omitting the obvious export gains in other markets, particularly Canada and Japan.

  Canada:
  By far the largest opportunity for U.S. dairy exports lies in Canada given the significant proximity advantage of the U.S. Despite exorbitant tariffs and many nontariff measures, Canada is our 2nd largest export market. However, a significant portion of U.S. dairy sales to Canada are under their Import for Re-Export Program whereby Canadian companies bring in dairy inputs duty-free on the condition that the final product is exported.

  The U.S. has already had two missed opportunities to secure dairy access into the Canadian market: as part of the U.S.-Canada FTA and again under the latter formation of the North American Free Trade Agreement. We are counting on the old adage that "the third time's the charm" now in TPP.

  The Canadian dairy sector does not have inherent competitive disadvantages; it has ample land and is one of the world's largest feed grain producers. The Canadian dairy sector could rightfully be quite competitive internationally. However, the policy choices that Canada has made over the last few

decades have not capitalized on those advantages. Rather, Canada has put a policy priority on maintaining steep tariff walls to isolate its industry from the global market. This direction must change to create a true North America free trade area.

Canada's dairy tariffs are typically 250% - 300%. For the few dairy-containing tariff lines for which better access was granted under the WTO or NAFTA, Canada frequently resorts to non-tariff measures designed to hinder imports from the U.S. In other words, Canada continually seeks to nullify portions of even the small amount of access it provided in past trade treaties.

The U.S. is currently grappling with several such cases. One of particular concern relates to potential regulatory changes under consideration by Canada that are designed to impair U.S. exports of ultra-filtered milk to Canada. Such action would be in direct contrast to ongoing efforts to forge closer trade ties through TPP and the U.S.-Canada Regulatory Cooperation Council and would be met with strong opposition from the U.S. It is important to use TPP not only to remove the prohibitively high dairy tariffs in Canada but also to ensure that access is not restricted through non-tariff barriers.

Japan:
We very much support the addition of Japan into TPP and commend the administration for its decision to welcome Japan's participation. We welcome the opportunity for the U.S. to negotiate a comprehensive trade agreement with Japan.

Japan is already a major global dairy importer. Last year it purchased $284 million dairy products from the U.S., making it our 5th largest market, despite extremely high tariffs for its major dairy commodities and cumbersome regulatory requirements for many dairy products. We expect that our exports will complement dairy production in Japan, thus allowing for greater access for U.S. dairy products, while maintaining a healthy Japanese dairy producer community. While increased export potential for our products to Japan is significant, the U.S. would face stiffer competition in that market from other TPP partners that would also gain access such as Australia and New Zealand. As a result, Canada is still viewed as providing the most significant potential gains for the U.S. dairy industry.

Vietnam:
Vietnam is currently our 8th largest market and the U.S. sold $140 million in dairy product to that country last year. Vietnam has its own domestic dairy industry yet relies heavily on imported products to supply a sizable dairy processing sector in that country.

Applied tariffs are not extremely high in this market with rates ranging from 0% - 15% for products most typically exported by the U.S. This therefore limits the impact of an FTA. However, Australia and New Zealand, major dairy exporting competitors already have an FTA that includes Vietnam and so the U.S. dairy industry has welcomed this opportunity to remove a tariff advantage that otherwise would favor exporters from Oceania. Export gains to Vietnam as a result of TPP will be important but are expected to be on a much smaller scale compared to the potential in Canada and Japan.

Malaysia:
Malaysia is currently our 9th largest market and the U.S. sold $133 million in dairy product to that country last year. Malaysia is heavily reliant on dairy imports for most of its dairy usage.

Applied tariffs are set at zero for virtually all dairy products most typically exported by the U.S. and bound rates are also generally quite low. This therefore limits the impact of an FTA. However, we welcome this opportunity to lock in the applied rates and to remove the remaining tariffs for products

not currently set at zero. Australia and New Zealand's FTA with ASEAN also included Malaysia so TPP presents a welcome opportunity to ensure this does not provide Oceania with an advantage moving forward. Export gains to Malaysia as a result of TPP are likely to be relatively limited given the very open dairy market that already exists.

- **Meaningful Reform of New Zealand Dairy Policies and Treatment of U.S.-New Zealand Dairy Trade**

Significant reform is needed in the New Zealand dairy sector to address the excessive level of market concentration and advantage to one firm that New Zealand's government policies have created. These are a significant concern to our increasingly world-class suppliers seeking to compete against New Zealand here in the United States and overseas.

TPP should address the anti-competitive New Zealand dairy industry structure as vital precursor to any expansion of U.S.-New Zealand dairy trade. Reducing the level of market concentration afforded one dairy company due to government policies is very much needed.

Just over a decade ago, the New Zealand Dairy Board (NZDB), an export state trading enterprise, was abolished in name. In its place, the government permitted a company to form that united 96% of the dairy industry in New Zealand. Typically a merger that yielded such a high level of market concentration would not be permitted under anti-trust regulations – that would be the case in the U.S. and it was the case in New Zealand as well. Special legislative exemption had to be passed by the New Zealand government in order to permit the consolidation of the market to such extreme levels.

This company effectively inherited the customer contacts and business relationships that had been established by the NZDB since there was virtually no other New Zealand competition for those established contracts. The New Zealand government granted this new entity exclusive access for several years to the lucrative tariff-rate-quota licenses allocated to New Zealand in the Uruguay Round (such as for access to the U.S., Japanese and EU dairy markets). For a country forced to export 95% of its milk production, access to the best export markets is critical and helped to provide an assurance of high returns for at least a portion of its sales to the new company. Although the export licenses are no longer granted solely to this one firm, the government's system for allocating them advantages the market leader and reinforces the early preference since it is based on market share levels.

This favoritism by the New Zealand government gives its leading dairy firm a distinct advantage over not only its domestic competitors but also international ones, including U.S. dairy companies. This preferential position is not the result of market forces, but rather of government policy designed to benefit one firm at the expense of others. There are a few other dairy companies now in New Zealand and, though they are talented, global players, the U.S. dairy industry feels confident it can compete with them on a level playing field. Yet, these few firms share between them the roughly 10% of the New Zealand milk market that is not controlled by the country's dominant firm. This hardly constitutes robust competition and, as once determined by its own government panel, constitutes a *prima facie* case of an overly concentrated market. The legacy advantages enjoyed by this one firm due to the benefits bestowed upon it, particularly at its creation and in its early years of operation, continue to hang over the market and hinder fair competition against this firm.

Such levels of market concentration and government preference for one firm would perhaps not be a significant trade concern were these conditions present in a country with less influence on global dairy trade. However in this instance, where one company controls well over 1/3 of global dairy trade in an otherwise highly diffuse international marketplace, it poses a tremendous concern to those serious about

using TPP to pursue more workably competitive global markets. It also corrects the understatement often made by New Zealand officials that their country is just a "small country in a corner of the world" trying to compete amongst larger suppliers.

The motives behind this level of government support are clear when one recognizes that dairy exports contribute almost one-quarter of New Zealand's total export receipts and about 7% of its gross national product (GNP). Such policies created and now favor a national champion who can reap the benefits accruing from the ability to offer to foreign buyers such a highly consolidated supply source.

New Zealand may not be in direct violation of its WTO commitments. However, neither are U.S. tariffs in violation of WTO commitments. But in the context of an FTA, trade concerns resulting from government activity are entirely relevant issues to be tackled at the negotiating table.

New Zealand may prefer not to pursue additional reforms in its single largest economic sector, but all TPP countries are being asked to undertake new commitments designed to improve trading conditions throughout the region and to reduce the impact of government policies on the marketplace. New Zealand should be no different.

- **Ambitious and Enforceable TPP SPS Commitments**

USDEC has been among the large number of U.S. agricultural sectors that have put a high priority on securing a high-standard SPS chapter in TPP. As U.S. dairy exports have grown in recent years, we have encountered more and more unjustified SPS barriers in foreign markets. This drove a strong interest in our membership in using TPP to try to raise the bar in this area by building upon existing WTO SPS commitments in a way designed to drive greater predictability and transparency in TPP agricultural trade.

This is a serious interest for our industry and many throughout the U.S. food and agriculture spectrum, but we believe it is also of interest to other TPP countries who likewise want to ensure that negotiated access translates into real access unimpaired by the use of unjustified barriers to food and agricultural trade.

TPP is meant to serve as a platform for U.S. agreements moving forward and to set a high bar for what is expected of its participants. That makes it critical that it address the real-world challenges plaguing U.S. agricultural exports. That is why USDEC and others have championed the inclusion of obligations that go beyond the WTO SPS Agreement – often termed "WTO-plus" – on issues like risk assessment, risk management, transparency, border checks/laboratory testing and facilitating trade through regulatory coherence measures. In addition, we believe that significant value could be added to both SPS and TBT commitments through the inclusion of a Rapid Response Mechanism (RRM) to help improve trade facilitation and resolve shipment-specific issues.

It is our understanding that TPP SPS negotiations are quite advanced and have proceeded smoothly but that a major question remains outstanding: whether or not those WTO-plus elements in TPP will be enforceable or not. Without the ability to incentivize compliance with SPS obligations, there is great concern that TPP partners will not take their obligations in that area seriously, particularly when doing so may be politically challenging. That is why enforcement applies to virtually all other areas of an FTA – to ensure that the parties to the agreement are given strong incentives to abide by its terms even when facing domestic pressure to do otherwise.

Enforcement measures such as dispute resolution do not force a country to comply against its will; that would violate national sovereignty and would be impossible since each country retains control over its

own borders. But what effective enforcement measures would provide is a strong incentive towards compliance in recognition that unjustified SPS measures can impair the value of a country's concessions just as strongly as the re-imposition of high tariff would. Just as TPP is expected to provide its members legal recourse in the case where a country revokes a tariff concession granted in the agreement, it must also ensure that legal recourse is available if a country is flouting its SPS commitments and thereby blocking access through non-tariff measures.

We recognize that some have charged that those advocating for enforcement of TPP SPS provisions are too cavalier with respect to U.S. food, animal and plant safety issues. We believe those charges are entirely unfounded. Contrary to concerns expressed at the time of its negotiation, the WTO SPS agreement has not upended U.S. efforts to ensure a safe food supply and robust agricultural sector. We believe that the effort in TPP to build further upon that international foundation would yield the same result. U.S. regulators have been an active part of the TPP process; this is not something being foisted upon the U.S. The TPP SPS chapter has been negotiated with full-fledged involvement from the U.S. from the very beginning.

This issue has gained even greater significance now that the U.S. is prepared to launch FTA talks with the European Union. A wide variety of U.S. agricultural sectors, including dairy, have had significant, lasting challenges with EU SPS measures that are viewed by the U.S. as unjustified. The precedent set in TPP will be important as the U.S. moves into Trans-Atlantic negotiations on these critical issues.

Attached as part of my testimony is a copy of a letter on this issue that was sent last week to White House Deputy National Security Advisor for International Economic Affairs, Mike Froman. The letter was signed by USDEC and more than 50 other U.S. food and agricultural organizations and stresses the need for enforcement of TPP SPS provisions.

- **Preservation of the Use of Common Food Names**

In the past several years, use of many common food names has come under greater attack, particularly by European producers of these products. Many well-known names for cheeses, meats and other foods trace their origins to Europe, but thanks to generations of emigration and trade, these products are now made and enjoyed throughout much of the world. This has greatly increased the popularity of certain cheeses such as parmesan, romano, feta and others to the commercial benefit of European and non-European producers.

However, the EU has been working in recent years to monopolize usage of these terms and resisting efforts to clearly identify which names have already entered into wide-spread common usage. This is being done through use of the EU geographical indication (GI) system and EU efforts to negotiate exclusive use of many EU GIs through its FTAs. For instance, the EU-Korea FTA forbids the use of the terms gorgonzola, feta, asiago and fontina by non-EU suppliers. U.S. companies have had to decline sales opportunities due to these restrictions. Well-established product names play a vital role in communicating to consumer the type of product being offered and in providing sourcing flexibility to buyers who want to list these products on their packaging or menus.

This has erected a form of non-tariff barrier against U.S. cheese exports to a growing number of countries and created considerable uncertainty regarding what terms will remain in free global usage going forward. Even terms for which there is an internationally recognized Codex standard such as cheddar or mozzarella are not safe at this stage, given current efforts in the EU to create GIs for names that have active Codex standards, despite an overhaul of those standards in just the past decade.

USDEC believes it is important to use the opportunity provided in TPP to set more reasonable guidelines for the use of common food names. Our organization is not opposed to well-designed GIs such as Gouda Holland which clearly protect the full GI term but also clearly spell out that the common portion of the GI ("Gouda" in this case) remains available for free usage by anyone. We would like to see this model adopted more consistently by the EU and by other countries in order to find a way to provide GI protection that does not infringe on the rights of other producers to use names that have long been in common usage in many areas of the world.

The names under most direct attack are commonly used in the U.S. and elsewhere around the world by small and medium sized cheese companies that often were founded by immigrant families. As a country of immigrants, we have welcomed the introduction to our country of traditions from immigrants' home countries. In fact, it is what has helped create such a robust market here in the U.S. Drawing upon home-country traditions to create family businesses here in America has been a natural part of that process. These companies are not seeking to prohibit competition from European producers of similar product types; they are simply trying to continue offering their products for sale alongside those from Europe and other areas of the world.

This issue takes on even greater significance now that the U.S. is poised to enter into the Trans-Atlantic negotiations since market restrictions related to excessive GI regulations are most prevalent in the EU market itself. It is our hope that TPP sets a good precedent to build off of in order to preserve market opportunities for our products in the TPP region and also to lay a strong foundation for any discussion on this issue with the EU directly.

As you can see, the opportunities are considerable, but the challenges are equal. We have a tremendous opportunity to make significant in-roads in opening markets, ensuring that those markets remain open by preventing non-tariff barriers and securing the protection of common food names so we can sell those products into those new markets. USDEC looks forward to continuing to work with members of this committee in pursuit of the above-mentioned priorities in order to maximize the likelihood of arriving at a final TPP agreement that could actually be beneficial for the U.S. dairy industry.

Questions for the Record
Finance Committee Hearing
The Trans-Pacific Partnership: Opportunities and Challenges
April 24, 2013

Questions from Chairman Baucus for Tom Suber

Question 1

The TPP is intended to be a next generation free trade agreement. It aims to be both comprehensive and high-standard. U.S. exports to current TPP countries nearly doubled in the past ten years. With Japan, the TPP covers 39 percent of U.S. merchandise trade.

If we are successful, the gains are tremendous. It would be the largest U.S. FTA to date. What is the one thing you will want to see addressed in the TPP negotiations? What is your biggest priority?

> **Our highest priority is securing an outcome that delivers an overall positive trade result for USDEC's members. Given the complexities of both this agreement and the trading environment, there is not a single element that would yield such an outcome. Therefore, as detailed in my testimony, we have identified several items critical in our view to securing that net positive result.**
>
> **While export access to the Canadian and Japanese dairy markets is critical to achieving that end by opening new markets, how the U.S.-New Zealand dairy issues are handled (including addressing our deep concerns about the anti-competitive nature of that country's dairy structure and policies) are critical to ensuring a more balanced trade environment. At the same time, securing more predictable trading rules through enforceable WTO-Plus SPS commitments and avoiding new barriers to our exports by working to safeguard the use of common names in the TPP region will ensure that the access negotiated actually achieves increased commercial sales opportunities.**

Question 2

It is important that we keep working to expand opportunities for U.S. exporters, create, and maintain American jobs here at home. The Trans-Pacific Partnership will do just that. The renewal of Trade Promotion Authority will help to facilitate the conclusion of the TPP negotiations. I am committed to working with my colleagues in Congress to renew TPA this year in preparation for Congressional consideration of TPP. And I am also committed to renewing Trade Adjustment Assistance.

How will passing TPA help advance the TPP negotiations?

Passage of well-designed TPA legislation that is aimed at furthering a variety of U.S. trade goals is vital to the U.S. trade policy agenda. With it, we signal to our trading partners that the U.S. is serious about bringing TPP talks to a close in the near future and has begun the necessary domestic preparations involved to allow for that.

Question 3

Mr. Suber, I gather that the dairy industry has been a skeptic about the TPP in the past. Is that still true? What do markets like Japan and Canada mean in terms of jobs here in the United States?

Yes, when U.S. TPP talks were first being contemplated, the starting point involved only Brunei, New Zealand, Chile and Singapore, for which the latter two represent countries where the U.S. already has an agreement. Even at its launch, it had only grown to include another existing U.S. FTA partner (Australia) and a market of interest to us but not one guarded by sizeable tariffs or nontariff barriers (Vietnam). We were skeptical that it would indeed grow to become commercially meaningful for our industry and for U.S. agricultural as a whole. We salute USTR in its success in adding more countries to the agreement.

Yet, with that initial outlook, we focused much of our work on 4 things aimed at shaping the agreement into one where benefits would be sufficiently high to merit our support: 1) close work with the Administration and other agricultural organizations to develop a WTO-Plus SPS agreement; 2) exploration of how best to use TPP to address the *de facto* nontariff barriers the EU has been erecting against our products through prohibitions on the use of many common food names; 3) pursuit of meaningful reform of the New Zealand dairy sector in order to address the government-designed excessive industry concentration, which significantly impairs our ability to compete in world dairy markets, and 4) strong and persistent advocacy to include markets offering significant export opportunities, such as Canada and Japan.

Those remain our priorities. We believe that open access for our dairy products into the Canadian and Japanese markets would yield hundreds of millions of additional U.S. dairy exports each year. Dairy exports, particularly those to higher value markets such as Japan and Canada, help to support many good-paying jobs in the U.S. Those include both farm-related positions (farmers themselves, hired milkers and other laborers on the farm, jobs at input companies, etc.) and upstream positions (processing plant workers, transportation workers, cheese makers, food scientists, marketing specialists, traders, etc). Moreover, a sizable percentage of these jobs tend to be in rural areas of this country, thereby helping to provide good-quality jobs in non-metropolitan regions.

COMMUNICATIONS

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SENATE COMMITTEE ON FINANCE

HEARING:

The Trans-Pacific Partnership: Opportunities and Challenges

April 24, 2013

STATEMENT FOR THE RECORD

SUBMITTED BY:

THE ADVANCED MEDICAL TECHNOLOGY ASSOCIATION (AdvaMed)

Bringing innovation to patient care worldwide

We thank the Committee for holding this important hearing today on the Trans-Pacific Partnership (TPP). We support the efforts to expand market access for U.S. products abroad through new FTAs as a vital means of increasing U.S. competitiveness in a global economy. TPP negotiations offer the opportunity for the U.S. to build on free trade agreements. AdvaMed believes that the strongest provisions of these existing agreements should serve as a foundation for a strong and robust TPP agreement.

Background on AdvaMed

AdvaMed is the world's largest medical technology association. AdvaMed represents the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. AdvaMed is proud to represent an industry that brings new hope to patients around the world. U.S. companies are still benchmark manufacturing leaders in terms of total production, innovation and highest quality products. Our member companies manufacture nearly 90% of the $94 billion U.S. health care technology market, and nearly 50% of the $240 billion of medical technology products that are purchased globally each year. In 2009, U.S. exports in medical devices and diagnostics totaled over $33.2 billion.

The size of AdvaMed member companies spans the full spectrum from large multinationals to very small start-ups. About two-thirds of AdvaMed members are small in size but are among the most dynamic in terms of innovation. Indeed, the medical technology industry is fueled by intense competition and the innovative energy of small companies – firms that drive very rapid innovation cycles among products, in many cases creating new product iterations every 18 months. Accordingly, our US industry succeeds most in fair, transparent global markets where products can be adopted on their merits without excessive regulatory hurdles or inappropriate reimbursement policies.

Medical technology products improve people's lives and contribute to economic progress. In a world of shrinking healthcare resources, medical technology products are an investment in our most valuable resource – the health of our people. The returns on that investment are the long-term benefits that can be achieved when we provide the resources needed for the best medical care. These benefits include greater quality of life, productivity and economic competitiveness.

Introduction

AdvaMed strongly endorses U.S. initiatives to launch, conclude, and implement free trade agreements (FTAs). In addition to the direct benefits from the specific provisions of the agreements, each FTA provides a valuable forum for governments to discuss and resolve trade issues. In a highly competitive global market, the United States cannot afford to disengage as other nations conclude preferential agreements that benefit their industries. U.S. leadership in international trade is always necessary to maintain open markets. At no time has this leadership been more critical than in today's challenging economic environment.

AdvaMed strongly supports a trade agenda that seeks to open foreign markets for U.S. goods and services. We believe U.S. leadership in international trade is critical to the health of our industry and the future competitiveness and growth of the U.S. economy. In that context, AdvaMed believes the negotiations on a Trans-Pacific Partnership (TPP) Agreement come at a particularly opportune time. While the United States already has FTAs with several of the TPP countries, the negotiations with this broader bloc provide an important demonstration of the Obama Administration's trade policy and can expand and enhance the economic benefits in these agreements. This is also an opportunity to demonstrate the U.S. commitment to strong FTA provisions.

The Medical Device Industry, Jobs, and Exports

AdvaMed member companies produce the medical devices, diagnostic products and health information systems that are transforming healthcare around the world through earlier disease detection, less invasive procedures and more effective treatments.

The medical technology industry is one of the few remaining manufacturing sectors of the U.S. economy with a positive net balance of trade, and the people who work in the U.S. medical technology industry depend on trade to ensure security, growth, and new opportunities. In fact, medical technology industry salaries are nearly 30% higher than the average U.S. salary because the industry employs so many highly skilled workers in the areas of research and development, manufacturing, sales and management. Nearly two million American jobs depend on the success of the medical technology industry – roughly 350,000 directly and 1.6 million indirectly. Medical technology accounts for 3 percent of U.S. Gross Domestic Product. The United States exports over $36 billion worth of medical devices annually. AdvaMed members supply medical technology to almost every country in the world. Opening markets and ensuring a level playing field are essential to the future growth of the U.S. medical technology industry.

Key Principles and Objectives

AdvaMed believes that in order to fulfill its promise as a high-level, 21st century trade agreement, the TPP agreement should include specific provisions to ensure full access to safe, effective, and high quality medical devices in order to advance public health and patient access. AdvaMed would like to see the following objectives addressed in the final TPP agreement.

- **Non-tariff Barriers:** It is important for the TPP agreement to address non-tariff barriers affecting the medical device industry, especially non-transparent or discriminatory regulatory procedures.

- **Efficient Regulatory Processes:** AdvaMed supports the inclusion in the TPP agreement of provisions that will ensure that members grant efficient regulatory approvals, while ensuring product safety.

- **Harmonization:** Provisions to encourage harmonization among the TPP countries of regulations that are necessary for determination of safety and efficacy, consistent with international norms, should be included in the TPP agreement.

- **Intellectual Property Rights Protection:** A successful TPP agreement should protect intellectual property (IP) as a major contributor to economic growth, employment and success in the global economy. To promote U.S. competitiveness in the IP-dependent industries that span every sector of the economy, including health care, a successful TPP agreement should incorporate state-of-the-art IP protections for intellectual property at a level similar to the protections found in U.S. law. The TPP agreement should build off of, but not diminish, intellectual-property protections found in each of the existing U.S. trade agreements with TPP countries.

- **Tariff Elimination:** The TPP agreement should provide for the most expeditious elimination of tariffs possible. Tariffs on medical devices simply serve to increase the cost of health care provided to patients.

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

Conclusion

The TPP negotiations offer the opportunity for the U.S. to build on the high-standard free trade agreements it already has with Australia, Chile, Peru, Singapore, Canada, and Mexico. AdvaMed believes that the strongest provisions of these agreements should serve as a foundation for a strong and robust TPP agreement. Such an agreement would enhance economic growth and improve the quality of life for patients throughout the TPP member countries.

STATEMENT FOR THE RECORD

OF THE

JAPAN AUTOMOBILE MANUFACTURERS ASSOCIATION

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON FINANCE

APRIL 24, 2013 HEARING

"THE TRANS-PACIFIC PARTNERSHIP: OPPORTUNITIES AND CHALLENGES"

Japan Automobile Manufacturers Association
1050 Seventeenth Street NW
Suite 410
Washington, DC 20036

202-296-8537

May 8, 2013

Introduction

The Japan Automobile Manufacturers Association, Inc. (JAMA) appreciates the opportunity to provide this statement for the record of the April 24, 2013 Finance Committee hearing entitled "The Trans-Pacific Partnership: Opportunities and Challenges."

JAMA is a Tokyo-based, nonprofit industry association that represents Japan's 14 manufacturers of passenger cars, trucks, buses and motorcycles. JAMA's member companies are Daihatsu Motor Co., Ltd.; Fuji Heavy Industries Ltd.; Hino Motors, Ltd.; Honda Motor Co., Ltd.; Isuzu Motors Limited; Kawasaki Heavy Industries, Ltd.; Mazda Motor Corporation; Mitsubishi Motors Corporation; Mitsubishi Fuso Truck & Bus Corporation; Nissan Motor Co., Ltd.; Suzuki Motor Corporation; Toyota Motor Corporation; UD Trucks Corporation; and Yamaha Motor Co., Ltd. Virtually all of our members invest, and most of them produce and sell, automotive products in the United States and are inextricably linked to the U.S. economy. In 2011, JAMA members had cumulatively invested over $35 billion in the U.S., purchased over $43 billion in U.S. auto parts, directly employed 388,000 American workers, produced 2.42 million vehicles in the U.S., and exported 260,000 vehicles from the U.S. Nearly 70% of the vehicles they sell in the U.S. are built in North America. All told, the Japanese auto industry is responsible for an estimated 1.2 million U.S. jobs, including the direct, intermediate and spinoff jobs of its U.S. production facilities and dealer networks.

JAMA wishes to make three basic points in this comment:

1. JAMA welcomes the announcement by the Government of Japan to participate in negotiations toward a Trans-Pacific Partnership (TPP) agreement.

2. It is important to correct unsubstantiated references regarding tariff and non-tariff barriers to auto exports to Japan that were made in the course of the Committee hearing. The facts demonstrate that there are no tariff or non-tariff restrictions on the sale of imported automobiles in the Japanese market.

3. JAMA is a strong and active supporter of global free trade and investment. JAMA has cooperated with automotive associations around the world to achieve these goals, particularly in the automotive sector. This includes remaining open to any and all interests seeking to sell in Japan's automotive market. We have repeatedly communicated our commitment to that cooperation to foreign governments and auto companies. We have also stated our willingness to respond to identified concerns that our industry can appropriately seek to address.

1. JAMA welcomes the announcement by the Government of Japan to participate in negotiations toward a Trans-Pacific Partnership (TPP) agreement.

JAMA's member companies strongly support open trade and investment and have worked for many years to help create the current positive business climate in the global auto industry. That business climate, in which companies compete not only in local markets but also around the world, has been a result of the fact that the liberalization of trade and investment is far more economically beneficial than trade protection.

Where motor vehicles are concerned, it is the quality, drivability, safety and innovation that is incorporated into them that creates and should create the competitive edge. This, we believe, is in the best interests of the consumer.

Consistent with that positive approach to auto trade, JAMA and its member companies welcome the ongoing TPP initiative. JAMA believes that Japan's participation in the TPP will contribute constructively to the development of rules that promote free trade, open investment and the protection of intellectual property rights among other benefits.

In his April 12 comment on the conclusion of Japan-U.S. consultations on Japan's TPP participation, JAMA Chairman Akio Toyoda said that "Japan's participation in the TPP will not only be instrumental in the recovery of its economy, but will enable it to make significant contributions to regulatory and other progress throughout the Asia-Pacific region and to the development of bilateral and multilateral economic partnership agreements in other regions as well."

Chairman Toyoda added that "[W]e look forward to the Japanese government's entering the TPP negotiations on a sure footing of promoting national interests and taking into account the views of our industry. It is furthermore hoped that upcoming negotiations will dispel any unfounded misunderstandings on the U.S. side in regard to the auto market here in Japan and serve the best interests of consumers in both our countries."

2. There are no tariff or non-tariff restrictions on the sale of imported autos in Japan

In the course of the Committee hearing, claims were made regarding Japanese tariff and non-tariff barriers to auto imports. In fact there are no such barriers in Japan. No restrictive customs or other regulations apply to imported vehicles.

Japan's tariffs have been at 0% for passenger vehicles, trucks and auto parts since 1978. In comparison, tariffs are imposed in some of the countries that have already joined the TPP initiative as follows: Singapore: 0% on all vehicle types; Vietnam: 83% on passenger cars; Malaysia: 30% on passenger cars; Canada: 6.1% on light vehicles; Mexico: 0%-30% on passenger cars (governed by existence of FTA, in or out-of-quota, MFN); Peru: 6% on passenger cars; Australia: 5% on passenger cars and trucks; the United States: 2.5% on passenger cars and 25% on trucks.

With regard to dealerships, there is no restriction on the brands or vehicles dealers in Japan can sell and Japanese auto manufacturers cannot intervene in these dealer decisions.

The United States and Japan addressed this question more than two decades ago. In the January 9, 1992 "Tokyo Declaration on the U.S.-Japan Global Partnership" by President George H.W. Bush and Prime Minister Kiichi Miyazawa, it was stated that with regard to automobiles:

- Japanese automobile dealers' associations publicly reconfirmed their willingness to undertake dual dealerships to sell U.S. automobiles:

- Japanese automobile manufacturers as the attached:

--- have eliminated prior consultation requirement clauses in dealership contracts, and made it clear that dealers may of their own free will sell automobiles of multiple manufacturers in parallel.

The lack of any dealer restrictions was further demonstrated in the 1994 final report (conducted by a joint team of U.S. and Japanese outside consultants) under the U.S.-Japan "Market Oriented Sector Selective" (MOSS) trade dialogue, which found that "[T]he ... current franchise agreements of Japanese vehicle manufacturers no longer have any clause that restricts dealer principals' legal right to handle other manufacturers' cars."

Finally, in the 1995 U.S.-Japan Framework Agreement, the Japanese vehicle manufacturers specifically confirmed that:

a. all dealers are free to sell competing motor vehicles and that a dealer's decision to sell one or more competing motor vehicles should not be a matter of concern to the dealer regarding such dealer's ongoing relationship with a Japanese vehicle manufacturer;

b. all prior consultation requirement clauses with respect to handling competing motor vehicles that previously existed in dealership agreements have been eliminated; and

c. they support open and competitive distribution systems for motor vehicles in Japan.

In the same Agreement, the Government of Japan agreed that it would "specifically in writing ... inform dealers which are members of the Japan Automobile Dealers Association that they are free to sell competing motor vehicles." The Japanese Government also agreed to provide each dealer those sections of the Japan Fair Trade Commission's "Antimonopoly Act Guidelines Concerning Distribution Systems and Business Practices" "which describe types of conduct, including direct or indirect restrictions on distributors' handling of competing products, which may impede free and fair competition and violate the Antimonopoly Act."

JAMA notes that in recent years, at the same time that the number of dealers in Japan selling European-nameplate vehicles has increased, there has been a significant decrease in the number of dealers in Japan that sell U.S. vehicles. For example, in 1996 there were about 620 dealers selling cars manufactured by U.S.-based auto companies, and 755 dealers selling cars from Europe-based companies. In 2011 there were 160 dealers selling cars made by U.S.-based companies and 1,302 dealers selling European cars. The increase in the number of European dealerships is due to the fact that European auto manufacturers offer models that fit the Japanese market.

3. JAMA is and will continue working together with worldwide auto and auto parts interests to address any Japanese market-related concerns

For well over 30 years, JAMA has encouraged and fostered an open and constructive dialogue with auto and auto parts industries and relevant government agencies around the world. JAMA has over the years actively promoted and sought to achieve harmonization of vehicle standards and certification procedures specifically and trade liberalization generally. JAMA is currently engaged in a constructive dialogue with the European auto industry, and continues to work with trade associations in Europe and the United States on such matters as harmonization of vehicle standards.

JAMA has and will continue to cooperate with efforts to address barriers to exports to Japan when and where specific problems are identified.

Conclusion

The TPP offers an historic opportunity to establish a free trade agreement that will serve the interests of consumers in a vast region of the world. In pursuit of that goal, which JAMA supports, it is vital that the TPP discussions with Japan be based on substantive questions of trade policy, and factual information regarding market conditions.

JAMA welcomes any and all activities designed to clarify the nature of Japan's automobile market, including the current dialogue taking place between the U.S. and Japanese governments. We are confident that objective analysis of Japan's auto market today will show that that market is not and should not be an obstacle to the successful conclusion of the TPP.

National Milk Producers Federation

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703-243-6111 • www.nmpf.org
"Connecting Cows, Cooperatives, Capitol Hill, and Consumers"

Agri-Mark, Inc.
Arkansas Dairy Cooperative Association
Associated Milk Producers Inc.
Continental Dairy Products, Inc.
Cooperative Milk Producers Association
Dairy Farmers of America, Inc.
Dairylea Cooperative Inc.
Dairymen's Marketing Cooperative, Inc.
Ellsworth Cooperative Creamery
Farmers Cooperative Creamery
FarmFirst Dairy Cooperative
First District Association
Foremost Farms USA
Land O'Lakes, Inc.
Lone Star Milk Producers
Maryland & Virginia Milk Producers Cooperative Association
Michigan Milk Producers Association
Mid-West Dairymen's Company
Northwest Dairy Association
Prairie Farms Dairy, Inc.
Premier Milk Inc.
St. Albans Cooperative Creamery, Inc.
Scioto County Cooperative Milk Producers' Association
Select Milk Producers
Southeast Milk, Inc.
Swiss Valley Farms Company
Tillamook County Creamery Association
United Dairymen of Arizona
Upstate Niagara Cooperative, Inc.
Zia Milk Producers, Inc.

April 23, 2013

Chairman Max Baucus and Ranking Member Orrin G. Hatch
Senate Committee on Finance
219 Senate Dirksen Building
Washington, DC 20510

Chairman Baucus and Ranking Member Hatch:

The National Milk Producers Federation (NMPF) appreciates this opportunity to provide comments for the record regarding the April 24, 2013 Senate Committee on Finance's Hearing on "The Trans-Pacific Partnership: Opportunities and Challenges".

NMPF is the national farm commodity organization that represents dairy farmers and the dairy cooperative marketing associations they own and operate throughout the United States. NMPF supports the testimony submitted by Thomas Suber, President of the U.S. Dairy Export Council. NMPF shares the views detailed in Mr. Suber's written testimony regarding key U.S. dairy industry priorities in TPP. We too hope to see a positive overall dairy package result for our members in this agreement.

We will weigh both positive and negative factors in evaluating the final outcome of TPP and believe it is possible at this stage to create a net positive result for U.S. dairy producers if key elements are properly negotiated.

Essential elements of a positive final dairy package include the following:

1. Expanded U.S. dairy export opportunities, particularly via open dairy trade with Canada and Japan.

2. Meaningful reform in New Zealand's dairy industry as a necessary to precursor to any expansion of U.S.-New Zealand dairy trade.

    a. One company enjoys control of approximately 90% of the market in New Zealand thanks to government actions that have advantaged this firm over its competitors.
    b. This excessive market concentration and the negative impact it has on global dairy markets must be addressed through policies designed to counteract the significant legacy advantages enjoyed by New Zealand's leading dairy firm.

3. Ambitious and enforceable TPP SPS commitments that expand upon existing WTO SPS obligations in order to provide more predictable and less onerous agricultural trading conditions.
4. Preservation of the right to use common food names (e.g., mozzarella, parmesan, romano, feta, etc) in international markets.

Sincerely,

Jerry Kozak
President and CEO

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May 7, 2013

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Orrin Hatch
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

RE: Hearing – The Trans-Pacific Partnership: Opportunities and Challenges (April 24, 2013)

Dear Chairman Baucus and Ranking Member Hatch,

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit written testimony to the committee regarding the Trans-Pacific Partnership (TPP) negotiations. RILA strongly supports the U.S. objective to establish a high-standard, 21st century agreement that will create a platform for economic integration across the Asia-Pacific region and foster new trade and investment. Such an agreement should facilitate economic growth in all sectors by eliminating trade barriers across the board, reducing trade-related business costs, harmonizing rules among TPP partners, and protecting intellectual property rights and investment. In order for U.S. negotiators to achieve this long and important list of priorities in the TPP, RILA also believes that the United States must identify meaningful flexibilities for the highest-duty items in our tariff schedule—apparel and footwear.

RILA is the trade association of the world's largest and most innovative retail companies. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than $1.5 trillion in annual sales, millions of American jobs and more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA joins many others in the U.S. business community in supporting the conclusion of the TPP negotiations in 2013, and we are encouraged by the substantial progress that has been made over the 16 negotiating rounds that have been held so far. As negotiators turn to the more difficult issues in the agreement, we are also mindful that the TPP should be designed as a long-term agreement and outdated models that are overly restrictive to protect special interests in perpetuity will not produce a successful outcome that maximizes the benefits of today's and tomorrow's global economy for the United States and our TPP trading partners. History will judge the success of the TPP by whether trade and investment grows in all sectors under the agreement, not by whether only certain companies or limited supply chains were preserved.

Retailers Employ Several Million U.S. Workers Who Deserve A Modern TPP

In today's uncertain economic climate, it is especially important that U.S. trade negotiators advocate policies that maximize American innovation and job growth. American retailers employ more than 12 million U.S. workers in all 50 states and in every Congressional district. Global supply chains are the life blood of retailers, and open trade – for both imports and exports – sustains these millions of retail jobs.

Retailers provide a diverse range of excellent career opportunities, from professional merchandisers, lawyers, accountants, designers, real estate executives, information technology professionals, and transportation and logistics providers with college and post-graduate degrees, to cashiers, store clerks, truck drivers, loss prevention specialists, and distribution center workers. Retail is known for innovation and cutting edge business practices in areas such as supply chain management, marketing, commercial real estate, product quality and safety, and other professional disciplines.

RILA member companies buy domestically and import products into the United States, and they also market and sell products throughout the TPP partner countries. If done correctly, the TPP agreement would offer a long-term platform for economic integration and commercial opportunities for our members that will create and support high-quality jobs here in the U.S.

Content and Structure of a Successful TPP

As negotiators finalize the TPP negotiations, RILA seeks these elements in a successful TPP agreement:

Flexible Rules of Origin: As consumers demand better goods and services, retailers seek out the best quality products at prices that are affordable for consumers. The TPP rules of origin should be flexible enough to support global value chains and promote efficiencies in global sourcing. In particular, RILA supports broad cumulation for all products, particularly apparel and footwear. The rules of origin should also be predictable, transparent, and easily administered by all TPP countries. More discussion on rules of origin follows in these comments.

Across the Board Tariff Eliminations: The TPP should provide duty-free access for all products, with immediate elimination of tariffs and other trade barriers for as many products as possible. The TPP should truly represent universal product coverage, with no specific products or sectors excluded from benefits.

Standardize Existing Agreements: The United States has existing bilateral FTAs with TPP countries Australia, Canada, Chile, Mexico, Peru, and Singapore. These separate agreements

contain varying standards and policies for tariff treatment, rules of origin and other import procedures. A multilateral agreement with these nations should modernize and harmonize the agreements to create a single market with a common set of rules (as opposed to the hub and spoke model and conflicting rules that currently exist among the numerous FTAs that specific TPP countries have with each other). This approach will help to foster the free flow of goods between and among all the TPP partners.

Streamlined Customs Procedures: RILA seeks provisions to facilitate the movement of goods throughout the TPP countries, eliminate choke points in supply chains, and harmonize customs procedures among TPP countries. Customs provisions should balance the goals of enforcement and trade facilitation, apply equally to all sectors, ensure predictability, and promote risk segmentation to better leverage port resources and facilitate legitimate trade.

Liberalization of Services Trade, Including Goods Distribution: RILA believes that the negotiation of the TPP on services trade should 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, the elimination of competitive needs or investment screening tests, and the removal of unwarranted restrictions on store size and operating hours.

Strong Intellectual Property Rights Protection: Because RILA's members are globally competitive, protection of retail brand names has become a growing concern. RILA seeks disciplines that would make it easier for retailers to register to protect their brand names trademarks in other countries. The TPP should include the highest standard for the transparent protection of brands and trademarks.

Strong Investor Protections: RILA believes that TPP negotiators should secure strong investment protections in all sectors that open foreign markets to U.S. investment, protect U.S. investors, and provide for neutral and effective international arbitration to resolve disputes between investors and a host country. In particular, the TPP investment chapter should provide national treatment, minimum standard of treatment, pre-establishment, expropriation, indirect expropriation, fair and equitable treatment, full protection and security, and the free transfer of capital. RILA also believes the investment chapter should be negotiated on a negative-list basis and should include full coverage for investment agreements.

Regulatory Harmonization: RILA supports efforts to facilitate the movement of goods and services throughout the TPP countries by ensuring that TPP member countries maintain transparent, effective, enforceable and mutually coherent regulatory systems that are risk and science based, adhere to international best practices, and assure high levels of collaboration among TPP governments and their stakeholders.

Expansion to Include New Partner Nations such as Japan: One of the biggest benefits of the TPP is the potential and architecture to attract new participating countries over time, even after the negotiations are concluded. Indeed, RILA has already welcomed the addition of Canada and Mexico, and supports Japan's efforts to join the talks. At the same time, RILA believes that new entrants should join the TPP only if they are committed to opening markets and creating new opportunities for trade and investment, and not to simply protect existing supply chains. Moreover, as we look to the seventeenth round of talks next month, the potential addition of Japan should not slow down or stall the negotiations, or lower the ambition to set high-standards that facilitate trade and investment in all sectors.

American Innovation and Global Value Chains

To remain globally competitive, many U.S. retailers and manufacturers have embraced "global value chains." Global value chains describe the full range of activities that firms and workers do to bring a product from its conception to the final customer. This includes activities such as manufacturing, design, production, marketing, compliance, distribution, retail and support to the final customer. In doing so, these companies focus their core competencies in the United States and manage lower skilled activities overseas to offer consumers the best quality and value and the widest possible variety of products.

Successful U.S. companies are leveraging the global value chain production model. A recent economic study found that more than 70 percent of the actual retail sales value of imported apparel was generated in the United States even though the final assembly was completed abroad and most of the materials were sourced overseas.[1] With an average 4 percent profit margin across the participating companies, the study also found that 70 percent U.S. value added translated directly into U.S. jobs. Those U.S. jobs were both blue-collar and white-collar jobs – in product design, research and development, transportation, logistics, distribution, compliance, quality assurance, legal support, marketing, merchandising, sales, and customer support.

U.S. tariffs on clothing and home linens are some of the highest in our Harmonized Tariff Schedule (HTS), and account for nearly 70 percent of all duties collected from TPP negotiating countries. U.S. companies pay billions of dollars in apparel duties every year, and these duties inhibit job growth, rather than foster it. America's future economic success rests, not on policies that preserve factory jobs at any cost, but instead on opportunities to employ Americans in a variety of innovative fields such as research, design, marketing and logistics. These jobs create significantly more value here in the United States by driving global supply chains, and these American jobs depend on international trade.

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[1] Dr. Susan Hester, PhD, *Analyzing the Value Chain for Apparel Designed in the United States and Manufactured Overseas*, February 2013, www.tppapparelcoalition.org/uploads/021313_Moongate_Assoc_Global_Value_Chain_Report.pdf.

In the TPP, U.S. negotiators should support these global value chain strategies by American retail, apparel and footwear companies to enable them to succeed and grow, and to create more high-quality U.S. jobs. RILA believes the TPP presents an opportunity to utilize a variety of flexibilities into rules of origin such as short supply, substantial transformation, tariff shift rules, regional value content rules, and tariff preference levels.

Flexibilities in Apparel and Footwear Rules of Origin are Critical in Today's Global Economy

Currently and in the foreseeable future, there is and is expected to be insufficient yarn and textile production capability in the TPP region to provide the range and volume of innovative yarns and fabrics necessary to meet the demands of an apparel market driven by aesthetics, style, trends and seasonal demand. Without sufficient flexibilities, a yarn forward ROO would stifle growth and integration in the apparel sector by inhibiting design flexibility and creativity, lengthening lead times, and decreasing speed to market, ultimately slowing production and shrinking the economic potential of the TPP for apparel.

In addition, onerous rule enforcement places a tremendous burden on supply chains due to the cumbersome and costly tracking and monitoring requirements that often negate any potential cost benefit from preferential duty treatment. They are also very difficult to enforce, as they require officials to rely heavily on paper documentation instead of a more modern verification of manufacturing processes in a TPP country.

For example, in the U.S., importers are required, for audit purposes, to produce upon request all production records, payroll records, import and export records, and transport records associated with any preference claim (not just for apparel). Due to the dynamic nature of retailers' supply chains, however, an importer may no longer be doing business with a vendor when an audit occurs, and would therefore be challenged to produce all such records. For this reason, many retailers will not claim preferential treatment at all to avoid the risk of not passing an audit, thereby forgoing the economic benefit of the agreement. RILA recognizes the importance of effective provisions to ensure proper preferential claims and avoid fraud and abuse, but policy makers should be mindful of the equally important goals of facilitating trade and providing business certainty that are not being met under the current system.

While we appreciate and are encouraged by USTR's willingness to consider the commercial availability of quality inputs and a reliable supply chain within the TPP countries when determining rules of origin, we would stress that any short supply list include significant and meaningful flexibilities, and be implemented in tandem with other flexibilities such as substantial transformation, tariff shift rules, regional value content rules, cumulation with other FTA partners, and tariff preference levels.

U.S. Negotiators Should Adopt a New Approach on Footwear

In addition to apparel, Congress should also adopt a new approach to U.S. policy for footwear trade in the TPP. Currently, footwear tariffs, like apparel tariffs, are among the highest in the U.S. tariff schedule despite the fact that less than one percent of footwear sold in the United States is domestically produced. The TPP provides an opportunity to eliminate duties on all footwear, allowing companies to reinvest the savings in innovation and maintaining competitiveness.

Currently, eight percent of U.S. footwear imports originate in Vietnam. Similar to apparel global value chains, for those U.S. footwear companies sourcing in Vietnam, the vast majority of the innovation, design, marketing, and logistics for footwear—and therefore the bulk of the value—takes place in the United States and supports thousands of American jobs.

RILA believes that all footwear within Chapter 64 of the Harmonized Tariff Schedule should be subject to a single, simple rule of origin and be eligible for reciprocal duty-free treatment immediately upon enactment of the TPP. There is no reason to exclude products from duty elimination or to delay the elimination of the high duties on any category of footwear.

Conclusion

RILA supports an ambitious TPP agreement, and believes that the TPP presents a unique opportunity to create or enhance flexibilities and develop trade and economic opportunities in all sectors, particularly in high-duty products such as apparel and footwear. We also support modernized rules to facilitate trade, protect investment, and reinforce global value chains. Congress should work with U.S. negotiators and industry to develop rules for all sectors that maximize economic growth for America's job creators and accommodate the commercial realities of today's global value chains. Thank you for the opportunity to offer these comments.

Sincerely,

Stephanie Lester

Stephanie Lester
Vice President, International Trade

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