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PRESIDENT OBAMA'S 2014 TRADE POLICY AGENDA

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

MAY 1, 2014

Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

90–949—PDF WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
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PRESIDENT OBAMA'S 2014 TRADE POLICY AGENDA

THURSDAY, MAY 1, 2014

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

The hearing was convened, pursuant to notice, at 11:15 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Rockefeller, Schumer, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Hatch, Crapo, Roberts, Thune, Isakson, and Portman.

Also present: Democratic Staff: Joshua Sheinkman, Staff Director; Michael Evans, General Counsel; Jayme White, Chief Advisor for International Competitiveness and Innovation; Elissa Alben, International Trade Counsel; Jason Park, International Trade Counsel; and Lisa Pearlman, International Trade Counsel. Republican Staff: Chris Campbell, Staff Director; Everett Eissenstat, Chief International Trade Counsel; Shane Warren, International Trade Counsel; Richard Chovanec, Detailee; and Kevin Rosenbaum, Detailee.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Finance Committee will come to order.

For decades, American trade policy has been a story of adaptation and change. In particular, the extraordinary economic changes of the last generation demonstrate how important it is that future trade policies are reformed to reflect the times. For example, consider how technology has transformed the American and the global economic landscape. In the 1990s, an entire month's worth of Internet traffic data would fit on a single hard drive that you can buy today for 50 bucks at any electronics store.

More than 2 billion people now log on to the net regularly, but Vietnam has a law on its books that calls into question the ability of U.S. businesses to move their data in and out of that country. Governments in China, Brazil, and Europe are also considering developing systems that would effectively build digital barriers to trade that nobody could have foreseen a few decades ago.

And when it comes to enforcing our trade laws, a key priority, enforcement officials used to watch out for criminals fleeing offices with armloads of trade secrets printed on sensitive documents. Now hackers can break into a company's servers and steal data

from the comfort of their own desks and classrooms or military facilities thousands of miles away.

A generation ago, American workers and businesses competed against a smaller, very different China. Today, bolstered by enormous advantages provided to state-owned and -run enterprises, Chinese government-backed steel and solar firms are able to take entire segments of the American economy out at the knees. They can do so because they sit on seemingly bottomless wells of cash, hide their paper trails with opaque accounting, and dodge the risks and borrowing costs that American companies face.

A third transformational change was the advent of unfair policies like indigenous innovation that target our American innovators. In the 1990s, India and China had limited technical capacity. Now they can use highly technical standards to advantage their domestic firms and extract American companies' intellectual property for their own use. It is a shakedown, plain and simple.

Fourth, over the previous decade, currency manipulation has reemerged as a major concern for our economy. China made commitments to follow global trade rules when it joined the World Trade Organization in 2000, but, when it comes to currency as in so many other areas, China is keeping a finger firmly planted on the scale and undermining those commitments. Pick a product manufactured in China and imported to our country, pick any product, and currency manipulation makes it artificially cheaper. That is hurting our workers' ability to compete.

Finally, unlike 20 years ago, the American people expect to easily find the information they want on key policy issues like trade. Yet, too often there is trade secrecy instead of trade transparency. It is time to more fully inform Americans about trade negotiations and provide our people more opportunity to express their views on trade policy. Bringing the American people into full and open debate on trade agreements that have the effect of law is not too much to ask.

At present, many Americans are questioning if trade developments have contributed to persistent, long-term unemployment, stagnant wages for far too many, and the inability of students with good degrees to find high-quality jobs while they are saddled with debt. Last week's report showing that America's middle class is no longer the best off in the world raised additional questions. Responding effectively to the trade changes of the last generation is absolutely essential to instilling more confidence that trade policy will be good for America's working families and bring more of those middle-class Americans into the winner's circle.

I am going to wrap up by saying that, fortunately, America has big advantages to work with in the trade area. We have the most skilled, productive workforce in the world, one that foreign students want to join. The dollar remains the dominant currency of the global marketplace. With the Internet's big bang and the boom in high-speed networks, the U.S. exports $350 billion worth of digital goods and services each year on what amounts to a new virtual shipping lane.

The Internet also makes it easier for a craftsman, for example, from Fossil, OR, where I was recently, population 470, or a bar-

becue sauce maker from Memphis, TN, to reach their customers around the world. So, policymakers have a lot to work with.

We do have classic issues that remain. There are overseas barriers to bring down, and other barriers to eliminate. We have had an open market, so clearly, if you do this right when America negotiates, we can get more of an advantage out of it than other trading partners. That is particularly good for American products like wheat, dairy, and footwear that need to be able to compete on a level playing field.

So, colleagues, here is my bottom line: the new breed of trade challenges spawned over the last generation has to be addressed with imaginative new policies that are locked into enforceable, ambitious, job-generating trade agreements. They have to reflect the need for a free and open Internet and strong labor rights and environmental protections. Nations do not dismantle protectionist barriers or adopt these rules on their own; they do so with reciprocal agreements reached through negotiation. America has to establish new rules to reflect today's trade norms and enforcement.

We are looking forward to hearing from Ambassador Froman. I just want to thank my colleague, Senator Hatch. Since I have been chair of the committee, he has consistently tried to reach out and work in a bipartisan way. I am very appreciative of that.

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

The CHAIRMAN. Senator Hatch, we welcome your opening statement. Then we will have an introduction for Ambassador Froman.

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

Senator HATCH. Well, thank you, Mr. Chairman. I feel exactly the same about you. I think we have a real opportunity to have this committee do its work in a way that I think most people on the committee would appreciate, under your leadership.

I appreciate you holding this hearing. I want to thank you, Ambassador Froman, for appearing here today. As you know, we hoped to hear from you over 3 months ago when the committee held a hearing on the importance of Trade Promotion Authority. Now, while I am disappointed that you declined my invitation to participate in that hearing, I am glad you are able to be with us today, and I appreciate you coming.

President Obama's trade agenda is extremely ambitious. If it succeeds, it will help shape global trade patterns for decades to come. If it fails, it will result in billions of dollars of missed economic opportunity for American workers and for American job creators. Of course, the President's term is not over yet, and the jury is still very much out.

Even so, I am concerned. First and foremost, the fact that Trade Promotion Authority, or TPA, is not renewed creates a serious, and perhaps fatal, flaw in the President's trade agenda. I do not believe you can conclude high-standard agreements that will meet Congress's approval without TPA. I am not the only one who holds this view.

Indeed, in recent months, administration officials like Agriculture Secretary Tom Vilsack and Jason Furman, Chairman of the

Council of Economic Advisors, have been quoted as saying that TPA is a necessary component to conclude and implement our ongoing trade negotiations.

Ambassador Froman, I have no doubt in your capabilities or those of your staff. In fact, I have every reason to believe in those capabilities. But history tells us very clearly that, without TPA, your trade agenda will almost certainly fail. That is why I am very disappointed in the President's passive approach on this particular issue.

I am sure you can remember the enormous political effort President Clinton put into successful implementation of the North American Free Trade Agreement, and I am sure you can also recall President Bush's total political commitment to renewing TPA back in 2002. In those cases, war rooms were established and each Cabinet Secretary made congressional approval of those initiatives a public priority.

Put simply, we are not seeing that level of commitment from President Obama, which is disappointing to me and I think a lot of others as well. Without more effort on the part of the administration, I just do not think we can succeed.

In addition, I am concerned about the President's enforcement record. Despite a myriad of clear violations, we have yet to see a single case brought against Russia in the World Trade Organization. This is the case, despite the fact that the administration told Congress during consideration of PNTR that one of the major benefits of having Russia in the WTO would be our ability to bring them to dispute settlement.

I am also profoundly disappointed that the President refuses to bring a WTO case against India for its continuing efforts to undermine U.S. intellectual property rights. India knows better. We know better, and we ought to be forceful about this. I think it would help them as well. This failure to act with regard to India exemplifies a pattern of corrosive neglect within this administration when it comes to enforcing American intellectual property rights. Countries around the world are taking note of the President's failure to act in this area, and this is feeding the perception that they can refuse to protect, and even actively violate, U.S. intellectual property rights with impunity.

Finally, I am deeply concerned about the Office of the U.S. Trade Representative as an institution. Ambassador Froman, I sincerely appreciate the hard work and dedication of you and your staff. I have a high opinion of you, as you know. I am also deeply impressed by the caliber of your agency's career staff and their personal commitment to the work of the USTR. Yet despite your best efforts, the agency still ranks dead last in employee job satisfaction among small agencies. Part of the problem is USTR's failure to effectively play its traditional role as a bulwark against other Federal agencies.

Too often during the interagency process, regulatory agencies are just saying "no" to cooperative participation in international trade negotiations. For example, it was the Department of Health and Human Services that alleged the need for so-called "policy space," resulting in USTR's proposal to simply carve out tobacco products from the Trans-Pacific Partnership negotiations. It was the Depart-

ment of Treasury's insistence on relegating the financial services discussion to preexisting forums that resulted in USTR's position that financial services should be carved out of our trade negotiations with the European Union.

Despite the strong support of U.S. agricultural and food processor groups for a fully enforceable sanitary and phytosanitary chapter in TPP, it was the Food and Drug Administration's fear of dispute settlement that resulted in a weaker USTR proposal which excludes certain disciplines from dispute settlement.

There is a clear pattern here. If this does not change, I am worried that any agreement this administration negotiates will never match the President's rhetoric of concluding high-standard 21st-century agreements.

Of course, the history of this administration's trade agenda has yet to be written, and there is still time to correct the course. But make no mistake, time is limited. I want to help. That is why I worked with my House and Senate colleagues for almost a year to negotiate the Bipartisan Congressional Trade Priorities Act, a balanced, bipartisan compromise which will empower our country to negotiate high-standard agreements that will get the approval of Congress.

Over 160 leading business and agricultural associations and companies have come out in strong support of this legislation. Like them, I strongly believe that approval of our TPA legislation will help our Nation succeed in its ambitious trade negotiations.

That being the case, I am asking once again that the President redouble his efforts and help us get this legislation signed into law as soon as possible. The political clock is ticking, and it will not be long until we lose the small window we have to pass significant trade legislation this year.

Ambassador Froman, I have high regard for you, as you know. I look forward to your testimony today. I have to leave shortly after we begin, but I appreciate your testimony today and will be working with you to achieve a successful conclusion of a strong, pro-growth trade agenda.

I want to thank you again, Mr. Chairman. I am sorry I took a little longer than usual.

The CHAIRMAN. Thank you, Senator Hatch.

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

The CHAIRMAN. Ambassador Froman, thank you for your patience. I understand also that you have your family here. Why don't you introduce them to all of us?

Ambassador FROMAN. Well, thank you. Thank you, Mr. Chairman. My parents are in town, Abe and Suzanne Froman. My wife, Nancy Goodman, and our long-time friend, Brenda Schaeffer, are also here in town.

Senator HATCH. Well, welcome.

The CHAIRMAN. We are glad you are here. [Applause.]

Public service is not for the faint-hearted, and we really appreciate having family alongside us.

Ambassador Froman, we have been working closely with you. I know recently you have been out talking to Senators. That is much

appreciated. Why don't you make your opening remarks, and then we will have questions from the Senators.

STATEMENT OF HON. MICHAEL FROMAN, U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Ambassador FROMAN. Well, thank you, Chairman Wyden, Ranking Member Hatch, and members of the Senate Finance Committee. Thank you for the opportunity to testify here today on the President's 2014 trade policy agenda.

The core of the Obama administration's economic strategy is to create jobs, promote growth, and strengthen the middle class. Through our trade policy, we are contributing to that strategy by opening markets for Made-in-America exports, leveling the playing field for American workers and businesses by raising standards, and fully enforcing our trade laws and our trade rights. We are unlocking opportunity for American workers, farmers, and ranchers, for manufacturers and service providers, for entrepreneurs and innovators, and we are doing so in a way that promotes both our interests and our values.

The Obama administration has made great strides in promoting U.S. exports and creating jobs here at home. We increased exports to a record high of $2.3 trillion in 2013, contributing to a third of our total economic growth. Eleven-point-three million Americans now owe their jobs to exports, 1.6 million of those jobs have been created in the last 4 years, and those jobs pay 13 to 18 percent more on average than non-export-related jobs.

Building on this success, the administration is pursuing the most ambitious trade agenda in decades with negotiation of high-standard trade agreements in the Asia Pacific and with the European Union. Together, these negotiations would allow us to access economies representing nearly two-thirds of global GDP.

Last week during the President's visit to Japan, the United States and Japan crossed an important threshold in our bilateral market access discussions. In doing so, we have identified a path forward on agriculture and autos, two of the most challenging areas of our negotiations with Japan. Although work remains to close the gaps, this milestone achievement, spurred on by the President's direct engagement, will provide significant momentum to the overall TPP negotiations.

Through these negotiations, we are working to ensure that TPP will open markets for U.S. goods and services, include strong and enforceable labor and environmental commitments, promote strong intellectual property rights protection and enforcement, and include ground-breaking rules on issues like state-owned enterprises and the digital economy.

Looking across the Atlantic, we will continue this year to make significant, steady progress toward a TTIP agreement with the European Union, and later this month we will host the fifth round of negotiations. Building on our success at the WTO, in March we notified Congress of our intent to enter negotiations on an environmental goods agreement with countries representing nearly 90 percent of this $1.4-trillion market.

We will move to conclude negotiations on the trade and services agreement and the expansion of the WTO information technology agreement. We are also working to conclude a comprehensive review of the African Growth and Opportunity Act, which expires next year. We look forward to working closely with you to review and revitalize that program.

Through our trade policy, we seek to promote sectors that are vital to the U.S. economy. In 2013, our farmers and ranchers exported a record $148 billion in food and agricultural goods. In 2013, we exported nearly $1.4 trillion in manufactured goods and nearly $700 billion in services. This year, the administration aims to help our farmers and ranchers, our manufacturing workers and service providers, build on this record. As the chairman has said, we want to make it here, grow it here, and sell it around the world.

The United States is an innovation economy, and the Obama administration is committed to protecting intellectual property rights so that our inventors and creators enjoy the fruits of their labor. Just yesterday, we released our 25th annual Special 301 report, a tool through which we identify and resolve intellectual property rights concerns around the world.

Thirty million Americans' jobs rely on intellectual property, and we will continue to use our trade agenda in 2014 to defend the intellectual property rights of our creators and innovators by also ensuring access to affordable medicines and a free and open Internet.

The Obama administration also placed an unprecedented emphasis on trade enforcement. Since 2009, the administration has filed 17 WTO complaints, doubling the rate of cases filed against China. In fact, a little over a month ago, the United States scored an important victory on fair access to rare earth minerals that are essential for maintaining U.S. manufacturing competitiveness, including in the area of clean technology.

Through our ongoing enforcement effort, we are leveling the playing field and keeping markets open for agricultural producers, manufacturers, and service providers. As we pursue this agenda, we are committed to consulting with Congress and seeking input from stakeholders, advisors, and the public. We have held over 1,250 meetings with Congress about TPP alone, and that does not include consultations on the rest of our trade agenda. Our congressional partners preview our proposals and give us critical feedback every step of the way. Any member of Congress can review the negotiating text and receive detailed briefings by our negotiators, and many have.

We are taking steps to further diversify our advisory committees, including opening up our advisory committees for broader representation and launching a new Public Interest Trade Advisory Committee which provides stakeholders focused on consumer, public health, and other public interest issues additional opportunities to inform our trade policy.

Finally, let me say a word about Trade Promotion Authority. The last TPA legislation was passed over a decade ago, and much has changed since then, from the May 10, 2007 bipartisan agreement on Labor, Environment, Innovation, and Access to Medicines to the rise of the digital economy and the increasing role of state-owned enterprises in the global economy. We believe these issues should

be reflected in a new TPA bill, and we look forward to working with this committee and Congress as a whole to secure TPA authority with broad bipartisan support.

We also look forward to renewing Trade Adjustment Assistance, which helps provide American workers with the skills to compete in the 21st century, and we urge Congress to expeditiously renew authorization of the Generalized System of Preferences (GSP) program.

In conclusion, our trade agenda will create growth, support well-paying American jobs, and protect and strengthen the middle class. At their core, our trade agreements include strong, enforceable rules that promote U.S. values and U.S. interests, and we look forward to continuing our close bipartisan cooperation with Congress to accomplish our shared goals and ensure that our trade policy creates opportunities for all Americans.

Thank you again for this opportunity, and I look forward to answering your questions.

The CHAIRMAN. Thank you very much, Mr. Ambassador. We are going to be working very closely with you in the days ahead.

[The prepared statement of Ambassador Froman appears in the appendix.]

The CHAIRMAN. At this point, I simply want to say to all our guests that there are strong views with respect to trade, and certainly everyone has the right to exercise their First Amendment rights, but I would like to ask our guests in the back in the green shirts to sit down now so that they can respect the rights of others. I think it is also worth noting that right now I intend to ask about some of these transparency issues that I know people feel strongly about.

Mr. Ambassador, first of all—and I touched on this earlier—this is going to generate a lot of heated opinion. I think we all understand that, with respect to trade. The reason I described the changes that we have seen over the last generation is that I think it is going to be important, on a bipartisan basis, to find fixes to deal with those challenges. I believe there is a need for unprecedented transparency in trade, addressing these trade challenges, so let me ask you about a couple of specifics about this.

First of all, I want to make sure that there is enough time for the public to review a Trans-Pacific Partnership agreement before the President signs it. Can you commit this morning to making the text of a Trans-Pacific Partnership agreement available to the public in advance of the President signing it?

Ambassador FROMAN. Mr. Chairman, we completely agree that there needs to be a robust engagement strategy to involve the public in trade policy, and that is why we worked so closely with Congress; why every one of our proposals is previewed by this committee, among others; why we work with the congressionally mandated advisory committee system and are broadening the membership of that committee to be more representative; why we have created a public interest advisory committee; and why we have engaged stakeholders more broadly, having stakeholder events at our rounds of negotiation and broad stakeholder calls, and have put more information out to the public about our negotiating position.

So we certainly agree on the importance of robust engagement there.

On the particular suggestion you mentioned, those sorts of time lines have been part of TPA processes in the past, and we are glad there is a discussion of this beginning. We like to look at what past practice was and, on a bipartisan, bicameral basis, work with you and the rest of this committee to determine what the right time tables are.

The CHAIRMAN. So the public can walk out of this hearing knowing that the text of the TPP agreement will be available to the public in advance of the President signing it? That, I believe, is "yes."

Ambassador FROMAN. Well, as I said, I think those sorts of time tables have been part of the TPA discussion in the past. There has been, as I understand, a range of practices in the past, and we would like to work with you on a bipartisan, bicameral basis to figure out what the right time tables are.

The CHAIRMAN. The public also ought to be able to go to the Trade Representative website to find out what is going on and not to hear about it through leaks and, in effect, what amounts to a rumor mill.

Can you pledge this morning to provide a clear and comprehensive description in plain English of the Trans-Pacific Partnership so that the public can be informed about these negotiations? This needs to be posted again online promptly, I believe within 30 days. Can you commit to that?

Ambassador FROMAN. Yes, Mr. Chairman. We believe that it is important to have public information out there. We have been experimenting with different approaches. We put out blog posts on investment issues and environmental issues. We published a description of all the negotiating objectives of our TTIP initiative. Recently we tweeted from the negotiation rounds. We try to find lots of ways to ensure that the public has information about that, and we are happy to provide a summary of the TPP negotiations as you request.

The CHAIRMAN. One other issue on transparency. I am going to leave this with you, because I want to ask a TPA question as well. At your department, there is a point person for intellectual property, there is a point person for agriculture, there is a point person for a variety of different matters. It seems to me, to give transparency more prominence, there ought to be a specific person within your agency accountable. You can call them a transparency officer, you can call them whatever you want. I just do not want transparency to get short shrift ever again. Can you commit to that this morning?

Ambassador FROMAN. Well, we have a variety of ways that we try to create transparency at the agency. Our Office of Legislative Affairs does so with the Congress. We have an Office of Public Engagement that is actively involved, reaching out to stakeholders, and an Office of Public Affairs that is putting out information for the public.

Frankly, each one of our negotiators, when they are not negotiating, they are either up here consulting with you and your offices or engaging with stakeholders and the public. So your suggestion, I think, is one of many ideas that we should talk about in the con-

text of TPA, in terms of how best to ensure robust, consultative, and transparent products.

The CHAIRMAN. Let me ask a question about TPA, and particularly the relationship between TPP and TPA. It seems to me that an upgrade in our trade policy is going to require an upgrade to Trade Promotion Authority. You and I have talked a bit in the past about what I call smart-track, which I think would allow us to have that upgrade in the trade promotion area through greater transparency, more strategic enforcement, and a variety of other steps.

It seems to me that when the substance is right, the time will be right for TPA. What we want to do is make clear to our trading partners that this committee is taking on TPA, that we are going to work for the right TPA, we are going to work on a bipartisan basis to get the right trade agreements through Congress. So my question is, will you commit this morning to work with me and the committee on a bipartisan basis to make sure that a strong 21st-century Trans-Pacific Partnership agreement will be met with an equally strong 21st-century TPA agreement so that we can lay out how these two critical trade policies fit together?

Ambassador FROMAN. Yes, Mr. Chairman. I am happy to work with you and this committee on a bipartisan basis, and a bicameral basis with your colleagues in the House, to develop TPA with as broad bipartisan support as possible.

The CHAIRMAN. Very good.

Senator Hatch?

Senator HATCH. Thank you, Mr. Chairman.

Ambassador Froman, you are negotiating an ambitious trade agenda, yet the administration does not have TPA, or Trade Promotion Authority. In my opinion, this is hurting our ability to conclude high-standard agreements which will, again, gain the approval of Congress.

We introduced a bipartisan, bicameral bill in January which was supported by over 160 leading businesses and agricultural associations and companies, a bill which Secretary of Commerce Pritzker said will "help expand market access for American business, ensure a level playing field for companies selling their goods abroad, and support the creation of American jobs."

Now, if we are going to succeed in renewing Trade Promotion Authority this year, I believe we need to act by June of this year. For that to happen, we need to see a greater sense of urgency and much more public engagement from the President and the administration.

Now, can you work with me and others on this committee to help persuade President Obama to make a renewal of Trade Promotion Authority a top priority for congressional action within the next 2 months?

Ambassador FROMAN. Well, Senator, we welcomed the introduction of that bill in January.

Senator HATCH. Yes?

Ambassador FROMAN. We look forward to working with you, with Chairman Wyden, and with the House Ways and Means Committee to, as you pursue your legislative process, develop Trade

Promotion Authority and get a bill that has as broad bipartisan support as possible.

Senator HATCH. Well, as you know, the President called for it in his January State of the Union speech, and the next day someone on the Democratic side said, well, we are not going to do that.

Ambassador FROMAN. Well, we are prepared to work with this committee, and when it is ready to have a legislative process around Trade Promotion Authority, to move that forward in a way that can get broad bipartisan support.

Senator HATCH. Now, intellectual property is fundamental to the U.S. economy. I am very concerned that U.S. intellectual property rights are under attack around the globe and that your office is not doing enough to fight back. India has been pursuing trade policies that undermine U.S. intellectual property in order to promote its own domestic industries.

What they are doing seems to me to be a clear violation of their World Trade Organization obligations. I believe that enforcement action at the WTO may be the most effective tool that we have to get India to change its behavior.

Closer to home, Canada has embraced policies and patent rules that undermine research and development investment, upset the level playing field for the U.S. innovators, and of course I believe that their actions violate Canada's obligations under NAFTA and WTO.

Now, in your testimony to the House Ways and Means Committee, you spoke about the importance of enforcement. You said, "This administration's view has been that it is not enough to negotiate an agreement and to implement it; you need to make sure that it is being fully enforced as well."

Now, you also said that the administration has "brought an aggressive agenda to the WTO." I do not understand how you can say this when this administration has not brought a single WTO case involving intellectual property rights.

So my question is, why has this administration not brought a single case in the WTO on intellectual property, and, in particular, why has the administration not brought a WTO case against India on their harmful IP policies, and what is this administration doing to ensure that Canada, a potential TPP partner, complies with its current international trade commitments?

Ambassador FROMAN. Well, Senator, first of all, thank you for your leadership on IP issues and for your encouragement on the enforcement front. With regard to those issues, we remain extremely concerned about the deterioration of the innovation environment in India.

We have been raising this at the highest levels and throughout our dialogue with the Indian government about their policies on patents and on compulsory licensing, and we have been encouraging them to enter into a dialogue about other mechanisms for addressing legitimate concerns about health care in India and about access to medicines that do not violate our intellectual property rights. India, as you know, is in the midst of an election and a transition, and we look forward to engaging with the new government of India, as soon as it is in place, to pursue this issue with them.

Similarly, on Canada, this is an issue that we have raised with the Canadians directly. It is now the subject of litigation in Canada, and we are continuing to engage them bilaterally and in the context of other intellectual property rights issues we have with them as a way to move this forward.

Senator HATCH. Well, thank you. My time is up, Mr. Chairman.

The CHAIRMAN. Senator Schumer?

Senator SCHUMER. Thank you, Mr. Chairman.

Thank you, Ambassador Froman. You have a really tough job, and you approach it with intelligence, integrity, and calmness. So, thank you for your service here.

I want to talk a little bit about currency manipulation. A bipartisan majority of both the Senate and House have made very clear we want strong and enforceable currency manipulation language included in any TPP agreement. Strong language on currency manipulation is a vital first step to earning Democratic support to passing TPP in the Senate. We will have to take a close look at every aspect of the deal, but I think nothing can give TPP a fighting chance of being passed better than strong currency reforms.

Japan and other countries regularly distort their currency exchange rates to push up trading surpluses with us. In the last year alone, the yen has fallen about 25 percent against the dollar. China is not part of TPP, but if we did this, it would send a warning shot that, if they eventually want into TPP, they will have to reform their currency as well, and it might even get them to move on their own if they saw we made a strong stand.

It has real consequences for jobs here at home. A study by the Peterson Institute for International Economics found that foreign currency manipulation has already cost Americans between 1 and 5 million jobs. Ending the manipulation would reduce the trade deficit by as much as $500 billion in 3 years, increase annual GDP by between $300 and $700 billion, and create 2.3 to 5.8 million new jobs. So, it matters a whole lot.

Now, I have long been an advocate in this fight against the type of activity that China, Japan, and others do when they manipulate their currency. I am not alone. Senators Brown and Stabenow on this committee, Senators Graham, Sessions, and Collins on the other side of the aisle have joined us. If we brought our bill to a vote on the floor of the Senate, it would pass again with broad bipartisan support. We could take legislative action today and win.

But administration after administration, including, regrettably, yours, as well as President Bush, Democratic and Republican, have taken the position that this issue can be better dealt with through country-to-country negotiations than through legislative changes. It has been 18 years since the Treasury Department has designated any country a currency manipulator, so I ask: what vehicle do we have at our disposal to combat this type of activity which everyone says is wrong, if not agreements like TPP?

I hope the President raised this with the Japanese Prime Minister last week. If he did not do it in strong terms, I hope he will do it soon. I want to make very clear I cannot, and will not, support a TPP agreement that does not include objective criteria to define and enforce against currency manipulation.

You would not agree to play a game of baseball where your team only got two strikes at bat and the other team got four. But, if we enter into a TPP agreement without strong currency language, no matter what else is in it, that is exactly how we would be hamstringing ourselves. That is because currency manipulation hurts our exports to other countries and advantages their exports to us across the board, not just in an industry here or there, but in every sector of the economy.

Any country taking this sort of action that is so detrimental to our Nation's economy should not at the same time be granted preferential access to our market. So I guess my question is, has currency manipulation been discussed in the current negotiations on TPP, and what do you think the outlook is for getting something real in the TPP bill, because it is of great concern to many of us?

Ambassador FROMAN. Well, thank you, Senator. Thank you for your longstanding leadership on this issue. We agree that currency manipulation is a critically important issue.

As you know, from the start of this administration, from the President on down, we have been pressing, for example China, bilaterally as well as through the G–20, through the IMF and elsewhere, to move towards a more market-oriented exchange rate and to allow the currency misalignment to be adjusted accordingly.

The Treasury Department, of course, has the lead on this issue, and I know you have had an opportunity to see Secretary Lew up here as well and to engage with him as well. We are continuing to consult ourselves with you, with stakeholders, to determine how best to address the underlying issue.

If you take China, for example, as I mentioned, from the President on down, we have engaged with the Chinese. In June 2010, they began to allow their currency to move again, and it has moved about 18 percent in real terms. Not fast enough, not far enough, but we have made a certain degree of progress there. Through the G–7 and the G–20, we make sure that countries are focused on——

Senator SCHUMER. My time is running out. Has it been discussed in the TPP negotiations yet?

Ambassador FROMAN. Not as of yet.

Senator SCHUMER. I hope it will be, because it matters a great deal to all of us. I regret that it has not been discussed yet, given its level of importance.

Thank you, Mr. Chairman. My time has expired.

The CHAIRMAN. Thank you, Senator Schumer.

Senator Stabenow?

Senator STABENOW. Thank you very much, Mr. Chairman, for this hearing. It is wonderful to see you again, Ambassador Froman. I want to follow up on Senator Schumer's comments. It is no surprise that I want to ask you about currency manipulation as well. We have talked extensively about that.

I am a little surprised to hear it has not come up yet. I thought that this had been something that was being discussed. But to emphasize, again, as you know, we have 60 Senators in a bipartisan way who have written you a letter asking that we have an inclusion of strong and enforceable currency disciplines in all future trade agreements, 60 members, a majority of members, who feel very strongly about that.

So, when we talk about trying to pass TPP, I am not sure how that passes, given the strong feelings that people have, unless that is addressed. Two hundred and thirty members, 230 in the House, wrote a letter also.

Senator Schumer talked in general terms about this, so let me zero right in on one country, although this is certainly not about one country. We know about China, we know what has happened, the issues related in the past to Singapore, Malaysia, Korea, different places, as you and I have talked about. But let me talk about Japan, because we are doing specific negotiations with Japan.

As you know, Japan has not directly intervened in the foreign exchange markets in more than 2 years, but the yen has depreciated significantly against the U.S. dollar. And, while the depreciation has not shown an impact on the number of U.S. imports of vehicles—you shared some information with me on the numbers—it does provide a massive advantage for Japanese auto makers.

In fact, at today's exchange rates, there is an estimated benefit of $5,700 on every vehicle, so it is a windfall in operating profits. It may end up in advertising, it may end up in research and development, it may end up in cutting prices, it may end up in cutting prices on vehicles in other markets where U.S. auto makers are directly competing with the Japanese around the world. So the reality is, $5,700 per vehicle is no small thing.

I guess to add insult to injury on Japan, on China, and everything else, even though Japan is not currently intervening—and I would ask you, if they are not currently intervening in exchange markets, why would they not support enforceable currency provisions in TPP; I am not sure why they would not—are you not concerned about the competitive trade advantage that these kinds of numbers show?

Ambassador FROMAN. Well, Senator, yes, we are concerned very much about currency and about making sure that there is a level playing field. It has been important to the world that Japan get back on a path towards economic growth. It is the third-largest economy in the world, and it growing means that there is a market there for our products as well.

It has been important that the G–7 has expressed to Japan the importance of pursuing domestic demand-led growth and being focused on the domestic part of their economy. But it is something that the Treasury Department, which has the lead, of course, in this area, engages directly with Japan on and something that we monitor very carefully.

So we are concerned, as I had mentioned to Senator Schumer. This is one reason why, from the top down, we have focused on domestic demand-led growth, rebalancing the economy, both in our bilateral discussions and through institutions like the G–7 and the G–20, as a key part of our overall international economic policy.

Senator STABENOW. Well, just, again, this is incredibly important. Let me also say that nearly two-thirds of the U.S. trade deficit with Japan is automotive goods, as you know. You and I have also talked. I appreciate the focus on non-tariff trade barriers. This administration oversaw a highly successful restructuring of the automobile industry, saving over 1 million jobs directly. We are

now in a situation where we cannot even get into the Japanese markets.

If you are an auto dealer in Japan, you cannot put an American vehicle or any foreign vehicle on your business, on your car lot. I grew up on a car lot, so I recall that. But I guess in closing I would just ask that you continue very focused negotiations there as well. It does not take the place of currency, but it is incredibly important that we open up those markets as well.

Ambassador FROMAN. Well, thank you, Senator. As you know, we negotiated up front an agreement with Japan about the phasing out of our tariffs, being the longest staging of any tariffs in TPP, being back-loaded and being substantially longer than the KORUS agreement. We have a parallel negotiation ongoing about addressing the non-tariff barriers to Japan's auto market, which, as you say correctly, has been historically closed. We are making progress in dealing with issues like standards and distribution and dispute settlements along those lines. We still have more work to do, but we are making progress in those negotiations.

Senator STABENOW. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Stabenow.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman. Thanks for holding this hearing. I know we have tried a couple of times and it has been delayed, and I certainly appreciate your focus on transparency, because I think this is a key word of our generation, to have transparency.

But I probably do come at this issue a little differently than some of my colleagues. I like to say that before Jefferson sent Lewis and Clark to the northwest, we were already trading with China, and so our region of the country looks at this a little bit differently. Probably one in three jobs is related to trade, so I certainly support, for example, the reauthorization of the Ex-Im Bank.

As we approach this next reauthorization, I hope we do not find a bunch of consternation of people who do not want U.S. manufacturers to export and get help in getting U.S. products overseas. I support the reauthorization and expansion of a program for the small business called STEP, for State Trade and Export Promotion, which is helping U.S. manufacturers and other small businesses export products and get access to export markets.

I support the Trade Promotion Authority. I think China has done—since our authority has lapsed—something like nine agreements, the European Union 11, Japan eight, Korea six. So, without Trade Promotion Authority, our hands are tied. The key thing that I am interested in is this news article about the rising middle class around the globe.

To quote this article, it is going to grow from 2 billion to almost 5 billion by 2030. So in the world market—again, to quote this article—"global middle-class spending will rise from $21 trillion today to $51 trillion in 2030."

Now, most of this is outside the United States of America, so, if we do not have these agreements, then how do we get our products into these markets? So I wondered if you could comment on that

and then comment on the point that, when you have TPA, it becomes the standard.

You could do lots of individual, long-term agreements. My point is, while everybody else is doing deals, we are sitting here, and we know where the growth opportunity is, and, if you do a TPA, then it can set the standard for all these agreements. Even people who are very anxious about the situation should know, we want to set a standard of labor, or environment, or what have you, and TPA helps us do that. Is that correct?

Ambassador FROMAN. Yes, absolutely. I completely agree, Senator. Just to throw out another figure, right now there are an estimated 500 million middle-class consumers in the Asia Pacific region, and that is expected to grow to 2.7 billion by 2030.

The question as we engage in TPP is, who is going to serve that market? Are they going to be buying Made-in-America products, or are they going to be buying products built by somebody else? What are going to be the rules of the road for that region?

As you point out, TPP is an opportunity for us to set certain standards for the Asia Pacific, and, more generally throughout the international trading system, to raise labor standards, to raise environmental standards, to ensure that the Internet remains free and that you do not see a Balkanized Internet or national clouds, and to make sure that we are putting disciplines on state-owned enterprises and dealing with all the challenges of the digital economy.

So this is our opportunity to be at the table, to take leadership, and to help set the rules of this vitally important region. As you mentioned, TPP is intended to be a platform. Right now there are 12 countries around the table, but there are several more countries waiting in the wings that have said they would like to join, when the 12 of us have reached an agreement, and to sign on to the high standards that we are able to negotiate.

So it gives us a chance to open markets for our products in this vitally important region in which we are going to see a huge growth in middle-class consumers ready to buy our agricultural products, our manufactured products, and take our services, and at the same time to build a larger and larger platform of countries that are willing to sign on to high standards. That is a win-win for us.

The alternative, as you say, is that other countries are out there negotiating their own agreements at our expense, getting market access at our expense. A lot of those other countries do not put the same value we do on labor and environment, or on protecting intellectual property, or on putting disciplines around state-owned enterprises, or about maintaining a free Internet. That is what we are pressing for with our partners. We have a number of willing partners around the table, and this is our opportunity to show leadership.

Senator CANTWELL. Well, market access is a key word, because people do not realize that, when you lose market share over a long period of time and then you try to go in and compete, it is much harder. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Roberts?

Senator ROBERTS. Thank you, Mr. Chairman.

Mr. Ambassador, thank you for your aggressive leadership on behalf of TPP and trade.

I think I heard you say in your opening comments—and I have written it down here—that you have met 1,500 times with members of Congress on trade. Is that right?

Ambassador FROMAN. Twelve hundred and fifty times just on TPP.

Senator ROBERTS. Twelve hundred and fifty?

Ambassador FROMAN. Yes.

Senator ROBERTS. All right. Of the 1,250, have you met with the Majority Leader Harry Reid?

Ambassador FROMAN. I have met with the majority leader.

Senator ROBERTS. And his response to any movement on trade, or TPA, or fast-track during this session of Congress was?

Ambassador FROMAN. Well, I think Leader Reid's position on trade agreements is well-known, but as a leader he has also worked with the administration and worked on a bipartisan basis to move trade agreements through the Senate.

Senator ROBERTS. Did he give you any indication there was any wiggle room, that we could do something like this in this session like the chairman would like to see, and everybody else would like to see?

Ambassador FROMAN. I think what our view is, is that we would like to see TPA move forward when this committee is ready to work on it and move it forward. We look forward to working with the chairman.

Senator ROBERTS. The chairman is going to do a great job, and so will the ranking member, and all the rest of us as well. I just am worried a little bit about the majority leader. I hope you can fill his glass. His glass is half empty. Make the glass full if you could, sir. I am not going to mention the Vice President's meeting—alleged Vice President's meeting—with the House, assuring members over there, people worried about union concerns, do not worry, we are not going to have any trade bill.

On April 4th, 44 of us wrote to you and Secretary Vilsack to express our concerns regarding the European Union's protectionist Geographical Indications, or GIs, a brand-new concept which they are insisting upon in trade negotiations under TTIP. If the EU were to have its way, common products such as parmesan, bologna—and this is a lot of bologna—and Black Forest ham would no longer be able to label themselves that way. That is ridiculous.

I am not interested in the EU dictating how we in America—i.e., the bread basket to the world, more especially, Kansas—can and cannot label our products. You responded to our letter, and I appreciate that very much. But I would like to hear again what our negotiating position is against the EU in regards to Geographical Indications, and what assurance can you provide the members of this committee, and more especially the producers of meat and dairy and cheese, that a final agreement with the EU will not prohibit these common food names?

Ambassador FROMAN. Well, we share your concerns completely, Senator, and we made very clear to the European Union that we

oppose their GI system, that we think it is unnecessary and that it is inappropriate for our trade agreement. I will just give you an example. We have several parmesan reggiano products registered here in the United States, and the EU exports billions of dollars of cheese and meats to the U.S. under these various names.

We are not able to export any of our feta cheese or any of our parmesan cheese to the EU. So they are able to live quite well under our system; we are not able to live nearly as well under their system. We have made clear that we think the common name approach and the trademark approach that exists here in the United States is the more appropriate one.

Senator ROBERTS. What was their response to the very logical presentation that you have just now defined or explained?

Ambassador FROMAN. I have not yet convinced them. We will continue to work and make clear that we think the common name and trademark approach allows room for us to have access to each others' markets.

Senator ROBERTS. You might have them read "Green Eggs and Ham." That might do something.

I have one more question with regards to COOL. Many of us here who represent agriculture are waiting for a final ruling from the WTO regarding mandatory Country of Origin Labeling, or COOL. Do you have any idea when we can expect a final ruling?

Ambassador FROMAN. I will have to get back to you on that. It is still in litigation, and Canada and Mexico have not dropped their case, so I will get back to you on the precise timing.

Senator ROBERTS. Well, if the United States were to lose the case, again, large sectors of our economy, especially agriculture, would be subject to retaliation from Canada and Mexico. Are we taking any steps to prevent retaliation if it is found that COOL does indeed violate our WTO obligations?

Ambassador FROMAN. Well, we believe that the rule that has been developed is WTO-compliant, and so we have argued that at the WTO, and we will await the decision of the WTO. Then, as we do in other cases, we will engage with our trading partners. But we firmly believe that it is compliant.

Senator ROBERTS. Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Roberts.

Senator Isakson is next.

Senator ISAKSON. Thank you, Mr. Chairman.

Let me start out, not with a question, but with a compliment and a comment. First of all, last August I was in Ethiopia with you at the African Union, and I had 48 hours of time to watch you work with the countries in Africa on the AGOA Act and its possible extension, and I was very impressed and think our country is fortunate to have someone like you as our representative.

Ambassador FROMAN. Thank you.

Senator ISAKSON. My comment is, though, without TPA getting done, I have little hope that we can get TPP or TTIP done. I think what Senator Roberts said, and what some of the others said, is something we really need to work on—this is just a comment, not the question—to try to raise the visibility.

Let us have that debate. Sherrod Brown and I will have significant differences on TPA and TAA, but we ought to discuss those differences in a debate that achieves a result rather than talking about it across the board in terms of comments. So that is just my editorial comment.

My two big points, or questions, are these: you mentioned the Trade in Services Agreement in your remarks. TISA is very important in Georgia. There are 3.2 million service-related jobs in our State—insurance, financial services, package delivery—that depend on good, good, good trade and services agreements with the world. First of all, what kind of progress are we making on a TISA agreement? Second of all, what goals, within our goals as a country, affect TPP and TAA in terms of trade services?

Ambassador FROMAN. Well, thank you, Senator. Thank you very much for your involvement and leadership on the Africa issues in particular, and we look forward to working with you on the AGOA renewal and review that are currently under way.

On services, we are making good progress in the TISA talks. We have countries around the table representing about 70 percent of the global services market. We have defined a text that is being worked out now, and virtually all the parties around the table have tabled offers, and we are working through those offers. So we are making good progress, and there is a good work program ahead over the course of the next several months.

Services, as you mentioned, are a vital part of our economy. We exported over $700 billion in services last year, and therefore they are also a key part of our trade negotiations, both in TPP and in TTIP, so we are seeking market access in those negotiations for our critical services.

I would say one more thing, because you mentioned express delivery and logistics. In December, we reached a WTO agreement on trade facilitation, which is the first multi-lateral agreement that the WTO has reached in its 18-year history.

It is a very important agreement for reducing the costs of shipping goods around the world. It helps small and medium-sized businesses enter the global economy, and it is very good for all those companies that are involved in shipping and logistics, and many of our companies have an active role to play in that.

Senator ISAKSON. And your working out that agreement in terms of package delivery, by the way, indicates how important a comprehensive agreement like TISA will be for all other types of financial services—insurance and other service products. So WTO has not been as successful as I would have liked to have seen it over the last 20 years in furthering trade services agreements, so this TISA, I think, is going to be very, very important.

Lastly, and I do not know that this is a question, but I want to bring something to your attention. Are you familiar with the Greater Brazil plan?

Ambassador FROMAN. I am not.

Senator ISAKSON. Brazil is putting punitive tariffs on U.S. products and limitations on procurement of U.S. goods and services by governments in Brazil and subdivisions of the Brazilian government, to the extent that they are shutting us out of their market.

There are hundreds of U.S. companies that have invested millions of dollars building facilities in Brazil. They employ thousands of Brazilians. They build products for the world but also products for Brazil. They effectively are being totally shut out from competition in the Brazilian marketplace, and it is beginning to really hurt, and it is a bad precedent for the western hemisphere. If we do not stand up for those companies that have made those investments and see to it that trade is as fair as we can make it with Brazil, then other countries will see it as an opportunity to do the same type of thing.

So I would like to bring it to your attention, which I have, and encourage you to get involved in the diplomacy world to see what we can do to ratchet up Brazil's attention that we understand what they are doing and that there are consequences to treating the United States that way.

Ambassador FROMAN. Senator, I am happy to follow up on that. We are looking for ways to engage with the Brazilians to deepen and broaden our economic relationship. We have had a dialogue with them about some of their localization policies, which we think create adverse barriers to trade, and we are happy to engage on this issue as well.

Senator ISAKSON. The localization policies are a part of the Greater Brazil plan, by the way, so I am glad you are on that. Thank you very much, Mr. Ambassador.

Ambassador FROMAN. Thank you.

The CHAIRMAN. Thank you, Senator Isakson.

Senator Cardin is next.

Senator CARDIN. Well, thank you, Mr. Chairman.

Ambassador Froman, it is always a pleasure to have you here. You are not going to be surprised by my question on how we are advancing on good governance in the TPP negotiations. The TPP countries are a diverse group of countries. Several have real challenges in good governance and basic human rights and in dealing with similar issues of corruption.

I am going to ask you to give me an update as to how the negotiations are proceeding, because I know, when you are dealing with trade, you have a country's attention. They are more likely to do things to improve the governance issues and anti-corruption matters when they know that it will have an impact on the willingness of a country to open up its markets. We have, of course, very strong anti-corruption laws here, so it is difficult for our companies to be able to participate in countries where bribery is a standard practice.

Anticipating that you might give me some glowing progress reports, you could also respond as to whether you are willing for us to put into any TPA bill that we might be considering, negotiating objectives that are strong on negotiating the rule of law, anti-corruption, and similar matters consistent with the U.N. Universal Declaration of Human Rights.

Your comments?

Ambassador FROMAN. Well, thank you, Senator. And thanks for your leadership on these issues. We have worked to address these issues in TPP in a number of ways, generally on good governance through a series of transparency measures, good regulatory policy,

opening up processes that could otherwise be susceptible, for example, to corruption. In addition, we have some specific anti-corruption elements of the TPP negotiation that we are still negotiating with our partners.

Then on issues of rights, in particular our focus has been, as you and I discussed, on labor rights and focusing on the ILO core principles—forced labor, acceptable conditions of work—making sure that countries commit to those and have plans in place to achieve those. As you say, this process is an important process for bringing countries to the table on issues that they have previously perhaps not engaged on.

I will just mention in the context of Vietnam, which you and I had the opportunity to discuss the other day in your office, we are engaging with them on labor issues. It is a particularly challenging set of issues for that country, as you know. We have also made clear the need for them to make progress on other human rights issues. They have recently released a couple of dissidents, and we are encouraging them to take further action to improve their human rights situation.

Senator CARDIN. I would just point out that basic human rights go beyond the labor issues. Labor issues are very, very important to me, do not get me wrong, but fighting corruption, fighting for the enforcement of rule of law, making some fundamental changes in a country that we are going to be competing with, to me, needs to be a priority. And since you did not directly respond, I assume that you do not object to strong objectives in the negotiations to deal with these issues?

Ambassador FROMAN. We will look forward, in the context of the legislative process, to working with you on a bipartisan bill.

Senator CARDIN. And let me talk about labor for one moment. I will start with environment. There was a time when we could not talk about environment in trade bills, and then, in NAFTA, we said we would use sidebar agreements, and that did not work very well. Then we realized we needed to get them into the core agreement if we are going to have something that is enforceable.

Then in Colombia, we decided to use the Labor Rights Action Plan. I had offered an amendment so that that would be part of the core agreement, so we could take action if they did not follow up on it. That was not incorporated into the Colombia agreement. Now we have the Congressional Monitoring Group for Labor Rights questioning whether Colombia, in fact, is implementing the Labor Action Plan as it was anticipated at the time.

My point is this. If we are going to make progress on environment, on labor, on basic human rights, good governance, et cetera, it really needs to be part of a core agreement in order for it to be taken seriously. We have their attention until the agreement is executed, but once it is executed, unless it is part of the enforcement mechanism, it is very difficult to get the type of action we expect.

Ambassador FROMAN. Well, Senator, we completely agree. I think your description of the history is an important one. Twenty years ago, labor and environment were afterthoughts or were side shows, side agreements. Now they are central to what we are negotiating in TPP, and that is a very important development, because we are able to take these labor and environmental standards, that perhaps

four or five countries have committed to as part of trade agreements, and now have 40 percent of global GDP sign onto it. It becomes more of a global standard as TPP gets done and TTIP gets done.

Senator CARDIN. I agree. And let me thank you for your help on the heavy truck issue in Colombia, how their regulations could undermine the exporting of heavy trucks into Colombia. I appreciate the cooperation we are receiving from you.

The CHAIRMAN. Senator Cardin, thank you. Thank you for raising human rights and the rule of law. I think these issues are also critical to trade enforcement, and I look forward to working with you, and of course the Ambassador.

Senator Thune is next.

Senator THUNE. Thank you, Mr. Chairman.

I will echo what some of my colleagues have said about encouraging you to engage as forcibly as you can with Congress on TPA. I think it is really important that we get that done and get it done soon.

I am increasingly concerned about reports from our agricultural producers and seed companies about China's unwillingness to approve new agricultural biotech products. It is a critical market for American agriculture—$16 billion last year in corn, beans, and dried distillers grains.

But we are told this year, according to the Feed and Grain Association, that corn exports are down 85 percent from a year ago and that corn shipments that Beijing has rejected have cost grain companies $427 million in lost sales and reduced prices.

So, given the situation in China, I am wondering—I think the folks who were impacted by this would like to see this issue elevated as much as possible. Would you support utilizing existing venues such as the U.S.-China Joint Commission on Commerce and Trade and the U.S.-China Strategic and Economic Dialogue to raise these issues in a forceful way with the Chinese government? Perhaps you could talk about other steps that USTR might be taking to ensure that agriculture/biotechnology concerns are consistent in high-level U.S. trade policy priority.

Ambassador FROMAN. Yes. Absolutely, Senator. In fact, in December we had a meeting of the Joint Commission on Commerce and Trade that Secretary Pritzker and I co-chair, and Secretary Vilsack also participates actively in, and this was one of the top issues on the agenda, talking about their biotech approval process, the need for it to become regularized and more fluid. And it is something that we are continuing to work on and continuing to raise at the highest levels in China.

We raised it with the Vice Premier, as well as the Minister of Agriculture, and we are going to continue to raise it. We have some opportunities in the coming months for engaging China on this and other issues.

Senator THUNE. But some of these venues I mentioned, like the U.S.-China Joint Commission on Commerce and Trade, the U.S.-China Strategic and Economic Dialogue, are those venues that you think would be appropriate to do that?

Ambassador FROMAN. Absolutely. The JCCT, the first one you mentioned, is one we did in December, and we will have an oppor-

tunity to do that later this year. I know that Secretary Vilsack has also been in touch with his counterpart, following that visit, to talk about follow-up on that and some other agriculture-related issues.

Senator THUNE. All right. Good. I hope you can keep it a high priority.

There are a lot of us in Congress, myself included, who have been frustrated by the whole issue of not being able to get the Keystone Pipeline approved. It is something that I believe is clearly in America's economic and national security interest. I was going to ask you some questions, and you can probably answer this, hopefully, "yes" or "no."

But is USTR providing comments to State as part of the interagency review process for the presidential permit of the Keystone XL Pipeline?

Ambassador FROMAN. I do not believe we are. I do not believe we are involved in this.

Senator THUNE. All right. So there is not anything that you are furnishing in terms of comments to the members of the committee that is looking at this?

Ambassador FROMAN. I will come back to you to confirm, Senator, but I do not believe we are involved in this.

Senator THUNE. All right. If you are, I would be interested in knowing. There are concerns that are being raised about whether or not any challenge could be brought under NAFTA if the Canadians decided, if the ultimate rejection of the pipeline is the outcome, that they might be able to utilize NAFTA to raise trade considerations. So I would be interested, and I am sure many of my colleagues would be too, as to what the implications of that might be.

I have talked to you about this in the past, but I also wanted to raise the issue of the EU's decision last year to impose a 10-percent duty on U.S. ethanol exports. You have previously indicated that USTR is considering a challenge to the EU tariffs at the World Trade Organization, and I am wondering if you could comment briefly on where USTR is in the decision-making process and when American ethanol producers might expect a decision from the administration.

Ambassador FROMAN. We are continuing to look into that issue and develop our options with regard to that. We have not yet made any decision and will certainly consult closely with you as we go through that process.

Senator THUNE. I wanted to mention one other thing, and that is—and you have heard this many times from our agricultural groups—the importance of market access for agriculture in the Japanese market.

For those of us from farm country, making sure that TPP results in significant new market access opportunities for U.S. agriculture is going to be critical, and I am wondering maybe if you could elaborate on the President's discussions on this topic with the Japanese Prime Minister last week, and how would you characterize those market access negotiations with Japan following the President's trip to Asia?

Ambassador FROMAN. Well, thank you. As you point out, access to Japan's market is a critical part of our overall TPP initiative.

We have made clear that we have products that we sell into Japan, and we need to address their historic barriers. Japan has been a market that has had very high barriers in the past.

While we were there last week, the President and the Prime Minister engaged on this and other TPP-related issues, among other things, and we made some significant progress in our discussions. We did not reach an agreement, but we reached a milestone in terms of beginning to sort out the parameters of how we would deal with market access in some of their more sensitive areas. So we have further work to do, certainly, but we think that there was enough progress there to give further momentum to the TPP negotiations overall.

Senator THUNE. Thank you.

Mr. Chairman, my time has expired. Thank you.

The CHAIRMAN. Thank you, Senator Thune.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Ambassador, for your service. I want to commend you as well for your outreach and your responsiveness. I cannot always say that about administration officials, but in your case I can, so I want to say it. I appreciate it.

You are aware of my concerns with India's pharmaceutical patent violations and my concerns with Canada's patent utility regime. In the Special 301 report issued by the department yesterday, you issued fairly strong statements about the need for improvement in both countries' IP regimes, which I both support and applaud.

Nevertheless, as we are looking at TPP and other elements, I am convinced that our economy is increasingly based on innovation. I am looking for the administration to demonstrate that it has a long-horizon, whole-of-government view and strategy on advancing international IP policies, one that I and other members can get behind and support.

So, can you give me a sense of what is the administration's strategy, specifically with regards to emerging economies, when IP protection and enforcement is inadequate?

Ambassador FROMAN. Well, first of all, as you know, yesterday we issued the Special 301 report. We focused on a number of problem areas. As I mentioned earlier, we have been very concerned about the deterioration of the innovation environment in India.

We are looking forward to them getting through their election and for us to be able to engage with the new government on that, and to have a real dialogue about how they can address their legitimate public policy interests in public health and access to medicines while still respecting the intellectual property rights of innovative companies, including from the United States.

Similarly on Canada, we have made clear our concern about their utility approach to patents, and we are going to continue to engage bilaterally and in our other discussions with them about that and other IP-related issues.

In TPP, we have a robust intellectual property rights agenda that enhances innovation, which at the same time takes as its touchstone the May 10, 2007 bipartisan agreement which noted that there should be differentiation among countries depending on levels of development.

We are working with individual countries to ensure that they are strengthening their intellectual property rights regimes consistent with their levels of development and that we are able to promote innovation and at the same time promote access to medicines. We are working individually with each country in TPP, and we are very much focused on improving the overall level of intellectual property rights protection across the region, including on small molecules and on biologics.

Senator MENENDEZ. And while you are clearly in the lead on this because of the trade value that you obviously possess in your portfolio, are there other elements of our government promoting our interests in intellectual property rights—the State Department, Commerce, others?

Ambassador FROMAN. Yes. We work very closely, for example, with the Commerce Department and the Patent and Trademark Office. We work with the Intellectual Property Rights Coordinator at the White House. We work with the State Department, we work with Health and Human Services, and with the Department of Justice. We work with several other agencies on an inter-agency basis in the process of this negotiation.

Senator MENENDEZ. On another matter, Bangladesh submitted their latest GSP action plan progress report to USTR in mid-April, and I understand that it was reportedly discussed during the Trade and Investment Cooperation Forum meeting a few days ago.

Given recent reports of union suppression in the garment sector, how realistic is the Bangladeshi government's self-assessment of their progress on the action plan's requirement to ensure protection of unions and their members from anti-union discrimination and reprisal? What is your assessment of their progress on this requirement?

Ambassador FROMAN. Well, as you know, we suspended GSP based on the labor rights and the worker conditions in Bangladesh. We developed an action plan with them of the steps necessary for them to take. Our view, discussed earlier this week in Bangladesh, is that they have taken some steps, but there is still a lot of work to be done. So we are going to continue to engage with them on the remaining work that needs to be done and encourage them to take those actions.

Senator MENENDEZ. Finally, our trade policy agenda report of 2014 talked about U.S. goods exports to Latin America and the Caribbean increasing about 175 percent from 2003 to 2013, the fastest rate of export growth to any region in the world, almost a 40-percent increase over the previous 3 years, which is pretty dramatic. Are there other opportunities in Latin America that we need to pursue based upon that tremendous growth?

Ambassador FROMAN. Well, Senator, I think there are further opportunities that we can pursue. In TPP, of course, we have not only Asian countries at the table, but also countries from Latin America: Mexico, Peru, Chile. We are following with great interest the development of the Pacific Alliance in this region as they open up their markets to each other. There are other countries in Latin America that potentially would like to join TPP in the future.

In response to Senator Isakson's question, we are still looking for ways to engage with Brazil to deepen and broaden our economic re-

lationship there, and to build upon the network of free trade agreements that we already have with Latin America and the Caribbean, and deepen our relationship with them accordingly.

The CHAIRMAN. Thank you.

Senator Carper is next.

Senator CARPER. Thanks, Mr. Chairman.

Ambassador Froman, very nice to see you. Thanks for coming. I was just leaving as you introduced your wife and your family here. It is very nice for you to come here and to have his back. So, thank you.

I know a number of questions that I thought of asking have been asked. I am going to go back to one and maybe re-plow some ground, but not too much, I hope.

But, as we negotiate trade agreements, other countries are obviously actively negotiating agreements to reduce barriers and increase the trade between themselves and other nations. For example, Japan and Australia, as you know, both of which are involved with us in the Trans-Pacific Partnership, recently concluded a bilateral free trade agreement. Earlier this year, I think Colombia, Mexico, Peru, and I think Chile, three of which are also in the Trans-Pacific Partnership, concluded their own agreement.

As you know, many of our negotiating partners are seeking deals with China and with Europe. While many of these free trade agreements may not be as ambitious as the Trans-Pacific Partnership is expected to be, what do you think is the effect of so much negotiation, so many agreements, even with our own negotiating partners, that do not involve our country? What is the effect?

Ambassador FROMAN. Well, Senator, I do not think these are necessarily mutually exclusive efforts, and I think as countries pursue bilateral, trilateral, or other regional arrangements, if it allows them to open their markets and liberalize trade, it can be a very positive step forward.

I think it does underscore—and this goes to Senator Cantwell's question earlier—the importance of us being at the table and us being engaged, because, if we are not engaged at the same time in negotiating market access and helping our partners to establish the rules of the road going forward, then we are going to be left out of the game, and we are going to be left on the sidelines while other people serve those markets, while the rules of the system do not necessarily reflect our interests or our values.

So, if we want a trading system that has higher labor standards, higher environmental standards, protects intellectual property rights, puts disciplines around state-owned enterprises, protects the digital economy and allows for a free Internet, and we want market access to the fastest-growing markets in the world, we need to take the field, we need to be at the table, we need to be engaged, we need to be showing leadership, because, as you point out, other countries are not waiting for us. They are moving ahead without us. It is not a static situation. That is why TPP and TTIP are so important, because it is our way of engaging the global economy in a way that is both consistent with our interests and with our values.

Senator CARPER. Good. Thank you.

I want to talk a little bit—and I mentioned this to you in the anteroom before we came in—about poultry. I have never discussed poultry with you before. Actually, I do every time I see you. But I do talk about other subjects. Whenever a trade representative is here, I am always quick to turn to poultry.

People say, why do you talk so much about poultry with the trade representative? I say, we live in a State where there are more chickens per capita than in any other State in the Nation, some 300 chickens per capita, and agriculture is a pretty big industry in Delaware. About 80 percent of it is poultry-related. We raise corn and soybeans, we feed the chickens, we process the chickens, we sell them all over the country and all over the world.

We used to sell about 1 out of every 100 chickens we raised outside of the U.S.; today it is 20. We do that in spite of the fact that countries—oh, gosh, like Canada—continue to impose restrictions on part-poultry products. I think Australia, New Zealand, and Japan are using non-scientific barriers or quotas to prohibit and restrict trade of U.S. poultry products to those countries.

So expanding imports into these countries means a whole lot more income for our poultry farmers in the U.S. and for those in larger supply chains and creates more jobs here in America. I am told that if we could actually start selling poultry in the EU, that it is about a $600-million market. And we would not have to take all of that, but it would be nice to have a piece, maybe a thigh and a wing, in that market.

But as your team negotiates the Trans-Atlantic Trade and Investment Partnership and the Trans-Pacific Partnership, I just hope that opening up agricultural exports—I think Senator Thune had mentioned this earlier—specifically poultry exports—I do not think he mentioned that—is a top priority for some of us on this committee.

Just take a minute or two, if you would, please, to discuss what you and your team are doing to increase market access for our agricultural products in the recent trade negotiations. Do you think we can find an agreement that opens up the poultry market in some of these agreements, and how are you preventing nations from erecting new trade barriers to our chickens? Thank you.

Ambassador FROMAN. Well, Senator, I would be——

Senator CARPER. I do not mean to squawk so much. [Laughter.]

Ambassador FROMAN. I would be disappointed if you did not raise chickens.

The CHAIRMAN. Before we start a pun-o-rama, I want to get Senator Brown in too.

Senator CARPER. Good.

Ambassador FROMAN. Let me just say that agriculture is a high priority in our market access discussions. It is an area of high growth in terms of our exports, both in terms of reducing tariffs and other barriers, but also, very importantly as you point out, addressing SPS barriers, non-science-based barriers that have kept our poultry, as well as other products, out of certain markets. So both in TPP and TTIP, those are high priorities.

Senator CARPER. Thank you so much.

The CHAIRMAN. Thank you, Senator Carper.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. I am so appreciative that you are doing this hearing.

Mr. Ambassador, thank you for working together in cooperation in the work you are doing.

I want to start with a "yes" or "no" question. I have a number of things I want to talk about, and I would appreciate your doing that. You responded to Senator Stabenow's and Senator Schumer's questions about currency. Senator Stabenow pointed out that a strong majority of House members have insisted, by signing their name to a letter, a strong majority of Senators have insisted, that currency be part of TPP.

My question is—and I really want you to answer this "yes" or "no," because I want to get into some detailed, kind of in-the-weeds investor state questions—are you prepared to risk defeat of TPP by not including meaningful currency provisions in this agreement?

Ambassador FROMAN. I am sorry, I cannot answer that "yes" or "no." All I can say is, we are continuing to work, the Treasury Department and ourselves, on this issue to see how best to address the underlying concerns.

Senator BROWN. And you are unwilling—I will ask you "yes" or "no" this way. Do you plan to include strong currency provisions? I know you say you are working on currency, but are you planning to put a provision in as strong as the letters that you have received—that you have not yet answered, by the way—about currency?

Ambassador FROMAN. Again, we are continuing to consult with you, with other members, with stakeholders, about how best to address the issue. That is all I can say.

Senator BROWN. All right. All right. That is the best I am going to get. All right.

I want to talk about investor state dispute settlement. Multinational companies conduct risk assessments—including assessments of foreign countries—before they invest there. The Boston Consulting Group, for example, provides risk-management assessments that cover regulation, governance, organization, culture, process, among others. Multinational corporations can purchase private insurance policies to mitigate risks associated with overseas investment to protect themselves.

AIG, for example, offers a multinational insurance program with coverage options to address multinational exposures. U.S. Overseas Private Investment Corporation, OPIC, offers political risk insurance to encourage U.S. investment abroad. OPIC's services are available in more than 150 countries and have supported more than $200 billion of investment.

So, U.S. companies going into these countries are planning for every kind of eventual problem through insurance, through risk assessment, through studies, through OPIC's political risk coverage. They are doing this investment in other countries with their eyes wide open.

In addition, we know that ISDS, Investor State Dispute Settlement, has given big tobacco companies the ability to threaten small developing nations. Even the threat of a lawsuit from a big tobacco company in a small, developing, not very wealthy country has en-

couraged some of these countries not to pass anti-tobacco public health laws.

So we know that the presence of ISDS has empowered big tobacco to go into the developing world and have their way. With all the other protections that companies have built in in the private sector, we have market-based options for these companies to protect themselves, we have the U.S. OPIC, Overseas Private Investment Corporation, to protect these companies. Why do we need ISDS to protect these companies while we are giving that power to tobacco, to big tobacco, to undercut public health laws?

Ambassador FROMAN. Well, Senator, underlying investor state dispute settlement is the notion that we provide here in this country, both to domestic and foreign investors, a certain degree of protection under our court system, non-discrimination and the like, but not every country around the world does. Our investors have been subject, in many countries around the world, to discriminatory practices or expropriation.

There are 3,300 agreements around the world on investment, the vast majority of which have some form of investor state dispute settlement. The U.S. is party to 50 of those agreements, but countries all over the world have been signing agreements over the last 50 years that have some degree of investor state dispute settlement.

The standards in those agreements vary significantly. What we are trying to do through TPP is to raise the overall standards of the investor state dispute settlement regime. So provisions that would allow the frivolous cases to be dismissed or attorneys' fees to be awarded, provisions that have allowed non-parties, NGOs or others, to participate in ISDS procedures by filing briefs, we would like to see greater transparency around those. Also, we would include provisions to ensure that governments can regulate in the interest of public health, safety, and the environment and not be unduly subject to those sorts of challenges.

So through TPP—and I would say this is true of labor, it is true of environment, it is true of ISDS—we are trying to take what is the status quo and raise standards, improve the standards, and try to create new standards that can help strengthen the overall system internationally.

Senator BROWN. Thank you. For the record, Mr. Chairman, OPIC does provide insurance for expropriation, so that flag is often raised, I think, a bit less than necessary. Thank you.

Thank you, Mr. Ambassador.

The CHAIRMAN. I intend to work very closely with the Senator from Ohio on these matters as well.

We are getting towards the end, Ambassador Froman. I want to get at the enforcement issue and then provide a recap, I think particularly on where we are on transparency and Trade Promotion Authority.

A lot of Americans, when they hear the debate about future trade agreements, the first thing that they say is, well, you people in Washington, DC are not enforcing the ones we have, so why are we talking about new ones before we enforce the ones that we have? Too often it seems that when we have a trade agreement, we honor it, while our trading partners do not.

There are a variety of excuses. They say that they may not have the resources to do it. They may say that there are political concerns. But at the end of the day, we do not have the enforcement effort that is so important. Our experiences with China, Korea, Russia, and others make clear that we lose out if we let agreements go into force before countries are able to comply with the commitments that they have made.

So my question on the enforcement issue is, outline what steps your office is willing to take, the USTR, to put in place a new commitment to trade enforcement.

Ambassador FROMAN. Well, we are very committed to trade enforcement. We are happy to talk about what further steps we can take. I have mentioned that we have brought more WTO cases; we have brought cases against China at twice the rate as before.

We have brought the first-ever case on a labor issue vis-à-vis Guatemala, and we are continuing to pursue that. We have created this interagency Trade Enforcement Center at USTR with great support from the Commerce Department, as well as from other departments.

That has allowed us to put together more complex cases than we have ever been able to put together before, where we have people from all over the government, a whole-government approach—the people with language resources, country expertise, domain subject knowledge—and are able to put together these very complicated cases that can have a systemic impact.

So we are very much focused, and we agree with you completely, that part of the deal of negotiating new agreements is to ensure that we are monitoring, implementing, and enforcing our existing agreements, and we are very much focused on doing that.

The CHAIRMAN. And there is no question in my mind that you all are stepping up the effort to enforce trade laws. In particular, I was pleased with the work the USTR did on the critical minerals issue, which I think is almost a model for how to tackle a major trade enforcement issue. I just want you to know that, even though I think you are stepping it up, I think there is a lot more to do.

The reason why is that, for those of us who have been supportive of trade—and I have voted for every market-opening agreement since I have been in public service—we need to have a better response to people who say, why are you talking about new trade agreements before you have tougher enforcement of the ones that are on the books?

So let me provide a recap of where I think we are. On the transparency issue—and you and I went back and forth on some of the semantics of trade law—the American people are going to insist on being able to review the TPP agreement before the President signs it, and so am I. I think that the law is very much in sync with that.

On the TPA issue, it just seems to me—and I think we agree on this, and I am just sort of recapping now—that we need a TPA upgrade that reflects the needs of a modern trade agreement.

For the people whom I have the honor to represent at home, one out of six jobs in Oregon depends on international trade. The trade jobs often pay better than do the non-trade jobs. They reflect a higher level of productivity. So, as we work through these issues, these issues of the future, some of which I now call smart-track—

and we are going to be fleshing that out in the future—I just want it understood that we are going to be working closely in partnership with you.

I think you know that there are strong views on this committee, and I happen to think we can forge a bipartisan agreement to do trade policy right, here in the U.S. Senate. If you would like to have the last word, we are happy to give it to you. You have been a patient person. Today has been something of an unorthodox day even by Senate scheduling, and we appreciate your patience.

Ambassador FROMAN. Well, Mr. Chairman, thank you very much. We very much look forward to working with you as the legislative process on TPA proceeds and very much want to partner with you on that.

On the transparency issue, our goal is to release the terms of the agreement as soon as we can. Once we have an agreement, we will want to make sure that the terms are made public as early as possible. But of course that means we have to reach an agreement, and that is where our focus is right now: trying to reach the best possible agreement for the American people on TPP and on TTIP.

The CHAIRMAN. I understand that. The reason that I have focused on it is that I just returned from seven town hall meetings at home in Oregon. This comes up all the time, and it reflects the generational changes that we have seen in trade policy that I listed earlier.

I remember supporting those agreements in the 1990s with a full head of hair and rugged good looks and that sort of thing. Of course, nobody was online and expecting elected officials to give ongoing information. When I talk about transparency—and I want to emphasize this point—nobody is talking about making available what I call proprietary information.

In other words, if you are talking about Coca-Cola, of course you would not make the secret sauce in Coke available. That is proprietary information. But terms of a trade agreement that affect various policy issues with respect to Coca-Cola and other products is what I think the American people are going to insist on. I think, based on our conversations, that we are going to be pursuing that together and will do so on a bipartisan basis.

So, the hearing record here in the Senate Finance Committee is going to remain open until May 5th. I thank you again, Mr. Ambassador, and I look forward to working with you in the days ahead.

The Finance Committee is adjourned.

[Whereupon, at 1:50 p.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Ambassador Michael Froman
United States Trade
Representative
Written Statement
Senate Committee on Finance
May 1, 2014

Chairman Wyden, Ranking Member Hatch, Members of the Senate Finance Committee, thank you for the opportunity to testify on the President's 2014 Trade Policy Agenda.

The core of the Obama Administration's economic strategy is to create jobs, promote growth, and strengthen the middle class. Our trade and investment policy contributes significantly to that strategy by opening markets for Made-in-America exports, leveling the playing field by raising standards and enforcing our trade laws and our trade rights.

Done right, trade policy creates opportunities for American workers, farmers and ranchers; manufacturers and service providers; innovators, creators, investors and businesses – large and small. Done right, trade policy promotes not only our interests, but also our values. And it gives us the tools to make sure others play by the same rules as we do.

In 2014, USTR will take steps to: (1) enhance the global competitiveness of U.S. goods and services by negotiating high-standard trade agreements, including the Trans-Pacific Partnership Agreement (TPP), the Transatlantic Trade and Investment Partnership Agreement (T-TIP), the expansion of the World Trade Organization (WTO) Information Technology Agreement (ITA) and the Trade in Services Agreement (TiSA); (2) enhance key trade and investment relationships, including with China, India, Brazil, and countries in the Middle East and Sub-Saharan Africa; and (3) ensure that our trading partners honor their commitments, including in the WTO. To update the process through which we partner with Congress in these efforts, we look forward to working with this Committee and the Congress to secure trade promotion authority (TPA) that has broad bipartisan support.

The Obama Administration has a strong record of success in promoting U.S. exports and creating jobs here at home. Over the past four years, U.S. exports have increased by nearly 50 percent – four times faster than our economy as a whole – reaching a record high of $2.3 trillion in 2013. In fact, a third of our total economic growth is attributed to this increase in U.S. exports.

Exports mean jobs. Each $1 billion in exports supports 5,400-5,900 U.S. jobs. U.S. exports have supported 1.6 million additional private sector jobs since 2009 – that means a total 11.3 million Americans now owe their jobs to exports, and those jobs pay 13-18 percent more on average than non-export related jobs.

Expand Job-Supporting U.S. Trade

In 2014, we will work to conclude negotiations on the TPP. TPP is currently being negotiated among 12 countries in the fastest growing region in the world representing nearly 40 percent of global GDP and a third of global trade. When completed, TPP will create a platform for regional integration in the Asia-Pacific.

Last week, during the President's visit to Japan, the United States and Japan made significant progress in our bilateral market access discussions. In doing so, we have identified a path forward on agriculture and autos, two of the most challenging areas of our negotiations with Japan. Although work remains to close the gaps, this milestone achievement – spurred by the President's direct engagement – will provide significant momentum to the overall negotiations. We are continuing to work to ensure that the TPP will open markets for U.S. goods and services, include strong and enforceable labor and environmental commitments, promote strong intellectual property (IP) protection and enforcement, and include groundbreaking rules on issues like State-owned enterprises (SOEs) and the digital economy.

Building on last year's successful launch, we expect to make significant progress this year toward a T-TIP with the European Union. This will strengthen the world's largest trade and investment relationship.

In March, Leaders reinforced their firm commitments to T-TIP during the EU-U.S. Summit in Brussels, and urged negotiators to make swift progress on a comprehensive agreement. Through T-TIP, we are seeking to update and modernize trade rules, and crucially, to bridge divergences that exist between our regulatory and standards systems, while preserving high levels of safety, environmental, and consumer protections on both sides of the Atlantic. We are seeking to eliminate tariffs and knock down non-tariff barriers. Such 'behind-the-border' barriers, especially on agricultural goods, often constitute the most significant obstacles to transatlantic trade.

Agriculture is vital to the American economy. In 2013, U.S. farmers and ranchers exported a record $148.4 billion of food and agricultural goods to consumers around the world. In 2014, the Administration aims to help them build on that record performance. Through TPP and T-TIP, we will open new export markets. We will continue to use these agreements, and other tools, to press for non-discriminatory sanitary and phytosanitary standards that are based on science. We will also continue to work on streamlining the trade of organic agriculture across borders by negotiating organic equivalence agreements.

U.S. manufacturing will always play a vital role in our economy. As American manufacturers increase their capacity to produce more advanced and value-added goods, consumers around the world continue to place a high value on Made-in-America products. In 2013, the United States exported nearly $1.4 trillion in manufactured goods, which accounted for 87 percent of all U.S. goods exports and 61 percent of U.S. total exports. To support the growth of manufacturing and associated high-quality jobs here at home, the Obama Administration will continue to pursue trade policies aimed at keeping American manufacturers competitive with their global peers. Throughout our trade negotiations, we aim to create rules that ensure SOEs do not compete

unfairly with private firms, and seek to ensure that rules of origin and global supply chain provisions create incentives for manufacturers to locate here in the United States.

The United States is an innovative economy, and the Obama Administration is committed to protecting IP, which is vital to promoting and encouraging innovation and creativity. Millions of American jobs rely on IP, and we will continue to use our trade agenda in 2014 to defend the IP rights of our creators and innovators. Through our trade agreements, including TPP and T-TIP, we will continue to promote strong and balanced IP protection and enforcement and to open markets for IP-intensive goods and services, which are critical to defending the jobs that rely on innovation. Our commitment to advancing these priorities is informed by diverse views of both producers and users of innovative products and services. We will also continue to support a free and open Internet that encourages the flow of information across the digital world.

The United States continues to fight against the theft of U.S. intellectual property. IP theft not only puts American jobs at risk, but counterfeit products oftentimes pose a threat to the health and safety of consumers in the United States and around the world. In 2014, we will continue to deploy a variety of tools to promote and protect innovation. Just yesterday, we released our 25th annual "Special 301" Report, a tool through which we identify and resolve IP concerns around the world. Through sustained engagement with our trading partners, we have made great strides in protecting IP rights so that Americans can reap the rewards of their creations. The "Special 301" process, along with our ongoing negotiations, are key elements of the Administration's Strategy on Mitigating Theft of U.S. Trade Secrets. We are also seeking to advance progress on IP-issues with our trading partners through the WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS).

We will continue to work closely with Congress and all our stakeholders on a wide range of trade issues related to the protection and enforcement of copyrights, trademarks, patents, trade secrets, and other forms of IP. We will also work to ensure that our farmers and exporters can continue to use common food names for their products. In the critical area of public health, the Administration continues to seek and embrace diverse stakeholder input that will help shape the development of proposals to promote access to high-quality innovative and generic medical products.

The Obama Administration is also determined to tackle non-tariff barriers, which increasingly pose the greatest obstacles to U.S. exports. For example, we are seeking to tackle "localization barriers to trade," measures and policies that protect domestic industries at the expense of the workers and firms of other countries. These types of barriers to trade are becoming increasingly pervasive, particularly in emerging economies, and tilt the playing field against American exporters. In 2014, we will continue to address the distortionary effects of these policies with trading partners around the world.

At the WTO, we will capitalize on the success at the 9th Ministerial meeting in Bali last December, where the United States worked with the WTO Director General and other WTO members to help the WTO conclude its first new multilateral trade agreement, the WTO Trade Facilitation Agreement, which will make it easier and less costly for U.S. exporters to trade by reducing the customs barriers they face abroad. In addition, WTO Members agreed on important

steps to address key issues with regard to food security and agricultural trade, and to alleviate poverty and improve economic opportunities through trade policy and development assistance.

We will continue to show U.S. leadership and support for the multilateral trading system by identifying new opportunities. In March, we notified Congress of our intent to enter into negotiations on an Environmental Goods Agreement with the world's largest traders in environmental goods, representing nearly 90 percent of this $1.4 trillion market. This Agreement, which will eliminate tariffs on environmental goods, will reinforce our efforts to expand exports, protect the environment, promote the development and increase the availability of renewable and clean energy technologies.

We will also move towards conclusion of negotiations on two major sectoral agreements: 1) the TiSA and 2) expansion of the ITA. As the world's largest trader in services, the United States is pursuing the TiSA to establish state-of-the-art trade rules that promote fair and open competition across a broad spectrum of service sectors, including services trade through electronic channels. Fifty countries are represented in the TiSA negotiations, accounting for 70 percent of world trade in services and a combined services market exceeding $30 trillion – or approximately half of the global economy.

The ITA was concluded in 1996 and eliminated duties on information technology products. ITA provided a significant boost for U.S. technology products. In recent years, tremendous technological advances have taken place, and new technology products are hitting the market every day. The United States has led the effort to expand the scope of the ITA's product coverage to take account of these changes. In 2014, our negotiators will work to conclude negotiations on a balanced and commercially meaningful expansion agreement.

Enforce U.S. Trade Rights Around the World

The Obama Administration has placed an unprecedented emphasis on trade enforcement. Since 2009, the Administration has filed 17 WTO complaints, and doubled the rate of cases filed against China. In fact, in late March, the United States scored an important victory for America's workers and manufacturers and for upholding WTO rules on fair access to rare earths and other raw materials that are essential for maintaining U.S. manufacturing competitiveness. This decision is significant, and sends a clear signal that USTR will go to the mat for American manufacturers to ensure that America gets the benefit of non-discriminatory access to industrial raw materials. In addition to this recent victory, in 2013, we won key legal victories against China, including a finding that China's antidumping and countervailing duties were applied in violation of WTO rules.

Through our ongoing enforcement agenda, we are leveling the playing field for key agricultural producers in Georgia and Oregon, aircraft workers in Kansas and Washington State, manufacturers of wind turbines in Ohio, and hi-tech batteries in Michigan.

In 2014, the Administration will continue to monitor and enforce WTO obligations, along with those in our bilateral, plurilateral, and regional trade agreements, to ensure that we bring home the full benefits of those agreements. These efforts are particularly important as we work to

ensure free trade agreements with South Korea, Colombia, and Panama that went into force in 2012 are fully implemented and that each country adheres to its commitments.

We also continue to draw upon the significant "whole of government" capabilities of the Interagency Trade Enforcement Center (ITEC) in our enforcement efforts. Led by USTR, in close collaboration with the U.S. Department of Commerce and with the support of many other agencies, ITEC brings together research, analytical resources, and expertise from across the Federal Government into one organization. The ITEC significantly enhances the ability of the United States to investigate foreign trade practices that are potentially unfair or adverse to U.S. commercial interests. China rare earths, Argentina import licensing, and India local content requirements are all examples of cases where the ITEC has provided important value-added assistance.

Enhance Trade and Investment Partnerships around the World

Whether in China, India, Brazil, or sub-Saharan Africa, the Administration continues to work to strengthen our trade relationships to support U.S. jobs.

China: The Obama Administration's principal goal for U.S. trade policy with China is to provide U.S. businesses and workers a level playing field in order to compete in this rapidly growing market. In 2014, we will continue to engage China through bilateral fora such as the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue to press for additional progress on these fronts, and to ensure full implementation of commitments China has made. Particular areas of concern include measures impeding U.S. exports of food and agricultural products, information technology and telecommunications equipment, medical devices, and an array of other manufactured products. We will also seek to make progress on China's accession to the Government Procurement Agreement, which will require significant engagement on difficult issues such as SOEs and China's domestic procurement regimes. We will press China through our established bilateral channels, including the current Bilateral Investment Treaty (BIT) negotiations, to more fully open its economy and eliminate preferences for SOEs. And, finally, we will continue to engage in dialogue with China to improve the climate for intellectual property protection and enforcement through a number of avenues, recognizing that a strong rule of law – including assurance that enterprises can make decisions regarding technology transfer without government interference – is essential to encourage and support continued innovation.

India: The Administration will work to make the U.S.-India Trade Policy Forum a productive mechanism to address concerns and engage with India on a wide range of trade and investment issues. This includes intellectual property protection and potentially trade-restrictive localization policies.

Brazil: We will also utilize the U.S.-Brazil Agreement on Trade and Economic Cooperation as a productive mechanism for dialogue between our two countries. In 2014, we will work to continue to grow our exports and deepen our trade and investment policy engagement with Brazil. In addition, we will continue to pursue with Brazil a long-term mutually agreeable solution to the WTO dispute on cotton, preventing costly retaliatory counter-measures from damaging American consumers and exports.

Sub-Saharan Africa: Over the next year or so, we have an important opportunity to review and refresh our longstanding and deep trade and economic relationship with Sub-Saharan Africa. We are working to conclude a comprehensive review of the African Growth and Opportunities Act (AGOA) program, which expires next year, and develop a series of recommendations as to the future of AGOA. We have already begun consultations with Members of Congress, stakeholders in the United States and Africa, experts in civil society, NGOs, and academics in this regard. We hope to intensify these discussions in the lead-up to the first U.S.-Africa Leaders Summit in August 2014. AGOA has always attracted broad support across the political spectrum and been an area of close collaboration between the Congress and the Administration. We look forward to continuing in that tradition as we work to renew and revitalize the program.

Middle East and North Africa: The revolutions and other changes that swept through the Middle East and North Africa region beginning in 2011 have prompted a comprehensive reevaluation of U.S. trade and investment policies toward this critical part of the world. This year, the United States will work with regional partners through various forms of engagement (including free trade agreement Joint Committees, TIFA Councils, and other arrangements) to continue developing the President's MENA Trade and Investment Partnership (MENA TIP) initiative. We will continue to advance several initiatives with MENA countries, including on trade facilitation, investment, and the information and communication technology sector. In addition, we will engage governments on a further range of issues identified by stakeholders as important to better trade relations, such as IP rights, services, government procurement, small and medium enterprises, and labor practices. We will also seek where possible to craft and pursue initiatives that can help lay the groundwork for the greater economic integration among MENA countries which will be critical to the future prosperity in the region.

Western Hemisphere: We have our most extensive network of trade agreements with our partners in the Western Hemisphere – 12 of our 20 current FTA partners, which alone account for 39 percent of our global exports. We are working intensively to complete implementation of our more recent agreements so they continue to provide new opportunities for U.S. goods, services and investment. We also have a robust monitoring and enforcement agenda in the region as we use the tools contained in our agreements to ensure their benefits are broadly available.

Generalized System of Preferences: The United States is dedicated to using our trade preference programs, trade capacity building, and other initiatives to create economic growth as a means to lift people out of poverty and develop markets around the world. Through the Generalized System of Preferences (GSP) – the oldest and most widely used U.S. preference program – the United States gives developing countries duty-free access on a range of goods. This not only

allows developing countries to grow their economies, but it reduces the cost of imported goods being used in U.S production. In 2014, the Administration urges Congress to expeditiously renew authorization of the GSP program, and we stand ready to work with you to that end.

In addition to key emerging markets, the United States will continue our robust engagement with trading partners across the globe as we seek additional bilateral and regional trade and investment opportunities to help increase U.S. exports and grow our economy. Building on successful past efforts, the United States will seek to advance trade-enhancing investment measures with key trading partners in order to continue attracting the best jobs and industries here in America. We will seek to secure high-standard BITs with China, India, and Mauritius, among others, and explore a regional investment agreement with the East African Community countries.

Working with Congress, Stakeholders, and the Public

As we pursue this agenda, we will continue to consult with Congress and seek input from a wide range of advisors, stakeholders, and the public at large.

We have held over 1,250 meetings with Congress about TPP alone – and that doesn't include the meetings we've had on T-TIP, TPA, AGOA, and other initiatives. Our Congressional partners preview our proposals and give us critical feedback every step of the way. We also ensure that any Member of Congress who is interested has access to the negotiating text and the opportunity to receive detailed briefings by our negotiators.

Further, we have cast a wide net to draw in the views of stakeholders and the public more generally, and to share information with them. We have solicited public comments regarding negotiating aims and objectives through notices in the Federal Register; public hearings; open invitations to stakeholders to meet with U.S. and foreign negotiators at negotiating rounds; the dissemination of trade policy updates through press releases, fact sheets, blog posts, statements on USTR's website – and, yes, tweets; and direct and constant outreach by U.S. trade officials to solicit, obtain, and incorporate public input in the course of their daily work. Most recently, we published detailed goals and objectives for T-TIP negotiations that outline what we are seeking in every chapter of the agreement.

We are increasing the diversity of trade policy input we receive through the creation of the Public Interest Trade Advisory Committee (PITAC). We are soliciting nominations for new candidates who represent a broad cross section of interests in order to ensure that a diverse pool of advisors are providing input to our trade policy. Consistent with the statute for our Industry Trade Advisory Committees and other advisory committees, we are also soliciting nominations for candidates that are representative of industry, agriculture, services, and labor interests.

In a variety of other areas, we will continue to engage with stakeholders from non-governmental organizations, academia, labor unions, trade associations, environmental and consumer groups, state and local governments, the business community, including small businesses, and a variety of other perspectives that will collectively help to inform and guide our trade policy decisions. We will strengthen our relationships with states and localities through enhanced engagement

with the National Governors Association, the National Conference of State Legislatures, the U.S. Conference of Mayors, and outreach to state and local elected officials.

Finally, let me say a word about Trade Promotion Authority (TPA). TPA is the mechanism by which Congress has worked with Presidents since 1974 to give the Executive its marching orders about what to negotiate, how to work with Congress before and during the negotiations, and how Congress will take up and approve or disapprove the final agreement. There is no other area of policy that reflects closer coordination between the Executive branch and Congress than trade policy.

The last TPA legislation was passed over a decade ago. Much has changed since that time, from the May 10, 2007 agreement on labor, environment, innovation, and access to medicines to the rise of the digital economy and the increasing role of SOEs. We agree with the broad group of stakeholders that these issues should be reflected in a new TPA bill.

Issues raised by the emergence of the digital economy and the increasing role of SOEs in the global economy should be part of the statutory negotiating objectives. And there are new forms of protectionism which threaten U.S. exports, which should be reflected as well.

We have heard from many that TPA needs to be updated. We agree. The Administration welcomed the introduction of bipartisan TPA legislation in January, and looks forward to working with this Committee and Congress as a whole to secure TPA that has as broad bipartisan support as possible. We also look forward to renewing Trade Adjustment Assistance (TAA), which helps provide American workers with the skills to compete in the 21st century.

Conclusion

The ambitious trade agenda I laid out today creates opportunities for new, well-paying jobs, higher growth, and a stronger middle class. It incentivizes individuals and companies to expand production, start new production, and bring back production in the United States. At its core, the trade agenda emphasizes strong, enforceable rules that promote core U.S. values and interests, including protection of U.S. creativity and innovation, access to medicines, fundamental labor rights, and robust environmental commitments. And of course, we can only accomplish these shared goals and priorities through strong bipartisan cooperation between Congress and the Administration.

Working together, we can ensure that our trade policy creates opportunities for all Americans. In the end, trade can be a force that improves the quality of life for American families in every state, county, and city.

Thank you again for the opportunity to testify today. I am happy to take your questions.

UNITED STATES SENATE
COMMITTEE ON FINANCE
HEARING ON PRESIDENT OBAMA'S 2014 TRADE POLICY AGENDA
MAY 1, 2014
RESPONSES TO QUESTIONS FOR MICHAEL FROMAN

QUESTIONS FROM CHAIRMAN WYDEN

Question 1

It is critical that our trade agreements be enforceable. But it's not enough to negotiate an enforceable trade agreement; you then have to commit the time, resources and political capital to enforcement for the entire life of the deal.

Too often it appears that we negotiate deals then fail to follow through when our trading partners fall short, whether for lack of resources or because political or ancillary considerations impact enforcement decisions. And our experiences with China, Korea, Russia and others make clear that we lose out if we let agreements go into force before countries are able to comply with their commitments.

What steps does USTR take in the process of bringing an agreement into force to ensure that our trading partners live up to their obligations? What more can USTR do to ensure that implementation issues of the type that have arisen with other trading partners on customs, cross border data flows, and other matters do not arise with respect to future trade deals?

Answer

President Obama has elevated trade enforcement on par with market-opening efforts as a top priority for U.S. trade policy. We will continue to use dialogue when possible and dispute settlement whenever necessary to help preserve and support American jobs threatened by practices that breach international obligations. But before an agreement even enters into force, the United States is working to ensure that American workers will be able to seize all of the job-supporting opportunities we have negotiated under the agreement.

As part of the process of bringing our free trade agreements into force, and as required by the implementing legislation for each free trade agreement, USTR undertakes a detailed review of a trade agreement partner's trade regime to ensure that the country has taken the measures necessary to implement those obligations that come into effect on the agreement's date of entry into force. As part of these reviews, USTR often presses our trading partners to make changes to laws and regulations in order to be satisfied that the partner will meet its obligations. Of course, no regime is ever static and new measures can come into place after the agreement enters into force. If and when we become aware of implementation issues arising after the agreement enters into force, USTR uses the various mechanisms set in place in the agreements – for example, topic – specific committees and Ministerial-level Commission meetings or, if necessary, available dispute settlement mechanisms – to seek a satisfactory resolution to the issue.

No U.S. free trade agreement currently in force has disciplines on cross-border data flows like the ones we are negotiating in TPP. However, this is an example of how we continuously seek to update the disciplines in our trade agreements to address new trade issues and emerging issues.

Question 2

As you know, I think the U.S. should be much more forward-leaning on trade enforcement – enforcing trade rules to stand up for American workers. Increasingly I hear companies push back on enforcement because they fear retaliation from countries that we may take action against.

How is USTR tackling China's use of its trade remedies laws to apply retaliatory duties to U.S. products, in response to enforcement actions taken by the US? Have last year's WTO wins against retaliatory duties affected China's approach to trade remedies, and what is your strategy going forward for addressing the threat more broadly against U.S. companies?

Answer

At the direction of President Obama, USTR engages in vigilant monitoring and rigorous enforcement of U.S. trade rights to ensure that America's working families are able to seize all of the job-supporting opportunities available under U.S. trade agreements.

China's decision to impose retaliatory antidumping and countervailing duties on U.S. exports had led us to file three WTO disputes: on *Grain Oriented Electrical Steel (GOES)*, *Chicken Broiler Products*, and *Autos*. We prevailed in the first two disputes, and are looking forward to receiving the result in the third shortly.

At the end of its period of time to comply with WTO rules in the *GOES* dispute, China issued a redetermination continuing to impose the duties. We weren't satisfied, and the United States became the first WTO Member to challenge a compliance action by China as inconsistent with WTO rules. USTR will keep pressing for China to change its trade remedies practices that are inconsistent with WTO rules.

If we believe that China or any other WTO Member, has applied trade remedies inconsistently with its WTO obligations, we will not hesitate to challenge that action in the WTO. And, we will continue to work with other WTO Members that share our concern with China's practices. Two other WTO Members (the EU and Japan) have also initiated or prevailed in challenges to China's misuse of trade remedies.

Question 3

State Owned Enterprises and localization barriers to trade are increasingly of concern to our companies.

Beyond negotiating new disciplines in the TPP and elsewhere to address these barriers, how can USTR use existing tools to take on these issues?

Answer

USTR works to address the growing challenge raised by state-owned enterprises and localization barriers to trade through a variety of means.

In addition to the innovative work we are doing in TPP and other trade negotiations, USTR, in cooperation with other relevant agencies, actively seeks to address the emergent problems associated with SOEs in our bilateral dialogues with China and other major trading partners. In addition, USTR is committed to fully enforcing existing international trade rules and domestic laws to ensure that our stakeholders do not face unfair competition from heavily subsidized SOEs.

On localization barriers, as you noted, USTR has included binding rules prohibiting the use of localization measures in all recent U.S. BITs and FTAs. Where possible, USTR has engaged in enforcement actions under international agreements to challenge the use of foreign country localization measures, such as the India solar cases; and has used bilateral and regional trade dialogues, including APEC and the OECD, to advocate against the use of localization measures, including by seeking political commitments against their use. Finally, in close coordination with other agencies, USTR has worked to ensure that U.S. policy against the use of localization measures is broadly and consistently reflected in decisions relating to countries and sectors in which these measures are harming U.S. export interests.

Question 4

How is USTR leveraging its limited resources to maintain a robust enforcement agenda for the coming year? What language and research capabilities does USTR have available to it here in the United States and overseas to support enforcement efforts?

Answer

From the outset, this Administration has put a major emphasis on trade enforcement, standing up for American trade rights abroad, so that American workers and businesses can compete on a level playing field. Strong funding for our trade enforcement efforts is of the utmost importance, and the President's FY2015 budget would make critical investments in USTR so that we can bolster our enforcement actions and keep working to unlock economic opportunity for the American middle class by increasing job-supporting, made-in-America exports to growing economies across the world.

Within existing resources, USTR utilizes in-house language and research capabilities – for example, through substantive expertise and language capabilities in its regional and functional offices, a dedicated Director of Research in the Office of General Counsel, assigned to the Interagency Trade Enforcement Center (ITEC), and by hiring Mandarin-speaking and other language-proficient attorneys for the Monitoring and Enforcement Unit of the General Counsel's Office. USTR also works actively to leverage substantive knowledge and language capabilities

across the federal government – for example, through the U.S. Departments of State, Commerce, and Agriculture, in capital or at posts abroad.

ITEC, which is housed within USTR, is a prime example of the Administration's commitment to better leverage U.S. Government resources is the creation of ITEC. ITEC detailees include trade enforcement analysts with language skills, including Mandarin, Russian, Spanish, and Portuguese, allowing research into primary rather than secondary sources. In addition, ITEC's enforcement efforts are further enhanced by increased availability of translation resources. ITEC's researchers also have a variety of substantive expertise including economics, law, subsidies, trade remedies, and animal science. These language and other substantive skills as well as ITEC's interagency, collaborative structure permit the kind of sustained and persistent focus on monitoring and enforcement that was envisioned with the creation of ITEC.

Question 5

An upgrade to our trade policy will require an upgrade to trade promotion authority. You'll be hearing more about what I've called "smart track" in the days and weeks ahead.

I want to create a comprehensive approach that addresses the new challenges of our time. I described many of those challenges earlier in my remarks.

Greater transparency. Stronger, more strategic enforcement so we can take on the problems of tomorrow, today.

When the substance is right, the time will be right for TPA. But to be clear, none of us ran for the Senate to stand on the sidelines and I want to make clear to our trading partners that this Committee is taking on TPA and that we are going to get the right TPA so that the right trade agreements pass Congress.

Ambassador Froman, you are meeting with our trading partners almost around the clock these days, it seems.

Are you prepared work with me to make clear to them that this Committee is ready to take steps to ensure that a strong, 21st century TPP will be met with an equally strong, 21st century TPA as long as they are willing to meet to a new standard for what a modern trade agreement should include?

And do you share my view that USTR can continue, and is continuing, to make progress on TPP while Congress considers what criteria a trade agreement should meet in order to get special consideration in the Congress?

Answer

The Obama Administration is currently working in parallel to secure TPA and to further a variety of bilateral, plurilateral, and multilateral negotiations. We will continue to work closely

with the Committee as you develop a strong, 21st-century TPA with as broad bipartisan support as possible.

At the same time, we continue to advance our trade negotiations, most recently, at the May TPP Ministerial meeting where progress was made on market access and rules issues. We also agreed on a plan of intensive work for the weeks ahead to further advance the negotiations toward conclusion.

We are working hard to negotiate an ambitious, comprehensive, high-standard TPP agreement. A strong 21st-century TPP agreement will help demonstrate to Congress and the American people the benefits of trade agreements in supporting jobs, growth, and a strengthened middle class in America, thereby helping to move the whole trade agenda forward.

Question 6

U.S. companies are at the forefront of the digital revolution, and U.S. companies are using digital technologies to become more globally competitive – this is America's advantage. But, at the same time, foreign governments are adopting policies that make it more difficult for U.S. innovators to capitalize on these new opportunities.

I commend the work that you and your staff are doing to use trade agreements to develop global rules in areas vital to the success of U.S. digital innovators – including data flows, forced localization, legal liability questions.

Please tell us how USTR works to identify and address barriers to digital trade – in countries with which we have active trade negotiations and in countries with which we have no active trade negotiations such as India or Brazil.

Answer

With respect to countries with which we have active trade negotiations as well as those with which we do not, USTR seeks to identify barriers to digital trade through a range of means: solicitations of comments in annual reviews, including the annual National Trade Estimate and review of compliance with telecommunications trade agreements ("1377 Review"); regular interaction with industry stakeholders; and use of reporting from U.S. embassies and consulates around the world. In addition, when we seek to launch trade negotiations with specific partners, we solicit from stakeholders input on specific barriers relevant to such partners, including with respect to digital trade. We use such input to help craft rules to address significant barriers.

USTR is currently seeking to include a range of provisions in the trade agreements we are negotiating, including TPP, T-TIP, and TiSA, aimed at enhancing opportunities for digital trade. Chief among these are:

- A "negative list" approach to services and investment (all sectors are covered unless a Party negotiates to exclude a sector or subsector), critical to innovative and fast-changing services such as Internet-based services;

- A prohibition on imposing tariffs on content transmitted electronically;
- Non-discriminatory treatment of content distributed electronically into markets of a trade partner;
- An affirmative obligation to permit cross-border data flows; and
- A prohibition on requiring the use of local computing facilities for covered services.

Where we do not have active trade negotiations with a country, we have regular dialogue with trade partners through structured meetings to raise and seek to resolve significant impediments to digital trade.

Question 7

Innovation is America's advantage. The theft of trade secrets, for example, compromises this American advantage, and it has long been a priority trade negotiating objective of Congress to protect U.S. intellectual property.

Would you please explain how you intend to identify U.S. IP priorities in trade negotiations? Please explain how you will ensure that trade agreements reflect the current balance in U.S. law but do not inappropriately prevent legislators from updating our domestic laws. And please explain how you will engage with the full range of IP owners and users impacted by the IP provisions in trade agreements, recognizing that this group goes beyond the traditional trade constituencies and consultation groups.

Answer

One of our key priorities in trade negotiations is to build a modern legal infrastructure to protect intellectual property rights around the world, and to ensure effective enforcement of IP rights to maintain markets for the full range of job supporting exports of products and services embodying American creativity and innovation. Our IP-intensive exports include not only our advanced business software and popular films, music, books and video games, but also an endless variety of innovative U.S. manufactured goods and trusted brands spanning every sector that benefit from stable protection for and enforcement of patents, copyrights, trademarks, trade secrets, pharmaceutical and agricultural chemical test data, and other forms of intellectual property.

In that regard, we continue to seek as much input as possible on issues related to IP and trade. Our ongoing engagement with Members of Congress, particularly our committees of jurisdiction, is a vital part of this effort. We also meet with a variety of stakeholders on an ongoing basis, including from civil society, non-governmental organizations, concerned citizens, and businesses affected by international protection of patents, trademarks, trade secrets, affordable access to medicines, copyrights, and other aspects of intellectual property. This is in addition to our ongoing work with cleared advisors.

U.S. Government agencies also work closely with our trading partners to build awareness in the public and the private sector, and among government officials, of the benefits that strengthening protection for IP provides to their economies and creative sectors. We also support capacity building training to help countries improve their protection of IP.

Question 8

While it is unfortunate that President Obama and Prime Minister Abe were unable to announce a specific market access deal last week, I strongly agree with your past statements that no deal is better than a bad deal. I also appreciate that negotiators are working around the clock to reach an agreement. However, there are concerns that because of pressure to conclude the agreement soon that the US will negotiate against itself and agree to a less than optimal deal. This particularly would have big negative implications for some of our important agricultural producers, like wheat producers, who feel that not achieving full market access for wheat or other sensitive agricultural products, could result in bad precedent and an eventual unraveling of current TPP negotiations and possible future gains.

Can you assure us that the Administration will take as long as necessary to achieve a TPP agreement that is ambitious, comprehensive, and high-standard, producing meaningful new market access for all sectors?

Answer

The Administration has been clear that substance needs to drive the timeline for completing the TPP negotiations. We remain focused on negotiating an ambitious, comprehensive, and high-standard agreement, and will not agree to a less than optimal deal for any reason.

Question 9

Our auto companies have faced significant barriers in markets including Japan and Korea. Despite our trade agreement with Korea, companies continue to face challenges selling American cars in the Korean market.

What lessons have you learned from our experience with Korea that informs your approach to TPP with Japan? What are we doing to ensure that trade agreement commitments translate into real market access for American companies?

Answer

U.S. motor vehicle exports to Korea have increased since KORUS took effect, up 80 percent between full year 2011 (pre-FTA) and 2013, albeit from a very low base. We remain committed to working to help build further on this progress, including insisting on full compliance with obligations under the agreement. We seek a level playing field for U.S. autos in both Korea and Japan, and we now have the opportunity with Japan, through the parallel bilateral talks to the TPP negotiations, to address a range of non-tariff barriers in that market to similarly help expand opportunities for U.S. vehicles. To accomplish this, we are addressing both barriers that are unique to Japan's market, as well as concerns in Japan that are similar to concerns we had in Korea.

With Japan, for example, we have already agreed that the phase-out of U.S. motor vehicle tariffs will be in accordance with the longest staging period in TPP, back-loaded, and substantially longer than in the case of KORUS. In addition, we are seeking adjustments to further strengthen

remedies and other elements of the special motor vehicle dispute settlement mechanism that takes into account this outcome on tariffs. We are also pursuing additional issues of concern that are unique to Japan, including those related to Japan's financial incentive programs and certification procedures. In other areas, we are seeking commitments in line with those in KORUS, including in areas such as regulatory transparency.

Question 10

Japan has sought to protect around 6% of its tariff lines from liberalization. I have noticed in many of your public statements that you use the phrase "new market opportunities" or "reduction" rather than "elimination" of tariffs.

On what percentage of products would you allow Japan to not fully liberalize its market? As you know, past US FTAs achieve liberalization in virtually all tariff lines.

Since this is a 21st century, forward looking agreement, can you assure us that any tariff lines not going to zero will have tariffs no greater than past FTAs?

Answer

We are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual product lines.

Question 11

The TPP negotiations involve a region with a long history of currency manipulation. A bipartisan majority of the House and a super majority in the Senate called for the inclusion of strong and enforceable currency manipulation disciplines in the TPP to ensure the agreement benefits our workers and businesses.

Do you agree that currency manipulation could undermine whatever additional market access is negotiated in TPP?

What specifically are you doing to address these deeply held concerns?

Answer

Currency is a top priority for the President and the Administration, and Treasury which has the lead on currency issues, has worked actively in multilateral fora, including the G-7, G-20, and the International Monetary Fund, as well as through bilateral engagement, to address persistent exchange rate misalignments. We have made progress in these fora, and will continue to press for countries to move to market-determine exchange rates. We are continuing to consult with Treasury, Congress, and our domestic stakeholders on this important issue.

Question 12

The power of American brands in Japan is unmatched. This is particularly true of many of the iconic footwear brands from my own state and many others. However, their efforts to take advantage of this "USA cachet" in the huge and lucrative Japanese footwear market have been stymied by Japan's long-standing quotas on leather footwear imports. Your agency has highlighted this situation in your own National Trade Estimates report on Foreign Trade Barriers for 20 years straight. This includes the NTE report you published last month, where you stated that Japan's leather footwear quotas are "negatively impacting market access for U.S.-made and U.S.-branded footwear."

I know the administration has many issues with Japan, but can you tell me that the administration is committed to using the TPP to eliminate Japan's footwear quotas once and for all?

Answer

USTR is committed to opening the Japanese market to U.S. leather footwear imports under TPP. To accomplish this goal, my team is addressing both tariffs and quotas in the discussions with Japan.

Question 13

Ambassador Froman, the WTO's Information Technology Agreement has been a tremendous commercial success for American tech companies, and the American economy, by significantly expanding access to markets overseas. I know there have been "on-again," "off-again" negotiations over the past year to expand the ITA for the first time since the agreement was created in 1996, but I also understand China has put up some major roadblocks since joining the talks last year. My home state of Oregon has a large semiconductor industry presence, and semiconductors, which are one of our nation's top manufacturing exports, stand to benefit significantly from an expanded ITA if it includes next-generation chips currently not covered. What are the prospects for resumption of negotiations to expand the ITA? More specifically, are there steps the Administration can take to encourage the Chinese to return to the table with a more ambitious offer so ITA expansion negotiations can conclude swiftly? In particular, it seems the APEC trade ministers' meeting in the middle of this month could be a good target for restarting the negotiations.

Answer

We want to conclude an ITA expansion agreement as soon as we can achieve a balanced and commercially significant package of liberalization. In that regard, we held productive talks with China on May 16-18. The United States proposed new ideas on how to press the negotiations forward. We made progress and narrowed our differences with China, and look forward to reengaging with China in the coming weeks. We will continue our intensified work with the goal of achieving a meaningful, expanded ITA agreement in the near term.

Question 14

What is your assessment of the current level of ambition of the EU? Do you believe that the TTIP negotiations are on a path to eliminate all tariffs and take a good whack at the non-tariff barriers that keep many U.S. products excluded entirely from the EU market?

Answer

The High Level Working Group identified the elimination of all tariffs on bilateral trade, with substantial tariff elimination upon entry into force, as a key objective of the negotiations, and we are vigorously pursuing this goal with the EU. A significant portion of the benefit of a potential transatlantic agreement turns on the ability of the United States and EU to pursue new and innovative approaches to reduce the adverse impact on trade and investment of non-tariff barriers, with the aim of moving progressively toward a more integrated transatlantic marketplace. The HLWG recommended that the two sides explore new means of addressing these "behind-the-border" obstacles to trade, including, where possible, through provisions that serve to reduce unnecessary costs and administrative delays. We also seek to encourage increased transparency, accountability, and public participation in the regulatory process. A key shared objective of the negotiation is to identify new ways to prevent non-tariff barriers from limiting the capacity of U.S. and EU firms to innovate and compete in global markets.

Question 15

I understand why Europeans are unhappy about NSA surveillance of personal data. But I also know that the answer to those concerns is not to shut down transatlantic data flows. What are you hearing from your European counterparts on this issue, and what do you see as the path forward to include sensible data flows rules in this agreement?

Answer

Although the disclosures on U.S. surveillance activities has been an issue EU officials have raised with us on occasion, we both share the goal of seeking to keep such discussions separate from trade negotiations. We do not believe that these issues, however important, should distract us from our important trade and investment negotiations, from which the United States and the EU stand to benefit significantly. In the U.S.-EU negotiations, we have sought to include binding rules on data flows and have assured the EU that our proposal seeks to accommodate reasonable privacy safeguards.

Question 16

The most significant piece of the TTIP may be the regulatory coordination pillar, but it also is engendering the most controversy. I know the President has said on multiple occasions what he does not intend to do in this agreement – that is, lower standards on either side of the Atlantic – but I'd like you to explain affirmatively what it is you would like to do in this agreement. I'd like to give you an opportunity here to explain in more detail what Congress and stakeholders should expect to see in the regulatory sections of this agreement. What are the benefits?

Answer

T-TIP is not about lowering standards or de-regulation. It is about finding ways, where appropriate, to eliminate, reduce, or prevent unnecessary regulatory barriers – including particularly those that arise from unnecessary divergences in regulations – that make it harder for our workers, manufacturers, service providers, farmers, and ranchers to do business in both markets. In doing so, while continuing to achieve each side's respective high levels of health, safety, and environmental protections, workers are better off on both sides of the Atlantic.

There are numerous tools available to accomplish these results. A key tool is to increase the level of transparency, participation and accountability in the EU process for developing regulations and standards, which can produce both better and less divergent regulations. Other tools include reducing redundant testing, and ensuring that products tested or certified in the United States can be sold in Europe. These are some of many ways that we can reduce barriers and costs due to regulatory differences between the United States and the EU, while ensuring that we maintain the high levels of protection, including for consumers, labor, and the environment, that our citizens expect.

Question 17

I hear a lot of concerns about investor-state dispute settlement, and I expect many of my colleagues are hearing them too. One big concern is obviously any impact that ISDS might have on the United States' ability to regulate. The EU is pursuing an open consultation right now, and I recognize that the Administration held a similar consultation when undertaking its Model BIT review. But, given that this issue is a live one in the context of current negotiations, please explain about how the Administration assesses the defensive vulnerabilities and what gives you the confidence to push ahead on this aspect of negotiations.

Answer

As you mentioned, the United States spent many years developing a carefully balanced approach to investment that both affords a high degree of protection to investors, and that ensures that legitimate government interests are fully protected. In recent agreements we have proposed mechanisms to discourage frivolous claims by enabling tribunals to dismiss them at an early stage; to create greater transparency around ISDS proceedings; to allow non-parties such as civil society organizations to make their own submissions to ISDS tribunals; and to allow the two governments involved to direct the tribunal to dismiss cases in certain areas or to agree on an interpretation of an obligation that is then binding on the arbitral tribunal. In adding these innovations to our approach, we believe we have both ensured investor protections and protected the regulators' ability to regulate in the public interest. In addition to our earlier consultation, however, we are engaging, along with our interagency colleagues, in on-going consultations with interested stakeholders during the course of the T-TIP negotiations in an effort to ensure that concerns are fully addressed. U.S. investment provisions provide some of the strongest safeguards of any investment agreements in the world and are consistent with U.S. law. The United States has never lost an ISDS case.

Question 18

On innovation, there appears to be a new, emerging regulatory issue that is harmful to American interests. We have seen an increasing effort by some governments, particularly in Asia, to misuse competition laws to support industrial policy objectives and to promote certain national champions. Obviously, this is a very complicated issue and some might argue that disagreements regarding the application of competition laws should not be included in traditional trade discussions. And yet, the practice of using competition law as tool of industrial policy is putting US companies at a competitive disadvantage globally.

What should USTR do to address this problem? The Department of Justice and the Federal Trade Commission technical assistance efforts to promote responsible enforcement of the foreign competition laws may need to be supplemented with additional action or tools. How do we ensure that governments are following established international practice rather than advancing protectionist goals?

Answer

We agree there are problematic applications of antitrust enforcement in certain Asian countries that inappropriately rely on industrial policy considerations to promote national champions and unfairly boost domestic firms' innovative capacities. In coordination with other agencies, USTR is engaging with foreign governments on these issues, including through established bilateral negotiating mechanisms and through ongoing legal and regulatory reform processes. USTR has pressed our counterparts in key economies at very high levels on the importance of ensuring that the enforcement of laws and regulations on competition are transparent and even-handed. USTR also participates with our antitrust agencies in competition related technical assistance programs to offer a fully rounded perspective on these concerns.

QUESTIONS FROM RANKING MEMBER HATCH

Question 1

Securing US law on data protections for biologics in the TPP discussions is critical to ensuring the next generation of life-changing treatments. I recognize that the talks are tough but I also know that you have strong bipartisan support to secure these essential provisions.

Can you assure us that any TPP agreement will include a commitment for TPP partners to have 12 years of data protection for biologics?

Answer

Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators

and competitors. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. As is our tradition, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. We have made clear to our trading partners that promoting innovation and ensuring access to medicines are priorities to Members of Congress and I have been engaging intensively with my TPP counterparts – including most recently at the TPP Ministerial meeting in Singapore – to try to resolve our differences on this issue.

Question 2

Industries that depend on copyright protection are critically important to the U.S. economy. The Department of Commerce found that in 2010 copyright-intensive industries accounted for over 5 million U.S. jobs and that these jobs pay significantly higher than average.

Yet criminal enterprises such as Isohunt, the PirateBay and Megaupload are harming the ability of U.S. industry to fairly compete in overseas markets. These criminal enterprises intentionally enable infringement of U.S. intellectual property. The global nature of this criminal activity makes the Trans-Pacific Partnership a unique and critical opportunity to respond to this problem, thereby fostering legitimate online commerce.

Do you agree that it is important to ensure that a person who intentionally enables infringement should be liable for the infringement itself, and do you believe this principle, which is part of US law, should be included in the TPP?

Answer

USTR is very concerned about the trade impact of online piracy, as is evident from our annual Special 301 Report and related Notorious Markets Report, which identifies the sites that you mention as well as others. In TPP, our goal is to achieve strong and balanced standards of IP protection and enforcement in the Asia-Pacific region that foster high regional standards, promote innovation, and support economic growth and the creation and retention of U.S. jobs. An important element of this work is to obtain commitments to provide criminal penalties and procedures for commercial-scale piracy, including those conducted by criminal enterprises.

Question 3

Trade facilitation is vitally important, helping both developed and developing economies to grow. That is one reason I strongly support the agreement reached on trade facilitation during the World Trade Organization Ministerial held in Bali. Of course the agreement is only as good as its implementation.

What are you doing to ensure that the Bali trade facilitation agreement is fully implemented? Will you commit to working with the U.S. Customs and Border Protection to ensure that any agreement reached as part of T-TIP includes an extremely ambitious trade facilitation package?

Answer

Ministers agreed on a target date of July 31, 2015, for entry into force of the new Trade Facilitation Agreement. To meet this goal, WTO Members need to first complete some house-keeping tasks, such as a legal scrub (which is now done), and receive notifications from developing countries on the provisions they will implement upon entry into force of the Agreement. We are actively working with developing countries in capitals, in Geneva, and through APEC and in other international fora to ensure countries are on-track to provide the necessary notifications and accept the Agreement within the deadlines.

The United States and EU cooperate extensively on trade facilitation and customs issues and both Parties have included trade facilitation chapters and customs obligations in FTAs with other partners, following a largely similar approach. We will continue to work closely with Customs and Border Protection on this issue.

Question 4

We recently marked the 2-year anniversary of the entry into force of the U.S.-Korea Free Trade Agreement. I personally think USTR squandered the opportunity to bring Korea into full compliance with its obligations when you allowed the agreement to enter-into-force without first ensuring full compliance. As a result, Korea still has not fully implemented the agreement.

In particular, the government of Korea continues to use pirated software, which is prohibited under the agreement. Korea has also failed to establish an effective independent review process to make sure that decisions regarding pricing and reimbursement for medicines and medical devices are fair. Korea's plans to introduce a patent linkage system currently fall short of its KORUS commitments, and there are concerns about its recently introduced regulations on data transfers.

Going forward, can you assure us that future trade agreements will not be entered-into-force without first ensuring that our trading partner is in full compliance with all of its international trade obligations?

Answer

We have been actively working with the Korean government to address a range of issues, including on the specific IP-related issues you have identified, and will continue to work with the Korean government to ensure that Korea complies fully with the terms ofKORUS. We will also work with our future trade partners to make sure that they adhere to their international obligations.

Question 5

The Government of Ecuador continues to flout its international commitments. Ecuador denounced their bilateral investment treaty (BIT) with the United States. An arbitration panel

convened under the BIT determined Ecuador colluded with private parties to promote a multi-billion dollar fraud against a major U.S. firm.

Ecuador repeatedly ignored and acted inconsistently with final awards from the arbitration panel. Ecuador clearly is failing to meet the eligibility requirements under the now-expired Generalized System of Preferences (GSP) that it recognize as binding and enforceable all BIT arbitral awards in favor of a U.S. firm.

Once GSP is renewed, USTR has said it will hold a hearing to determine whether Ecuador's GSP trade privileges should be withdrawn or suspended. There is no question that Ecuador should lose any GSP privileges it might hope to receive.

Can you assure us you will do everything you can to support withdrawal or suspension of Ecuador's GSP benefits once the program is restored?

Answer

USTR announced last June that we had accepted for formal review a GSP country practice petition alleging that Ecuador was not in compliance with GSP country eligibility criteria related to recognition and enforcement of arbitral awards. Authorization of the GSP program expired one month later. If and when the program is reauthorized, we will proceed with the review, including a request for public comments.

QUESTIONS FROM SENATOR STABENOW

Question 1

The administration oversaw the highly successful restructuring of the domestic auto industry, directly saving almost one million jobs and leading to commitments by the domestic automakers to create thousands of new American jobs in the future. Nearly two-thirds of the U.S. trade deficit with Japan is in automotive goods. I remain concerned that the Trans-Pacific Partnership could make this trade imbalance with Japan even worse. Following President Obama's recent visit to Japan, a joint statement indicated the U.S. and Japan had "identified a path forward on important bilateral TPP issues."

As you continue with these bilateral negotiations, what are the primary auto-related issues that remain unresolved? Is there a timeline for resolving these issues?

Answer

We are continuing to pursue a strong outcome from our parallel bilateral negotiations with Japan on motor vehicles to level the playing field for U.S. motor vehicle exports. We have made progress and developed a path forward with Japan during the President's visit to Tokyo on some of the more difficult outstanding autos issues with Japan, including dispute settlement and

standards. Substantial gaps remain, however; and, we are continuing to build on the progress that was achieved in order to finalize an agreement.

Question 2

I strongly support the Interagency Trade Enforcement Center (ITEC) that President Obama created two years ago by executive order. The recent victory at the WTO in the dispute with China over export restrictions on rare earths is a clear example of the continued need for a strong trade enforcement agenda and the resources necessary to ensure continued successes.
I want to continue to work with you to be sure that the ITEC has the authority and resources it needs to become an even stronger, more permanent, part of USTR and our broader trade agenda. Will you commit to working with me on this? What else can Congress do to support the administration's efforts on trade enforcement?

Answer

ITEC is charged with fighting for American workers, farmers, ranchers, and businesses by bringing a more aggressive "whole-of-government" approach to addressing unfair trade practices around the world. ITEC is supported by the U.S. Departments of Commerce, Agriculture, Justice, State, and the Treasury, as well as other agencies. The personnel from these agencies are enhancing U.S. trade enforcement capabilities and facilitating increased engagement with foreign trade partners at the World Trade Organization (WTO) and elsewhere through the creation of an expanded team of language-proficient researchers, subject matter experts, and economic analysts. ITEC is designed to help leverage and mobilize resources and expertise across the federal government to develop trade enforcement actions that will address unfair foreign trade practices and barriers that could otherwise imperil our nation's export promotion and job recovery efforts. Your continued support of the ITEC's work is appreciated, and I look forward to continuing to work with you and others in Congress to ensure its success.

Question 3

As you know, agriculture is a significant part of the American economy. Farmers and ranchers in Michigan and nationwide continue to find new, innovative ways to meet foreign agricultural demand that results in a consistent trade surplus and good jobs here at home.
Today, one million U.S. jobs depend on agricultural exports. A big part of this success story is agricultural biotechnology, which provides innovative tools for our producers to manage risk and act as better stewards of our land. However, we continue to face regulatory obstacles in foreign markets, including China. Currently, China is one our most valuable trading partners, and also represents a tremendous opportunity for future growth in American agricultural exports.
What specific steps is USTR taking, independently and with the Administration, to promote American agricultural biotechnology with our trade partners as a measure to maintain our position as the strongest agricultural producer in the world?

Answer

Agricultural biotechnology is a technology critical to helping feed the world's growing population and reduce the impact of agriculture on the environment. USTR works closely with other U.S. government agencies, including the U.S. Departments of Agriculture and State, to ensure export markets are open to U.S. agricultural products derived from modern biotechnology. Central to this effort is a comprehensive strategy to address trade disruptions resulting from differences globally in approval systems for agricultural products derived from modern biotechnology. For example, China, as a major market for U.S. agricultural exports, is a top priority, and U.S. officials regularly pursue biotech issues with their Chinese counterparts in both bilateral and multilateral fora. In December, for example, Secretary Vilsack and I raised the issue of approval delays with Chinese officials at the JCCT. We continue to press the EU to speed up its approval system for agricultural biotechnology after the United States won a WTO dispute on this issue. We have pushed Korea to ensure that its regulations are science based and not overly burdensome. At the same time, USTR recently led the U.S. delegation to a March 2014 Food and Agriculture Organization (FAO) meeting of the United Nations to raise awareness of the trade implications of low level presence issues. In addition, we routinely raise issues related to agricultural biotechnology with other countries in the WTO Sanitary and Phytosanitary Committee and the WTO Technical Barriers to Trade Committee. We also work with like-minded partners and international organizations, such as the OECD, and plurilateral efforts, such as the Global Low Level Presence Initiative, to promote predictable and science-based approvals processes around the world.

QUESTION FROM SENATOR CANTWELL

Question 1

About 99% of U.S. footwear is imported; those pairs that are manufactured domestically often fall within the same Harmonized Tariff Schedule (HTS) classification codes as those that are sourced abroad, even though they are very different products.

Congress has passed legislation in the past that distinguishes between import sensitive and non-import sensitive footwear – the same should be done under the TPP. Without negotiating breakouts to differentiate between import sensitive and non-import sensitive footwear products, TPP will be a tremendous lost opportunity for the footwear industry and its consumers.

How will you differentiate between import sensitive and non-import sensitive footwear products in the TPP?

Answer

USTR has worked closely with footwear stakeholders to develop a comprehensive understanding of sensitive and non-sensitive footwear products, so that we can appropriately address the concerns of both importers and domestic manufacturers in the tariff treatment of footwear. As

we negotiate with our TPP partners, we are continuing to consult closely with stakeholders on how to structure tariff elimination offers to balance their needs.

QUESTION FROM SENATOR NELSON

Question 1

Healthcare accounts for almost $6 trillion of $63 trillion in 2010 global GDP and is expected to grow to $8.5 trillion by 2015, with nearly 60 million currently people employed in the healthcare sector globally. In the U.S., the health care sector is both a large employer as well as a driver of innovation and cutting edge research.

The breadth and complexity of the health sector is considerable, and U.S. healthcare exports go far beyond pharmaceuticals and medical devices. The U.S. is a leader in healthcare service delivery, from doctors and nurses to insurance companies, health IT systems, logistics and express delivery, and even hospital design. To fully benefit from our capabilities, trade agreements must address a large set of issues including cross-border data flows, regulatory transparency provisions, government procurement, and more.

Considering the size, complexity, and export potential of the U.S. healthcare system, do you think it would be useful to have a position at USTR dedicated to healthcare trade? This position would be responsible for coordinating policy with industry, other offices within USTR, and agencies in the U.S. government.

Answer

We very much understand the importance of the healthcare sector to the U.S. economy both in terms of the jobs it supports, the innovation and research it drives, and the contribution it makes to U.S. economic growth. That is why we have dedicated resources across the agency to break down barriers U.S. healthcare companies face in foreign markets. We are open to discussing with U.S. industry and other stakeholders, as well as Congress, on how we can better utilize our resources to address issues of priority to U.S. healthcare exporters.

QUESTIONS FROM SENATOR MENENDEZ

Question 1

Western Hemisphere: Impact of TPP on CAFTA-DR trade partners
Several of our current free trade partners in Central America have raised concerns that if the final TPP deal includes concessions requested by Vietnam regarding rules of origin and short supply lists for textile & apparel, it will result in severe job losses and potentially gut the textile and apparel industry in the Western Hemisphere.

Is USTR supporting a more expansive short supply list under TPP than what was agreed to in the FTAs with CAFTA?

If so, what is the rationale for offering better terms to Vietnam's apparel industry than we offer to our neighbors in Central America, where we have important national and economic security considerations?

Answer

USTR has consulted with all stakeholders in the textiles and apparel industry as we have developed proposals for the TPP negotiations. We have been especially attentive to concerns about the potential impact of a TPP deal on supply chains formed as a result of CAFTA-DR. As we work to conclude TPP, these concerns will continue to feature prominently in our considerations of how best to craft a final deal on textiles and apparel.

Question 2

Last year I joined 60 other Senators in raising our concerns on currency manipulation, specifically with regards to trade negotiations. When I mention currency manipulation, I'm referring to the IMF's definition – essentially direct and sustained intervention in currency exchange markets, not the impact on exchange rates that is a byproduct of central bank monetary policy. As other Members of Congress have noted, a number of studies estimate large U.S. job losses due to currency manipulation by many of our major trading partners, so we in Congress are looking for a robust action plan from the Administration.

Efforts to address this through the G-20 and IMF have largely failed. The Trade Promotion Authority bill introduced earlier this year includes language on currency manipulation, but it is vague and appears unenforceable.

Can you explain the Administration's strategy to convince other countries not to manipulate their currencies to gain unfair advantage, and how you intend to use our great leverage in trade negotiations and our other powerful trade policy tools to encourage the worst perpetrators to move toward more market-based exchange systems?

Answer

Currency is a top priority for the President and the Administration, and Treasury which has the lead on currency issues, has worked actively in multilateral fora, including the G-7, G-20, and the International Monetary Fund, as well as through bilateral engagement, to address persistent exchange rate misalignments. We have made progress in these fora, and will continue to press for countries to move to market-determine exchange rates. We are continuing to consult with Treasury, Congress, and our domestic stakeholders on this important issue.

Question 3

We have discussed before my interest in ensuring adequate data protection for biologics in the Trans-Pacific Partnership. This is a top priority for me, but I understand other TPP countries are pushing back against U.S. proposals for 12 years of protection, as guaranteed in U.S. law. I want you and your hard working staff to know that I appreciate USTR's commitment in recent months to find a creative solution to this data protection issue.

What is the status of your discussions on the IP chapter, and this issue in particular, and what is your strategy for gaining greater support from other TPP partner countries?

Answer

The Administration has made it a top priority to include high standards of IPR protection and enforcement in the TPP agreement in order to foster high regional standards, promote innovation, and support U.S. economic growth and the creation and retention of American jobs. While we have made progress toward these goals, we are still working to build support for strong outcomes, including on the issue of data protection for biologics.

Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. As is our tradition, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. We have made clear to our trading partners that promoting innovation and ensuring access to medicines are priorities to Members of Congress and I have been engaging intensively with my TPP counterparts – including most recently at the TPP Ministerial meeting in Singapore – to try to resolve our differences on this issue.

Question 4

My views on the need for vigorous enforcement of intellectual property rights are well known, especially with regards to trade agreements. I'm curious to hear your thoughts on how closer trade relations with Europe could impact global intellectual property (IP) rules, promotion, and enforcement in a positive way?

Using India and China as examples, there are continuing concerns that their IP policies have created challenges for a broad swath of U.S. and European industries, including high-tech, telecom, green technology, and biopharmaceuticals. What steps are you pursuing in concert with our European partners to develop global standards that value innovation and protect American and European IP-related jobs?

Are you working with your counterparts in Brussels to use TTIP to address critical issues surrounding the erosion of IP rights by our trading partners, such as India and China, and potentially Canada?

Answer

The United States and the European Union are global leaders in promoting IPR, and strong IPR protection and enforcement is vital for our economies, including by encouraging innovation in new technologies, promoting creativity, stimulating investment in research and development, and contributing to exports and creating jobs. We have highly-advanced mechanisms in which we work successfully together on IPR matters, including in third countries and international organizations. T-TIP provides a significant opportunity to build on our shared commitment to strong IPR protection – consistent with our respective systems – to enhance our joint transatlantic leadership in this area and to continue our work to promote those high standards, including in other markets.

Question 5

During his recent U.S. visit – including during his bipartisan meeting with the Senate Foreign Relations Committee – Tunisian Prime Minister Jomaa requested a formal announcement on opening bilateral FTA negotiations. I applaud USTR's work with Tunisia through the Trade and Investment Framework Agreement (TIFA) process. However, given Tunisia's leading role as an example of peaceful democratic transition in the MENA region, a forward-leaning U.S. stance on trade talks with Tunisia would help strengthen critical domestic support for the government's economic reform efforts, and would resonate throughout the region.

What are USTR's long-term plans for Tunisia, specifically with regards to an FTA?

Answer

Since 2011, we have focused with our Tunisian partners on activities aimed at boosting bilateral trade of both goods and services, enhancing investment and promoting the protection of intellectual property rights. We will add additional areas as our dialogue intensifies over coming months. We intend to intensify our work with our Tunisian partners in all of these areas, and in others if possible, at the next TIFA Council meeting, scheduled for June in Tunis.

With respect to Tunisia's request to set as our mutual goal the initiation of bilateral FTA negotiations, our focus for now is on how to foster activity that will to the greatest extent possible enhance trade and investment in the near term, to help Tunisia address the considerable economic challenges it now faces.

Question 6

You are aware that I have concerns about the inclusion of Vietnam in the TPP, given its record on labor rights; I have similar human/labor rights concerns regarding Malaysia and Brunei. I fully understand the strategic importance of TPP – when I was in Asia last August I spoke in Japan, Taiwan, Korea and China about the importance of the region moving forward on TPP. However, I have also told you before of my concern about the impact that TPP could have on the more fragile states in Latin America and Africa if we do not manage the process right.

We have important economic and national security considerations in Central America (and in Africa)…is the Administration considering the impact liberalized trade in TPP, including with Vietnam, could have on these other equally important regional interests?

Is the Administration considering how, as I've advocated, we can draw the Asia-Pacific and Latin America economies together, in a way that benefits U.S. leadership in both regions?
The Government of Brunei's recent announcement that it would adopt Sharia provoked an outcry from international human rights groups. Brunei's implementation of Sharia law would seem antithetical to the 21st century labor principles the Administration is pursuing through the TPP. How does USTR intend to address this serious concern?

Answer

Human rights and labor rights are an important part of U.S. engagement with any country and especially our negotiating partners. We are working closely with Vietnam, Malaysia, and Brunei, as well as the other TPP Parties, to make sure they are prepared to implement the high standard, enforceable labor commitments that we seek to include in the agreement. Countries such as Vietnam face serious challenges in this regard, and we see TPP as the mechanism most likely to lead these countries to make progress in reforming their labor system and upholding labor rights. In addition, the Administration is engaging with Vietnam on its human rights situation. While the State Department has the lead on these issues, we have made clear the importance of progress in this area to our mutual goals of improving U.S.-Vietnam relations.

With respect to Latin America, we view TPP as an important initiative that can draw the United States closer to both the Asia-Pacific and Latin America, and to integrate the region. Chile, Peru and Mexico are important members of TPP, and a number of other countries, in both Asia and Latin America, are contemplating whether to seek to join in the future.

With respect to Brunei, we have serious concerns regarding provisions of Brunei's sharia penal code, the first phase of which went into effect on May 1. The U.S. Government with the State Department in the lead has been communicating our concerns to the government of Brunei and we are closely monitoring how this first phase and future phases will be implemented. We have reminded Brunei of its responsibility to uphold its international commitments on human rights and are urging Brunei to respect the universal values of religious freedom and human rights.

Question 7

There have been contradictory reports in the press recently about exactly where the United States and Japan stand on TPP negotiations – whether we have a framework that is actual concrete progress and will lead to a near-term completion of negotiations, or whether it is something less firm and directional.

Can you clarify exactly where we stand with our negotiations with Japan, what issues remain outstanding, and when you expect negotiations to conclude?

Given the next round of consultations with other TPP partners scheduled in just a few weeks, what impact do you expect the fact that the Japan negotiations remain open will have on our ability to successfully close down on a high-quality TPP?

Answer

In the weeks leading-up to the President's Asia trip, we had engaged in intensive negotiations with Japan to address agricultural market access issues with little progress made. This changed during the President's recent visit to Tokyo when we reached a milestone in dealing with the challenging issues of agriculture market access and autos. This progress has taken our talks to a new level.

We are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual product lines.

We still have work to do. But, we believe we now have a pathway forward. Also of importance, our work with Japan has provided important momentum to the overall TPP negotiations as other TPP members are now engaging with Japan in market access discussions.

Question 8

Media reports have alleged that the draft environmental text for the TPP contained weaker environmental protections than other recent U.S. FTAs. What is the status of the environment chapter and how does it compare to recent FTAs?

Answer

The United States is committed to achieving a robust, enforceable TPP environment chapter that reflects a high level of protection for the environment consistent with our recent FTAs. The negotiations on this chapter are ongoing, and we continue to insist that the TPP environment chapter be fully enforceable through the same dispute settlement mechanism as other obligations. We are also continuing to press for new, robust commitments targeted at the region's most urgent environmental challenges, such as combatting wildlife trafficking and illegal logging and addressing marine fisheries issues.

QUESTIONS FROM SENATOR BROWN

Question 1

Recently the Trans-Pacific Partnership (TPP) negotiations have been focused on market access provisions. It is important that decisions about tariff reductions and phase outs are based on

economic data to minimize American manufacturing job losses and maximize domestic production and exports.

Does USTR use market-based economic analysis to guide market access negotiations during the TPP talks? What data analysis is USTR conducting to determine which sectors will see a reduction or increase in production or employment once TPP is implemented?

Based on this data, which sectors will expand the most, both in production and in employment, as a result of the agreement? Which sectors will contract the most, both in production and in employment, as a result of the agreement?

Answer

Removing barriers, both at the border and behind the border, will present export opportunities to U.S. businesses, both large and small. America's workers, farmers, ranchers, service providers, and manufacturers will undoubtedly benefit from a high standard, ambitious TPP. However, without a final deal, it is hard to quantify the exact benefits that the United States will gain. According to an analysis supported by the Peterson Institute, a TPP agreement is estimated to provide real income benefits of at least $77 billion per year to the United States by 2025, and an increase in real exports of $123.5 billion per year. These export gains are both in services (up $68 billion – mostly in private services and trade, transportation, and communication categories), and manufacturing (up $53 billion – with gains more widely distributed led by electrical equipment, chemicals, transportation equipment and machinery categories).

To reach the best deal possible, U.S. negotiators have relied on information provided by the U.S. International Trade Commission's Probable Economic Effects analysis, products/commodity analysts from various U.S. Government agencies, business/agricultural/worker stakeholders, advisory committees, public hearings, academic analysis, and regular and frequent contact with the relevant Congressional Committees and interested Members of Congress. This information is provided on a real time basis to be able to quickly assess offers provided by our negotiating partners.

Concerning any potential negative impact of this agreement, the United States already has fairly low barriers, with low tariffs, few non-tariff barriers, and a largely open services market. Therefore, changes resulting from the United States granting additional access are expected to be relatively modest. We do not see any of our industries as uncompetitive, and believe any disruptions will be minimal. We are also doing our best to minimize any disruptions that might occur by pressing for appropriate staging of tariff elimination, and working with our TPP partners on a safeguard mechanism for inclusion in the agreement. However, we also need an effective response mechanism for workers and communities should disruptions occur. This is why the Administration is committed to ensuring American workers have the support and skills they need to compete in the global economy through a robust Trade Adjustment Assistance program, and would like to work with Congress for an early reauthorization.

Question 2

The Trade Adjustment Assistance (TAA) Program is intended to help individuals who have lost their jobs as a result of trade to obtain unemployment benefits and the training necessary to find

new employment. As with other free trade agreements, the TPP is likely to have negative employment effects on certain U.S. industries. Has a discussion of TPP's impact on the TAA program been raised in discussions among the Trade Policy Review Group and Trade Policy Staff Committee members? What analysis has USTR completed on the TPP agreement's impact on the TAA program? Does USTR expect usage of the TAA program to increase after the agreement enters into force? Does the Administration's FY15 budget request for the TAA program accommodate this analysis?

Answer

The TPP negotiations are still ongoing, so we cannot determine TPP's impact upon TAA at this time. It is premature to estimate the specific results from a final negotiated TPP agreement. The U.S. International Trade Commission, an independent agency, is responsible for calculating the economic impact and the U.S. Department of Labor (DOL) is charged with a specific assessment of the employment impact of the final negotiated trade agreement. As past FTA negotiations have moved towards final, analyses from the U.S. International Trade Commission, an independent agency, and the DOL have been helpful in understanding economic and employment impacts that may be coming.

The Administration's FY 15 budget request for TAA includes continuing the program through the fiscal year. We look forward to renewing TAA, and keeping our commitment to Americans to provide dislocated workers with training for new occupations and income support during that training, as well as job search and relocation allowances and wage assistance for reemployed older workers

Question 3

The ITEC serves an important role in coordinating the federal government's trade enforcement priorities, but it is not always clear what are the distinct responsibilities between USTR, ITA, ITEC, and other federal agencies with trade enforcement jurisdiction. More information about the specific activities, staff, and priorities of ITEC will ensure that Congress is better able to fund and support the Center. What are the primary responsibilities of ITEC and how do those differ from the other trade enforcement agencies? How many full-time ITEC employees are there, and how many of those employees are on temporary detail from agencies other than USTR? What percentage of ITEC funds have been spent on trade enforcement activities, as opposed to administrative expenses?

Answer

One of the Administration's top priorities is to better leverage the government's trade enforcement activities by focusing resources on a whole-of-government approach to address unfair trade practices and foreign trade barriers more effectively. ITEC is linking, leveraging and aligning both existing and new resources more efficiently across the executive branch and with stakeholders. The key here is efficiency. ITEC's goal is to build upon existing capacity to give U.S. companies, workers and producers every chance to compete on a level playing field in today's global marketplace.

While ITEC is headed by a USTR employee, it is staffed primarily with detailees from agencies other than USTR. Currently there are three USTR career employees and 18 detailees, including a number from the U.S. Department of Commerce (DOC). Congress has appropriated funds for the DOC's International Trade Administration to support ITEC activities.

Question 4

Earlier this year forty-five state Attorneys General wrote to USTR requesting that the TPP agreement "does not apply to trade or investment in tobacco or tobacco products." What assurances can USTR give to the states that their non-discriminatory public policies regulating tobacco products and tobacco usage will be protected from the threat of lawsuits in the TPP?

Answer

The public health challenges posed by tobacco are serious and unique. The U.S. commitment to addressing them is reflected in the Tobacco Control Act that Congress passed in 2009. In TPP, there is generally a consensus among the 12 countries on the importance of this issue and of ensuring that TPP preserves the right of governments to implement public health regulations, including those related to tobacco. We are still considering how best to do so.

Question 5

In June 2011, Philip Morris challenged Australia's plain-packaging tobacco law under the investor-state dispute settlement provisions in a Hong Kong-Australia investment agreement. The case is still pending, but its effects are far-reaching. In a 2012 speech, World Health Organization Director-General Dr. Margaret Chan said "high-profile legal actions" by tobacco companies "are deliberately designed to instill fear in countries wishing to introduce similarly tough tobacco control measures." New Zealand has decided not to pursue its plain-packaging law until the Philip Morris-Australia case is resolved. Regardless of whether a case is found to be frivolous, the expense of defending tobacco policies in response to a lawsuit can be costly and still serves the industry's interest in intimidation and delay. As a result, it is critical that the U.S. Model BIT prevents any suits to be brought against tobacco control measures. Does the model BIT prevent companies from bringing lawsuits against non-discriminatory tobacco control polices, and if so, how?

Answer

The U.S. model BIT protects the right of governments to regulate in the public interest while promoting higher standards in many partner countries in areas ranging from labor and environment to transparency. The United States has been a leader in developing carefully crafted ISDS provisions to protect the ability of governments to regulate, to discourage non-meritorious claims, and to ensure a high level of transparency. These safeguards include an annex with detailed guidance that defines "indirect expropriation" in a manner consistent with U.S. constitutional law and clarifies that non-discriminatory regulatory actions to protect legitimate public welfare objectives, including public health, generally would not constitute expropriations. U.S. investment agreements also include numerous procedural safeguards, including provisions on consolidation of claims, expedited review of potentially frivolous claims,

and the awarding of costs and attorneys' fees in the event of frivolous claims. These safeguards are different – and much stronger – than the provisions in the Hong Kong-Australia investment agreement as well as many other investment agreements in which the United States is not a participant. The United States has never lost an ISDS case.

Beyond these existing safeguards in U.S. investment provisions, we recognize there has been significant interest in considering a more explicit approach to tobacco in our trade and investment agreements. We are continuing to explore that issue with our trading partners, but we have not yet reached an agreement on the best way to do so.

Question 6

The government of China is increasingly using its anti-monopoly laws as a tool for pursuing its nationalist industrial policies. As noted in USTR's most recent National Trade Estimates report, China's NDRC has in the past year significantly increased its anti-monopoly activity especially against foreign companies. As the report notes, there is significant concern about abuses of the anti-monopoly law by the NDRC, including intimidation and pressure on U.S. companies to cooperate in the face of unspecified allegations, steep fines, and other forms of coercion. Does USTR have adequate legal authority and tools to address such forms of unfair competition, which do not fall neatly into the categories of prohibited activities embodied in the WTO agreements? What other tools would you find useful to address such practices?

Answer

USTR is working intensively, in cooperation with other U.S. government agencies and key trading partners, via both bilateral and multilateral engagement, to combat China's use of the anti-monopoly law as a tool for pursuing industrial policies. We are pressing China hard, building on China's leaders' stated commitments to a level playing field and the rule of law. We are committed to continued intensive engagement on this important concern.

Question 7

China's most recent 12th Five Year Plan identifies a broad range of sectors that they intend to promote "national champions" in and strategic industries they will support. Press accounts indicate that the government has allocated $1.5 trillion to achieving the goals of the Five Year Plan. What actions is USTR taking to monitor the implementation of the Five Year Plan and the impact it has on U.S. exporters to China as well as on Chinese imports into the U.S.?

Answer

USTR closely monitors these areas and regularly engages with the Chinese government to address policies and measures that promote Chinese national champions and create an unfair playing field for U.S. companies, whether these policies are contained in the 12th Five-Year Plan, sector-specific Five-Year Plans or implementing measures at the central and sub-central government levels. With regard to China's so-called "strategic emerging industries," through our JCCT and S&ED engagement, we have successfully reversed Chinese government policies

that had provided export incentives, accorded preferential treatment to domestic technology or encouraged import substitution. We also have successfully challenged unfair Chinese subsidies at the WTO, and the Administration is rigorously enforcing its U.S. trade remedy laws to protect against unfairly traded imports. We will continue our vigorous engagement and enforcement activities on this important issue going forward.

Question 8

There are serious concerns about Malaysia, Brunei, and Vietnam's ability to meet TPP's labor standards now and in the near future. Similar concerns were raised with Colombia before the Colombia-U.S. free trade agreement entered into force, and the ongoing concerns with that country's labor standards reveal the importance of achieving full compliance with an agreement's labor standards before the FTA enters into force. What steps is USTR taking to develop a Labor Action Plan with Malaysia, Brunei, and Vietnam? Will USTR be consulting with Congress in the development of the plan? Will USTR require full implementation of this Labor Action Plan before the agreement enters into force for those countries? Will USTR commit to congressional certification of the Labor Action Plan's before Malaysia, Brunei, and Vietnam obtain tariff benefits under the agreement?

Answer

We are working with Vietnam, Malaysia, Brunei, and the other TPP parties, with the active engagement of our interagency partners, in particular the U.S. Department of Labor, to make sure the countries are prepared to live up to the high standard, enforceable commitments that we are seeking to include in the final agreement. Countries such as Vietnam face some significant challenges in this regard, and we see TPP as the mechanism most likely to incentivize these countries to make progress in reforming their labor system and upholding worker rights. To meet the strong labor obligations of TPP, these countries will need to undertake reforms to ensure that their labor laws and practices meet international labor standards. We are working very closely with them to ensure that they understand the types of reforms that would be needed.

We are assessing any reforms or other actions that each country would need to take to meet the labor obligations, and will continue to seek the views of and work closely with Congress and other stakeholders through this process. We intend to ensure that each country addresses any shortcomings as soon as practicable.

Question 9

In 2011, TPP negotiating text for the intellectual property (IP) chapter was leaked, and it showed that many of the limitations found in U.S. laws that apply to brand drugs were absent and that incentives to enable generic competition were left undefined. USTR has indicated that these provisions are still under discussion. How will the U.S. proposal for pharmaceutical IP guarantee consumers in TPP markets access to generic drugs manufactured in the U.S.? Does USTR plan to pursue a balanced approach to TPP that does not weaken US law while both protecting pharmaceutical IP and incentivizing generic competition?

Answer

In TPP, we are seeking to expand U.S. exports of both innovative and generic drugs in a way that ensures access to medicines in the developing world while promoting innovation. In October 2011, USTR publicly announced an initial proposal regarding intellectual property rights related to pharmaceuticals, particularly access to innovative and generic medicines in the Asia-Pacific region. We received a wide range of feedback on this proposal and other pharmaceutical IPR issues – from access to medicines (particularly in developing countries) to the array of options for the term of patent protection for research-intensive, leading-edge biologic medicines. We also received feedback on the important role generic drugs play in the United States and other markets.

In response to that input, we are exploring an outcome that protects pharmaceutical IP and promotes innovation, as well as provides opportunities for robust, generic competition, and ensures affordable access to medicines taking into account levels of development among the countries and their existing laws and international commitments. In addition, we are seeking to eliminate tariff and non-tariff barriers to access for both innovative and generic drugs, which can add significantly to the cost of medicines in many markets.

Question 10

USTR has indicated that they believe new disciplines on State-Owned Enterprises (SOEs)_will be included in the Trans-Pacific Partnership agreement. It is critical that these provisions provide meaningful enforcement against SOEs operating in TPP countries as well as SOEs operating in the U.S. I'm concerned that a facility built by an SOE here in the U.S., with subsidized or no-cost capital from their home government, could under-price U.S. companies that have to operate based on commercial, market-based considerations. Are these disciplines intended to cover operations of SOEs operating in the U.S. market? If the activities of these so-called "greenfield" entities, will not be covered by the TPP, is the Administration working to provide remedies for what would traditionally be thought of as anticompetitive activities were they undertaken by other domestic parties?

Answer

The U.S. proposal for new SOE disciplines in TPP seeks to address a wide range of trade and investment issues and challenges involving SOE competition with private companies, including situations where foreign SOEs establish investments in the United States. The United States has an open investment regime and we welcome investment from all trading partners. The new SOE rules we are developing are meant to ensure that SOEs that operate in the United States operate on a level playing field and do not receive unfair advantages from home governments that could cause injury to our domestic industry.

Question 11

The wool tailored suiting industry is critical to workers in Ohio, and I am concerned about the impact that the Trans-Pacific Partnership's Short Supply List will have on the sector, particularly given Vietnam's apparel industry. What economic impacts do you expect the Short Supply List

to have on American suit manufacturers in terms of production and employment? Can you commit to giving American suit manufacturers a long phase-out to ensure American companies have time to transition and accommodate the economic impacts of the TPP agreement?

Answer

We recognize the sensitivity of this issue and have been closely consulting with stakeholders from the textiles and apparel industry as we develop our proposal. Regarding the wool tailored suit industry in Ohio, we have been very careful to make sure that the fine 100 percent wools used for the tailored men's suiting industry are not included on the short supply list. In addition, for other sensitive products, we are seeking long tariff phase out periods.

QUESTIONS FROM SENATOR BENNET

Question 1

Colorado exports about $2 billion a year in agricultural commodities to other countries around the world. If we can eliminate tariffs and other trade barriers and create a level playing field, Colorado farmers and ranchers will be able to sell more pork, beef, wheat, dairy and other agricultural commodities to hundreds of thousands of new customers throughout the Pacific region. Does the Administration remain fully committed to a TPP agreement that includes the key agricultural products that some countries – Japan, in particular – have been reluctant to consider? Can you assure Colorado farmers and ranchers that the Administration won't settle for less?

Answer

The TPP agreement offers an important opportunity to expand further U.S. agricultural exports, including products from Colorado. U.S. agricultural exports to the 11 other TPP partner countries totaled $58.8 billion in 2013 – up 35 percent from 2009 – and accounted for 41 percent of total U.S. agricultural exports to all destinations in that year. U.S. food and agriculture exports to Japan alone were $12.1 billion in 2013. We are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition that TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual product lines.

Question 2

Health care accounts for over 10% of global GDP, which means our society spends over $7 trillion per year on healthcare and health services. And, total global spending on health is projected to increase by over five percent a year over the next four years, putting significant new economic pressures on governments and industries across the globe. Although we still have a

lot of work to do across the U.S. health sector to improve outcomes, increase efficiency and control costs, the United States is a global leader in healthcare service delivery. An increased focus on health care delivery in future trade agreements could help improve the quality of care that millions receive.

Considering the size, complexity, and export potential of the U.S. healthcare system, isn't it beneficial for you to create a position within the office of the U.S. Trade Representative (USTR) dedicated to healthcare trade? Could you provide some additional detail about whether USTR plans to create a new position along these lines, and if so, describe USTR's vision and proposed timeline for such a position?

Answer

We very much understand the importance of the healthcare sector to the U.S. economy both in terms of the jobs it supports, the innovation and research it drives, and the contribution it makes to U.S. economic growth. That is why we have dedicated resources across the agency to break down barriers U.S. healthcare companies face in foreign markets. We are open to discussing with U.S. industry and other stakeholders, as well as Congress, on how we can better utilize our resources to address issues of priority to U.S. healthcare exporters.

QUESTIONS FROM SENATOR CASEY

Question 1

Over the last 3 years, Canada has invalidated 18 different patents using a heightened standard for utility that does not exist in any other industrialized country in the world. I am troubled that Canada has shown little inclination to change this standard, which violates their international commitments. It appears that increased pressure on Canada is needed to persuade them to bring their laws into compliance with NAFTA and WTO commitments.

What steps can you take to induce Canada to make the necessary legislative changes to their patent law that will fix this issue?

Answer

As detailed in the 2014 Special 301 report, we are actively engaging with Canada on our concerns related to a variety of intellectual property issues. We are closely monitoring developments, consulting with affected stakeholders, and pressing Canada to address these concerns, strategically tailoring our approach and using all appropriate trade policy tools and opportunities available to seek effective outcomes. As the United States' largest bilateral trading partner, we have made clear that it is critical for Canada to promote innovation through strong intellectual property rights protection, which is essential to economic growth throughout North America.

Question 2

The protection of American intellectual property is very important to me as my state is home to a wide-array of innovators that export their products around the world. I am appreciative of all your efforts to press these countries from advancing policies that seek to undermine our U.S. IP. In that vein, and a topic that I have previously raised with you, is that of data protection for biologics in the TPP Agreement. You have told the Committee that you are pressing our negotiating partners to agree to U.S. law for biologics, which is 12 years. I strongly support your efforts on this and urge you to continue fighting for this.

Will you continue seeking U.S. law for data protection for biologics as the TPP works its ways to a conclusion, and will you be sure to keep the Committee informed of any developments along the way?

Answer

Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. As is our tradition, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. We have made clear to our trading partners that promoting innovation and ensuring access to medicines are priorities for Members of Congress and I have been engaging intensively with my TPP counterparts – including most recently at the TPP Ministerial meeting in Singapore – to try to resolve our differences on this issue. We will continue to consult closely with Congress on developments in this and all other aspects of the negotiations.

Question 3

The steel industry is gravely concerned with the surge in imports coming into our market. The industry has highlighted that this surge is due to an overcapacity of steel in the world, which appears to be the result of foreign government interference. Imports of steel products into the U.S. have been unacceptably high over the last year and a half, and as a result, since July of last year, five sets of steel related trade cases have been filed with Commerce. For those of us who were around during the last steel crisis in the late 1990s, early 2000s, this is very troubling. What is the Administration planning to do to address this issue?

Answer

The Administration is actively engaged on enforcement and trade policy initiatives to level the playing field for U.S. steel producers and workers. The U.S. Department of Commerce (DOC) and the U.S. International Trade Commission (ITC) are currently conducting 56 trade remedy investigations; 41 of those, or approximately 73 percent, involve steel products. Steel-related

products account for 117 AD/CVD orders in place, approximately 40 percent of all current AD/CVD orders.

At the same time, USTR and DOC have worked together to strengthen and defend U.S. trade remedy laws. For example, we worked together to obtain statutory authority to allow the CVD law to continue to be applied to imports from non-market economy (NME) countries – including China – after an unfavorable U.S. court ruling, and were successful in defending this action at the WTO. DOC also has developed a number of other initiatives to strengthen the administration of the nation's trade remedy laws, including those applicable to NME cases.

As you know, we have also been the most active U.S. administration on WTO enforcement activities. Many of our trade enforcement actions are of particular interest to the steel industry. We have addressed some government policies that provide unfair advantages to foreign steel industries through WTO dispute settlement, including against China. On both the offensive and defensive sides, we are fighting back against distortive policies such as export restrictions on raw materials, misuse of trade remedies, dumping, and subsidization.

The Obama administration won a challenge to China's restrictions on exporting raw materials, which includes important steelmaking inputs like coke, bauxite, silicon, and zinc. These restrictions both hurt U.S. manufacturers who rely on those materials and artificially supported China's domestic industry – at the expense of U.S. producers. We followed this up with a second challenge covering more raw materials, including rare earths, molybdenum, and tungsten. We won that dispute before the panel, and are now pushing back on China's appeal.

Following our win in the first raw materials dispute, we have been actively monitoring China's changes to its restrictions. China removed the WTO-inconsistent quotas and duties, and the Interagency Trade Enforcement Center (ITEC) has been analyzing the market for normal export flows. Our WTO win has had real world impacts for users of those raw materials, and if we prevail in the second dispute, we will again push China to comply with WTO rules.

Another area in which we are actively enforcing WTO rules is on China's misuse of trade remedies. China's decision to impose retaliatory antidumping and countervailing duties on U.S. exports led us to file three WTO disputes, including one against China's imposition of duties on U.S. exports of Grain Oriented Electrical Steel (GOES), which we also won. In the GOES dispute, at the end of its period of time to comply with WTO rules, China issued a redetermination continuing to impose the duties. We weren't satisfied, and the United States became the first WTO Member to challenge a compliance action by China as inconsistent with WTO rules.

Litigation may not always be the most appropriate or effective means of addressing certain issues, so we are also working closely with industry to step up our trade diplomacy on steel excess capacity issues.

While excess capacity is a global problem, we are concerned that China, which currently accounts for 48 percent of global steel production, is continuing to increase its steel capacity, despite slowing demand in China and globally. The resulting excess capacity hurts not only

weak and inefficient steel producers; it also undercuts the ability of efficient producers in the U.S. market to compete. China acknowledges that it has an excess capacity problem, which is only getting worse. We are concerned that China's excess capacity is leading to significant increases in exports of low-priced Chinese steel to global markets, including the United States where steel imports from China increased 15 percent in 2013 over 2012 levels, and have increased 25 percent in the first few months of 2014 over the same period last year.

The Administration has been engaging with China in an effort to address this serious problem, and I raised our concerns in this area during my recent meetings with my Chinese counterparts in Beijing. We will continue to press China on this issue in the future and we are working with like-minded countries, including the European Union, Canada, and Mexico in upcoming multilateral meetings of the WTO, OECD Steel Committee and North American Steel Trade Committee to press other governments to avoid policies that support excess steel capacity and distort steel trade.

Question 4

As you know, a bipartisan majority of the House and a super majority in the Senate called for the inclusion of strong and enforceable currency manipulation disciplines in the TPP to ensure the agreement benefits our workers and businesses. I am concerned that we have seen little action taken to date.

Is the U.S. going to lead on ensuring currency manipulation disciplines are included in the TPP?

Answer

Currency is a top priority for the President and the Administration, and Treasury which has the lead on currency issues, has worked actively in multilateral fora, including the G-7, G-20, and the International Monetary Fund, as well as through bilateral engagement, to address persistent exchange rate misalignments. We have made progress in these fora, and will continue to press for countries to move to market-determine exchange rates. We are continuing to consult with Treasury, Congress, and our domestic stakeholders on this important issue.

Question 5

Under the U.S.-Colombia Trade Promotion Agreement, the tariff facing U.S. heavy duty straight truck exports draws down over a ten year period. Until that tariff is eliminated American made products are at a severe disadvantage. This includes Mack Trucks that are exported from Pennsylvania. I want to thank USTR for your efforts to accelerate the elimination of this harmful tariff.

What is the earliest possible time do you think we will be able to eliminate the tariff so that Mack can participate fully in the Colombian market?

Answer

As a result of a USTR notice in the Federal Register, a number of U.S. stakeholders proposed products for tariff acceleration under Article 2.3 of the U.S.-Colombia Trade Promotion Agreement, including certain tariff lines for heavy trucks. We are consulting with Colombia on products for which Colombia wishes to seek tariff acceleration in order to develop a balanced package. Once a balanced package of products is jointly agreed upon, both sides would need to carry out their respective domestic procedures before the new tariff staging would enter into force. In the case of the United States, the domestic process follows statutory requirements and includes, among other things, advice from the ITC and advisory committees, a period of consultation and layover, and publication in a Presidential Proclamation. We are working with Colombia to move this process forward as soon as possible.

Question 6

The USDA catfish program, which I support repealing, would create an entirely new government regulatory program for catfish at USDA; would affect foreign competition for many years; and would subject Pennsylvania companies that process, handle or distribute catfish to duplicative regulation, with FDA and USDA both regulating seafood.

Given that USDA's scientific conclusion was that catfish poses a low risk to human health, then a USDA catfish program that restricts trade without a scientific justification would violate the WTO SPS Agreement, is that correct?

If the USDA catfish program is implemented, over $1.7 billion in annual exports of Pennsylvania dairy, vegetables, and soybean products would be put at risk. What is USTR doing to prevent the USDA catfish program from being implemented and calling for its repeal?

Answer

The U.S. Department of Agriculture (USDA) is working to finalize its catfish inspection program as required by the Farm Bill. USTR will work with USDA to ensure that any final rule is consistent with U.S. international obligations, including the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, and does not have unnecessary negative effects on international trade.

Question 7

The Generalized System of Preferences (GSP) is critical to businesses in Pennsylvania and throughout the country. I am told that when GSP expired in July, American businesses were left paying expensive tariffs that they did not budget for. As one such example, Voith Hydro – a hydroelectric equipment and technology manufacturer located in York, Pennsylvania – believes that it will accrue up to half a million dollars in additional expenses in the first year without GSP. Does the Administration support a retroactive extension of the GSP program?

Answer

As a result of the expiration of GSP authorization last July, thousands of U.S. importers (including many manufacturers) must pay duties on products that they previously imported duty-free under the GSP program. In other words, the expiration of the GSP program led to a kind of tax increase on U.S. businesses, hitting many small businesses especially hard, while also undercutting the international development objectives of the program. The Administration supports Congressional action to renew the GSP program at the earliest opportunity. On every previous occasion that Congress has renewed GSP after a lapse, it has done so with retroactive effect.

Question 8

Recent statistics suggest that the internet economy accounts for 4.7 percent of domestic GDP. Further, this number is expected to grow to 5.4 percent by 2016. Looking at some of your recent remarks, it appears that USTR is actively promoting policies that will allow the Internet to thrive globally.

Can you say more about what USTR is doing to make sure US trade agreements reflect the value of the Web in trade and economic growth?

Answer

USTR sees trade agreements as a vital means for ensuring that the Internet and the commercial ecosystem it supports remains open and can grow and thrive. Specifically, USTR seeks to include a range of provisions in ongoing trade negotiations, including TPP, T-TIP, and TiSA, aimed at enhancing opportunities for digital trade. Chief among these are:

- A "negative list" approach to services and investment (all sectors are covered unless a Party negotiates to exclude a sector or subsector), critical to innovative and fast-changing services such as Internet-based services;
- A prohibition on imposing tariffs on content transmitted electronically;
- Non-discriminatory treatment of content distributed electronically into markets of a trade partner;
- An affirmative obligation to permit cross-border data flows; and
- A prohibition on requiring the use of local computing facilities for covered services.

QUESTIONS FROM SENATOR WARNER

Question 1

The entertainment industry is not only a source of innovation and job creation for a large segment of the U.S. economy, but also serves as an important ambassador for American culture and values abroad. Therefore, I am disturbed by efforts from particular European nations to

effectively carve out the entertainment industry from the scope of T-TIP through so-called "cultural" exceptions. What measures are you taking to ensure this sector is not carved out of the negotiations?

Answer

Several EU member states support policies designed to promote national content in television, film, and radio programming. These policies have not prevented U.S. content providers from being very successful in Europe because of strong consumer appetite for these products. We continue to raise these issues with our EU counterparts to find ways in T-TIP to accommodate EU sensitivities without unnecessarily restricting trade in a sector in which both the United States and European Union are globally competitive.

Question 2

Intellectual property protection in our pending trade agreements is an important concern of mine. Do I have your assurances that you will seek the strongest level of intellectual property protections for biologics to ensure continued research, investment, and innovation globally and as consistent with U.S. law as possible?

Answer

Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. As is our tradition, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. We have made clear to our trading partners that promoting innovation and ensuring access to medicines are priorities for Members of Congress and I have been engaging intensively with my TPP counterparts – including most recently at the TPP Ministerial meeting in Singapore – to try to resolve our differences on this issue.

Question 3

Since 2012, I have led two letters to the Administration urging the adoption of meaningful flexibilities in the rules of origin for apparel in TPP. Increased trade in apparel is a key priority for some of my constituents in Virginia, and for the three million Americans whose jobs are supported by apparel imports. Additionally, these measures provide necessary leverage for ensuring broad market access for other U.S. exports in industries like manufacturing and agriculture. Do I have your commitment to pursue increased flexibility and immediate and reciprocal duty-free treatment of apparel in TPP negotiations?

Answer

We are seeking through TPP to promote new opportunities for U.S. textiles and apparel manufacturers, and we have developed an approach for TPP that reflects specific challenges and opportunities posed by the countries that are part of this negotiation. We have agreed on a yarn-forward rules of origin, as in previous U.S. FTAs, along with a short-supply list that provides flexibility to facilitate trade while also respecting the sensitivities of our domestic producers.

Question 4

In April 2014, the U.S. International Trade Commission (ITC) issued its performance report on the African Growth and Opportunity Act, "AGOA: Trade and Investment Performance Overview." The report concludes that there is enormous potential for an increase in agriculture exports under the program, including for those products currently constrained by tariff-rate quotas (TRQ). The report cites empirical evidence showing that greater duty-free, quota-free access for agriculture products would help diversify and amplify usage of AGOA. The ITC noted that Europe already provides such access under its Everything But Arms program.

These findings follow the TRQ reform agreement adopted by the World Trade Organization (WTO) members in Bali in August 2013, which I understand will provide new market access for products with under-filled quotas. The ITC's findings also come in advance of the Administration's summit with African leaders scheduled for this August.

Given all of these developments, will your agency work with the relevant trade committees to improve and renew AGOA this year, including provisions to provide better market access for non-sensitive agriculture products constrained by quotas?

Answer

The Administration supports an extension of AGOA beyond 2015 – one which will provide certainty and predictability for African producers, U.S. buyers, and investors. We look forward to working with Congress to determine how long that extension should be, and any other changes to improve implementation of AGOA that may be warranted for the benefit of our African partners and U.S. stakeholders. Circumstances on the continent of Africa are very different today than they were in 2000 when AGOA was first enacted. As we work with Congress on extension of AGOA beyond 2015, we will need to explore what changes can or should be made to AGOA, whether that be changes to product coverage, possible country graduation, or other changes. We are engaged in a comprehensive review of those issues currently.

QUESTIONS FROM SENATOR CRAPO

Question 1

How will USTR address dairy industry issues with New Zealand and Canada in the TPP negotiations? Can you provide assurances that any forthcoming TPP agreement will include significant new market access for U.S. dairy exports to Japan and Canada?

Answer

All TPP countries share the goal of eliminating trade barriers, and for the United States and other countries that includes for dairy. TPP offers important new opportunities to further expand U.S. dairy exports, including to Vietnam, Malaysia, Japan and Canada. We are aware of the concerns raised by our dairy industry about the structure of New Zealand's dairy industry, and we are seeking to address these concerns. We are looking to Japan and Canada, like all TPP partners, to provide comprehensive and meaningful access to its agriculture markets, including for U.S. dairy products, consistent with the ambition that the TPP partners agreed to when joining the TPP negotiations.

Question 2

Since the USDA has scientifically concluded that catfish consumption poses a low risk to human health, would a catfish inspection program restricting trade without a scientific justification violate the WTO SPS Agreement?

Answer

The U.S. Department of Agriculture (USDA) is working to finalize its catfish inspection program as required by the Farm Bill. USTR will work with USDA to ensure that any final rule is consistent with U.S. international obligations, including the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, and does not have unnecessary negative effects on international trade.

Question 3

If the USDA catfish program is implemented, Idaho farmers risk $2.4 billion in retaliation on dairy, wheat, vegetables and beef products exports. How is USTR working to prevent U.S. exporters being harmed by such an action?

Answer

The U.S. Department of Agriculture (USDA) is working to finalize its catfish inspection program as required by the Farm Bill. USTR will work with USDA to ensure that any final rule is consistent with U.S. international obligations, including the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, and does not have unnecessary negative effects on international trade.

Question 4

Does USTR support a full enforcement dispute settlement mechanism for sanitary and phytosanitary measures? Is USTR seeking to exclude any commodities or tariff lines from enforceable dispute settlement?

Answer

USTR has received significant input from Members of Congress and U.S. stakeholders on the SPS chapter, including with respect to dispute settlement. After reflecting carefully on this input, we are prepared to consider the application of dispute settlement generally to the SPS TPP chapter, provided that we are able to reach an agreement on certain substantive provisions in the Chapter, consistent with our emphasis on food safety. We are not seeking to exclude any commodities or tariff lines from enforceable dispute settlement.

Question 5

What is the proper protection and recognition of geographic indications, particularly with respect to the TTIP talks?

Answer

The United States and the EU have long-standing differences over the scope and level of intellectual property rights protection for GIs. We have raised our strong concerns regarding the impact of the EU's GI policies on made-in-America products. Within the T-TIP negotiations, we have been clear with the EU regarding our strong opposition to existing and future barriers. We will continue to press the EU to expand market access for U.S. producers into the EU and third country markets, including through the removal of barriers such as overly broad GI protection for EU products.

Question 6

A report from the Council for Agricultural Science and Technology concludes there is no science-based reason to single out genetically modified organisms (GMOs) for labeling and finds that GMOs are safe for human consumption. What is USTR doing to protect the interests of U.S. farmers, particularly in regard to normalizing regulatory approval?

Answer

Agricultural biotechnology is a technology critical to helping feed the world's growing population and reduce the impact of agriculture on the environment. USTR works closely with other U.S. government agencies, including the U.S. Departments of Agriculture and State, to ensure export markets are open to U.S. agricultural products derived from modern biotechnology. Central to this effort is a comprehensive strategy to address trade disruptions resulting from differences globally in approval systems for agricultural products derived from modern biotechnology. For example, China, as a major market for U.S. agricultural exports, is a

top priority, and U.S. officials regularly pursue biotech issues with their Chinese counterparts in both bilateral and multilateral fora. In December, for example, Secretary Vilsack and I raised the issue of approval delays with Chinese officials at the JCCT. We continue to press the EU to speed up its approval system for agricultural biotechnology after the United States won a WTO dispute on this issue. We have pushed Korea to ensure that its regulations are science based and not overly burdensome. At the same time, USTR recently led the U.S. delegation to a March 2014 Food and Agriculture Organization (FAO) meeting of the United Nations to raise awareness of the trade implications of low level presence issues. In addition, we routinely raise issues related to agricultural biotechnology with other countries in the WTO Sanitary and Phytosanitary Committee and the WTO Technical Barriers to Trade Committee. We also work with like-minded partners and international organizations, such as the OECD, and plurilateral efforts, such as the Global Low Level Presence Initiative, to promote predictable and science-based approvals processes around the world.

Question 7

Given that we now already allow Mexico to export potatoes to the U.S. but the reciprocal flow is not yet in place, what steps is USTR prepared to take if there is backsliding by Mexico, given its long history of non-compliance on SPS?

Answer

On March 19, 2014, Mexico published regulations for the importation of U.S. potatoes, which will allow the U.S. industry to ship potatoes into all major metropolitan areas in Mexico, not just the border zone. These regulations went into effect on May 19, 2014.

Question 8

What is the appropriate process to address the persistent Canadian flouting of the lumber restrictions covered by the Softwood Lumber Agreement?

Answer

Enforcing the 2006 Softwood Lumber Agreement (SLA) is a top priority for USTR. Over the course of the Agreement, it became abundantly clear that strong leadership by USTR and close coordination with other agencies and engagement with Congress and domestic stakeholders, was necessary and essential to ensure that Canada lived up to its SLA obligations. USTR leads an interagency team of experts (the U.S. Departments of Commerce, State, and Justice, and Customs and Border Protection) that devote significant time and resources to the enforcement and implementation of this agreement. Working closely with the U.S. Department of Justice, USTR has brought four arbitrations under the SLA to seek its full implementation.

The 2006 SLA has provided greater predictability and stability in this very important sector in the U.S. economy, including regarding Canada's participation in the U.S. lumber market. The SLA is currently set to expire in the fall of 2015. As we prepare for this date, we will consult closely with Members of Congress and seek input from all interested stakeholders in order to evaluate what approach is in the best interest of the United States going forward. In the

meantime, I assure you that my office will continue to press for and work with Canada on the full enforcement and implementation of the current agreement.

Question 9

Does USTR support establishing an appeals mechanism for the Softwood Lumber Agreement?

Answer

The SLA is currently set to expire in 2015. As we prepare for this date, we will consult closely with Members of Congress and seek input from all interested stakeholders in order to evaluate how best to proceed. As we move forward, I look forward to working with you and your staff to solicit your views, including with respect to the operation of the dispute settlement mechanism. In the meantime, I assure you that my office will continue to press for and work with Canada on the full enforcement and implementation of the current agreement.

Question 10

Is the Administration prepared to revisit the previous G-20 principles on financial regulation and the subsequent Basel III accord on bank capital and liquidity, with an agreement on a periodic reporting mechanism to Congress about the state of progress in cooperation to ensure that the ensuing regimes are complementary and on the same track?

Answer

The Treasury Department has the lead on these issues. For a specific update relating to the status of that work, we would refer you to our colleagues at Treasury.

Question 11

Are there any indications in trade negotiations to date that our foreign counterparts are prepared to encourage the role of non-banks in their domestic markets by allowing U.S. finance companies to enter into the public guarantee framework with an effective monitoring system on the part of the host country? If there is no such commitment, what can the Administration do to encourage our foreign counterparts to seriously consider such changes?

Answer

In our ongoing trade negotiations, as in all of our trade agreements, we seek to ensure that U.S. financial services enjoy nondiscriminatory market access and the full range of investor protections.

QUESTIONS FROM SENATOR CORNYN

Question 1

Ambassador Froman, what progress have you made to increase market access and eliminate tariffs for agriculture products?

Can you comment on the goals of the "framework" recently announced in Japan, and does the "framework" still include the goal of tariff elimination for agriculture products?

Answer

This Administration is actively pursuing an aggressive trade agenda to increase market access for U.S. agricultural products through a wide range of initiatives, including the TPP and the T-TIP negotiations.

The United States and Japan made significant progress in bilateral discussions on access to Japan's food and agricultural markets during the President's April visit to Japan. We are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual product lines.

Question 2

The U.S. rice industry has consistently asked that trade negotiators work to increase and improve market access for U.S. rice. Whole kernel rice dominates current U.S. shipments to Japan but U.S. exporters have a significant trade in rice containing products to Japan as well. It has come to my attention that Japan has declared these products "sensitive," along with whole kernel rice. This is simply not in the spirit of a high level, 21st century agreement.

Ambassador Froman, what progress has the administration made in negotiating substantial market access improvements for U.S. rice in Japan, as well as removing the interference of the Japanese government between U.S. exporters and Japanese consumers?

Answer

We are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual product lines. In the case of rice, we are seeking from Japan substantial new market access for U.S. rice, including through improvements to its import administration procedures.

Question 3

Does USTR believe that exports of energy – coal, petroleum products, renewable and nuclear technology, natural gas, natural gas liquids – affect the U.S. balance of trade in a favorable direction?

Answer

The U.S. balance of trade depends on many factors, including macroeconomic factors, such as relative growth rates and savings and investment differentials. In addition, due to a variety of factors, the United States is currently importing less energy, and exporting more American-produced energy goods to meet growing demand outside the United States. Energy goods and energy generating equipment, in a broad range of technologies, including equipment and services for generating renewable and nuclear energy, can also contribute favorably to the U.S. balance of trade.

Question 4

All things equal, would rising U.S. exports of natural gas affect the U.S. balance of trade in a favorable direction

Answer

Increases of exports of any good or service, unless offset by a corresponding or large increase of imports, would add to the U.S. balance of trade.

Question 5

Please describe the extent to which energy exports from the U.S. – in particular oil and gas – have been featured in ongoing trade talks with Asia and Europe?

Answer

Our objectives in trade negotiations include improved market access for U.S. products, investment, and services, which would benefit U.S. manufacturers, investors, and service providers. In T-TIP, the EU has expressed an interest in energy and raw materials. In both T-TIP and TPP, as for all potential FTAs, we are consulting closely with the U.S. Departments of Energy and Commerce, and other agencies, Congress and a broad spectrum of U.S. industry, labor and environment stakeholders on the many issues and equities involved.

Question 6

Have representatives from other countries expressed concerns over the LNG export permitting/licensing process? If so, how has USTR responded to those concerns?

Answer

Other countries have posed questions about the U.S. Department of Energy (DOE) export authorization process. Working with DOE, we have explained the provisions of the Natural Gas Act, and the status of review of applications for export authorizations by DOE.

DOE, which has statutory responsibility over this issue, will continue to make public interest determinations on a case-by-case basis.

Question 7

Several of my constituents have highlighted to me the success of the tariff preference level (TPL) that was negotiated under the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR). That TPL will expire at the end of this year and its expiration is predicted to significantly reduce the demand for US fabric, made from U.S. yarn – which is almost exclusively made from U.S. grown cotton. I have cotton farmers, textile manufacturers and apparel manufacturers in my state who are very interested in seeing it extended.

Ambassador Froman, are you willing to support legislation that will extend this provision?

If so, is there a preference for how it is extended?

Answer

We are still considering our position on this issue, and appreciate your input, including knowing how your constituents have benefitted from CAFTA. As you consider Congressional action on this issue, I look forward to working with you.

Question 8

Ambassador Froman, I am concerned that some countries, within the TPP negotiation and with whom we already have an FTA, aren't living up to existing Intellectual Property (IP) commitments, and are discriminating against American companies and workers.

Are you committed to pressing our trading partners to uphold the IP commitments and seek protections for U.S. innovators that reflect U.S. law, such as 12 years of data protection for biologics in current talks?

If so, can you please provide us with some examples of your efforts?

Answer

Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no

data protection for biologic drugs, while some have five years and others have eight. As is our tradition, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. We have made clear to our trading partners that promoting innovation and ensuring access to medicines are priorities for Members of Congress and I have been engaging intensively with my TPP counterparts – including most recently at the TPP Ministerial meeting in Singapore – to try to resolve our differences on this issue.

Question 9

Health care is the largest private sector employer in the United States, and is one of the largest and fastest-growing sectors of the world economy. Its value was around $6 trillion in 2010, and likely to surpass $8.5 trillion by 2015. Not to mention, it is one of the United States' key economic drivers of innovation and cutting edge research.

Are you dedicating staff to expanding the U.S. health care trade?

If so, can you provide some examples of this and examples of your efforts to eliminate current barriers to health care products and services?

Answer

We very much understand the importance of the healthcare sector to the U.S. economy both in terms of the jobs it supports, the innovation and research it drives, and the contribution it makes to U.S. economic growth. That is why we have dedicated resources across the agency to break down barriers U.S. healthcare companies face in foreign markets. We are open to discussing with U.S. industry and other stakeholders, as well as Congress, on how we can better utilize our resources to address issues of priority to U.S. healthcare exporters.

QUESTIONS FROM SENATOR THUNE

Question 1

As follow up to my question regarding agricultural biotechnology approvals in China and the current trade disruption, you mentioned that this issue was high on the agenda at the December 2013 plenary. Going forward, it is critical that the U.S. government use all available bilateral mechanisms to work with the Chinese to improve our bilateral relationship on agricultural biotechnology so to ensure the United States can continue to be the primary supplier of grains and oilseeds to China. China is currently the largest buyer of U.S. soybeans, and according to the U.S. Department of Agriculture (USDA), China will soon become the largest buyer of U.S. corn. To ensure this relationship can continue to grow we must find a way to avoid any future trade disruption.

The long term goal is for the regulatory process in the U.S. and China to become synchronized. However, in the near term, I request your leadership in bringing greater predictability to the

process, specifically working with the Chinese to return to the practice of accepting and making regulatory decisions three times per year. I am concerned that the U.S. government does not have a coordinated, high level interagency effort to resolve this issue. I am hopeful USTR can play a more central role in advancing this issue in 2014, supplementing USDA's dialogue with MOA.

Specifically, will you commit to opening a direct dialogue with the Vice Premier and the Minister of Commerce and to use the 2014 JCCT and S&ED to secure commitments from the Chinese government to resolve this issue? Will you pursue a solution to this issue by urging its inclusion as a formal JCCT agenda item?

Answer

Agricultural biotechnology is a technology critical to helping feed the world's growing population and reduce the impact of agriculture on the environment. USTR works closely with other U.S. government agencies, including the U.S. Departments of Agriculture and State, to ensure export markets are open to U.S. agricultural products derived from modern biotechnology. Central to this effort is a comprehensive strategy to address trade disruptions resulting from differences globally in approval systems for agricultural products derived from modern biotechnology. For example, China, as a major market for U.S. agricultural exports, is a top priority, and U.S. officials regularly pursue biotech issues with their Chinese counterparts in both bilateral and multilateral fora. In December, for example, Secretary Vilsack and I raised the issue of approval delays with Chinese officials at the JCCT. At the same time, USTR recently led the U.S. delegation to a March 2014 Food and Agriculture Organization (FAO) meeting of the United Nations to raise awareness of the trade implications of low level presence issues. In addition, we routinely raise issues related to agricultural biotechnology with other countries in the WTO Sanitary and Phytosanitary Committee and the WTO Technical Barriers to Trade Committee. We also work with like-minded partners and international organizations, such as the OECD, and plurilateral efforts, such as the Global Low Level Presence Initiative, to promote predictable and science-based approvals processes around the world. We will continue to pursue an active agenda with China to promote a predictable, science based and timely approval system using all appropriate mechanisms, including the S&ED and JCCT.

Question 2

As you know, the Internet has been a key area of U.S. competitiveness internationally. American companies lead the world in digital innovation and small businesses from a wide range of sectors can now reach foreign markets in ways that were impossible just a few years ago.

Can you speak to the importance of ensuring strong rules to protect the internet as a platform for trade from unnecessary government restraints? How would you describe the state of negotiations on this issue with the EU given the stated concerns of some EU nations over data privacy?

Specifically, will the TPP, TTIP and TiSA negotiations seek to protect US firms - from all sectors - in their ability to process and store data offshore? Are US negotiators making this a top

priority and seeking to make any restraints on the ability to process and move data as limited as possible?

Answer

USTR sees trade agreements as a vital means for ensuring that the Internet and the commercial ecosystem it supports remains open and can grow and thrive. Specifically, USTR seeks to include a range of provisions in ongoing trade negotiations, including TPP, T-TIP, and TiSA, aimed at enhancing opportunities for digital trade. Chief among these are:

- A "negative list" approach to services and investment (all sectors are covered unless a Party negotiates to exclude a sector or subsector), critical to innovative and fast-changing services such as Internet-based services;
- A prohibition on imposing tariffs on content transmitted electronically;
- Non-discriminatory treatment of content distributed electronically into markets of a trade partner;
- An affirmative obligation to permit cross-border data flows; and
- A prohibition on requiring the use of local computing facilities for covered services.

Question 3

Last week USTR released its "Special 301 Report" which details the challenges that American companies face globally in protecting their intellectual property in nations such as China, Russia and India, to name a few. Many of the nations in the report employ measures designed to benefit their local companies at the expense of U.S. businesses, sometimes referred to as "indigenous innovation" policies. Can you comment on the nations where you think we've made the greatest progress in combating these indigenous innovation policies, as well as the nations where the biggest challenges remain?

Answer

USTR works hard to press governments to avoid adopting trade-distortive policies, which are sometimes designed to promote "indigenous innovation" by forcing U.S. companies to transfer their technology or other valuable commercial information. In this year's Special 301 report, we urged that, in formulating policies to promote innovation, trading partners, including India and China, take account of the increasingly cross-border nature of commercial research and development, and of the importance of voluntary and mutually agreed commercial partnerships.

Question 4

Many US companies increasingly rely on global value chains to be successful, stay competitive, and sustain US jobs. These companies base their core competencies here with American workers and rely on others to perform some of the lower value functions. The result is that these companies employ a wide range of American workers at all economic and skill levels, and are able to provide higher quality products at lower prices for American families. I've seen economic studies that demonstrate this phenomenon in a wide range of industries from high-tech

to apparel and footwear. The TPA bill that was introduced earlier this year acknowledged this reality and directed negotiators to expand market opportunities, including through utilization of global value chains.

How is US trade policy evolving to promote US jobs that are part of global value chains, and what specific policies is the Administration pursuing to support these American jobs, particularly in sectors such as high-tech, apparel and footwear?

Answer

The OECD and other organizations have demonstrated the increasing importance of global value chains in trade. Some of these studies show that as much as 50 percent of global trade is in intermediate products, and emphasize the aggregate impact that trade barriers have in increasing costs of trade when goods cross borders multiple times.

We concluded a new multilateral Trade Facilitation Agreement at the WTO Ministerial Conference in Bali in December. This agreement will apply to all WTO Members and, when fully implemented, will substantially lower the costs of trading for U.S. exporters, whether they trade in manufactured products or agriculture.

In the TPP and T-TIP negotiations, we have increasingly sought to address behind-the- border measures that restrict trade, particularly through new disciplines in areas such as technical barriers to trade and regulatory coherence. These new disciplines will help all U.S. industries, including high-tech apparel and footwear, further integrate themselves in global supply chains.

Our ongoing effort to substantially expand the product scope of the WTO Information Technology Agreement aims to eliminate tariffs on many additional high technology components, as well as end products.

All of these priorities reflect the importance we put on factoring in the increasing role of global value chains in global trade.

Question 5

The U.S. has strong competitive advantages when it comes to trade in services, with nearly $700 billion in services exports in 2013 and over 4 million U.S. jobs associated with these exports. The Trade in Services Agreement (TISA) should be ambitious and encompass all services industries, especially in light of the absence of progress in WTO negotiations in services over the last twenty years.

What specific goals you would like the U.S. to achieve within the TISA and how would you characterize the state of the negotiations? How do our services objectives in TISA relate to our services objectives in TPP and TTIP?

Answer

U.S. objectives in TiSA closely correspond with those for services in TPP and T-TIP. These include establishing a level playing field for U.S. service suppliers and the adoption of state-of-the-art trade rules in areas like telecommunications, financial services, competitive delivery services, and transparency. We are also pursuing disciplines on data flow restrictions, local server requirements, and other local content policies that can disrupt services trade and place U.S. companies at a disadvantage.

TiSA complements our regional initiatives by bringing together trading partners from Europe, Asia, and the Americas. TiSA negotiations are making good progress, with market access offers exchanged by 21 of 23 participants in less than a year of negotiations. We still have work to do to find an appropriate balance of market access commitments and reach a consensus on new rules.

QUESTIONS FROM SENATOR BURR

Question 1

In 2009, the United States and European Union reached the US/EU Agreement on Bananas, under which the EU committed not to discriminate against U.S. banana service suppliers. Since then, Italy has levied large penalties on U.S. interests for using ordinary licensing arrangements that were authorized and in practice obligatory under the prior banana regimes. Despite USTR pressure, the European Commission has so far refused to require Italy to honor EU law and withdraw these discriminatory penalties. Since Italy's actions are undermining the 2009 Agreement, causing significant additional harm to U.S. interests, and raising questions about T-TIP regulatory harmonization, what additional actions will USTR take to ensure the Commission remedies Italy's infraction?

Answer

We continue to raise with European counterparts concerns relating to the actions by certain EU member state customs authorities relating to prior utilization by U.S. firms of EU import licenses, which are now the subject of court proceedings within EU member state judicial systems.

Question 2

The U.S.-Colombia Trade Promotion Agreement provides that the United States and Colombia may agree to accelerate tariff reductions on items in the agreement. Please know that I fully support the acceleration of tariff reductions on U.S. exports of straight trucks to Colombia. I appreciate USTR's continued efforts to reach that goal. What can we do to make this process move as quickly as possible? Do you believe we can get this done in the next few months?

Answer

As a result of a USTR notice in the Federal Register, a number of U.S. stakeholders proposed products for tariff acceleration under Article 2.3 of the U.S.-Colombia Trade Promotion Agreement, including certain tariff lines for heavy trucks. We are consulting with Colombia on products for which Colombia wishes to seek tariff acceleration in order to develop a balanced package. Once a balanced package of products is jointly agreed upon, both sides would need to carry out their respective domestic procedures before the new tariff staging would enter into force. In the case of the United States, the domestic process follows statutory requirements and includes, among other things, advice from the ITC and advisory committees, a period of consultation and layover, and publication in a Presidential Proclamation. We are working with Colombia to move this process forward as soon as possible.

Question 3

Chapter 7 of the U.S.-Colombia Trade Promotion Agreement (TPA) obligates both members to "facilitate trade and obtain effective market access through ...the elimination of unnecessary technical barriers to trade, and the enhancement of bilateral cooperation." I am concerned that a series of Colombian decrees that mandate the scrapping of older trucks in order to purchase a new truck may violate Colombia's obligations under both the WTO's Agreement on Technical Barriers to Trade and General Agreement on Tariffs and Trade and the U.S.—Colombia TPA. I know USTR is working to rectify this situation. Can you assure me you will continue to seek to address the imposition of arbitrary conditions on manufactured goods imported from the United States in Colombia?

Answer

We share your concerns about Colombia's truck scrappage regulations and have been pressing the Government of Colombia to address this issue as soon as possible. The United States has raised concerns with the scrapping requirements themselves, as well as the lack of transparency and advance notice, in multiple fora and at multiple levels, including in the negotiations on Colombia's membership in the OECD. Both USTR and other U.S. Government agencies have voiced strong concerns on this issue with senior Colombian officials. Colombia has taken some steps to improve the immediate situation of the existing inventory of trucks in Colombia. However, we are continuing to press for both a more effective short-term solution to existing inventory in Colombia as well as a comprehensive solution that will restore market access for U.S. exports of trucks as soon as possible.

Question 4

I understand you have proposed including language in the Trans-Pacific Partnership Agreement that would expressly recognize other countries have the right to regulate tobacco in order to protect the public health. I also understand that you have even discussed the possibility of language that would carve out tobacco from the protections of the investor-state provisions in TPP. As you know, there are bipartisan concerns about both proposals. Can you provide me an update on the status of these proposals in TPP negotiations?

Answer

The public health challenges posed by tobacco are serious and unique. The U.S. commitment to addressing them is reflected in the Tobacco Control Act that Congress passed in 2009. In TPP, there is generally a consensus among the 12 countries on the importance of this issue and of ensuring that TPP preserves the right of governments to implement public health regulations, including those related to tobacco. We are still considering how best to do so.

Question 5

Can you explain what USTR is doing to protect U.S. intellectual property, including whether you are seeking protections of 12 years of data protection for biologics in the TPP negotiations and how you are enforcing existing agreements on IP with trading partners such as Canada?

Answer

Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. As is our tradition, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. We have made clear to our trading partners that promoting innovation and ensuring access to medicines are priorities to Members of Congress and I have been engaging intensively with my TPP counterparts – including most recently at the TPP Ministerial meeting in Singapore – to try to resolve our differences on this issue.

As detailed in the 2014 Special 301 report, we are actively engaging with Canada on our concerns related to a variety of intellectual property issues. We are closely monitoring developments, consulting with affected stakeholders, and pressing Canada to address these concerns, strategically tailoring our approach and using all appropriate trade policy tools and opportunities available to seek effective outcomes. As the United States' largest bilateral trading partner, we have made clear that it is critical for Canada to promote innovation through strong intellectual property rights protection, which is essential to economic growth throughout North America.

Question 6

Chapter 98 of the Harmonized Tariff Schedule of the United States provides certain tariff preferences or treatment for, among others, American goods repaired or altered abroad or American components assembled abroad (i.e., "American goods returned"). Does your office believe that expansion of this program for U.S. yarn and textile products would benefit U.S. producers of these products and serve to promote exports of such products?

Answer

It is unclear that expanding this type of preference would benefit the U.S. industry. By creating a "yarn only" as opposed to a yarn forward preference it could have the effect of denying downstream producers a share of the market. We also have concerns about the potential impact of this proposal on existing FTAs and preference programs.

QUESTIONS FROM SENATOR PORTMAN

Question 1

Passing Trade Promotion Authority is very important for American exporters and job creators and for strengthening the hand of our country's talented trade negotiators. In January, a bill to renew TPA was introduced along with a hearing here in the Senate Finance Committee. Does the Administration support that bill, and will the Administration forcefully advocate for passage of TPA this year?

Answer

The Administration welcomed the introduction of the Bipartisan Congressional Trade Priorities Act of 2014 as an important step towards Congress updating its role in trade negotiations. The Administration has been clear that TPA is a critical part of our trade agenda, and will continue to work with Congress throughout the legislative process to pass TPA legislation with as broad bipartisan support as possible.

Question 2

I'm concerned that without TPA, this Administration may be willing – or forced – to settle for less out of a desire to get a deal done – whether that's in the TPP or through the T-TIP. For our countries to realize the maximum economic benefit from these agreements, they must be comprehensive and we need to continue to press our trading partners to put everything on the table. We shouldn't let Japan carve out whole sectors where it's difficult to negotiate– and we shouldn't do it either. Caving to Japan, or refusing to even discuss with the EU a framework for financial services regulatory matters in the TTIP sets a bad precedent moving forward and reduces the overall benefit that these agreements can offer. How comprehensive and far-reaching are you pushing for these agreements to be?

Answer

We are focused on achieving ambitious, comprehensive, and high-standard TPP and T-TIP agreement in parallel to Congressional consideration of TPA.

Question 3

Trade enforcement is important for American manufacturers. The ongoing Oil Country Tubular Goods case being reviewed by the Commerce Department is part of that. Given the importance of strong enforcement of our trade laws to American manufacturers, do you plan to pursue currency disciplines in pending trade agreements such as the Trans-Pacific Partnership to ensure that our trading partners do not manipulate their currencies and consequently hurt American exporters?

Answer

Currency is a top priority for the President and the Administration, and Treasury which has the lead on currency issues, has worked actively in multilateral fora, including the G-7, G-20, and the International Monetary Fund, as well as through bilateral engagement, to address persistent exchange rate misalignments. We have made progress in these fora, and will continue to press for countries to move to market-determine exchange rates. We are continuing to consult with Treasury, Congress, and our domestic stakeholders on this important issue.

Question 4

The President's 2014 Trade Policy includes a great deal of discussion of the need to ensure that foreign markets are open to US exports, and of the concerns about intellectual property rights. Related to this important discussion on IPR is the need to ensure that we are cracking down on overseas entities that are intentionally evading our trade remedy laws. For manufacturers in Ohio – like American Spring Wire in Bedford Heights – this is a major issue. I have worked with Chairman Wyden on this issue through the ENFORCE Act, which I support and is part of dealing with this growing problem. Does the Administration place a priority on combatting these customs duty evasion problems and ensuring that our dumping and countervailing duty laws are properly enforced after all of the effort that is put into enacting these provisions?

Answer

This Administration has put an emphasis on enforcing our trade remedy laws to protect U.S. workers and businesses from unfair competition and allow them to compete on a level playing field. Customs and Border Protection (CBP) and the U.S. Department of Homeland Security (DHS) are critical to our efforts to ensure that we have a meaningful system in place to protect U.S. workers and businesses from unfair trade actions or actions to circumvent our laws. CBP and DHS are work closely with domestic industry to identify areas of potential circumvention and duty evasion. We will continue to work with our interagency partners at the U.S. Departments of Commerce, DHS, and CBP to vigorously enforce our AD/CVD laws.

Question 5

Since 1999, First Solar has operated and grown its manufacturing operations in Ohio, as well as solar power plants in the U.S. and around the world. Their continued Ohio investment in research and development has yielded steady results, including recent new world records for both

cell and module efficiencies - certified by NREL. First Solar and 1,000 employees in Perrysburg, OH take pride in these achievements and their leading place in global solar markets. As someone interested in both upholding US trade law and protecting US manufacturing, can you give me your commitment that USTR will ensure that any outcome lives up to the spirit of our trade laws and protects all US solar manufacturers?

Answer

We have been holding discussions with China related to global issues in solar trade throughout the supply chain. In these discussions, we are working to support three U.S. objectives:

- Ensuring a level playing field for U.S. solar panel manufacturers and their products by enforcing U.S. trade remedy laws and U.S. rights at the WTO;
- Accelerating the adoption of solar and other renewable energy technologies in the United States and the world; and
- Leveling the playing field globally so that U.S. renewable energy manufacturers can compete and win in this growing market.

Question 6

Eliminating foreign tariffs on graphite products could have a positive impact on an important American manufacturing industry and the workers it employs – including those in my home state. I understand that you are doing all you can to press our TPP partners to make meaningful tariff concessions. Do I have your commitment to increase market access for companies like GrafTech International – a major employer in Ohio – in target markets like Japan for graphite electrodes, as well as Vietnam and Malaysia for other industrial and manufactured graphite products, to ensure they are as open as the U.S. market?

Answer

We are pressing our TPP partners to eliminate duties on all U.S. industrial goods in order to expand export opportunities for U.S. firms, including manufacturers of industrial graphite products.

Question 7

The Colombian truck market is an important one for US manufacturers, including Navistar, which employs 1,000 Ohioans, including a large facility in Springfield, Ohio. In 2012, the Colombian heavy-duty market neared 12,000 units, of which American brands captured over 85% market share. As you are aware, in 2013, the Colombian government promulgated three new decrees changing how buyers may register their new truck purchases. In response to such unreasonable regulatory demands, market volumes have fallen by over 70%, which translates to hundreds of millions of dollars in lost exports, and imperils hundreds of manufacturing jobs across the US. I understand that USTR mentioned this issue in the National Trade Estimate

report earlier this week. How is the Colombian government's behavior consistent with the terms of the free-trade agreement? What additional steps much be taken to ensure that Colombia honors both the letter and spirit of its bilateral obligations?

Answer

We share your concerns about Colombia's truck scrappage regulations and have been pressing the Government of Colombia to address this issue as soon as possible. The United States has raised concerns with the scrapping requirements themselves, as well as the lack of transparency and advance notice, in multiple fora and at multiple levels, including in the negotiations on Colombia's membership in the OECD. Both USTR and other U.S. Government agencies have voiced strong concerns on this issue with senior Colombian officials. Colombia has taken some steps to improve the immediate situation of the existing inventory of trucks in Colombia. However, we are continuing to press for both a more effective short-term solution to existing inventory in Colombia as well as a comprehensive solution that will restore market access for U.S. exports of trucks as soon as possible.

Question 8

Agricultural exports are very important to Ohio's farmers and ranchers. Ohio is one of the top 10 agricultural exporting states, exporting more than $4 billion in 2012. I know the export agreements being negotiated are important to Ohio farmers and ranchers. Of course, tariff elimination is the heart of these negotiations so that greater amounts of Ohio agriculture products can reach consumers around the world, including in Japan. Yet, reports suggest that Japan wants to exempt up to 500 tariff lines from tariff elimination. If we accept Japan's demands, it will constitute a radical departure from past U.S. trade agreements. And, it will open the door to massive exemptions becoming a mainstay of future U.S. trade negotiations. Why should we extend special treatment to Japan's agricultural sector? Shouldn't Japan be required to do what every other US FTA partner has done in eliminating tariffs?

Answer

We are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual product lines to the benefit of America's farmers and ranchers, including those in Ohio.

Question 9

I understand that there is intensified activity in the Information Technology Agreement negotiations. The ITA has been an important catalyst for Ohio companies engaged in the IT global supply chain such as Solvay Specialty Polymers in Marietta, Ohio, which directly employs about 300 people and exports virtually every pound of Liquid Crystal Polymers it produces to customers in Asia and Europe. Thanks to your efforts, this important IT product is

on the "consensus" list of products that will be added to an expanded ITA products list. This agreement is almost within our grasp and an ITA agreement will provide a boost to our tech exports since the US has low tariffs on these items already compared with our trading partners. We need the ITA in place on January 1, 2015 to give the global economy and the world trading system a welcome shot in the arm. In any negotiation, there must be give and take. But my understanding is that China refuses to engage seriously with any of its ITA partners. In a little more than two weeks, China will host an APEC trade ministers meeting. I am glad that you will be there for that important meeting which could lead to a breakthrough. Can you update the Committee on the status of these negotiations?

Answer

We want to conclude an ITA expansion agreement as soon as we can achieve a balanced and commercially significant package of liberalization. In that regard, we held productive talks with China on May 16-18. The United States proposed new ideas on how to press the negotiations forward. We made progress and narrowed our differences with China, and look forward to reengaging with China in the coming weeks. We will continue our intensified work with the goal of achieving a meaningful, expanded ITA agreement in the near term.

Question 10

The U.S. glassware industry is an import sensitive sector, a fact that has been recognized in U.S. trade policy for decades. The treatment of this sector, both in terms of market access and in terms of rules of origin is important to production and employment in my state, and other states around the country. I have worked closely with glassware manufacturers in Ohio – along with Sen. Brown – to support strict rules of origin as well as retention of existing tariffs for a significant period of time, coupled with the potential for non-linear, back-loaded tariff phase-outs. Will USTR continue to treat this sector as import sensitive and ensure that that designation is fully reflected in the treatment it receives on rules of origin and on potential tariff phase-outs?

Answer

We recognize the sensitivity of this sector, and will continue to treat glassware as an import-sensitive sector, as we address tariff and rules of origin issues in our market access negotiations.

Question 11

India is a vital export market and investment partner for American companies. However, while India has addressed concerns with its "Preferential Market Access" policy, there are still a range of intellectual property problems that U.S. companies are facing. I know you're aware of these issues and are taking steps to confront them. My question is whether there's anything else we could be doing to try to get India to treat U.S. exporters more fairly? Also, can you explain further how the Out of Cycle Review for India will work and when that will occur? Further, will these issues be addressed in upcoming US-India Trade Policy Forum meetings in 2014?

Answer

As detailed in this years' Special 301 report, the IP protection and enforcement challenges in India are growing and there are serious questions regarding the future of the innovation climate in India across multiple sectors and disciplines. In the coming months, we will seek opportunities for meaningful, sustained, and effective engagement on IP-related matters with the new government, including at senior levels and through technical exchanges, that will both improve IP protection and enforcement in India, and support India's efforts to achieve a "Decade of Innovation" and advance its legitimate public policy goals. The Out of Cycle Review (OCR), commencing with the issuance of a federal register notice in the fall to solicit input from industry and other interested parties, will provide an opportunity to review that engagement. All OCRs, including this one, entail an interagency process to evaluate this input and any relevant developments.

We look forward to engaging with the new Indian government on these and other issues, including through the Trade Policy Forum (TPF).

QUESTIONS FROM SENATOR TOOMEY

Question 1

The Trans-Pacific Partnership (TPP) has great potential to increase foreign market access for American agricultural producers. Unfortunately, progress is lacking in market access negotiations for dairy products with Japan and Canada. As you know, the minimum tariff Japan places on US dairy products is 25 percent and the Japanese government is resisting efforts to liberalize its dairy market. Similarly, Canada is resisting efforts to ease dairy import restrictions and tariffs on US products, including a 245.5 percent tariff on mozzarella. What is being done to ensure that the US dairy industry will gain meaningful access to these two markets in TPP and not be excluded from the deal?

Answer

All TPP countries share the goal of eliminating trade barriers, including on dairy. TPP offers important new opportunities to further expand U.S. dairy exports, including to Vietnam, Malaysia, Japan and Canada. We are looking to Japan and Canada, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market, including for U.S. dairy products, consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations.

Question 2

The Transatlantic Trade and Investment Partnership (T-TIP) is a great opportunity to lift trade barriers, but the EU is attempting to expand geographic indication (GI) restrictions to prevent US dairy companies from using common cheese names. The excessive use of GIs is problematic for

American dairy producers and could significantly limit their market access at home and abroad. Over half of my colleagues in the Senate joined Senator Schumer and I in our March, 2014 letter to urge you and Agriculture Secretary Vilsack to resist the EU's push for expanded GI restrictions. Common cheese names like parmesan, feta, asiago, fontina, cheddar, and mozzarella should remain available to US cheese manufacturers. Please explain how you are addressing the issue of GIs in the T-TIP negotiations with your EU counterparts.

Answer

The United States and the EU have long-standing differences over the scope and level of intellectual property rights protection for GIs. We have raised our strong concerns regarding the impact of the EU's GI policies on made in America products. Within the T-TIP negotiations, we have been clear with the EU regarding our strong opposition to existing and future barriers. We will continue to press the EU to expand market access for U.S. producers into the EU and third country markets, including through the removal of barriers such as overly-broad GI protection for EU products.

Question 3

As we have previously discussed, exports of American vocational trucks to Colombia face a high tariff, currently 10.5 percent. The elimination of this tariff was secured during the US-Colombia Trade Promotion Agreement, but at the slow rate of 1.5 percentage points per year. Exports of competing Mexican vocational trucks, however, have entered Colombia duty free for years. I first highlighted this issue in a bipartisan, bicameral congressional letter two years ago, and asked USTR to negotiate with the Colombian government to accelerate the elimination of this tariff. I understand that USTR has commenced negotiations and I thank you for giving this issue the attention it deserves. Will you continue to task your staff with eliminating this tariff as quickly as possible? How you do you see the process playing out?

Answer

As a result of a USTR notice in the Federal Register, a number of U.S. stakeholders proposed products for tariff acceleration under Article 2.3 of the U.S.-Colombia Trade Promotion Agreement, including certain tariff lines for heavy trucks. We are consulting with Colombia on products for which Colombia wishes to seek tariff acceleration in order to develop a balanced package. Once a balanced package of products is jointly agreed upon, both sides would need to carry out their respective domestic procedures before the new tariff staging would enter into force. In the case of the United States, the domestic process follows statutory requirements and includes, among other things, advice from the ITC and advisory committees, a period of consultation and layover, and publication in a Presidential Proclamation. We are working with Colombia to move this process forward as soon as possible.

Question 4

I appreciate USTR's efforts to encourage Colombia to undertake greater market liberalization and economic reform. That said, Colombia has failed to meet its obligations under the WTO and

our bilateral free trade agreement (FTA) in regards to heavy duty trucks. Specifically, the government of Colombia has promulgated regulations that restrict private enterprises from registering a new commercial vehicle unless they first acquire and scrap an existing vehicle. This truck scrapping mandate violates both the letter and spirit of Colombia's commitments under the WTO and our FTA. I understand that USTR has already discussed this matter with the Colombian government; what have you been able to achieve thus far, and what additional actions will you take to successfully resolve this issue?

Answer

We share your concerns about Colombia's truck scrappage regulations and have been pressing the Government of Colombia to address this issue as soon as possible. The United States has raised concerns with the scrapping requirements themselves, as well as the lack of transparency and advance notice, in multiple fora and at multiple levels, including in the negotiations on Colombia's membership in the OECD. Both USTR and other U.S. Government agencies have voiced strong concerns on this issue with senior Colombian officials. Colombia has taken some steps to improve the immediate situation of the existing inventory of trucks in Colombia. However, we are continuing to press for both a more effective short-term solution to existing inventory in Colombia as well as a comprehensive solution that will restore market access for U.S. exports of trucks as soon as possible.

Question 5

USTR's most recent Special 301 Report stated that India and Canada maintain policies that deny fair intellectual property (IP) protection for American biopharmaceutical firms. As you know, the biopharmaceutical sector is tremendously important to our economy. It provides over 800,000 jobs and nearly $90 billion in annual wages. The growth of this industry and its continued success in discovering lifesaving technologies are direct results of our nation's robust commitment to protecting IP. It is unfortunate that some other nations do not share America's commitment to protecting IP and it is vital that USTR make IP protection a top priority. Will USTR continue to engage with India and Canada to push them to adopt strong and reasonable IP protections?

Answer

We continue to have concerns with the IP environment in India and Canada. As detailed in this year's Special 301 report, we are actively engaging with Canada on our concerns related to the patent utility standard, as well as in other areas, including copyright and border enforcement. We are closely monitoring developments, consulting with affected stakeholders, and pressing Canada to address these concerns, tailoring our approach and using all available trade policy tools and opportunities to seek effective outcomes. As the United States largest bilateral trading partner, it is critical for Canada to promote innovation through strong intellectual property rights protection, which is essential to economic growth throughout North America.

With respect to India, as detailed in this years' Special 301 report, the IP protection and enforcement challenges in India are growing and there are serious questions regarding the future

of the innovation climate in India across multiple sectors and disciplines. In the coming months, we will seek opportunities for meaningful, sustained, and effective engagement on IP-related matters with the new government, including at senior levels and through technical exchanges, that will both improve IP protection and enforcement in India, and support India's efforts to achieve a "Decade of Innovation" and advance its legitimate public policy goals.

Question 6

The Trans Pacific Partnership (TPP) should include strong pharmaceutical IP protections that are substantially similar to US law; this includes 12 years of regulatory data protection for biologics, patent term restoration for unreasonable regulatory approval delays, and a commitment to implementing effective patent enforcement mechanisms. Further, any final TPP agreement should include a reasonable, time-based phase-in for final pharmaceutical IP standards. I was deeply disappointed when USTR proposed an income-based transition period for developing countries. It is wrong to imply that property rights are burdensome to economic growth and inappropriate for developing economies. Will you commit to push for strong and uniform pharmaceutical IP protections in the TPP that are consistent with US law?

Answer

The United States is a leading voice both for promoting innovation and for ensuring affordable access to medicines, including for the world's poor. We believe the best approach to pharmaceutical IPR issues in TPP would be one that reflects appropriately the different stages of development of individual TPP countries.

This flexible approach is based on precedent: previous U.S. trade agreements covered by the May 10, 2007 bipartisan agreement. Under May 10, developing free trade agreement partners (like Peru) were offered greater flexibility relative to more developed trade agreement partners (like Korea). In TPP, we are seeking to pursue a similar idea, using previous agreements – such as those with Peru, Australia, Chile, Korea, and Singapore – as benchmarks, but keeping an open mind as to how these standards can be tailored to reflect the situations of individual partners.

With respect to biologic drugs, they offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. As is our tradition, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. We have made clear to our trading partners that promoting innovation and access to medicines are priorities to Members of Congress and I have been engaging intensively with my TPP counterparts – including most recently at the TPP Ministerial meeting in Singapore – to try to resolve our differences on this issue.

Question 7

Due to strict market controls and limited domestic production, Americans have historically paid significantly more for sugar than those in other countries. As you know, since 2008 NAFTA has allowed Mexico to ship unlimited amounts of sugar to the United States. These shipments are clearly beneficial to our domestic consumers and to our trading relationship with Mexico. American sugar producers are petitioning the U.S. Department of Commerce and the International Trade Commission to set punitive tariffs on imports of Mexican sugar. Secretary Vilsack has stated that he is concerned this petition could negatively impact our trade relationship with Mexico and that he "would have liked to have seen this [petition] perhaps not occur…" Do you agree that this petition could have a negative impact on the trade relationship between the United States and Mexico?

Answer

The U.S. sugar industry has the right, under U.S. law, to petition the U.S. Department of Commerce and the U.S. International Trade Commission concerning imports of sugar into the U.S. market. USTR is not involved in that process. USTR will continue to work with Mexico to make progress on a range of trade issues and advance our robust trade relationship.

STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER U.S. SENATE COMMITTEE ON FINANCE HEARING OF MAY 1, 2014 PRESIDENT OBAMA'S 2014 TRADE POLICY AGENDA

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following opening statement at a committee hearing examining Obama Administration's 2014 trade policy agenda:

Thank you, Mr. Chairman, for holding this hearing. And thank you, Ambassador Froman, for being here today.

As you know, we hoped to hear from you over three months ago when the Committee held a hearing on the importance of Trade Promotion Authority. While I am still disappointed that you declined my invitation to participate in that hearing, I am glad you are able to be here with us today.

President Obama's trade agenda is extremely ambitious.

If it succeeds, it will help shape global trade patterns for decades to come.

If it fails, it will result in billions of dollars of missed economic opportunity for American workers and job-creators.

Of course, the President's term is not yet over and the jury is still very much out. Even so, I am concerned.

First and foremost, the fact that Trade Promotion Authority, or TPA, is not renewed creates a serious, and perhaps fatal, flaw in the President's trade agenda.

I do not believe you can conclude high-standard agreements that will meet Congress' approval without TPA. And, I am not the only one who holds this view.

Indeed, in recent months, administration officials like Agriculture Secretary Tom Vilsack and Jason Furman, Chairman of the Council of Economic Advisors, have been quoted as saying that TPA is a necessary component to conclude and implement our ongoing trade negotiations.

Ambassador Froman, I have no doubt in your capabilities or those of your staff, but history tells us very clearly that, without TPA, your trade agenda will almost certainly fail. That is why I am very disappointed in the President's passive approach on this issue.

I am sure you can remember the enormous political effort President Clinton put into successful implementation of the North American Free Trade Agreement. And I am sure you can also recall President Bush's total political commitment to renewing TPA in 2002. In those cases, war rooms were established and each cabinet secretary made congressional approval of those initiatives a public priority.

Put simply, we are not seeing that level of commitment from President Obama, which is disappointing. And, without more effort on the part of the administration, I don't think we can succeed.

In addition, I am concerned about the President's enforcement record.

Despite a myriad of clear violations, we have yet to see a single case brought against Russia in the World Trade Organization. This is the case despite the fact that the administration told Congress during consideration of PNTR that one of the major benefits to having Russia in the WTO would be our ability to bring them to dispute settlement.

I am also profoundly disappointed that the President refuses to bring a WTO case against India for its continuing efforts to undermine U.S. intellectual property rights.

This failure to act with regard to India exemplifies a pattern of corrosive neglect within this administration when it comes to enforcing American intellectual property rights.

Countries around the world are taking note of the President's failure to act in this area, and this is feeding the perception that they can refuse to protect, and even actively violate, U.S. intellectual property rights with impunity.

Finally, I am deeply concerned about the Office of the U.S. Trade Representative as an institution.

Ambassador Froman, I sincerely appreciate the hard work and dedication of you and your staff. I am also deeply impressed by the caliber of your agency's career staff and their personal commitment to the work of the USTR. Yet, despite your best efforts, the agency still ranks dead last in employee job satisfaction among small agencies.

Part of the problem is USTR's failure to effectively play its traditional role as a bulwark against other federal agencies. Too often during the inter-agency process, regulatory agencies are just saying no to cooperative participation in international trade negotiations.

For example, it was the Department of Health and Human Services that alleged the need for so-called "policy space" resulting in USTR's proposal to simply carve out tobacco products from the Trans-Pacific Partnership negotiations.

It was the Department of Treasury's insistence on relegating financial services discussion to pre-existing forums that resulted in USTR's position that financial services should be carved out of our trade negotiations with the European Union.

And, despite the strong support of U.S. agricultural and food processor groups for a fully enforceable sanitary and phyto-sanitary chapter in TPP, it was the Food and Drug Administration's fear of dispute settlement that resulted in a weaker USTR proposal which excludes certain disciplines from dispute settlement.

There is a clear pattern here.

If this does not change, I am worried that any agreement this Administration negotiates will never match the President's rhetoric of concluding high-standard 21st Century agreements.

Of course, the history of this Administration's trade agenda has yet to be written and there is still time to correct course.

But, make no mistake, that time is limited.

I want to help. That is why I worked with my House and Senate colleagues for almost a year to negotiate the Bipartisan Congressional Trade Priorities Act, a balanced bipartisan compromise which will empower our country to negotiate high-standard agreements that will get the approval of Congress.

Over 160 leading business and agriculture associations and companies have come out in strong support of this legislation. Like them, I strongly believe that approval of our TPA legislation will help our nation succeed in its ambitious trade negotiations.

That being the case, I am asking once again that the President redouble his efforts and help us get this legislation signed into law as soon as possible. The political clock is ticking and it won't be long until we will lose the small window we have to pass significant trade legislation this year.

Ambassador Froman, I look forward your testimony today and to working with you to achieve successful conclusion of a strong, pro-growth trade agenda.

Thank you, once again, Mr. Chairman.

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Hearing Statement of Senator Ron Wyden, D-Ore.,
On Modern Challenges and the Need for Transparency in Trade Policy

For decades, American trade policy has been a story of adaptation and change. In particular, the extraordinary economic changes of the last generation demonstrate how important it is that future trade policies are reformed to reflect the times.

For example, consider how technology has transformed the American and global economic landscapes. In the 1990s, an entire month's worth of Internet traffic data would fit on a single hard drive that you can buy today for 50 bucks at any electronics store. More than two billion people now log onto the net regularly. But Vietnam has a law on its books that calls into question the ability of U.S. businesses to move their data in and out of the country. Governments in China, Brazil and Europe are also considering developing systems that would effectively build digital barriers to trade that nobody could have foreseen a few decades ago.

And when it came to enforcing our laws, enforcement officials used to watch out for criminals fleeing offices with armloads of trade secrets printed on sensitive documents. Now hackers can break into a company's servers and steal data from the comfort of their own desks in classrooms or military facilities thousands of miles away.

Next, a generation ago, American workers and businesses also competed against a smaller, very different China. Today, bolstered by enormous advantages provided to state-owned and -run enterprises, Chinese government-backed steel and solar firms are able to take entire segments of the American economy out at the knees. They can do so because they sit on seemingly bottomless wells of cash, hide their paper trails with opaque accounting, and dodge the risks and borrowing costs that American companies face.

A third transformational change was the advent of unfair policies like indigenous innovation that target American innovators. In the 1990s, India and China had limited technical capacity. Now they are able to use highly technical standards to advantage their domestic firms and extract American companies' intellectual property for their own use – a shakedown, plain and simple.

Fourth, over the previous decade, currency manipulation has reemerged as a major concern for the U.S. economy. China made commitments to follow global trade rules when it joined the World Trade Organization in 2000. But when it comes to currency, as in so many other areas, China is keeping a finger firmly planted on the scale and undermining those commitments. Pick a product manufactured in China

and imported to the U.S. – any product – and currency manipulation makes it artificially cheaper. That is hurting American workers' ability to compete.

Finally, unlike 20 years ago, Americans expect to easily find online the information they want on key issues like trade. Yet too often, there is trade secrecy instead of trade transparency. It's time to more fully inform Americans about trade negotiations and provide our people more opportunity to express their views on trade policy. Bringing the American people into full and open debates on trade agreements that have the effect of law is not too much to ask.

At present, many Americans are questioning if trade developments have contributed to persistent long-term unemployment, stagnant wages for far too many, and students with good degrees unable to find high-quality jobs while they're saddled with debt. Last week's report showing that America's middle class is no longer the best-off in the world produced additional questions. Responding effectively to the trade changes of the last generation is absolutely essential to instilling more confidence that trade policy will be good for America's working families and bring more of them into the economic winners' circle.

Fortunately, America has big advantages to work with in trade. We have the most skilled, productive workforce in the world – one that foreign students want to join. The dollar remains the dominant currency of the global marketplace. And with the Internet's "big bang" and the boom in high-speed networks, the U.S. exports $350 billion worth of digital goods and services each year on what amounts to a new, virtual shipping lane. The Internet also makes it easier than ever for a craftsman from Fossil, Oregon – population 470 – or a barbecue sauce maker from Memphis, Tennessee, to reach customers around the world. So policy makers have a lot to work with.

We do have classic issues that remain. There are overseas tariffs to bring down and other barriers to eliminate. We've had an open market, so when America negotiates, we can get more of an advantage out of it than other trading partners. That is particularly good for American products like wheat, dairy and footwear that need to be able to compete on a level playing field.

Here's my bottom line. The new breed of trade challenges spawned over the last generation must be addressed in imaginative new policies and locked into enforceable, ambitious, job-generating trade agreements. They must reflect the need for a free and open Internet, strong labor rights and environmental protections. Nations don't dismantle protectionist barriers or adopt these rules on their own. They do so with reciprocal agreements hammered out through negotiation. America must establish new rules to reflect today's trade norms and enforce them.

We're looking forward to hearing from Ambassador Froman, who we're fortunate to have joining us today, how the administration's trade agenda will accomplish what today's American economy needs, in part through trade negotiations with countries across the Pacific and in Europe. I'll continue working with my colleagues to develop an approach toward trade and globalization that meets the test of producing more good-paying American jobs.

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COMMUNICATIONS

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601 E Street, NW
Washington, DC 20049

T 202-434-2277
1-888-OUR-AARP
1-888-687-2277
TTY 1-877-434-7598
www.aarp.org

STATEMENT FOR THE RECORD

SUBMITTED TO THE

SENATE COMMITTEE ON FINANCE

ON

President Obama's 2014 Trade Policy Agenda

May 1, 2014

AARP
601 E Street, N.W.
WASHINGTON, D.C. 20049

For further information, contact:
Ariel A. Gonzalez
(202) 434-3770
Federal Health & Family Team
Government Affairs

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W. Lee Hammond, President
Addison Barry Rand, Chief Executive Officer

AARP appreciates the opportunity to share with the Committee our thoughts on ongoing discussions surrounding the Trans-Pacific Partnership (TPP) trade agreement. The Committee's May 1st hearing with Ambassador Michael Froman, U.S. Trade Representative (USTR), was a forum for many pressing issues related to the U.S. trade agenda and the multilateral negotiations on the TPP – such as concerns over a lack of transparency and whether Congress should grant trade promotional authority – but the hearing did not focus on the proposed agreement's impact on U.S. public health programs.

AARP and several other organizations in the health care advocacy community have raised concerns about TPP proposals that could seriously undermine efforts to reign in the high cost of prescription drugs in taxpayer-funded programs like Medicare. These concerns center on how the TPP trade agreement, and specifically the pharmaceutical annex, could adversely affect the way the U.S. pays for and contains the growth in prescription drug costs, as well as proposals being considered in Congress to further reduce drug costs in Medicare.

As the Committee continues its dialogue with the USTR, further explanation is needed on how the TPP would impact Medicare Part B, in particular, and what effect it would have on savings proposals Congress may consider such as lowering the percentage paid by Medicare for Part B drugs from 106 percent to 103 percent of the average sales prices (ASP) and restoring the legal authority for Medicare to use a "least costly alternative" policy among competing Part B drugs.

There are also serious concerns with provisions under the TPP's intellectual property chapter that would lower patent standards in comparison to past agreements and hamper efforts to curtail the problem of "evergreening" drug patents, particularly for products that do not demonstrate a clear, significant clinical advantage or efficacy over the reference product. As we understand it, the proposal would also establish new requirements in U.S. and international law to grant patents on diagnostic, therapeutic, and surgical methods, as well as new forms and uses of known products.

Likewise, we believe the Administration needs to better articulate its intent in proposing these patent criteria provisions, and explain to Congress whether they are consistent with efforts to reform U.S. patent standards as well as the implementation of restrictions on patentability, including a recent U.S. Supreme Court decision limiting the patentability of genetic material.

We call to the Committee's attention the enclosed letter to Ambassador Froman dated April 30th signed by AARP and ten other organizations that discusses these issues in greater detail. We look forward to these issues receiving a more robust dialogue as the Committee continues its work in overseeing the TPP and other trade agreements and considers any related implementation legislation.

Enclosure

April 30, 2014

Ambassador Michael Froman
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Submitted electronically via correspondence@ustr.eop.gov, STATA@USTR.eop.gov

Dear Ambassador Froman:

The undersigned organizations appreciate our ongoing dialogue with your staff on prescription drug concerns related to the pending Trans-Pacific Partnership (TPP) trade agreement negotiations. While this dialogue has clarified a number of issues where we had questions, we continue to have substantive concerns that the TPP proposal, as we understand it, contains ill-advised provisions that could adversely affect U.S. prescription drug programs. We are writing today to reiterate these concerns in more detail, which center on the direction of the pharmaceuticals annex and how it would impact Medicare, as well as problematic provisions that the U.S. has proposed for inclusion in the intellectual property chapter. It remains our firm belief that the alteration of our nation's policies on Medicare reimbursement and patent standards should not be subject to binding provisions in international agreements like the TPP drafted through a process with little public transparency.

In general, we continue to be alarmed that the pharmaceuticals annex puts too much emphasis on drug industry priorities, and does not give equal weight to consumer priorities such as prescription drug affordability, safety, efficacy, and cost-effectiveness. To address this imbalance, we shared specific suggestions with your staff that we hope you will seriously consider adopting as part of the U.S. formal negotiating position on the annex. We strongly believe that consumer priorities, not drug industry priorities, should be the U.S. government's primary concern and encourage you to make every effort to address the current inequity in this regard as negotiations proceed.

We were pleased to learn from your staff that the current U.S. position is not to make the TPP pharmaceuticals annex provisions applicable to the operation of state Medicaid prescription drug programs, the Medicare Part D prescription drug program, or public health programs that utilize price negotiation such as the VA health program. However, national coverage determinations under Medicare Part B would be an expressly covered program and, consequently, would be subject to the annex's transparency and review commitments and bound by its policy restrictions. We strongly oppose this move that we believe could result in challenges to the payment methodology for Part B covered prescription drugs currently set at 106 percent of the average sales prices (ASP). Since shifting to the ASP in 2005, Medicare Part B drug spending has increased modestly at 2.7 percent per year, compared with increases of 25 percent per year between 1997 and 2003.[1] As an area where the U.S. government establishes pricing decisions, we are very concerned the current TPP proposal could be used by pharmaceutical companies to

[1] Medicare Payment Advisory Commission (MedPAC). 2012a. *Health Care Spending and the Medicare Program: A Data Book*, June 2012.

challenge the current Medicare B payment methodology, or its application in specific cases, which has had a measure of success in slowing spending growth.

As we have noted before, the TPP proposal could also limit the development of future policies. There is growing evidence that the ASP+6 percent payment methodology could be further improved to enhance cost containment efforts,[2] which will take on even greater importance as the high cost of specialty drugs including biologic medicines will make up an increasing percentage of overall drug costs in the future.[3] The recent release of comprehensive Medicare Part B physician reimbursement data underscores the need to reexamine payment methodologies for Medicare Part B covered prescription drugs.[4] According to the data, the high cost of prescription drugs is behind the highest billing trends, and these costs are borne directly by Medicare beneficiaries through increased cost sharing.[5] [6] [7]

Given this, we believe it is critically important that Congress retain the ability to adjust reimbursement policies for Medicare Part B covered prescription medicines unhindered by policy restrictions in the TPP. We are concerned a number of savings proposals could be restricted or foreclosed if the annex covers Part B, including current proposals that would:

- Lower the percentage paid by Medicare for Part B drugs from 106 percent to 103 percent of the ASP;

- Restore the legal authority for CMS to use a "least costly alternative" policy among competing Part B drugs;

- Require manufacturer discounts or rebates for Part B drugs; and

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[2] J. Wilkerson, "Blum: CMS Eyes Cancer Drug Pay Reforms, Part D Spending Targets In ACOs," *InsideHealthPolicy*, December 11, 2012; P. Whoriskey, D. Keating, and L.H. Sun, "*Data Uncover Nation's Top Medicare Billers*," Washington Post, April 9, 2014.

[3] Express Scripts, *2013 Drug Trend Report*, April 2014; CVS Caremark, *2014 Drug Insights Report*, April 2014.

[4] Centers for Medicare and Medicaid Services (CMS), " Medicare Provider Utilization and Payment Data: Physician and Other Supplier," (April 2014), available at: http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Medicare-Provider-Charge-Data/Physician-and-Other-Supplier.html

[5] Whoriskey, P., "These maps tell you everything that is wrong with our drug pricing system," Washington Post (April 11, 2013), available at: http://www.washingtonpost.com/blogs/wonkblog/wp/2014/04/11/these-maps-tell-you-everything-thats-wrong-with-our-drug-pricing-system/.

[6] Whoriskey, P., Keating, D., and L.H. Sun, "Cost of drugs used by Medicare doctors can vary greatly by region, analysis finds," Washington Post (April 9, 2013), available at: http://www.washingtonpost.com/business/economy/cost-of-drugs-used-by-medicare-doctors-can-vary-greatly-by-region-analysis-finds/2014/04/09/69ac93f0-c024-11e3-b574-f8748871856a_story.html.

[7] Department of Health and Human Services, Office of the Inspector General (OIG), "Review of Medicare Part B Avastin and Lucentis Treatments for Age-Related Macular Degeneration," (September 2011), available at: http://oig.hhs.gov/oas/reports/region10/11000514.pdf; This OIG investigation revealed that Medicare beneficiaries would have saved $275 million in 2008 and 2009 had the federal government reimbursed for the least costly alternative among available macular degeneration medicines.

- Allow Medicare to negotiate drug prices in Part B for those drugs where the Medicare program purchases the majority of a particular drug or accounts for a large share of drug spending.

We strongly urge you to consider the implications of the pharmaceuticals annex for consumers as well as the financial sustainability of the taxpayer-funded Medicare program. *Any final agreement in the TPP must make it clear that parties may adopt substantive savings proposals to lower consumer costs and reduce government spending under their healthcare authorities without restriction or the possibility of challenge through international forums.*

As we have discussed with your staff, we are also concerned by proposals in the intellectual property chapter that would greatly expand international minimum standards for domestic patent protection beyond that included in the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This proposal, as we understand it, would lower the standards of patentability, which could hamper the efforts that TPP parties have made to curtail the problem of "evergreening" drug patents, particularly for products that do not demonstrate a clear, significant clinical advantage or efficacy over the reference product. We are also concerned the proposal would establish new requirements in international law to grant patents on diagnostic, therapeutic, and surgical methods, as well as new forms and uses of known products. These and other provisions could restrict the range of policy options that could be adopted by Congress to address the serious problem of patent "evergreening."

Our concerns also stem from the fact that expanding patentability criteria would be counter to ongoing efforts to reform U.S. patent standards to address the increase in overly broad patents that contribute to "patent trolling." More importantly, such efforts would directly contradict the development and implementation of restrictions on patentability, including the recent U.S. Supreme Court decision (*Association for Molecular Pathology v. Myriad Genetics, Inc.*) that isolating naturally occurring genes is not patent eligible subject matter.

For all these reasons, we request you withdraw proposed intellectual property chapter language that goes beyond the WTO TRIPS Agreement and would lower patentability criteria or restrict how governments can define patentable subject matter and patentability criteria.

Thank you for considering our comments. We look forward to your response to the issues raised in this letter. If you or your staff members have any questions, please do not hesitate to contact us.

Sincerely,

AARP
AFL-CIO
American Federation of State, County and Municipal Employees
Alliance for a Just Society

Alliance for Retired Americans
Center for Medicare Advocacy, Inc.
Center on Budget and Policy Priorities
Consumers Union
Medicare Rights Center
National Committee to Preserve Social Security and Medicare
National Senior Citizens Law Center

SENATE COMMITTEE ON FINANCE

HEARING:

President Obama's 2014 Trade Policy Agenda

May 1, 2014

STATEMENT FOR THE RECORD

SUBMITTED BY:

THE ADVANCED MEDICAL TECHNOLOGY ASSOCIATION (AdvaMed)

Introduction

The Advanced Medical Technology Association (AdvaMed) appreciates the opportunity to provide comments on the President's 2014 trade policy agenda to the Senate Finance Committee. AdvaMed represents approximately 400 of the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. AdvaMed members range from the smallest to the largest medical technology innovators and companies. AdvaMed is dedicated to the advancement of medical science, the improvement of patient care, and in particular to the contribution that high quality health care technology can make toward achieving those goals.

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.

Our industry supports the Administration's current trade agenda and recognizes the Finance Committee's work to help push major agreements forward. We appreciate the committee's work with USTR on the negotiations on the TransAtlantic Trade and Investment Partnership (TTIP) and the TransPacific Partnership (TPP) and other elements of the Administration's trade agenda. We look forward to continuing to work with the Congress to secure support for strong, comprehensive free trade agreements.

Trade Promotion Authority

AdvaMed members support free trade and believe Trade Promotion Authority (TPA) is necessary to guide and strengthen United States Trade Representative's negotiating objectives in trade negotiations. AdvaMed supports the early adoption of trade promotion authority outlining key negotiating objectives for U.S. free trade agreements. TPA should include procedures for Congress to consider as it addresses trade legislation. This will help ensure trade agreements are implemented in a fixed time period and without amendments.

TTIP

AdvaMed supports the negotiation of a comprehensive free trade agreement (FTA) between the United States and the European Union (EU), under the framework of the TTIP. We would like to see provisions addressing issues affecting our industry in US-EU bilateral trade and in trade with third countries.

Although the US and EU use different approaches to determine the safety and efficacy of medical technology, studies have demonstrated that each system delivers similar results in terms of these basic objectives. AdvaMed supports cooperation between the regulatory agencies on both sides of the Atlantic as a way to promote understanding and reduce unnecessary regulatory burdens. Rather than attempting comprehensive "convergence" of these two systems, such as a mutual recognition agreement (MRA), we recommend focusing on specific areas of "convergence." We have provided USTR an explanation of these issues.

We also believe that there should be improved transparency in the regulatory process in the EU. Stakeholders should be provided regulatory proposals while there is still a possibility of making meaningful changes – which is usually before the proposals are sent from the European Commission to the Parliament and Council. The Commission should be required to recognize such contributions – much in the way US agencies operate under the Administrative Procedures Act. This process would improve the regulatory process.

AdvaMed also recommends that TTIP include a regular dialogue between the U.S Food and Drug Administration (FDA) and DG-SANCO, involving USTR and U.S. Department of Commerce, to exchange information on regulatory measures being considered by either party that could impact trade and determine areas for additional "convergence." In advance of these meetings, industry would be consulted to provide their views on regulators' proposals. This dialogue could be held under provisions similar to Korea-US FTA, but strengthened to ensure that future measures be explicitly discussed and industry has the opportunity to comment on non-confidential proposals and has access to the results of such meetings.

In addition to regulatory cooperation, we urge both governments to address the following issues in the context of a comprehensive Free Trade Agreement. We have provided USTR our views on the eliminating border tariffs, improving Customs procedures, enhancing the single market in the EU for medical technology, reducing late payments to our members, and including provisions on transparency and procedural fairness in Member States' reimbursement systems.

Our industry faces an array of issues outside the US and EU. Our member companies source many of their products sold globally from the US and/or the EU. Therefore, governments in both the US and EU should be interested in ensuring that medical technology companies are treated fairly by third country governments. We ask that the TTIP include provisions that encourage the relevant agencies to work on behalf of our medical technology firms. We have provided USTR with a list of specific areas for cooperation on third country issues.

TPP

The negotiations on a Trans-Pacific Partnership (TPP) Agreement provide a critical opportunity to deepen the U.S. commercial relationship with the vital Asia Pacific region. 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.

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. It is important for the TPP agreement to address non-tariff barriers affecting the medical device industry, especially non-transparent or discriminatory regulatory procedures. AdvaMed supports the inclusion in the TPP agreement of provisions that will ensure that members grant efficient regulatory approvals, while ensuring product safety.

AdvaMed also 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 devices. 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

Trade liberalization through the conclusion of TTIP and TPP would enhance economic growth and improve the quality of life for millions of patients in Europe, Asia, Latin America, and the US. The adoption of trade promotion authority that guides and strengthens USTR's negotiating objectives is critical for the early conclusion of these agreements. We hope the Administration and Congress will work together to accomplish these very important objectives.

April 28, 2014

The Honorable Ron Wyden
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20510

The Honorable Orrin Hatch
Ranking Member, Committee on Finance
United States Senate
Washington, D.C. 20510

Re: Hearing on President Obama's 2014 Trade Policy Agenda on Thursday, May 1, 2014

Dear Chairman Wyden and Ranking Member Hatch:

The American Chemistry Council (ACC) strongly supports current initiatives to expand access for U.S. exports to key international markets and in particular the Trans-Pacific Partnership (TPP) and Trans-Atlantic Trade and Investment Partnership (TTIP) negotiations. The business of chemistry in the United States is in the midst of an unprecedented boost in competitiveness, largely due to the increased supply of low-cost natural gas, a feedstock and a power source for chemical manufacturing. Over US$100 billion in new investments or expansions of existing facilities have been announced as a result of this boom, around half of which is foreign direct investment. ACC forecasts U.S. chemical exports to grow significantly in future years, surpassing US$200 billion in 2014 and expanding nearly 8 percent per year through 2018. This makes the search for new markets, and the reduction or elimination of trade barriers in existing ones a core priority for the U.S. chemical industry. An ambitious trade agenda will capitalize on the chemical industry's expansion to promote economic growth and job creation, enhance U.S. competitiveness, and expand consumer choice.

ACC represents the leading companies engaged in the business of chemistry. The U.S. business of chemistry is a $770 billion enterprise providing approximately 788,000 high-paying jobs in the U.S. The American chemical industry produces 15% of the world's chemicals and represents 12% of all U.S. exports.

The European Union remains one of the U.S. industry's largest foreign markets, with two-way trade in chemicals totaling more than $52 billion in 2013. While current chemical tariffs on trans-Atlantic trade are relatively low, the high volume of trade means that the elimination of remaining tariff barriers would result in significant savings for chemical manufacturers of around US$1.5 billion per year, around a third of which is intra-company trade.

The potential savings from reducing or eliminating regulatory barriers to trade with Europe are even greater. Enhanced regulatory cooperation has the potential to significantly reduce costs for governments and industry alike, while maintaining high levels of protection for human health and the environment. The goal of stronger U.S.-EU regulatory cooperation is to support current regulatory

mandates, while seeking to ensure that those mandates do not result in unnecessary barriers to trade. A more efficient and effective trans-Atlantic regulatory environment would provide a significant boost to innovation, growth and jobs, while ensuring that regulatory objectives are achieved.

ACC and its member companies strongly support the negotiation of a comprehensive, ambitious TTIP. For the chemical industry, and for the broader economy, it has the potential to provide a significant boost to the recovering economy through market growth and job creation, which in turn would promote innovation and strengthen the international competitiveness of U.S. exporters. The successful conclusion of negotiation on the TTIP would also send an important signal to the rest of the world at a time when multilateral approaches to trade liberalization have stalled.

ACC also calls for the swift conclusion of negotiations on the TPP, which would create a trade bloc with GDP 40% larger than that of the EU. The chemical sector strongly supports the TPP, and views it as an opportunity to build consensus around new, high-standard trade disciplines that address current and emerging trade issues. ACC analysis shows that the TPP agreement has the potential of generating $1.2 billion in export growth for the chemical industry. In addition to eliminating tariffs on chemical trade, ACC strongly support efforts to strengthen cooperation on regulatory issues in the region.

To ensure the conclusion of comprehensive and ambitious TPP and TTIP agreements, it is essential that Congress grant renewed Trade Promotion Authority (TPA). It is simply not feasible to expect our negotiating partners to put their best offers on the table in the absence of TPA. Updating TPA would help strategically guide U.S. negotiating goals across a range of critically important issues including defining negotiating scope, procedures, structure framework, and pathway for addressing issues before, during and after the negotiations. ACC urges the Administration and Congress to move expeditiously on bipartisan legislation to renew TPA.

Finally, ACC strongly encourages the U.S. government to continue to play a strong leadership role and be fully engaged in the Asia-Pacific Economic Cooperation (APEC) forum. Under the heading of APEC's overall commitment to Regional Economic Integration, the APEC Chemical Dialogue has made some significant contributions to regional understanding of ways to promote sound chemicals management and reduce nontariff barriers while stimulating growth, innovation and trade. ACC encourages the U.S. to support and contribute to APEC's ongoing efforts to promote regulatory cooperation throughout the Asia-Pacific region.

Sincerely,

Cal Dooley

Statement for the Record
U.S. Senate Committee on Finance
Hearing titled "President Obama's 2014 Trade Policy Agenda"

May 1, 2014

The American Council of Life Insurers (ACLI) is pleased to submit this statement for the hearing record expressing support of the life insurance industry for a robust US international trade agenda.

The American Council of Life Insurers is a Washington, D.C.-based trade association with more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. ACLI advocates in federal, state and international forums. Its members represent more than 90 percent of the assets and premiums of the U. S. life insurance and annuity industry. In addition to life insurance, annuities and other workplace and individual retirement plans, ACLI members offer long-term care and disability income insurance, and reinsurance. Its public website can be accessed at www.acli.com.

ACLI is a strong supporter of international trade liberalization, open markets and regional global efforts to remove unnecessary barriers for the efficient provision of insurance, reinsurance, and retirement security products. We thank the Chairman and Ranking member of the Senate Finance Committee for holding this important hearing, and we support the Administration's robust trade agenda, which includes the Trans-Pacific Partnership (TPP), the Trade in Services Agreement (TISA) and the Trans-Atlantic Trade and Investment Partnership (TTIP) initiatives.

ACLI also supports passage of a modernized Trade Promotion Authority (TPA) for purposes of providing Congressional, and thus stakeholder, input into the negotiating process and to support conclusion and Congressional consideration of the aforementioned trade initiatives. TPA is critical to a seriously dedicated and effective trade agenda.

Trade issues presently of concern to the insurance industry include:

- Foreign equity caps - A threshold issue is the need for elimination of unjustifiable and anticompetitive foreign equity caps, which are particularly prevalent in Asia (China, India, Malaysia, Myanmar, Philippines, Thailand, Indonesia, etc.) and truly alter and restrict ACLI's member companies' ability to operate effectively and holistically overseas.

- Limitations on the conduct of cross border reinsurance – reinsurance is a global risk transfer mechanism designed to diversify risk, reduce risk concentrations in local markets and provide additional capacity and coverage to local markets often against the occurrence of low frequency high intensity events. Therefore, the changes in Brazil and Argentina in 2012, India in 2013 and now potentially Indonesia not only place constraints on reinsurers' business operations, but also risk pushing up prices, limiting capacity for local consumers and increasing local risk concentrations.

American Council of Life Insurers
101 Constitution Avenue, NW, Washington, DC 20001-2133
(202) 624-2303 t (866) 953-4098 f whitneydunn@acli.com
www.acli.com

- Restrictions on cross border data flows - ACLI believes that all requirements that data be maintained in a given jurisdiction should be prohibited. Foreign companies doing business in a foreign country should be permitted to transfer electronic information out of that country for processing offshore. Companies should be free to supply data from headquarters, through affiliates, through regional centers, and through third party vendors as long as the data protection requirements of the local jurisdiction are satisfied. Forced domestication of data processing in Korea is already the subject of dispute with several of its trade partners, and proposals in other countries would put many global companies in a conflict of laws predicament between their home country supervisor's requirement for comprehensive group risk management and reporting.

- Reversal of Private Account Pensions – ACLI supports the maintenance and expansion of the World Bank model of individually funded pensions managed by the private sector. We believe now more than ever that the twin pressures of increased longevity and lower fertility rates will only increase funding gaps for national governments in both developed and developing markets. While still relatively new in some markets (India 2013), these systems have substantially reduced underfunding of government liabilities and created deep and sustained markets for long term investment instruments.

- Other issues of strong interest include provisions supporting regulatory predictability and transparency, provisions addressing unfair competition from State-Owned Enterprises and clearly articulated and transparent investment protections.

We appreciate the Administration's dedicated work on the TPP, TISA and TTIP initiatives, as well as on issues of implementation and enforcement of a bilateral nature – such as the cross border data flows issues currently under review in KORUS. We look forward to Congressional passage of TPA as soon as is practicable. ACLI believes that such efforts will result in an open, strong and sustainable global marketplace. A recent progress report from the Financial Stability Board to the G20 recognized the link between "the openness of the global financial system and consequently the strength and sustainability of global growth."

The insurance industry is not only a provider of financial security by indemnifying risks faced by individuals and business – such as sickness, loss of life, liability, and property damage, to name a few, but also one of the world's largest institutional investors. A strong global marketplace with clear, transparent and dependable trade rules is critical to the health of our industry and to global security. We appreciate the opportunity to submit this statement for the record.

Statement of the American Farm Bureau Federation

TO THE SENATE COMMITTEE ON FINANCE

REGARDING THE HEARING ON PRESIDENT OBAMA'S TRADE POLICY AGENDA

May 1, 2014

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600 Maryland Ave. SW | Suite 1000W | Washington, DC 20024 | p. 202.406.3600 | f. 202.406.3606 | www.fb.org

AFBF is the unified national voice of agriculture working through our grassroots organizations to enhance and strengthen the lives of rural Americans and to build strong, prosperous agricultural communities.

Farm Bureau represents more than 6,000,000 member families across the nation and Puerto Rico with organizations in approximately 2,500 counties.

Farm Bureau is an independent, non-governmental, voluntary organization of families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity and social advancement and, thereby, to promote the national well-being.

Farm Bureau is local, county, state, national and international in its scope and influence and works with both major political parties to achieve the policy objectives outlined by its members.

Farm Bureau is people in action. Its activities are based on policies decided by voting delegates at the county, state and national levels. The American Farm Bureau Federation policies are decided each year by voting delegates at an annual meeting in January.

The American Farm Bureau Federation, a U.S. general farm organization, supports efforts to increase agricultural trade through comprehensive trade agreements.

Trans Pacific Partnership

A major regional trade effort for the United States is the Trans Pacific Partnership (TPP) negotiations between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam and the United States.

The addition of Japan to full participation in the TPP talks enhances the significance of the negotiations and makes the agreement much more encompassing of North American goals for agricultural trade. It will also fuel interest among other Asia-Pacific nations for similar opportunities to improve trade relations with the U.S. and other participating countries.

Japan is the fourth-largest agricultural export destination for the U.S. with more than 12.4 billion dollars in sales in 2013. It also has several restrictive policies in place that inhibit U.S. exports, such as high tariffs on dairy, horticulture, rice and other products, along with various Sanitary and Phytosanitary barriers. By joining the TPP negotiations under the same conditions as other participants, Japan must negotiate to resolve long-standing trade barriers for all agricultural products.

The TPP will only fulfill its promise of improved and increased trade in the Pacific region by including the elimination of tariffs on agricultural products.

We are looking for a substantive outcome for American agriculture from these talks. This can only be achieved by removing tariffs and other trade barriers that intentionally reduce U.S. agricultural opportunities to compete in export markets.

Transatlantic Trade and Investment Partnership

Farm Bureau supports efforts to increase agricultural trade flows and remove trade barriers that currently exist between the United States and the European Union.

The Transatlantic Trade and Investment Partnership (TTIP) negotiations between the U.S. and the EU must deal with the many substantive issues that impede U.S.-EU agricultural trade, such as long-standing barriers against conventionally raised U.S. beef, ongoing restrictions against U.S. poultry and pork, and actions that limit U.S. exports of goods produced using biotechnology.

The U.S. and the EU are major international trading partners in agriculture. U.S. farmers and ranchers exported more than 11.5 billion dollars' worth of agricultural and food products to the EU in 2013, while the EU exported more than 17 billion dollars' worth of agricultural products to the U.S. last year.

Just 10 years ago, the EU was the third-largest destination for U.S. agricultural exports. Today, it has fallen to our FIFTH-largest export market.

Over the last decade, growth of U.S. agricultural exports to the EU has been the slowest among our top 10 export destinations.

If U.S. farmers and ranchers were provided an opportunity to compete, the EU market could be a growth market for them. However, regulatory barriers have become a significant impediment to that growth.

Unless these trade barriers are properly addressed within the Transatlantic Trade and Investment Partnership or TTIP negotiations, they will continue to limit the potential for agricultural trade. It is imperative that TTIP be a high-standard trade agreement that covers all significant barriers in a single, comprehensive agreement. Scientific standards are the only basis for resolving these issues.

Continuing barriers to the export of U.S. beef, pork and poultry, along with the slow approval process for biotech products, are major areas of interest to the U.S. in the TTIP negotiations. Both the U.S. and the EU adhere to the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures, which states that measures taken to protect human, animal or plant health should be science-based and applied only to the extent necessary to protect life or health.

The U.S. follows a risk-assessment approach for food safety. The EU is additionally guided by the "precautionary principle," which holds that where the possibility of a harmful effect has not been disproven, non-scientific risk management strategies may be adopted.

The use of the "precautionary principle" is inconsistent with the WTO SPS Agreement and is used as a basis for scientifically unjustified barriers to trade. The TTIP negotiations must result in a modern, science- and risk-based approach, based on international standards that can truly resolve SPS disputes. SPS issues must be directly addressed as a part of the negotiations, and these provisions must be enforceable.

The EU approach for approving products of biotechnology combines a lengthy approval process with the ability of EU member states to ban approvals. The result is restrictive import policies and substantial reductions in U.S. exports of corn and soybeans to the EU.

The EU system of geographic indications for foods and beverages designates products from specific regions as legally protected for original producers. The U.S. has opposed recognizing geographical names for foods when it would inhibit the marketability or competitiveness of U.S. products. The TTIP must not become an avenue to erect a new barrier to U.S. agricultural exports through the use of geographic indications.

Negotiations on bilateral concerns move in both directions. There must be positive outcomes for all sides. The European Union has concerns about U.S. rules on EU beef and dairy products. An emphasis on finding trade-opening solutions to sanitary barriers will assist in resolving our many trade issues.

The TTIP negotiation proposal calls for working toward the elimination of tariffs. The average U.S. tariff on imported agricultural products is 5 percent, with 75 percent of our tariff lines at between zero and 5 percent. For the EU, the average tariff is 14 percent, with 42 percent of tariff of lines at zero to 5 percent. In order to expand market opportunities for U.S. agricultural products in the EU, tariff reductions will be necessary.

We call for an ambitious agreement that addresses the real barriers to the growth of agricultural trade between the United States and the EU.

World Trade Organization

As agricultural exporters, North American agriculture must continue to seek a commercially meaningful outcome through expanded market access from WTO negotiations. We must remain committed to advancing the goal of trade liberalization and increased opportunities for real trade growth.

The U.S. wants an outcome to trade negotiations in the WTO that will open new markets around the world, produce new trade flows and grow the global economy. We can achieve this outcome by negotiating on the basis of a new agenda, not by reliving the failures of the past.

Trade Promotion Authority

Farm Bureau has long supported trade promotion authority in order to complete and pass into law trade agreements. For our important TPP and TTIP negotiations to move forward, to maintain the focus on improving and expanding trade between our negotiating partners, we need to have TPA in place.

Agricultural market access measures are usually finalized at the end of negotiations when the certainty of TPA is crucial to a successful negotiation.

We urge the Senate to pass trade promotion authority as a necessary and critical component for a successful trade policy agenda.

TESTIMONY OF
THE
EXPRESS ASSOCIATION OF AMERICA
9893 Georgetown Pike, Suite 805
Great Falls, VA 22066
TO THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
HEARING ON: U.S. TRADE POLICY AGENDA
April 3, 2014

Express Association of America (EAA) members are DHL, Federal Express, TNT and UPS, the four largest express delivery service providers in the world, providing fast and reliable service to the U.S. and more than 200 other countries and territories. These four EAA member companies have estimated annual revenues in excess of $200 billion, employ more than 1.1 million people, utilize more than 1700 aircraft, and deliver more than 30 million packages each day.

EAA strongly supports ongoing trade negotiations with a range of our international partners and believe these talks will open significant possibilities for facilitating trade, expanding regulatory cooperation, and forging stronger economic partnerships globally. Specific express industry objectives for the Trans-Pacific Partnership (TPP), the Trans-Atlantic Trade and Investment Partnership (TTIP), and the Trade in Services Agreement (TISA) are provided below. These agreements should include coordinated policy approaches across a range of mutually supportive areas, such as:

- Eliminating tariffs and non-tariff barriers to trade in goods
- Removing market access barriers to trade in services
- Achieving a much higher level of regulatory convergence
- Removing barriers to investment
- Aligning standards and practices, whether through harmonization, mutual recognition, adoption of international standards, or other methods
- Eliminating restrictions on cross-border data flows (the free flow of data across borders is critical to the express industry
- Prohibiting forced localization (including in-country requirements for servers and data storage)
- Developing disciplines on state-owned enterprises (SOE) and state-supported enterprises (SSE) to ensure fair competition between these entities and the private sector

Given the sheer size of our trade with the EU and TPP partners, even marginal convergence in these policy areas could have substantial positive effects for business.

The millions of customers utilizing the services of EAA members ship an extensive variety of commodities domestically and internationally, and will benefit significantly from the completion of comprehensive, high standards TTP, TTIP and TISA agreements. These efforts would result in accelerating regional economic integration by facilitating trade, easing burdens on doing

business, and increasing the connectivity and efficiency of supply chains. Successful completion of these agreements also would serve as global models for ensuring future regional and multilateral trade agreements contribute more effectively to economic prosperity and employment creation.

Rapid Congressional passage of Trade Promotion Authority (TPA) is the critical step necessary to achieving U.S. goals in the TPP, TTIP, TISA and other potential agreements, and we urge the Committee to move TPA legislation forward for floor consideration immediately. The benefits of passing strong TPA legislation are outlined below.

TRANS-PACIFIC PARTNERSHIP

The overall goal of the TPP negotiations should be to reach a high-standard, 21st century trade agreement with a membership and coverage that provides economically significantly increased market access opportunities that will stimulate growth and promote employment and prosperity. TPP will set an important precedent for future agreements, and therefore it is critical that it establish high standards. The TPP agreement should be FTA-plus and expand the trade liberalization and facilitation measures already agreed upon in previous regional and bilateral agreements.

Significant progress has been made in previous rounds on the TPP Customs Chapter issues. To achieve the goals outlined above in this chapter, the express industry considers the following standards to be critical to reaching a commercially meaningful result in the negotiations:

- The TPP agreement should establish the highest possible de minimis level to allow lower value goods to be exempted from duties and taxes and cleared on a consolidated basis. This level should be at least $200. The benefits of a higher de minimis level include:
    - Lower costs for small and medium enterprises and individual consumers who ship proportionally larger numbers of low value shipments.
    - Resource savings for government as customs officials will be relieved from processing numerous low value shipments and can focus efforts on higher risks such, as detecting counterfeit goods or attempted tariff evasion.
    - A higher baseline de minimis level would provide a more balanced regime and offset the current wide disparity in the region among existing de minimis levels.
- The TPP agreement should maintain the language from earlier FTAs that expedited customs treatment will apply without regard to an express shipment's weight or customs value. Attempting to apply weight and value distinctions to the definition of what constitutes an express shipment in the context of customs treatment introduces significant complications and delays to the clearance process that will cause customer commitments to be missed.
- The TPP agreement should provide a time limit for the release of goods in the express environment that is lower than the four hour limit (after submission of customs documents

and arrival of the goods) in recent FTAs. Establishing this release standard assumes customs officials will be available to clear shipments based on the operating schedule of the express industry.

- The agreement should provide a separate and expedited customs procedure for express shipments. Putting express packages in the same line as all other shipments (for which those customers have not paid a premium for expedited services), regardless of how efficiently they are processed, cannot, by definition, constitute an "expedited" service. The agreement should include a clear statement of the need for expedited procedures without any qualifiers that could be used to claim exemptions from the requirement. The concept of separate and expedited treatment can be defined as having relevant government officials available at the time and place when express operator aircraft are arriving at a port of entry and offloading shipments in order to complete the border clearance process as rapidly as possible.

- The agreement should include a strong endorsement of using automated risk management systems for targeting and evaluation that provide rapid separation of high from low risk shipments and facilitate entry of the low risk goods.

TRANS-ATLANTIC TRADE AND INVESTMENT PARTNERSHIP

I. A Single, Government-wide, Unified Border Clearance Process

- The United States and the EU should commit to establish a single window through which importers and related parties can electronically submit all information to comply with customs and other government agencies information requirements. In practice, this would be one single window for the United States and one single window for the European Union, but these should include a common set of import and export data elements for customs, security, and other government agency data requirements. The single window would decrease the transaction costs of trade and particularly facilitate trade for small and medium-sized businesses. It would also promote efficiency and improve security and safety targeting for government agencies.

- Creating a "one government at the border" approach to border management should include common processes for goods clearance. The TTIP should include requirements of all government agencies with border authority in the United States and all EU member states to converge and coordinate inspection activities for agencies with hold authority. This would include all security, customs, product safety and other requirements to be cleared with a single release.

II. Stronger, Commercially-meaningful Partnerships with the Trade Community

- Partnership between the private and public sectors on supply chain security has become a cornerstone for security and trade facilitation. The United States and the EU should reaffirm their commitment to a multi-layered and risk-based approach to customs enforcement and security procedures. The risk-based method provides the greatest

possibly security while simultaneously facilitating legitimate trade. Given the tremendous amount of trade that goes between the U.S. and EU, commitments should be made to converge or mutually recognize each other's processes. This includes the future development of supply chain, customs and other government agencies border procedures and regulations. Supply chain security mutual recognition agreements must provide commercially meaningful results for the private sector. Commercially meaningful results would include the following:

- Full convergence of the Customs-Trade Partnership Against Terrorism and the Authorized Economic Operator programs;
- One online application process accepted in the U.S. and EU member states;
- Single validation and revalidation visits with the results accepted by both sides;
- Demonstrable benefits that include reduction of the likelihood of inspections;
- Front of line privileges for members' shipments when inspections are required;
- Expedited handling of members' shipments in post-incident recovery operations;
- Common information requirements where the export declaration of one side is accepted as the import declaration of the other side; and
- Allow members to provide required documents and commercial information post-release.

III. Higher De Minimis Level

- A higher *de minimis* value covering the entry process for low-valued goods is a critical tool in trade facilitation. It is also critical to reducing trade barriers for small and medium sized businesses by facilitating their access to international markets. The TTIP should include a commitment to a minimum *de minimis* level of $800, covering both duties and all taxes, and linking future increases in *de minimis* to the consumer price index. This level should be applicable regardless of country of origin.

IV. Immediate Release

- Through greater mutual cooperation the EU and the US could develop considerable opportunities to streamline customs processes and speed up the flow of commerce through ports and airports. The TTIP should include a commitment to harmonize processes for customs clearance with a goal of the immediate clearance of goods on arrival. With the levels of advance customs data already transmitted to the EU and US, customs authorities can carry out risk assessments well in advance of arrival, thus offering pre-clearance and the immediate release of goods. Immediate release of shipments should not be solely reserved to businesses which are C-TPAT or AEO members, nor to a particular kind of trader. Such treatment should be available to any shipment that meets a set list of criteria such as, for instance, those laid out in Article 7 (Expedited Shipment) of the WTO draft negotiating text on trade facilitation.

V. Payment of Customs Taxes in Arrears

- The TTIP should include a commitment to collecting duties and taxes after importation and clearance from C-TPAT and AEO shippers without the need for a guarantee. Customs duties and taxes are the only taxes generally collected on a transactional basis in advance or at the time that the tax is due. These shippers will normally pay all other taxes, (which are often much more than customs duties) in arrears and without a guarantee. If they are trusted to pay businesses taxes in arrears then the same logic should apply to customs duties. Such an approach would support immediate release of consignments, saving costs for both businesses and Customs administrations in time. It also enables customs authorities to target limited resources at areas of higher risk.

VI. Air Cargo Security

- The EU and the US should adopt a similar approach to improving the security of the international operations of air cargo carriers bringing shipments into each jurisdiction from third countries. The US approach is based on Emergency Amendments, including specific measures for cargo identified as high threat. The EU has adopted the ACC3 (Air Cargo or Mail Carrier operating into the Union from a 3rd country airport) program which is based on airport, operator specific designation and validation, and verification of screening entities and other players in the supply chain. The EU approach is further combined with special measures for "high risk" cargo. However, the EU and the US have different definitions of "high risk" cargo.

- The 1st of June 2012 agreement between the EU and US which recognize each other's air cargo security regimes for shipments originating within each jurisdiction is a useful model, but the provisions for mutual recognition need to be strengthened as the mutual recognition is not resilient enough to withstand a potential future incident. In addition, this agreement only recognizes the validity of each side's programs – it does not harmonize regulations. Therefore, in addition to strengthening the mutual recognition of each side's programs, the TTIP should contain a commitment that relevant EU and US agencies would enter into a regulatory dialogue to develop a harmonized approach to air cargo security regulations and procedures that includes, inter alia:
    - Common definition for high risk cargo
    - Common standards for accepted security equipment and screening methods
    - Common requirements for staff training and
    - Better cooperation towards intelligence sharing

VII. Advance Cargo Information for Security Risk Assessment

- To provide advance information on air cargo, the United States has developed the Air Cargo Advance Screening (ACAS) pilot program. In the EU, advance cargo information pilot programs are being conducted in several member countries. As both the EU and the U.S. are expecting to develop regulatory requirements on air cargo information in the near future, it is essential that a common EU/US approach be adopted. The TTIP should

include a commitment to develop common requirements for data on each shipment, common protocols in communication with carriers, and common risk criteria.

- A common EU/US approach to advance air cargo information would generate significant benefits and increased efficiency in terms of data structure, IT resources, personnel training, technology costs and operational efficiency. Having the world's two largest air cargo markets adopting similar regulatory requirements for advance air cargo information would provide a strong impetus for generating a global standard around which all countries could agree and incorporate through the International Civil Aviation Organization and the World Customs Organization.

TRADE IN SERVICES AGREEMENT

The TISA is providing an opportunity to achieve higher levels of transparency, regulatory coherence and stakeholder consultation across a range of industries that comprise the largest part of the U.S. economy. Express delivery services (EDS) goals for the TISA include:

- **Fair Competition/Level Playing Field**. The TISA should seek to liberalize trade in package delivery services further by ensuring a level playing field for all competitive services offered outside those supplied in the exercise of governmental authority, particularly with respect to state-owned and state-supported enterprises (SOE/SSE). There is a need to secure more ambitious commitments and disciplines for domestic regulation and fair competition by allowing free market principles to govern the highly competitive express sector, or where necessary, independent regulation and a level playing field with competing services offered by Posts such as express mail services. Exclusions and non-conforming measures (NCMs) for postal services should be drawn as narrowly as possible, for example, by using a reasonable price/weight multiple.

- **Transparency, Regulatory Coherence, and Private Sector Consultation.** To encourage greater transparency, coordination, consultation, and partnership between express delivery services and regulators, the TISA should include the establishment by each party of a national coordinating body, process, or mechanism, to ensure a whole-of-government approach, regulatory coherence, and institutionalized private sector input. Parties should also include mechanisms to review the impact of current or proposed measures and provide appeal opportunities should a measure not achieve desired results.

- **Integrated Approach, Particularly for Customs Processes.** The TISA should focus on removing barriers to express delivery services, recognizing that EDS faces antiquated policy environments in some countries, including onerous regulations on cross-border transport, inefficient border clearance procedures and domestic regulations that distort fair competition. To respond adequately to the nature and scope of the services this industry provides, the TISA must address the unique needs of express delivery service providers, including the need for an integrated approach for customs clearance, seamless regulation across multiple modes of transport, and commitments to immediate release, single-window, and electronic border clearance.

TRADE PROMOTION AUTHORITY

Since President Franklin D. Roosevelt in the 1930's, every President through 2007 has had authority from Congress to negotiate trade agreements that open new markets for American companies and workers and help ensure a rules-based system for two-way trade. More recently known as Trade Promotion Authority (TPA), or "fast track," this type of authority was last enacted in 2002, and it lapsed in 2007. Over the last decade, many new challenges to doing business in the global marketplace have emerged. Updating TPA and its negotiating objectives would help to address strategically such issues across the range of current U.S. trade negotiations, as well as in the future.

TPA helps shape a strategic vision for U.S. trade policy and the goals the United States wants to accomplish in trade negotiations. It provides a framework for Congress and the President to work together to shape that vision, and it helps define the critical constitutional relationship between Congress and the President with respect to foreign commerce. Over time, it has provided our trade negotiating partners with a degree of comfort that the United States is committed to the international trade negotiating process and the trade agreements we negotiate.

The United States is pursuing one of its most ambitious and diverse range of trade negotiations ever, including the Trans-Pacific Partnership (TPP) negotiations with 11 other Asia-Pacific countries, a Transatlantic Trade and Investment Partnership (TTIP) with the European Union (EU) (and its 28 member states), the Trade in Services Agreement (TISA) with 48 other economies (including the EU member states), and multilateral negotiations on a trade facilitation agreement.

These negotiations involve important 21st century trade issues, such as foreign restrictions on cross-border data flows, unfair competition from state-owned enterprises, and international regulatory cooperation that have evolved or emerged since TPA and its negotiating objectives were last written more than a decade ago. TPA negotiating objectives and procedures would help lay out a structured framework and pathway for addressing issues before, during and after the negotiations and obtaining Congressional approval of any legislation needed to implement a trade agreement. Updating TPA and its negotiating objectives is critically important for achieving U.S. goals across this range of trade negotiations, and TPA legislation should be passed by Congress immediately.

For additional information or to answer any questions please contact Michael Mullen, EAA Executive Director, at michael.mullen@expressamerica.org or 703 759-0369.

May 13, 2014

Senate Committee on Finance
Attn. Editorial and Document Section
Room SD-219
Dirksen Senate Office Building
Washington, DC 20510-6200

Statement for the Record Re:
Full Committee Hearing on President Obama's 2014 Trade Policy Agenda
May 1, 2014, 11:40am EDT, Dirksen Senate Office Building, Room 215

The United States Council for International Business (USCIB) is pleased to offer its voice in strong support of an ambitious, proactive U.S. trade agenda to advance our national economy and promote American business at home and abroad. USCIB, as a trade association representing over 300 multinational corporations, associations and law firms in many international organizations, works with our members in policy areas spanning trade and investment, customs and trade facilitation, environmental issues, information and communications technology, intellectual property rights, product policy, agriculture, tax and much more.

The USCIB 2014 Policy Advocacy Agenda covers four categories that reflect the contemporary challenges and opportunities for international business: growth, jobs and open markets; competitiveness and innovation; business and society; and sustainable development and resource management.[i] Our trade agenda emphasizes 1) improving access to important and emerging markets, and addressing growing protectionist policies around the world; 2) promoting investment polices that open markets and level the playing field for American business; 3) implementing the recent World Trade Organization agreements in a concrete and measureable manner; and 4) leveraging USCIB's affiliate international organization relationships, member expertise and thought leadership to accomplish these goals.[ii]

USCIB is pleased that the 2014 President's Trade Policy Agenda mirrors our own areas of interest, both broadly and specifically. The 2014 President's Trade Policy Agenda provides the outline for a robust year in trade, and for manifold efforts in trade facilitation and export promotion, regulatory coherence and alignment, and enforcement. USCIB looks forward to working with the Obama Administration, with U.S. Trade Representative Ambassador Froman and his team, the Congress, and with business, other stakeholders and governmental organizations to realize our mutual goals and to grow the American economy and create jobs.

The 2014 President's Trade Policy Agenda enumerates the various bilateral, multilateral and plurilateral agreements on which the U.S. Trade Representative's office will focus this year. Specifically, USCIB looks forward to working with USTR and the Administration on

completing the unprecedented TransPacific Partnership (TPP), refining and making relevant the Transatlantic Trade and Investment Partnership (TTIP) with the European Union, pressing forward with the Trade in International Services Agreement (TISA), promoting the update of the Information Technology Agreement (ITA), and working with growing trading partners such as China to conclude Bilateral Investment Treaties (BITs). We have been active in providing stakeholder input on these efforts, in policy recommendations, through letters and in meetings with negotiators. USCIB and our members are ready to actively participate in the furthering of all these efforts, in line with the President's Agenda.

Most urgently, USCIB, our members, and our compatriot businesses and associations believe that Trade Promotion Authority (TPA) legislation should take precedence in the Congress. TPA is critical to moving forward on the trade agreements listed above and which, with important negotiating objectives articulated by Congress, can enhance America's competitiveness in the global economy as well as strengthen our commercial and strategic relations around the globe. USCIB has been advocating passage of this fundamental piece of legislation and will continue to employ its resources to achieve this critical objective.

Additionally, USCIB wishes to once again congratulate Ambassador Froman and the rest of the Obama Administration on a successful conclusion to the ground-breaking Agreement on Trade Facilitation that was finalized in Bali, Indonesia at the Ninth World Trade Organization Ministerial. As a signal of breakthrough achievement in the areas of Agriculture, Trade Facilitation and Development, the agreement provides the basis for further multilateral work to promote global economic growth. USCIB will be a leading member of the global business and governmental push for the swift and efficient implementation of this agreement, especially in the area of Trade Facilitation.

USCIB looks forward to working with the Administration to promote American interests in information technologies, in maintaining the freedom to move data freely across borders, and in breaking down localization barriers to trade and investment erected by other governments. We hope to promote an economy prime for innovation, for the exchange of information and ideas, and protective of intellectual property. We support the recent announcement of the negotiation of an Environmental Goods Agreement (EGA), and will be an active stakeholder throughout the process. USCIB and our members are dedicated to promoting sustainable development and green growth both in the United States and abroad. Finally, USCIB is pleased to see the President's interest in promoting relationships with other regions and groupings of countries of the world, including ASEAN, APEC, the BRICS , the MENA region, and strengthening already strategic partnerships such as in the Western Hemisphere and with the European Union.

In the area of enforcement, USCIB has long been an advocate for dispute resolution mechanisms within the WTO and elsewhere, and we are pleased to see in the 2014 President's Trade Agenda the protection of U.S. worker, consumer and business rights as a priority. We are

particularly strong proponents of investor-state dispute settlement provisions in the various trade agreements under negotiation. USCIB is eager to see these and similar provisions promoted by USTR. Without comprehensive enforcement provisions, the effort to negotiate terms in these government-to-government agreements will be undermined if not put out of reach of the very entities for which the agreements have been negotiated: the private sector.

Overall, the United States Council for International Business is supportive of the 2014 President's Trade Policy Agenda, and we congratulate the Administration and Ambassador Froman on a successful hearing with the Senate Committee on Finance. We and the greater business community employing the millions of people that earn their livelihood in the global marketplace look forward to ambitious, cooperative and far-reaching work on the diverse areas enumerated in the Agenda.

Sincerely,

Rob Mulligan
Senior Vice President, Policy and Government Affairs
U.S. Council for International Affairs

Charles R. (Rick) Johnston
Chairman, USCIB Trade and Investment Committee
Managing Director, Global Government Affairs
Citigroup, Inc.

STATEMENT FOR THE RECORD

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[i] United States Council for International Business. "USCIB 2014 Policy Advocacy Priorities." 1 March 2014. http://www.uscib.org/docs/policy_priorities.pdf

[ii] United States Council for International Business. "USCIB Global Trade and Investment Agenda 2014." 31 January 2014. http://www.uscib.org/docs/2014_01_USCIB_trade_agenda_2014.pdf

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