PRESIDENT BUSH'S TRADE AGENDA

HEARING

BEFORE THE

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

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PRESIDENT BUSH'S TRADE AGENDA

WEDNESDAY, FEBRUARY 15, 2006

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

The Committee met, pursuant to notice, at 1:41 p.m., in room 1100, Longworth House Office Building, Hon. Bill Thomas (Chairman of the Committee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
February 07, 2006
No. FC–19

CONTACT: (202) 225–1721

Thomas Announces Hearing on President Bush's Trade Agenda

Congressman Bill Thomas (R–CA), Chairman of the Committee on Ways and Means, today announced that the Committee will hold a hearing on President Bush's trade agenda. **The hearing will take place on February 15, 2006, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 1:30 p.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. The sole witness will be United States Trade Representative (USTR) Rob Portman. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

Since enactment of the Trade Promotion Authority Act (TPA) of 2002 (P.L. 107–210), the President has used his authority to greatly expand trade opportunities for the benefit of American workers and businesses. The United States has concluded free trade agreements (FTAs) with important trading partners and regions such as Chile, Singapore, Australia, Morocco, Central America-Dominican Republic, Bahrain, Oman, and Peru. The Administration is continuing negotiations with Panama, Colombia, Ecuador, Thailand, and the Southern African Customs Union, and President Bush has recently notified Congress of his intent to negotiate an FTA with the Republic of Korea. Additionally, the President is continuing multilateral negotiations in the World Trade Organization (WTO) to expand U.S. opportunities in trade in agriculture, industrial goods, and services, despite strong efforts to diminish the ambitions of such an agreement by trading partners seeking to protect various sectors.

At the same time, USTR is managing a host of serious bilateral trade disputes and concerns that require a combination of diplomacy and litigation. In the past several years, USTR has managed and won several formal WTO-based disputes, while at the same time defending U.S. interests and demanding compliance with commitments by our trading partners in all parts of the world through negotiations and consultations.

In announcing the hearing, Chairman Thomas stated, "TPA has allowed us to regain our leadership role in trade negotiations and to eliminate foreign trade barriers to U.S. goods and services. The Administration has moved an impressive and ambitious agenda in the past few years and clearly intends to maintain that momentum. Expanded trade means more business for American farmers, manufacturers, and service providers, better value for American consumers, higher living standards for American families, and good jobs for American workers. I am committed to ensuring the Administration's adherence to the rigorous consultation process and the detailed negotiating objectives established in TPA. This hearing will give Ambassador Portman the opportunity to lay out the President's trade priorities and is an important component of our bipartisan oversight responsibilities."

FOCUS OF THE HEARING:

The hearing is expected to examine current trade issues such as: (1) the prospect for trade expansion in agriculture, industrial goods, and services through multilateral negotiations in the WTO; (2) the recently concluded FTAs with Oman and Peru; (3) other FTAs that are currently being negotiated or have been notified by the President; (4) management of bilateral trade disputes and concerns; (5) ongoing negotiations with several countries seeking to accede to the WTO; (6) compliance with WTO dispute settlement decisions; and (7) other trade issues.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, *http://waysandmeans.house.gov*, select "*109th Congress*" from the menu entitled, "*Hearing Archives*" (*http://waysandmeans.house.gov/Hearings.asp?congress=17*). Select the hearing for which you would like to submit, and click on the link entitled, "*Click here to provide a submission for the record.*" Once you have followed the online instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You ***MUST REPLY*** to the email and ***ATTACH*** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business Wednesday, March 1, 2006. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

FORMATTING REQUIREMENTS:

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

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

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

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

Chairman THOMAS. If I could ask our guests to find seats, please. Today the Committee considers the President's trade agenda. We are pleased to have our former colleague, Ambassador Rob Portman, testifying before us for the first time in his new capacity to discuss efforts to expand international trade, which will create jobs and opportunities for American workers, farmers, and firms. Since the President signed the Trade Promotion Authority into law in 2002, Congress has approved agreements negotiated by the administration with Chile, Singapore, Morocco, Australia, Central America, and Bahrain. We have teed up agreements that we will soon look at with Oman and Peru, and it is in the process of negotiating several others. Many in Congress are concerned, frankly, about the larger non-bilateral regional world of the WTO and the current status of the Doha Round. It seemed to some of us, and the Chairman in particular, that several of our trading partners spent more energy in Hong Kong in trying to avoid free trade rather than liberalizing it, and not to mention any names, the European Union, Japan, Brazil, and India seemed to be the frontrunners. If countries were unwilling to move by December on key modalities, as they say in the business, Mr. Ambassador, I want you to give me some understanding as to why they will move by some new deadline of April or finish by the end of 2006, for that matter, because Trade Promotion Authority expires in 2007. I am concerned about how we deal with these dynamics or whether we do not think about creating a new dynamic.

In the meantime, I think we should continue to aggressive pursue our bilateral efforts as we have in liberalizing trade. While clearly the WTO negotiation is our best opportunity to liberalize trade, our bilateral agreements, I think, have spurred growth for U.S. exports at twice the rate of our exports to the rest of the world. To the degree we continue the success and we move more to industrialized nations, as evidenced by the potential for a U.S.–Korea Free Trade Agreement, I believe some of our more recalcitrant friends will begin to take notice of the impact our bilateral agreements are going to have. Last year, this Committee held hearings on our economic relations with Japan and China—probably one of the more unifying hearings we have had in some time in this Committee—because of our deep concerns about these countries' apparent lack of commitment to free trade. I would underscore that for Japan far more than China. For example, the Chair believes Japan has a long history of blocking U.S. goods, devising nontariff barriers that allow their farmers and firms to operate while keeping out imports. U.S. beef is only the tip of the iceberg. At the Japan hearing, I pointed out that we are not looking for any more apologists for Japan's behavior. There seemed to be a sufficient number of those. We are looking for results.

As we begin to focus on China, I think we have a newer partner, one who has shown the ability to move and, frankly, one that was fairly impressive by, in baseball terms, doing the Babe Ruth of pointing where they were going to go and when they were going to get there. Part of the Chair's interest is in whether or not, based upon what our friends the Chinese have agreed to in terms of a host of improvements on intellectual property and other areas, how successful are they? What kind of a report card can we give in their

ability to move? We outlined those factors in a bill, frankly, introduced by the gentleman from Pennsylvania, Mr. English, H.R. 3283. The House moved on this bill. The Senate has not. We would appreciate some comment during your testimony, Mr. Ambassador, in that regard. Then, finally, let me make sure that I do not forget our friends, the Europeans, who recently lost the biotech case in the WTO but are publicly stating there is no need for them to change their system. They are currently honing their last desperate opportunity to deal with issues that we have put behind us in both the FSC and in the Byrd cases. Ambassador Portman, welcome back. We look forward to your testimony, but first let me call on the gentleman from New York, Mr. Rangel, for any opening statement he may wish to make.

Mr. RANGEL. Thank you, Mr. Chairman. Ambassador, let me thank you for the attempts that you have made to bring Republicans and Democrats closer together as it relates to trade policy. I think everyone on both sides of the aisle agree that that is the way we would like our Nation to be perceived with foreigners, and that is that, at least on the issue of trade, we have put our party labels behind us. Now, it has been difficult, but you have to agree that we have had some success, and the President has called for us to attempt at least to try to work more closely together. Each time we have a major problem where it looks like there is a partisan approach, more often than not it deals with some form of international labor standards.

Now, we all agree that globalization presents different problems to different countries depending on the state of their laws and their economic development. You do have, in the communications we have, problems with the ILO standards, either in the declarations or the conventions and the inability that you have to negotiate standards and other people that we have not agreed to ourselves. But I hope publicly as well as privately that you understand that the only reason we use the international labor standards is because they appear to be so minimum. But if what they are saying is that we do not want forced labor, child labor, and the right of collective bargaining, then it would seem to me that we look forward to your good offices to see whether you can build a bridge between those that would not want any standard and those that some might think that the standards are too high. But based on your ability and your skills to have been successful with so many FTAs that have come before us and can seriously have been considered as bipartisan, I ask for you to continue to work on that, and if it reaches the point that the other party feels that it does not want to work in this area or if the administration believes that it cannot be flexible in this area, not to worry. It just saves us a lot of time. But I think we are proving our willingness to, whenever possible, especially with trade agreements to try to have it come out as a bipartisan agreement. I just congratulate you and hope we can continue to work together.

Chairman THOMAS. I thank the gentleman. With the Ambassador's indulgence, given this special occasion, the Chair would be a bit more flexible than our usual procedure with other members, and without objection, the Chair plans on recognizing the Chairman of the Subcommittee on Trade, the gentleman from Florida;

and then recognizing the ranking member on the Subcommittee on Trade, the gentleman from Maryland. Without objection, the Chair recognizes the gentleman from Florida.

Mr. SHAW. Thank you, Mr. Chairman. I would like to add my welcome to Ambassador Portman, and welcome you home. I hope you feel that this is always a home. It is wonderful to have somebody in your position that recognizes all the good we can do when we act in a bipartisan manner with regard to matters of trade, understanding that there will be some areas that there will be partisan differences. But it is for the best of this country that I think every Democrat and Republican really is pushing forward with their trade agenda. I want to thank you for your leadership on behalf of the United States during recent World Trade Organization meetings in Hong Kong. Thank you for your efforts and work of your staff. We remain hopeful for a successful conclusion of the Doha Round, but in the next few weeks and months, it is critical. The United States must continue to push for the elimination of trade barriers across the globe. I look forward to hearing your impressions on where we are in the current negotiations.

I want to focus my comments for just a few moments on Russia. Russia is moving toward joining the World Trade Organization and is hoping to reach this goal by the year's end. Chairman Thomas and I met with your Russian counterparts last fall, considering the Russians' lack of enforcement of intellectual property rights. Congress passed a resolution in the fall calling on the Russian government to crack down on piracy and continues to urge Russia to take the necessary steps to ensure market access without counterfeiting. In my view, the Putin administration has not used the necessary political capital to acknowledge the problem and take the proper steps to shut down pirates. The United States copyright industry estimates losses of $1.7 billion in 2004 alone as a result of this failure by the Russian Government. In fact, there is evidence that the Russian government is harboring pirates on government property.

I recognize the friendly relationship between Moscow and Washington, which is very important; yet as Mr. Putin pushes for World Trade Organization membership on the eve of the G-8 Summit, I hope that you and President Bush will remain tough with the Russians in ending the piracy and counterfeit practices that have plagued Russia. Unless Russia adopts domestic enforcement laws, dismantles organized crime, and commits itself to the rule of law, I think consideration of permanent normal trade relationships in Congress will be highly controversial. American sectors are getting a raw deal with Russia. I applaud you on your recent announcements launching the U.S.–Korea Free Trade Agreement. Free trade access to Korea, our Nation's seventh trading partner, in goods would be a tremendous opportunity for many United States industries. I look forward to working with you in moving a comprehensive Korea Free Trade Agreement in the coming months.

Finally, Mr. Chairman, I want to touch on our role within the World Trade Organization. The United States is a leader within the organization. A successful Doha Round is in our National interest. At the same time, our free trade agreement negotiations provide the quickest route to ending barriers to trade, and I applaud you for the negotiations underway. In addition, I believe we need

to be aggressive in seeking enforcement of the WTO obligations among our trading partners. I look forward to your annual report to Congress relating to barriers to trade, and I urge you to provide us with specifics on the barriers to trade in each country and what steps are available to the United States. Working with your team, this Committee will get a clearer understanding of what our industries face and what we may be able to do in striking down unfair barriers. I look forward to your testimony, and I look forward to members' questions. I yield back, Mr. Chairman.

Chairman THOMAS. I thank the gentleman. The ranking member of the Subcommittee on Trade, the gentleman from Maryland, Mr. Cardin.

Mr. CARDIN. Thank you very much, Mr. Chairman. Ambassador Portman, it is a pleasure to have you before the Committee. We ended 2005 on, I think a very positive note, with the Bahrain agreement being approved and the method in which we used to work out potential differences so that we could have a very strong vote without much controversy. I want to applaud your leadership in bringing us back together. However, we start this year with some rather chilling news on our trade deficits: a record $726 billion trade deficit in 2005, representing nearly 6 percent of the U.S. economy. Our deficit with China continues to skyrocket. It hit $202 billion in 2005, 25 percent higher than in 2004. Let me quote from a person who I have the greatest respect for and agree with his opinion when he said, "Our bilateral trade relationship with China today lacks equity, durability, and balance." Quoting from your statement of yesterday, and I agree with you, Mr. Ambassador. We cannot sustain this current bilateral relationship with China. Action must be taken.

To pay these deficits, President Bush has accumulated more debt to foreigners, $1.2 trillion, than all other Presidents before him combined. In fact, foreigners have finance 90 percent of the Bush administration's increase in Federal debt. I mention that because I talked to a trade attorney this morning who told me that he was in Beijing on a private trade issue talking to a senior Chinese official, who basically said: We don't have to respond to your concerns about market access. Your country can't do anything about it. They need us to continue to buy your dollars. So, I worry about whether we really do have the freedom to respond the way we need to against our trading partners because we are so dependent upon their need to buy our bonds so that we can pay our bills. Earlier today, Secretary Snow was here, and I posed the question to Secretary Snow on the Chinese currency manipulation. I understand that is under the portfolio of the Secretary of the Treasury. But I do believe we all have to be concerned about the currency issue with China, the impact it is having on U.S. competitiveness, and I was pleased to see that in your review, that is acknowledged as an issue that needs to be dealt with.

On the WTO negotiations, I want to compliment you for your leadership. I think you have provided the opportunity for us to have a successful Doha Round. You have shown courage and leadership of the United States. I am extremely disappointed by the lack of leadership of our traditional trading partners. They don't seem to want to take advantage of an opportunity to expand trade

through the WTO. I look at the lack of progress in agriculture and see Europe and see how disappointed we are that they have not responded to the offer that you put on the table. We look at what is happening in the tariff issues, and there is no agreement to a progressive way to reduce tariffs. We look at the service industry and we see some progress being made, but certainly not a lot of progress, and certain areas of concern. You and I have talked about an area that gives me great heartburn in the WTO Doha Rounds, and that is, if the rules issues come up and weakening our antidumping and countervailing duty laws, that is going to be something that is totally unacceptable, I think, to the majority of Members of Congress.

So, I want to thank you for your leadership and just express disappointment that that has not been matched by our traditional trading partners. I agree with Mr. Rangel's point on the free trade agreements. I understand that we may have Oman or Peru coming in shortly. I would urge you to continue to use the model we did in Bahrain in working out issues that are very important, I think, to the Members of Congress to deal with worker rights and protection. I look forward to your testimony, and I look forward to a successful year in 2006 on the trade agenda. Thank you, Mr. Chairman.

Chairman THOMAS. I thank the gentleman. Any other member may have a written statement. It will be placed in the record, without objection. Mr. Ambassador, your written statement will be made a part of the record, and the Chair fully understands that the 5-minute rule is but a fond memory. So, you will have the amount that your conscience will allow you to have to address us, and we are going to extend you a degree of House courtesy. But it is nice to have you with us, Mr. Ambassador, and the floor is yours.

STATEMENT OF THE HONORABLE ROB PORTMAN, U.S. TRADE REPRESENTATIVE

Ambassador PORTMAN. Thank you, Mr. Chairman. I never noticed that kind of generosity on the 5-minute rule when I was on the other side of the microphone, so this will be a new experience. It is great to be here, and to be here in this newly refurbished room but with old friends, and I thank you very much for your statements, Mr. Rangel, for yours. Mr. Rangel talked about the fact that we should try to work as Americans, not as Democrats or Republicans on trade. He has made that point to me many times. That is what we will try to do because it is so much in our National interest going forward. To Mr. Shaw and Mr. Cardin, I appreciate working with you on the Subcommittee, and with your staffs, and I think we do have an exciting agenda ahead. I will get into that in a second. What I thought I would do, instead of making a statement or even putting a statement in the record, is go through a PowerPoint presentation. You have this in front of you, and it is the 2006 trade agenda. We talked in the library a moment ago about some specific issues, and I told you I am happy to address other issues that are not addressed here, and I look forward to your questions and to your input.

I want to start, if I could, by just reviewing why what we are doing is so important, just quickly recap where we have been for

the past year working together. We have actually had a number of accomplishments. Mr. Cardin talked about the Doha Round, as did Mr. Shaw and Mr. Thomas. The first two points are we have made some bold proposals there. We have reinvigorated those talks, I believe. We have still got a lot of work to do. The second major category there would be our FTAs, the free trade agreements. We have closed two. We have passed two with your help with seven different countries. We have also engaged India in a new trade policy forum, deepening our relationship there, which will be very much front and center when the President visits India in early March. With China, we were able to work out a comprehensive textile deal after a lot of negotiation. We are working with many of you. It is an agreement that I am happy to talk about if you have further questions, but it has been very well received, I believe, for the most part on our side, and it gives predictability and certainty to our importers as well as our manufacturing industry.

Saudi Arabia is now part of the WTO. We held their feet to the fire on some issues, and we were able to get that accomplished this last year. The Morocco Free Trade Agreement was implemented. We do have a number of agreements going from the EU enlargement agreement to the Russia meat agreement that we were able to close this year, some of which had been outstanding for several years. That is one of our objectives, to try to complete these agreements that have been on the table for a while and move forward; or if they can't be completed, frankly, to move forward on other higher-priority items. In the beef market, we have had some success. I am disappointed, of course, in the recent news from Japan, but if you look at what has happened with Korea, Hong Kong, Thailand, Taiwan, and the Philippines recently, we are working through this BSE issue successfully in those markets. We have got more to do. China top-to bottom review we talked about a little in our pre-meeting, and then, of course, working with you, we actually extended Trade Promotion Authority, kind of a quiet vote but an important one to give us the time until July of 2007 particularly to work through the Doha agreement.

We have also had a number, on page 3, the next page, of successes on the enforcement side, and I have listed some highlights here. I have organized them along the lines of China, ag, and then other, which kind of indicates our focus on China. We have had some successes with China, persuading them to remove some semiconductor taxes which were discriminatory. As you know, we have filed the only WTO case against China, and it was successful in the sense we were able to work out that issue. We were prepared to file a second WTO case against China a few weeks ago, and I talked to Mr. McCrery about this beforehand. Some of you are very familiar with this, who come from one of the 14 States that export a very important paper product to China called Kraft linerboard. But we told China we were going to file the case, and after months of fruitless negotiations, overnight China rescinded an antidumping order which was unfair, in our view, and we were able to get the result we wanted without going through the protracted litigation. It was a good result for U.S. industry, and this is a model I think that works. I think we need to use the WTO as leverage to get real results for our U.S. commercial interests.

We are still working with China on a couple other issues. One is an auto parts issue we have raised with them over the last several months. We continue to work with them on that as well as the various intellectual property rights challenges in China that were discussed a moment ago. On the ag side, we did win a biotech case, which the Chairman mentioned, against the EU at the interim stage. Very successful for us because it relates to a huge issue for the United States, which is sanitary and phytosanitary issues. Regardless of how low tariffs get, if we cannot get our product in because bad science is used in a protectionist way, it does not help much. So, this is a case that goes well beyond the EU and is an important accomplishment for us. We filed a WTO case on Turkey just last week with regard to rice, something we have worked through with them. We were not able to resolve the issue short of a WTO case. We feel that is the best route to take there. We also won a number of WTO cases including one against Mexico, Japan, Canada, and another one in Mexico on high fructose corn syrup.

Other cases, as you know, we have what is considered to be the largest WTO case ever, which is the Airbus-Boeing case before the WTO right now. We brought that when I came to the conclusion that the EU was not able to negotiate in good faith on the issue of direct launch aid, and to the extent that was not—it would be taken off the table, we had no choice but to proceed to the WTO. We do hope we can negotiate that case. We think it would be a case that could be settled. But it would require the EU to make the necessary decisions with regard to direct launch aid, which we strongly believe is an illegal subsidy under the WTO. We also won a case on geographical indications with regard to our products. We also were able to win on several counts on a customs regime in the EU, a case with regard to Egypt, and a case with regard to telecommunications with Mexico. So, those are just some of the enforcement highlights of this last year. Enforcement will continue to be a top priority. Underlying all this work, on the next page just a chart that I do not have to go into with this group because you all follow trade closely, just why we are doing all this. A proactive trade agenda is in our interest, strongly in our interest. We are already the most open large economy in the world. It is going to be in our interest to knock down barriers to our goods and services. It is critical to our economy. Trade liberalization raises productivity, raises wages, expands consumer choice and our purchasing power.

When you go sector by sector with regard to manufacturing, we are the largest exporter of manufactured products in the world. We can't forget that. Our exports actually have increased 82 percent since the end of the Uruguay round. One in every five jobs in manufacturing is supported by exports. With regard to the kinds of jobs they support, they pay an average of 13 to 18 percent more. So, reducing trade barriers helps spur the creation of higher-paying jobs in this country. Agriculture, one in three acres are planted for export, 27 percent of income. Absolutely critical to our ag economy Services, of course, we had another great year, record surpluses in services. Here we have a comparative advantage. Our surplus this year went from $48 to $56 billion, very important for us to have access through our services. The trade agenda for 2006, we have

an ambitious agenda, a proactive one. I divided it into three categories: one is the global trade talks that were talked about; second is bilateral and regional agreements; and third would be enforcing our trade laws and strengthening our agreements.

With regard to the global trade talks, there has already been some discussion about this. Progress in Hong Kong may be a misnomer, as the Chairman says. We did not make all the progress that we had hoped for. On the other hand, the round continued and we did make incremental progress in a number of key areas, as I talked about a moment ago. The timing, just to remind us, the plan is to finish by the end of this year. That is the stated goal, not just for the United States but the WTO membership, in part because our Trade Promotion Authority, its expiration date is in July and the agreement would have to come to you in the spring of 2007. There are three negotiating areas, as you know, under the Doha Round: one is manufacturing; another is services; and third is agriculture. On manufacturing, we just talked a moment ago about how important it is for us. We are seeking—the U.S. proposal is real cuts. That means applied cuts, not in just what the bound or allowed rate is, but what the real rate is, the applied rate. We are also focused on key sectors. We think we can make more progress with a sectoral approach. We have some history to support that. Also nontariff barriers, extremely important to us, including the auto industry.

The next chart just shows you in a visual form why it is so important for us to reduce these barriers overseas. Our average manufacturing tariff in this country is 3 percent, and you can see on that chart the average among all WTO members is closer to 30 percent with regard to manufactured goods, 40 percent for all goods. So, we are, again, a relatively open, low-tariff country. Exports are key to us, and reducing those barriers is critical through the Doha multilateral process. Second is services. Here again we have had a nice surplus in 2004 and 2005. Our exports have increased dramatically, nearly doubled over the past 11 years. In Hong Kong, we were able to come up with a framework for services. One of the frustrations had been we had a framework for agriculture, a framework for manufactured products. But for services, because it doesn't relate to tariffs but, rather, to regulations and other nontariff barriers, it was harder to come up with that formula. We think we have one that can work now. It is not just a bilateral process but what is called a plurilateral process, meaning working with those countries that have a common interest and working on particular sectors of services, say financial services or express delivery or telecommunications.

So, we think we have a model that can work to open up some markets for us. We are pushing very hard on that. By the end of this month we are looking for revised offers from our trading partners on services. The next chart talks about why this is beneficial to us. Again, we have one of the most open service regimes in the world. We do have some challenges here. One is so-called Mode 4 or temporary visits, temporary business entry, and we are getting some pressure on that. But the bottom line is services is incredibly important to our economy. There is an estimate out there that the median U.S. family of four annual income could increase by as

much as $6,800 per year—$6,800 per year—if we had full liberalization of services because it is so key to our economy, and we have such a comparative advantage there. The third pillar is agriculture, and within agriculture there are three pillars. One is market access, lowering tariffs. The framework that we have agreed to calls for substantial improvement in market access. That is what we are looking for, as the Chairman said. We have not received offers that are commensurate with our offer on trade-distorting subsidies. We need to see that to move this round forward. Importantly, so do a lot of other members of the WTO, including many in the developing world.

Second is eliminating export subsidies. There we did make some progress in Hong Kong. We came up with a date for the total elimination of export subsidies. You will see in a minute why that is so important to our farmers. Third is reducing trade-distorting agriculture support. There we made a commitment in 2004 that we would, as WTO members, reduce trade-distorting support. The United States has stepped up to the plate and put on the table the most ambitious proposal out there on all three of these pillars, but significantly being willing to put our trade-distorting support on the table in exchange for getting the market access commitments that we need and also moving ahead on manufacturing tariffs and on services. We would not have a chance to improve this multilateral approach on agriculture had Hong Kong not moved forward. Now we have a chance to do it, as tough as it will be. The next page is some interesting charts on all three pillars, just to show you again why it is so key to us. Market access, average tariff in the U.S. is the red bar on the left, 12 percent. If you look at the global average on the far right, 62 percent. The highest tariffs in the world are on agricultural products, as are most of the trade-distorting subsidies. So, it is an area where there is significant room for improvement, and it will help with regard to our farmers who have the ability to export our product when they have a level playingfield.

The second pillar is down at the bottom left, direct export subsidies. Again, you see there we have made a commitment now not just to eliminate them but come up with a date certain, 2013, with significant progress by the midterm there; 89 percent of those subsidies are used now by the European Union. Therefore, our farmers are unfairly competing with the European Union with regard to our exports currently. The third area is domestic support. Here you see two bars. One is the gold bar, which is what is permitted or allowed under the WTO. That would be the bound rate. The yellow is what is actually used, which is the current so-called AMS or amber box levels. If you look at that chart, you will see that the Europeans have the ability to use, as an example, four and a half times more than we do. They actually use about three times more than we do in terms of domestic support. The same with Japan, by the way, as a percentage of their agricultural production. It is about three times what the U.S. is. So, this is an issue where we need to see two things: one, yes, a reduction of our trade-distorting support, but also harmonization, where others come down more than we come down, to equalize this to a certain extent to four and a half to one. It needs to be more equalized.

The next chart shows you why we are under pressure at the WTO on trade-distorting subsidies. You know, frankly what has happened since the end of the Uruguay round, as we have seen, reductions in trade-distorting support among our other developed country partners. The black line is the EU limit. The black bars is where the EU is. The red line is the Japanese limit. The red bars is where they are. Likewise, the yellow line is where we are allowed to be, and the yellow is where we are. You will see that the Europeans and the Japanese have actually reduced their trade-distorting support significantly—not below our level yet, but significantly; whereas, we have gone up a little and now have sort of leveled off. So, this is why the U.S. has been under particular pressure with regard to this issue of trade-distorting support. Just so you understand the context within which we are negotiating in the WTO. Another big WTO issue is accessions. Chairman Shaw talked a little about Russia, some concerns he has on IPR. We have got four major accessions coming up that will go before you, because they all involved Jackson-Vanik and, therefore, a vote on PNTR, permanent normal trade relations.

If you recall the PNTR vote on China, these can be tough votes. We have Vietnam coming up, Ukraine, Russia, and Kazakhstan. We are close with regard to the Ukraine. I hope we are close with regard to Russia, taking into account what Mr. Shaw said. With Vietnam and Kazakhstan, we are also making progress. I would love to have all four of these come before the Congress to move them forward even this year. That may be ambitious, but I think it is in our interest to get these countries into the rules-based WTO system. There are also another 26 applicants looking for membership in the WTO. We have worked with a number of them—I mentioned Saudi Arabia earlier—and we will continue to do so. GSP—I wanted to throw in General System of Preferences as part of our global discussion because it expires at the end of this year. The President has put a 5-year reauthorization in his budget. This is a program that does expand choices, as I say, of American industry and consumers. It was $26.7 billion last year in imports. Our total exports, as an example, would be about $1.2 trillion. So, it is not a large percentage as compared to our imports or exports. But it is a very significant program for the developing world, and it is one I am really looking forward to working with members of this Committee on. I think we will have some opportunities with GSP reform to look at some new ways of doing business.

With regard to our free trade agreements, I wanted to show you all, you know, the obvious benefits we get from our free trade partners in a chart form. I came up with this chart today. I hope it is helpful to you. It talks about the fact that our free trade agreement partners now account for 15 percent of the GDP of the world. That is because we don't include the EU or China or Japan or India in our FTAs, which are the big economies, but 54 percent now of our exports. It is an interesting chart. It just goes to show, as many of you have said at the outset here, this is definitely in our interest to develop not just a multilateral approach, which is ultimately, you know, the best way to get a universal reduction of tariffs and reducing other trade barriers, but our FTAs are very effective on a bilateral and regional basis to get these barriers down and in-

crease our exports which is great for our economy. Once CAFTA-DR, Bahrain, Oman, and Peru are implemented, we would have ten free trade agreements, seven of which were completed in the last 5 years. The next chart talks more specifically about our exports. A simple point here, our exports are rising twice as fast among our FTA partners as they are among the world in general.

Where are we on our negotiations? Oman is up on the Hill. I believe the Committee on Ways and Means will be moving forward with some sort of a hearing soon. Mr. Chairman, I know you are working on that. Peru, we have notified you of our intent to sign, meaning it is up here for the 90-day period. We are more than halfway through that now, I believe. I think you have the opportunity late spring to take up the Peru agreement. We are working for completion of a few more in 2006. Panama—some of you expressed some concern to me before this meeting about Panama, why we have not moved more quickly. I would be happy to talk about that in questions, but the bottom line is we are very close. We still have some concerns from early in the agriculture area. Thailand, Colombia, and the United Arab Emirates. Colombia, of course, we would hope to partner with Peru and, for that matter, Ecuador for an Andean trade pact, but in any case, we are moving forward with those countries that are prepared to move, and Peru we have already closed on.

New agreements. As you may know, because some of you were involved in it, we did launch free trade discussions with Korea. We are very interested in continuing to launch free trade agreements with countries like Korea, where we have a strong commercial interest and where we see the ability of that country to make some important reforms so that you can see a successful conclusion of the round. We believe that was true with Korea. We spent several months working with Korea even before we launched. We also launched up here on the Hill, incidentally, the first we have ever launched a trade agreement on the Hill, I am told, and did it in a bipartisan way with a lot of support from members of this Committee on both sides of the aisle and Senator Baucus and others present. I appreciate that very much. We will work closely with you as we negotiate this agreement so we can end up with a great agreement.

We are continuing to work on the Southern African Customs Union, SACU. I am happy to talk more about that, if you would like. The AGOA benefits are very helpful to all these countries. On the other hand, they may make it less advantageous to move to a free trade agreement, but we are working on that and continue to. The same with FTAA and Ecuador I talked about earlier. On Korea, I will not get into a lot of detail here with this chart so we can keep moving, except to say Korea is now the tenth largest economy in the world and growing and our seventh largest trading partner. There is a huge commercial interest here on behalf of our services industry, agriculture and industrial goods. They are excited about this. I know many of you are. Again, we look forward to working very closely with you to be sure this is an agreement that you can support when it comes before you. There are other potential agreements we would like to complete. Even this year, we would like to be able to launch with Malaysia. We are not quite

there yet because, again, we are working through some issues with Malaysia to be able to launch an agreement. But again, our tenth largest trading partner, a big economy in a strategic part of the world—Asia. So, I am hopeful we can make progress on Malaysia. I know many of you have been involved in encouraging me to move on Malaysia, and I agree with you there is a great potential there.

Egypt is another possibility. We have some challenges right now with Egypt we are working through, but, again, we think it is in our long-term interest to have deepening trade relationships with the largest Arab country. A third area I want to touch on in enforcing trade laws and strengthening trade agreements. We talked about this a little at the outset in terms of last year, what we were able to accomplish. Let me just go through, if I could quickly, what some of our approaches are on the enforcement side. First is bilateral consultations. We tried to solve problems bilaterally. Often that achieves the best outcome. I will give you a couple of examples on that. We reached an agreement with the EU recently on compensation for tariffs that were raised when the new members came in, when the ten new members came in, the enlargement agreement. We were able to work that out bilaterally to our satisfaction and to the interests of our commercial interests among our exporters to Europe. We also were able to recover a lot of the beef markets, as I said, through bilateral and technical conversations and negotiations with a number of countries I mentioned earlier.

The WTO round also gives us some opportunity. Again, it covers all sectors, all areas. It is universal, so it has certain advantages. It enables us also to negotiate new disciplines. We are doing that in the context of the Doha Round. Accessions. As we are doing now with all the accessions I talked about earlier, we are able to get commitments and concessions from these countries and gain additional tools. One example there could be the China safeguards. We would not have had the ability to reach the agreement with China or to have had the safeguard imposed had we not worked that out as a part of their WTO accession. Enforcing existing agreements, of course, is another area for us under the WTO where we are actively involved. I will give you three examples: the TRIPS agreement handled intellectual property; GPA, which is Government Procurement Agreement; and also SPS, sanitary and phytosanitary agreements under the WTO. We use that as leverage to get movement from our trading partners. The FTA negotiations. We have talked about the FTAs. It is a great place to get commitments and put new rules in place, and we did that aggressively with the FTAs last year.

Antidumping and CVDs. Since President Bush has taken office, the United States has imposed $104 new antidumping orders, 28 of them against China, by the way, which is by far the most against any country. Also 20 new final countervailing duty orders. So, we continue—that is the Commerce Department, not USTR. Commerce administers antidumping and countervailing duties, but that is another place where we enforce our domestic trade laws and do so in a way that ensures that we have fair imports coming in. WTO dispute cases. Let me go over a few of those, if I could. We talked about Airbus earlier. We talked about EC biotech. The initial assessment there is very positive, as I said. Other recent suc-

cesses, I mentioned Kraft linerboard. We were prepared to file a WTO case a few weeks ago. Literally overnight China changed its opinion with regard to an antidumping order they had put on our product unfairly, rescinded the order. We were able to get a great result for the U.S. industry. Mexico telecommunications, another great success for us. Japan apples. High fructose corn syrup, we are still working through that one in terms of the compliance part of it, but we have won at the panel stage in August of last year. It is now under appeal by Mexico, and we expect Mexico to eliminate its beverage tax.

I talked about EU geographical indications earlier and Korea semiconductors. There the appellate body reversed a panel finding that the U.S. subsidy did not follow WTO rules, so that was a victory for us in a couple of ways, including upholding a core element of our trade remedy laws. Yesterday, as I said, in our pre-meeting, we announced the results of the top to bottom review, recognizing that our trading relationship has moved into a new phase with China, and we laid out plans for moving ahead. The China textile safeguards we worked with a number of you on, we signed this agreement last fall. It establishes quotas on imports of 34 textile and apparel categories through 2008. That is about 46 percent of the trade that was previously subject to a quota before the end of last year. The broad product coverage and three-year term of this agreement will permit our producers, importers, and exporters from China to operate in a more stable and predictable environment. The China Transparency Initiative, some of you have been involved with. This is under the WTO TRIPS agreement. It is a way for us to get more information regarding IP rights. This is the so-called Article 63.3 invocation. I appreciate many of you working with us on this. What I am particularly pleased about is the fact that we got Japan and Switzerland to work with us in this case. They have filed it with us and they are sticking with us and I applaud them for that. It would have been nice to have had additional trading partners, too, but the China IP challenge is not one exclusively faced by the United States. It is faced by all of us who do trade and business in China and faced by Chinese entrepreneurs, innovators, and businesses, as well.

China JCCT, this is our annual meeting with the Chinese where we have made progress in the past. We have another one coming up in April. We did make some progress last year. Through the JCCTR, customs officials and Chinese customs officials have worked together to crack down on some of the piracy, particularly with regard to the customs side, the exports of pirated items. China also did agree to delay its procurement regulations, but they do maintain problematic auto parts and direct sales rules that I mentioned earlier and we still believe that it would be very much in our interest and China's interest to have them accede to the government procurement agreement. We are pushing hard on that. We will continue to push hard in our April meeting with JCCT on a whole range of issues with China, many of which are mentioned in the top to bottom review. The next page, intellectual property, we have got a number of initiatives here, some of which have been worked out over the years with Congress. The STOP! Initiative is a couple of years old now. It coordinates our international outreach

effort with key trading partners. It has now been extended to other international fora, including the E.U.-U.S. summit and the APEC summit in Asia.

Special 301, we use aggressively, as you know, with regard to putting countries on an either Priority Foreign Country List, which would be the countries that have the worst results, and these can result in sanctions; the Priority Watch List, also very serious; and the Watch List. Example, when we put Ukraine on the Priority Watch List, we were able, having actually designated them as a Priority Foreign Country, to get a change in their laws regarding intellectual property. They enacted a law to curb illegal CD production in August of last year. We were able then to terminate sanctions we had imposed against Ukraine. So, we used this as leverage. We used it in Pakistan to shut down illegal CD plants after designating them as a Priority Watch List country. Finally, FTA implementation. Once an agreement is signed, USTR monitors and ensures that our trade partners rewrite legislation that they have committed to do, including on SPS, intellectual property, and so on, make sure it is done in the right way, and we follow through on agreements. For example, we have done this in Singapore, Morocco, Australia. The reason our CAFTA partners have not implemented the agreement is that we are following through on the commitments they made to you and I made to you and we will continue to do that.

To summarize, again in 2006, we have got a lot on our plate, a lot of opportunities, a lot of challenges. We look forward to working closely with you on that. We hope to conclude these global trade talks this year, a once in a generation opportunity to reduce barriers to trade. We hope to continue to pursue these high-standard bilateral and regional agreements to provide new market access for our workers and our farmers, our businesses, and we will vigorously enforce trade laws and agreements to ensure a more level playingfield. Again, thank you, Mr. Chairman, for allowing me to go over my allotted time a little bit, but I thought it was important to walk through the various items on what is a very ambitious and proactive agenda and I look forward to questions.

[The prepared statement of Ambassador Portman follows:]

Statement of The Honorable Rob Portman, U.S. Trade Representative
Testimony Before the House Committee on Ways and Means
February 15, 2006

2006 Trade Agenda

House Ways & Means Committee Hearing
Presentation of United States Trade Representative
Ambassador Rob Portman

February 15, 2006

1

Recent Milestones

- *Moved WTO Doha Round Forward with Bold U.S. Proposals*
- *Reached agreements at WTO Hong Kong Ministerial to Double Aid-for-Trade and End Export Subsidies by 2013*
- *Closed free trade negotiations with Oman and Peru, notified agreements to Congress*
- *Passed CAFTA-DR*
- *Passed Bahrain Free Trade Agreement*
- *Launched U.S. India Trade Policy Forum*
- *Completed Comprehensive Textile Agreement with China*
- *Completed Saudi Arabia accession negotiations allowing WTO Membership*
- *Completed implementation of Morocco Free Trade Agreement*
- *Negotiated EU Enlargement Compensation Agreement*
- *Completed Multi-Chip Packages (MCP) Agreement*
- *Completed Wine Agreement with EU*
- *Reopened to U.S. Beef Markets in Korea, Hong Kong, Thailand, Taiwan and the Philippines*
- *Completed meat trade agreement with Russia*
- *Conducted China Top to Bottom Review*
- *Trade Promotion Authority extended to July 1, 2007*

2

Recent WTO Dispute Resolution Highlights

China Cases

- ***Persuaded China to remove its discriminatory tax on semiconductors, after the United States filed a formal WTO case against the tax – first and only WTO case filed by any WTO Member against China***
- ***China revoked antidumping duties on U.S. kraft linerboard after U.S. stated intent to file a WTO case***
- ***Raised with China its discriminatory charges on auto parts and exploring potential WTO case***
- ***Working with industry to prepare potential TRIPS case with China***
- ***Filed WTO Article 63 China IPR information request***

Agriculture Cases

- ***Won Biotech case against EU at interim stage***
- ***Filed WTO case regarding Turkey's restrictions on rice imports***
- ***Won a WTO case against Mexico's antidumping duties on U.S. rice and several provisions of Mexico's antidumping and countervailing duty laws***
- ***Won WTO case against Japan's restrictions on imports of U.S. apples and secured removal of these restrictions***
- ***Canada removed several restrictions on exports of U.S. wheat after U.S. successfully challenged them in WTO case***
- ***Won a WTO challenge to Mexico's discriminatory tax on soft drinks and HFCS at panel stage***

Other Cases

- ***Brought WTO case regarding EU subsidies to Airbus***
- ***Won a WTO challenge to the EU's discriminatory regime on geographical indications***
- ***Won several claims in a WTO case against the EU on the non-uniform and inconsistent manner in which its customs regime operates***
- ***Egypt removed discriminatory textile tariffs after the United States filed a formal WTO challenge***
- ***In response to a successful U.S. WTO challenge, Mexico removed anti-competitive rules which drove up the cost of international calls***

A Proactive Trade Policy Grows the U.S. Economy

- **The U.S. is already the most open major economy in the world but we must knock down barriers to our goods and services abroad**
- Reducing trade barriers will give our farmers, workers and service providers better access to the 95% of the world's customers living outside our borders
- **Trade liberalization raises productivity and real wages while expanding consumer choice and purchasing power**
- In 2005, the U.S. goods and services accounted for 10.4% of its GDP. Goods and services exports also accounted for 20% of overall growth in the U.S. economy in 2005

Benefits by Sector:

- **Manufacturing** – Manufactured exports have increased 82% since the end of the last multilateral round a decade ago.
  - Manufacturing exports support an estimated 7.4 million jobs in the U.S. (estimate for 2001), including 1 in 5 manufacturing jobs
  - U.S. jobs supported by goods exports pay an estimated 13% to 18% more than the U.S. national average.
- **Agriculture** – Exports account for 27% of farm income
- **Services** – U.S. had a $56 billion surplus in 2005 on exports totaling $379 billion, and these exports have nearly doubled in past 11 years
  - Services account for 8 out of every 10 jobs in the United States

2006 TRADE AGENDA

1) **Global Trade Talks**
   - Doha Development Agenda
   - WTO Accessions

2) **Bilateral and Regional Agreements**

3) **Enforcing Trade Laws & Strengthening Trade Agreements**

5

GLOBAL TRADE TALKS: WTO Doha Development Round Update

- **Progress in Hong Kong**

- **Timing**: Final Agreement End of 2006 - TPA expires July 1, 2007

Three Core Negotiating Areas:

- Manufactured Goods (NAMA)
- Services
- Agriculture

6

Doha: Manufactured Goods (NAMA)

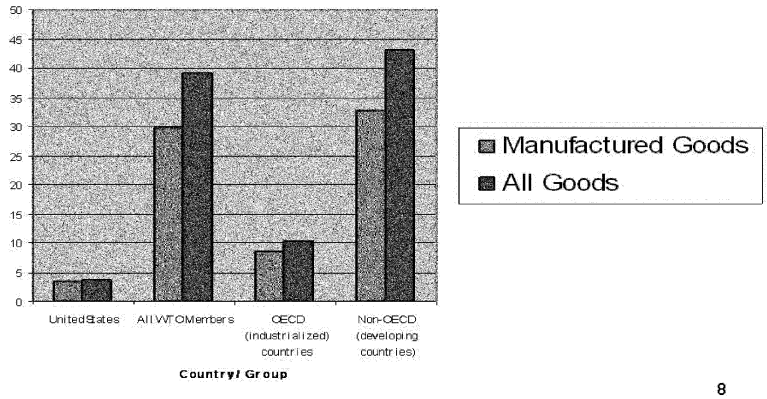
- Manufactured goods represent 62% of total US goods and services exports; an increase of 82% since the year the Uruguay Round went into effect (1995)
- The United States remains the world's leading country in the export of manufactured goods estimated at $782 billion (2005)
- Timing: April 30 – Modalities deadline
- Formula: The Hong Kong Declaration recognizes a Swiss formula with coefficients is the best way to proceed - Cuts high tariffs more than low tariffs
- Seeking real cuts in the tariffs that are **applied** in both developed and advanced developing markets
- Focus on Key Sectors and Non-Tariff Barriers (NTBs)

7

What Is At Stake: Manufactured Goods

Tariffs: US average 3%; WTO average 30%

2004 Average Bound Tariffs (as compiled by WTO Secretariat)



8

Doha: Services Update

- **U.S. $56 billion surplus in 2005 on exports of $379 billion**
- **U.S. exports of services have nearly doubled over the past 11 years and are up 89%**

HONG KONG MINISTERIAL:

- **We achieved agreement on a framework for services that provides the basis to secure a commercially meaningful market access package by the end of the Doha Round**

RECENT DEVELOPMENTS:

- **WTO members agreed to give a jump start to services market access negotiations early this year by working together in sectors of common interest to develop plurilateral requests**

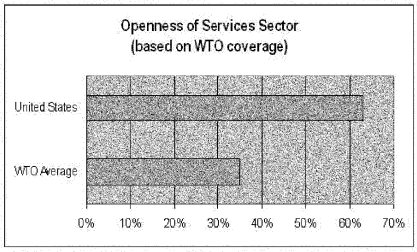
BOTTOM LINE:

- ***Other WTO Members, especially emerging developing countries, must improve their offers and open their markets to services***

9

Services Benefits to U.S. Incomes

- U.S. has one of the most open services regimes



- Services liberalization could account for fully 72% of the economic gain from the Doha Round

10

Doha Agriculture Agenda

- **Building on July 2004 Framework – 3 Pillars:**

  1) Expand market access through tariff reductions

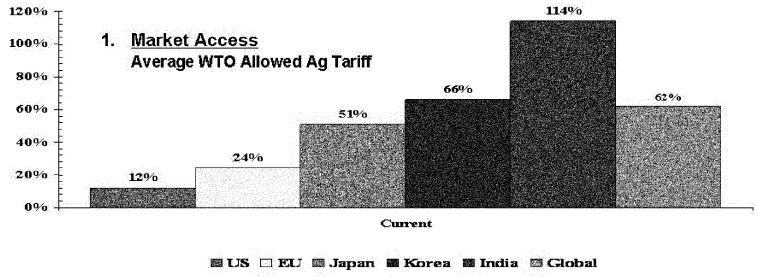
  2) Eliminate all export subsidies

  3) Substantially reduce trade-distorting agricultural support

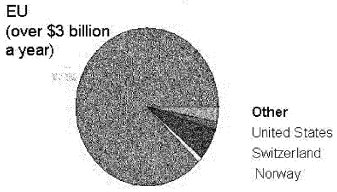
- **In Hong Kong, we made headway on some specific issues, such as export subsidies, and set the path for the final stage of negotiations**

11

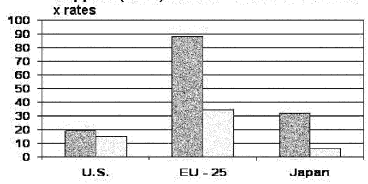
All Three Pillars are Important to U.S.



2. Direct Export Subsidies



3. Domestic Support – Amber Box: WTO allowed (gold) and Projected (yellow) 2005 Aggregate Measurement of Support (AMS) Levels. Billion $ at current x rates



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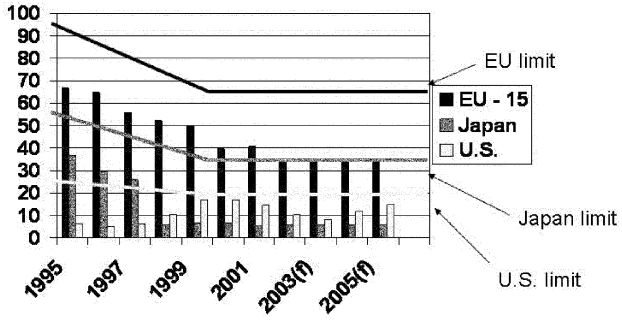
Amber Box Support
(*Most Trade-Distorting Subsidies)*

U.S., EU, and Japan Amber Box Support: WTO Limits and Actual



Billion U.S. Dollars – 2001 Exchange Rate

13

WTO ACCESSIONS

30 Applicants Seeking Membership in the WTO

All Packages Require:

- Bilateral Agreements on market access, agriculture, manufactured goods and services
- Multilateral Negotiations in WTO Working Party on WTO Rules

Upcoming Accessions:

- Expect major progress/possible completion in 2006 for a number of major accessions: Vietnam, Ukraine, Russia, Kazakhstan
  - U.S. nearing completion of bilateral agreements with all four Applicants
- Administration continues to actively consult Congress: All four still need a PNTR vote in Congress to be removed from Jackson-Vanik

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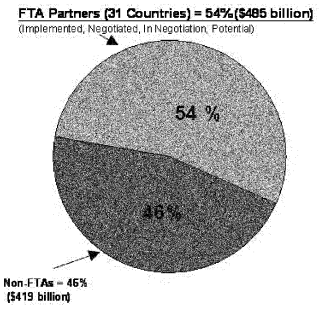
Generalized System of Preferences (GSP)

- Expires December 31, 2006
- President has requested a five-year reauthorization in FY 2007 budget
- Program expands choices of American industry and consumers, while creating economic opportunities in developing countries
- $26.7 billion in imports received GSP duty-free treatment in 2005

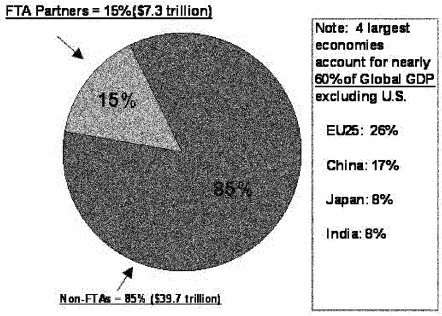
15

FTA Partners Account for 15% of World GDP (excluding the U.S.), but 54% of U.S. Exports

U.S. Goods Exports to the World



World GDP Excluding U.S.



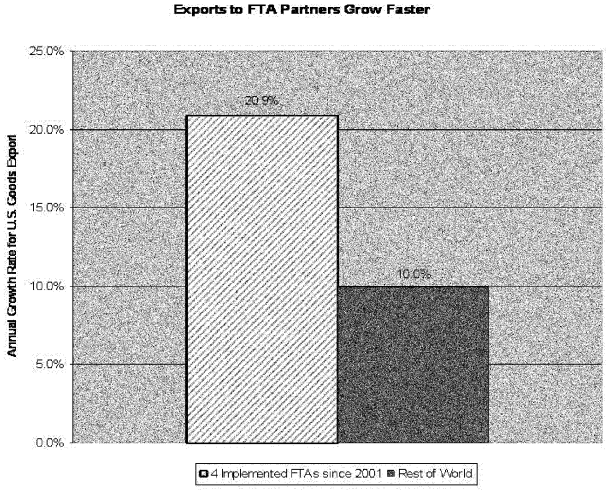
2005 Total U.S. Goods Export Market: $904 Billion

2005 World GDP excluding the U.S.: $47 Trillion

Sources: Dept of Commerce; World Fact book (GDP at Purchasing Power)

16

U.S. FTAS = EXPANDED EXPORTS



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FTA Negotiations

Completed

Oman *(signed)*

Peru *(Notified Congress of Intent to sign)*

New

Korea *(Launched Feb. 2)*

2006 Completion

Panama

Thailand

Colombia

UAE

Continuing

SACU

FTAA

Ecuador

18

Korea

- **Announced intent to enter into talks on February 2 on the Hill with bipartisan support**

FTA would Bring Big Benefits to U.S. and Korea:

- **7th Largest U.S. Trade Partner in 2005**
  ($71.4 billion in two-way trade)
- **U.S. Goods Exports: *$28 billion in 2005***
- **6th Largest Market for U.S. Ag. Exports in 2005 *($2.2 billion)***
- **Korea is 10th largest economy in the world** *($983 billion in 2005 – based on Purchasing Power Parity Exchange Rate)*
- **The launch of this FTA would provide great benefit to U.S. agriculture, services and industrial Goods**

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Enforcing Trade Laws & Strengthening Trade Agreements

- **Bilateral Consultations**
- **WTO**
  - Doha Round
  - Accessions
  - Enforcing Existing Agreements
- **FTA Negotiations**
- **Antidumping and Countervailing Duties**
- **WTO Dispute Cases**

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Enforcement – Dispute Cases

PROTECTING OUR RIGHTS – Major WTO Cases Brought by U.S.

- Airbus – Largest WTO Case Ever Filed
- EC Biotech

RECENT SUCCESSES

- Kraft Linerboard
- Mexico Telecommunications
- Japan Apples
- Mexico High Fructose Corn Syrup Tax
- EU Geographical Indications
- Korea Semiconductors

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Priority Enforcement Initiatives Outside Traditional Dispute Settlement

CHINA

- ***China Textile Safeguards***
- ***China Transparency Initiative***
- ***China JCCT***

Intellectual Property

- ***Strategy Targeting Organized Piracy (STOP!) Initiative***
- ***Special 301***
  - Ukraine 301 Status Improves to: Priority Watch List
  - Pakistan Shut Down Illegal CD Plants

FTA Implementation

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2006: Opportunities and Challenges Ahead

- Conclude global trade talks and realize once-in-a-generation opportunity
- Pursue high-standard bilateral and regional agreements to provide new market access for U.S. goods and services
- Vigorous enforcement of trade laws and agreements to ensure a level playing field

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ANNEX

House Ways & Means Committee Hearing

Presentation of United States Trade Representative
Ambassador Rob Portman

February 15, 2006

Key Elements of U.S. Agriculture Proposal

- **Stage 1 (5-year implementation):**
  - Substantial reductions in trade-distorting domestic support (60% cut in "amber box")
  - Substantial reductions in tariffs, with deeper cuts for higher tariffs
    - Developed countries: cuts range from 55% to 90%
    - Developing countries: slightly lesser cuts, focus on emerging markets
    - Least developed countries (49 total): make no tariff cuts at all under Doha
  - Limits the number of "sensitive products" eligible for smaller tariff cut to only 1% of total tariff lines, and ensures meaningful access through large quotas.
  - In Hong Kong the Ministers agreed to eliminate export subsidies by 2013
- **Stage 2 (5 years after stage 1 implemented):**
  - Phase out remaining tariffs and trade-distorting support measures over 5 years

Annex 1

CAFTA-DR Implementation - Update

- **Summary of Status:** Rolling admissions process – those we determine are ready by mid-month – entry into force first of next month
- **Progress to Date** - Working hard to complete implementation with all our CAFTA-DR partners
- **There are Remaining Obstacles**
- **We Must Implement CAFTA-DR Properly**

Annex 2

Recent Trade Trends

World:

- Goods and services deficit rises from 5.3% of GDP in 2004 to 5.8% in 2005
- *Exports up 10.4% in 2005 to $1.3 trillion*
- *2003 to 2005, U.S. increases exports by one quarter trillion dollars ($250 Billion)*

China:

- *Goods exports to China in 2005 grow over 20% (third straight year 20% or more)*
- *China Goods imports up 24% (on longer basis)*
- *Exports up 118% since WTO accession (2001)*
- *Asia Pacific Rim (including China) = 57% of U.S. trade deficit in 1999, but 43% in 2005*

Annex 3

U.S. Trade Deficit Context

2005 ECONOMIC DATA:

- **GDP up 3.5%**
- **2 million job gain**
- **Unemployment decline from 5.2% to 4.7%**
- *Macro-Economic Factors that Effect Trade Deficit:*
  - Stronger U.S. growth than elsewhere (e.g. EU, Japan)
    Effect: U.S. imports growing faster than exports
  - High foreign saving in excess of investment (e.g. China)
    Effect: Foreign trade surpluses; pressure on U.S. deficit
  - U.S. saving levels far below level of domestic investment
    Effect: Increased domestic side of trade deficit

Annex 4

Chairman THOMAS. I thank the gentleman. The Chairman is tempted to ask for written testimony at the next hearing.

[Laughter.]

Chairman THOMAS. Rob, back in the old days, some of us remember that USTR simply wasn't adequately staffed. I am pleased

to say that I see you have brought something close to 10 percent of your resources——

[Laughter.]

Chairman THOMAS. —which is stressing more of the still relatively small size of the USTR and I think that approach best serves our purposes. We want to make sure that you have sufficient resources, and you have outlined some changes that I think we agree on, especially focusing on the activity of, or what is growing into a significant and hopefully mutually prosperous relationship with China, but that is going to require additional resources. One of the concerns that I have is that in moving initiatives more than once in this direction will put you into what I consider to be a bureaucracy class that I am hoping you don't want to be in. Therefore, in looking over the list of opportunities you outlined in 2006, I see some old and familiar friends on the list. One of the things I think I am going to ask you to do, and as other members ask specific questions, they obviously will go in the directions they want to go, but we seem to have some difficulty in getting our friends to understand that we really are concerned about some absolutely critical fundamentals, the scientific base, sanitary-phytosanitary system, intellectual property rights in terms of a uniform and objective structure, and frankly, some of our friends in negotiating are more interested in the phase-out of years or the elaborate and cumbersome intertwined relationship that they are interested in and that at some point, I am very mindful of the fact that there are some ambassadors from some countries that survive in Geneva for decades. Over my career, I have seen, and I don't mean this as any personal statement, USTR Ambassadors come and go, a number of them, unfortunately.

I am thinking along the lines of indicating that if you have a decent run, you know, four to 6 years, we need to assess the progress that we are making on particular efforts and that if we don't have clear-cut effort, it seems to me that we simply have to come to the conclusion that it is probably not a productive use of USTR's time and resources and that we don't want to expand the resources to have that many more balls in the as you move forward, but that we prioritize, and that message delivered to some of those folks who seem to enjoy the leisurely pace, I think might actually move us toward the conclusion on some of these. Perhaps, and I hate to say this, the threat of being dropped or we quit wooing some of them might put some underscoring along the lines that there are certain key things we need agreement on, and if we don't get those, it doesn't make a whole lot of sense to continue to fool each other that we aren't moving in terms of a Free Trade Agreement. The recent example of Peru and Oman and some others, Bahrain, although it was through no fault of their own that they weren't moved a year earlier, indicate that if two willing partners sit down and really understand what needs to be done, it doesn't take all that long. So, I am going to be asking you to take a look at some of these folks that we have been wooing for some time without material progress and maybe suggest that at what point do you continue to fool each other that we are on the road to somewhere when, in fact, we are not. What is your reaction to that?

Ambassador PORTMAN. Well, first, we are a lean and mean organization, about 212 people and about a $42 million budget, which is tiny by government standards.

Chairman THOMAS. So, my 10 percent was more accurate than I thought.

Ambassador PORTMAN. Yes, and maybe closer to 20 percent.

[Laughter.]

Ambassador PORTMAN. It is a great group of people, high quality and highly-motivated career people for the most part, but it, for the most part, was the career side of it. They are all highly motivated and highly skilled. But you are right. We probably have sometimes fallen into this trap of continuing to try to work through some of our negotiations when our time might be more productively spent prioritizing agreements where we can make more progress, so I will take that under advisement. I would appreciate it if you would give me some more specifics, because you have followed this over the years, and that goes to other Members of the Committee, as well.

Chairman THOMAS. Well, I can give you some examples. For example, bills introduced in the Congress are good only for as long as the Congress meets, which is no more than 2 years and then they are all dropped and you have to start over. At some point, we have to create a sense of timing, if not urgency, among some of our friends, and, of course, that goes to ongoing and existing relationships, as well. I just think we need to assess where we are and what is helping us get to where we say we want to go and I am very anxious to get that prioritization by the United States Trade Representative, not necessarily by other agencies of the U.S. government who may have reasons other than the very narrow and important trade aspect that you folks are focused on, and I am going to have continuing discussions with you over this and I appreciate it.

Ambassador PORTMAN. Thank you. I can provide you something that is a draft that we work from in this regard, but perhaps we could even refine it further.

Chairman THOMAS. I think we will shorten it significantly. The gentleman from New York.

Mr. RANGEL. Thanks again, Mr. Ambassador. You indicated the President was going to recommend a five-year extension of the General System of Preferences. Would that include the textiles and apparel?

Ambassador PORTMAN. Mr. Rangel, I honestly don't know if the budget got into that level of detail. I don't think it did. It did not.

Mr. RANGEL. Would that include the Andean Trade Program?

Ambassador PORTMAN. No, it does not include ATPA. It is just with regard to GSP. But you are very appropriately mentioning another expiration that I probably should have mentioned, which is the Andean Trade Promotion Act.

Mr. RANGEL. Well, I am concerned about how developing countries are going to be impacted by this globalization. At one point, we were talking about having one of your representatives work with the CARICOM organization. Are there any special considerations given to that group?

Ambassador PORTMAN. Well, under CBI, there are, and under, of course, CAFTA, they sent their members, which I think they all are.

Mr. RANGEL. I think only one is.

Ambassador PORTMAN. On CARICOM?

Mr. RANGEL. No, CAFTA, only one, D.R.

Ambassador PORTMAN. Only D.R.?

Mr. RANGEL. Having said that, you are having some problems, you point out, with CAFTA. Any of those "I told you so" type of issues?

[Laughter.]

Ambassador PORTMAN. I am sure if you told me, it was something very profound and I should have listened. No, what the issue is is just making good on the commitments that I made to you, and a big part of it, frankly, right now is SPS. Sanitary and phytosanitary issues have become very difficult to work through. It is a controversial area, what we asked for.

Mr. RANGEL. Could you send me—I am looking at the time, but he is leaving so I get as much time as I want now.

Ambassador PORTMAN. He is very generous today.

Mr. RANGEL. Could you tell me, in the Korean agreement, how you take care of those restrictions they have on American motor vehicles?

Ambassador PORTMAN. Well, it is a big concern of mine because so few cars get in, fewer than 5,000 a year now, I believe, and we have worked through one issue with them even before launching that I think you and I have talked about, which is the auto emissions issue, which is an indirect import barrier for our automobiles, we believe, and they tend to be more indirect, not direct. But we are going to work through the auto issues as part of the negotiation with Korea this year and to me, this is one of the critical issues. We need to be able to see more access for our automobiles in Korea and our auto parts.

Mr. RANGEL. Is there anything that the Congress can do to help you with the CAFTA–DR agreement?

Ambassador PORTMAN. Yes. I think the Chairman just did, perhaps inadvertently, talking about the importance of SPS. You know, our farmers and ranchers look at the reduction of tariffs and are very pleased, but they also look around the world and see where their products are blocked because international standards are not used, science-based standards, and that is all we are asking for. I know this is a tough issue politically back home in many of these countries, but we need to bring more focus to that. I do think, Mr. Rangel, that by the end of this month, by the end of February, we should have two of the six countries fully implemented and I am hopeful that another two could come on in the next month or two. The only country that right now is not ratified, as you know, is Costa Rica. They have just gone through a Presidential election and are in a recount. I believe that we will be able to make progress there, as well, once that recount is over. We are making progress, but I have taken the position, and not all have agreed with this, but I have taken the position that to the extent we have got a commitment, even if it was oral, an oral commitment, not in writing, we need to be darn sure that that commitment is kept.

One of the concerns I heard raised as I talked to you and others about CAFTA was sometimes in our Free Trade Agreements, we finish the vote here in the House and the Senate and then commitments are not maintained. I want to be sure that with regard to the CAFTA countries that we start off on the right foot.

Mr. RANGEL. As violently as we oppose CAFTA, we are still here ready to make it work as best that it can, so you can depend on our support in that process.

Ambassador PORTMAN. Thank you, Mr. Rangel.

Mr. RANGEL. Thank you.

Mr. SHAW. [Presiding.] Thank you, Mr. Rangel. Mr. Portman, for some time, Mr. Rangel and I have expressed great concern about Haiti and its economy and the direction it has been going. They just got through with an exercise in democracy, and I will quote Secretary Rice when she said, "We will continue to support the people of Haiti as they progress toward a transparent and stable democracy." I am concerned about the recent rioting in wake of the election and urge that the international community certify the election as quickly as possible. One thing I think that perhaps we can all agree on, that a democracy has a very difficult time, if not an impossible time, in surviving where there is no economy. Basically, there is very little economy in Haiti. What do you see on the horizon as to what preferences we may be able to give Haiti in order to stimulate some additional capital flowing into that country?

Ambassador PORTMAN. I appreciate your question, Mr. Shaw, and your advocacy of this over the years. As you know, you and I worked with this when I was on the other side of this dais and I share your concerns. Mr. Rangel and I have talked a lot about it also in my new position. It is a desperate situation, not just the political situation today on the streets of Haiti, but the economic situation. There is an interest on my part in working with you and others to try to come up with some way to help Haiti. Once this election is resolved, it might be a good time to do that. The textile issue is a political concern here in the U.S. Congress. We want to be sure we come up with something that is balanced that we can get through the political process that we are not putting together legislation which doesn't meet the concerns of other members of this Committee and the Congress who are concerned about additional textiles coming in, perhaps from third countries, even.

I will say one thing that I like about what we did in CAFTA is we have a special arrangement we agreed to within a side letter from August 2004—I think Mr. Rangel was involved with this—between the U.S. and the D.R. that regards the preservation of the preferential treatment for the Haitian-Dominican Republic co-production of textiles and apparel, which should bring Haiti some relief. I think that's one thing we need to follow as we get D.R. on board, is to be sure that that 2004 letter is one that is followed with regard to Haiti.

Second, again, we would like to work with you in a number of ways, but specifically in the area of legislation, similar legislation that you have already introduced, Mr. Shaw and Mr. Rangel and others, to try to see what we can do to move forward with some kind of a preference program. I do think that what we are talking

about in the WTO will directly affect Haiti. There is this duty-free, quota-free commitment we have made under the WTO Doha Round. The U.S. commitment is to provide up to 97 percent duty-free, quota-free by tariff line for least-developed countries. Haiti qualifies for that.

Mr. SHAW. Let me switch your attention to Saudi Arabia. Back in September, we announced our favorable impression of bringing Saudi Arabia into the World Trade Organization. Part of that commitment is to abide by the provisions of the World Trade Organization. One is to provide Most Favored Nation status to other members of the World Trade Organization. In December, Saudi Arabia made the announcement that they would continue their boycott of Israel. This seems to be very inconsistent with membership in the World Trade Organization. Where do you see this thing going?

Ambassador PORTMAN. Well, it is a big concern of the United States, of course, because we worked with Saudi Arabia on the issue of their WTO accession and part of coming into the WTO is MFN treatment, in other words, nondiscriminatory treatment for all members. Saudi Arabia did not, when they joined the WTO, invoke non-application with regard to Israel or anybody else. So, as far as we are concerned, Saudi Arabia is required under the WTO to provide that kind of treatment to all the members of the WTO that they have agreed to.

We have been monitoring this situation on the boycott. We have raised this with officials there in Saudi Arabia. We have received assurances from Saudi Arabia that they will abide by their WTO commitments. In addition, Mr. Shaw, I am able to tell you today we are sending a team of experts from the Departments of Commerce and State to work with the Saudi government on boycott issues as they affect U.S. companies. In terms of who might have a legal right, Israel is a member of the WTO, rather than the United States would have that legal right, but again, we have raised it with the Saudis and they tell us they will follow through on their WTO obligations.

Mr. SHAW. My time has expired. Mr. Levin?

Mr. LEVIN. Thank you, Mr. Shaw, and welcome, Mr. Ambassador. Just two quick comments so that we don't lose the forest for the trees, which I think sometimes happens in trade issues. There are so many very specific issues. I hope as we talk about this, we don't lose sight of the impact of the trade deficit. It is not sustainable, and your work only relates to part of it. I was looking over a chart recently. There really are no magic bullets in trade. Some of the FTA partners of recent times have seen their surplus with us increase. In other words, our deficit has increased, not gone down.

Secondly, Mr. Rangel raised the issue of international worker standards, core labor standards, and I simply want to say that it is really part of a larger issue of the impact of globalization. Trade isn't simply a commercial issue, the flow of goods no matter how they go, but it is part of a much larger issue and trade is so much a part of the impact of globalization. So, when we talk about workers, we are talking about one component of larger issues of the impact of globalization, and that is so compelling, for example, in Latin America, where I was recently, where there is a turn against

globalization because people feel they haven't benefited from it. So, when we talk about trade issues, I hope we keep in mind it is part of a larger context of globalization, and that is true of worker rights. It is not a narrow focus.

Let me ask you three quickies together so you can answer. On China, you issued your report yesterday. You mentioned how hard-fought the PNTR was. There were two aspects I want to refer to. One was the transitional review mechanism. We provide for an annual mechanism. Mr. Ambassador, we haven't done well with it. It hasn't worked, and the GAO said that. I would welcome your comment. Secondly, we put in there a general safeguard, the 421 safeguard. Four times out of four, the administration has, even though the ITC said there was a reason to use it, this administration has said no. Secondly, on Korea, I am glad you talked about the non-tariff barriers. You sent us a letter just a few days ago saying, "I agree with you. It is critical that we include NTBs as an integral and equally important component of the Doha Round." In the opening remarks with Korea, there wasn't a single reference, as I read it, to the automotive sector. It is two-thirds of our trade imbalance.

Last, on dumping, it was not so long ago, I guess six months ago, you said, at the Doha Ministerial Conference, U.S. negotiators insisted upon and obtained a mandate under which the effectiveness of our trade laws will be preserved. Now, at Geneva, and before that at Hong Kong, there was agreement for a very general negotiation of the anti-dumping rules and it is hard to reconcile that when we were assured way back at Doha that what we agreed to was not a broad negotiation. So, if you could touch those three things, China, our failure to use the annual review and the safeguard, Korea and the anti-dumping. Thank you.

Ambassador PORTMAN. Thanks, Sandy. Let us start with China. You are right. Under the PNTR, we did set up this mechanism. Perhaps we could use it more effectively, and I just asked Tim to look into that, Tim Stratford, who you know is a new Assistant U.S. Trade Representative for China who has got a lot of good experience he brings to bear on this. In terms of the safeguards cases, we talked about the textiles safeguards, which is separate from the 421, but we did get that as part of the accession. We have been pretty aggressive there, both in invoking the safeguards and in using that as leverage to come up with what I think has been a good agreement and widely applauded by our industry on both sides, which is unusual. In terms of 421 cases, you are right, we have not taken a 421 case forward yet. We have had, I think, four and the most recent one was steel tubes. That is the one I got involved with more and worked with Phil English and you and others on that. At the end of the day, the analysis from the ITC was so clear that there were third countries that would be providing the same product at low cost that it would not have the benefit for the domestic industry that would have made the safeguard invocation appropriate. That is basically how the analysis came out.

It does not mean we are not going to use 421. When the facts indicate that it is the appropriate channel to take because there is a determination of a need based on a surge for a safeguard, we will use 421, and I in particular will take a very careful look at it. On that one, we did spend a lot of time looking at it. With regard to

Korea, you are right about the automotive sector, and you and I have talked about NTBs in relations to Doha. We are the ones who keep putting that on the table, by the way, and insist on it. I don't think anybody else among the membership has a particular interest right now, and so we are trying to generate more interest in that. But we are holding firm that it has to be part of the overall reduction of barriers, not just the tariffs which we talked about earlier, but also, as I mentioned in my remarks, the non-tariff barriers, particularly in the automotive sector. With Korea, it is one of the major items on our list to be negotiated. I don't know if I neglected to mention it at the launch. That is what you are indicating. I shouldn't have if I did, but it is very much on my mind and on the minds of the Korean negotiators, more importantly.

Mr. SHAW. The time of the gentleman has expired.

Ambassador PORTMAN. Let me just, if I could, just quickly on dumping, because this is an issue I know a lot of members have a concern about. The effectiveness of our trade laws be preserved is the general issue that we have fought hard for, and for a while, we were kind of in this defensive posture. You were there in Doha. You saw it. It was sort of the United States against the other WTO members. That has changed, and all I can tell you is you didn't see anti-dumping raised as a big issue in Hong Kong and there was a reason for that and that is the U.S. has engaged and engaged aggressively on this. We have put a number of proposals on the table, in fact, which we had not done initially. We were more in a hunkered down defensive posture and now we are more on the offense and we are talking about due process, we are talking about transparency, we are defending the system that we have in place. Frankly, other countries are beginning to look at our program more objectively rather than to just say, gee, the U.S. must be abusing this process. We are not. We have a very transparent, open process. We have one that follows due process. Not all countries do that, including some that have complained about our system. So, that is going to be the approach we will continue to take to end up with something that may change the way we must implement some of our laws, but will not change the effectiveness of our laws, and I would even argue could improve the effectiveness of our laws. That is our objective.

I would be happy to give you or any other members who want a more detailed briefing on this. We do have someone on our team here that follows this very closely and also, of course, in Geneva, we have someone who is exclusively focused on the rules issues, and then the Department of Commerce, led by Frank Lavin, who is the new Under Secretary, have taken on this issue. In fact, I asked Frank to take the lead in Hong Kong, meeting with countries all throughout the membership, and I think that is one reason, again, by our focusing on it and pushing it and being proactive rather than sitting back, we were able to see that not be raised as an issue against the United States.

Mr. SHAW. Mrs. Johnson?

Mrs. JOHNSON. Thank you, Mr. Chairman, and welcome, Ambassador Portman. It is very good to hear these last remarks of yours that we are taking a far more aggressive and proactive stance. As the most open market in the global trading system, it

is very important that we preserve our defensive laws against unfair trading practices by others. I also want to thank you for the very close working relationship you are developing with the Foreign Commercial Service and embassies, particularly in China. You haven't had a chance to touch on that, but that is extremely important. It is very important to me because our embassy and our Foreign Commercial Service officers have been extremely helpful to small manufacturers in my district that don't have the resources of some of the global manufacturers at their own personal disposal, and so they have had a lot of help in dealing with finding partners, trustworthy partners, and finding both a market for their goods and a way to reduce their own costs in America.

But I do want to ask you to talk a little bit more about this problem we have with Airbus. I was absolutely astounded in 2004 when some of the E.U. member states put on the table new subsidies for new Airbus products and they covered the waterfront. They were launch aid subsidies. They were grants and government-provided goods and services to develop, expand, and upgrade Airbus manufacturing sites. They were loans on preferential terms, forgiveness of debt from past launch aid, development financing, equity infusions, grants. It is sort of appalling when at the same time they were frustrated with our failure to change our law in a way that is very costly to some of our biggest global competitors, which we did do and which they now have just yesterday ruled is non-compliant. But I see sort of a foot-dragging here, and the idea that the interim report due in November may slip is very concerning to me because if you look at the whole history of subsidies in this area, it is quite astounding, the degree to which governments outright and publicly announce subsidies to Airbus. So, where is this? Is this as slowed down as it appears to be from the rough summary in your notes?

Ambassador PORTMAN. Well, two things. One, I hate to tell you, but the Welsh government has now announced its intention to provide direct trade-distorting launch aid, which is one of the reasons that we went forward with the new filing that you followed, I am sure, a couple weeks ago in Geneva in the WTO. We also believed it was necessary to make the new filing to be sure that we were including all of the various claims that we would have on a process basis. There were some procedural deficiencies that we thought we needed to address. So, we have refiled and some have said, well, that might delay the decision. I hope not. I share your concern. I think we need to move forward and move forward aggressively.

At the same time, Mrs. Johnson, we are always open to discussions and to a negotiated solution. That, to me, would actually be the preferred option, but it is only possible if the E.U. is prepared to eliminate all forms of market-distorting launch aid that E.U. member states have given Airbus to help it develop and to produce new aircraft models, and that is not something they are willing to do at this point. So, in the meantime, we must move, and I think move aggressively on the litigation front to protect our rights. We have told the European Union that we are willing to put on the table the subsidy issue on both sides of the Atlantic. We believe

strongly that we have a strong case and we will continue to pursue that case.

Mrs. JOHNSON. Thank you.

Mr. SHAW. Mr. Cardin?

Mr. CARDIN. Thank you, Mr. Chairman and Ambassador Portman. Let me go back, if I might, first to the Doha Round. As I said in my opening statement, I applaud your leadership and am disappointed in the leadership among our trading partners. I want to underscore the point that Mr. Levin made on our anti-dumping and countervailing duty laws, and I appreciate your statements. I think that we have got to be extremely careful that we don't get ourselves in a position where we have no friends and find that we are compromised on our laws where we should be strengthening them and not weakening them. I want to also talk a little bit about services, because I am concerned that with the new approach that was taken in Hong Kong, which is using this collective approach where countries of like minds are trying to come together with some proposal on services, could be a race to the bottom rather than to the top. I just wanted to get your observations as to where our expectations are on the services and to allow you a little bit more time if you would like to comment on the anti-dumping and countervailing duty laws and the rules agenda within Doha.

Ambassador PORTMAN. Thank you, Mr. Cardin, and I share your concerns with regard to services. As I said at the outset, or in my prepared remarks that you have before you, services is extremely important to the United States. This is something where we have a comparative advantage. It is also very important to Europe and it is a place where the E.U. and the U.S. should be able to work together, even as we have not been able to work together on the agriculture areas. We also have a very strong working relationship with India. In fact, India and the United States co-chaired a services working group in Geneva and services is extremely important to the development aspects of the round because it helps modernize economies through things like telecommunications, financial services, express delivery, and so on. So, it is a very important part of the round. It is more difficult to get at because it doesn't relate to this quantitative measure of tariffs. It is more like the non-tariff barriers that Mr. Levin and I were talking about. So, it is caps, it is cross-border restrictions, it is regulations. What I think we achieved, I hope we achieved in Hong Kong—it certainly was our intent—was a more effective way to get at it through this what I call plurilateral, where you have these members, WTO members that have like interests, similar interests coming together——

Mr. CARDIN. As long as those interests are to open markets and not restrict markets.

Ambassador PORTMAN. I see what you are saying, but it has worked in the past and, you know, I would refer you to the telecommunications successes we have had on sectors where you get countries working together, importers, exporters, where you have an interest, and you are able to make more progress and almost leapfrog the overall general formula that you might come up with. That is the idea here. We will know at the end of this month because we will have the results in from the revised offers. The initial

offers, which were bilateral, were not satisfactory from our point of view, nor were they from a number—from the E.U. or the Indian point of view. So, I am hopeful that this process will work better, but we are going to really push on that. I also think we ought to have a mini-ministerial meeting just on services.

Mr. CARDIN. I appreciate that.

Ambassador PORTMAN. That is something that Peter Mandelson offered and I think it is a good idea.

Mr. CARDIN. I think that would be helpful. Let me just move on quickly to the FTAs because I think we have a model with Bahrain that worked and I just really want to underscore the point that you and I have gone over on international labor standards. Our concern is when we are dealing with countries that we have trade preference laws currently, where we allow certain preferential treatment of their imports and a commitment to meet international labor standards, that we move to an FTA and we don't have in the FTA laws that are adequate to ILO standards, that we are actually moving backward. You and I have talked about what we can do and what we can't do and I personally believe we can adopt international labor standards and core agreements.

But I would urge you on the labor front that the trading partners who want FTAs with us need to comply with international labor standards, not their definition of it, but objective, independent definitions, and, of course, we are willing to work with our staffs to make sure that there are no misunderstandings in that regard. The last point, I want to compliment you in one aspect on Peru, and that is it does not contain sugar. I know a lot of people are going to talk about sugar and I know that is an issue that comes up frequently, but I do believe that in the agriculture areas, we are better off dealing with these on our policies either on the agriculture bill or in the WTO. I just wanted to point that out and was pleased to see that that was not included in the Peruvian agreement. Thank you, Mr. Chairman.

Ambassador PORTMAN. A couple of things. One, with regard to sugar, I don't think it is going to be an issue because there is so little sugar, but there is a little bit of sugar, roughly 10,000 tons——

Mr. CARDIN. But there are other Andean countries where that could become more of an issue.

Ambassador PORTMAN. Exactly. Exactly. I happen to have miraculously before me here a letter from the American Sugar Alliance talking about the FTA with Peru consistent with what you are saying. It says, "In consequence of the care shown by the administration in fashioning these provisions, we are pleased to support this agreement," which has not been the case, as you know, in other agreements, including CAFTA, where we have had some sugar imports that were increased. So, I do appreciate your comment on that, but I just wanted to make clear there is some increased sugar, but it is minimal.

Just quickly on anti-dumping, let me just, in response to your and Mr. Levin's, if I could just for a second, Mr. Chairman, here are some of the proposals that we have made. I mentioned transparency and due process. We have also made proposals on

strengthening subsidies disciplines, which is in our interest; stronger rules against circumvention, which is something we think we do better than a lot of other countries on trade remedies; and abusive new shipper reviews. So, again, instead of being in a defensive posture, I think we have got some good proposals on the table that actually make sense to help strengthen other disciplines around the world that affect our exporters. I feel better about the dynamic of that negotiation in Doha as a result.

Finally, on labor, I do appreciate your comments here and look forward to working on that. I have got more comments that we talked earlier in the library about, about why we are where we are with TPA, but I will just say that I appreciate working closely with you and Mr. Rangel and others on Bahrain. I do think we can make progress and not move backward on each of these agreements. I think we have.

Mr. SHAW. I would like to voice agreement with the gentleman from Maryland, the ranking member on the Subcommittee on Trade, that the new Commerce report that came out just yesterday is showing that our sugar program is actually costing us jobs as companies are moving out of this country into other areas because of the high price of sugar in this country and it is something that we need to come forward and take a close look at. Mr. Herger?

Mr. HERGER. Thank you, Mr. Chairman. Mr. Ambassador, it is great to have you with us. Thank you for the outstanding job that you are doing in an area that is so crucially important to not only the economy, the entire United States, but particularly of importance to our agricultural communities that I represent. With over $27 billion in farm value and 250 commodities, California leads the nation in agricultural production. According to a November 2005 report by the University of California Agriculture Issues Center at U.C.-Davis, in 2004, for the first time, California had agricultural exports totaling over $8 billion, much of which originated in my home district, including almonds, dairy, rice, beef, dried plums, peaches, just to name a few.

Understandably, of primary importance to our region is the improvement of global market access for California agriculture, whether through bilateral trade agreements or the continuing Doha Round negotiations. For example, through the recently announced U.S. CREA–FTA, we have a real opportunity to expand market access for California agriculture, 4 percent of the State's total in 2004, through reduced tariffs and liberalized import policies. Of course, there are still obstacles to overcome, such as the reluctance of the Koreans to discuss rice market access. Mr. Ambassador, could you maybe discuss this problem we are having with Korea concerning the rice and some of the other crops that face higher applied tariffs, such as our tree nuts?

Ambassador PORTMAN. Thank you, Mr. Herger, and let me thank you for your strong support of our agriculture export interests. You have been a leader on that in the FTAs but also in Doha. I think with regard to almonds, you are looking at about 70 percent of the product now being exported, if I am not mistaken, so it is a huge interest among so many of the growers. Most of those products you named in your district, by the way, received little or no subsidy, so for them, what they are looking for is a level

playingfield out there where they can compete fairly, and it is not fair now. The average tariff is 62 percent globally in agriculture. Our tariffs in this country, on average, are 12 percent. I don't think that is unfair for us to ask for that and I think we can do it through bilateral, regional, and multilateral efforts and I look forward to working with you continually on that.

With regard to Korea, you are right, it is a huge opportunity for us. It is our seventh-biggest trading partner, but I believe it is now our fifth-biggest agriculture market and the potential is enormous because they have significant barriers in place. Even though it is a big market already, significant barriers are in place, so there is a lot of potential for California agriculture and agriculture around this country. We, as you know, in our FTAs require a comprehensive agreement. We have the gold standard in Free Trade Agreements. I know sometimes they get controversial here in the halls of Congress, but I will tell you, around the world, people look at our FTAs as being the most comprehensive, the most difficult, frankly, because they require the most market access, and with regard to Korea, we didn't launch this FTA without Korea acknowledging that and understanding that and that means it covers agriculture. We haven't gotten to the point of negotiating yet because we have the agreement up here on the Hill and we have to wait a certain number of days, 90 days, before we can start the intense negotiations, but we are poised to do that, including with our agriculture negotiator.

I want to take this opportunity, if I could, Mr. Herger, to introduce Dick Crowder, who you already know, but Mr. Crowder is our new agriculture negotiator as of a couple of months ago. Through the Senate process, he is confirmed. He is an ambassador. He negotiates for us. He got back from Europe just yesterday. He was the chief negotiator for the United States back during the Uruguay round when this function was actually at the Department of Agriculture. He has got a lot of experience in the private sector and we are delighted to have him on board. He is tough and he focuses on exactly what you are talking about and he will be very involved in this Korean FTA. In fact, he has made some comments about the Korean FTA which have been picked up by the media in Korea and here and the comments he has made have been basically the obvious one, which is we have comprehensive agreements that include agriculture and it is going to have to be dealt with, including rice.

Mr. HERGER. Thank you. Would you mind commenting on beef and restoring access to beef to Korea?

Ambassador PORTMAN. Well, as I said earlier, we have made some great progress just in the last couple of months on beef. We hope to make some more progress in the next couple of months with regard to a number of different countries. Japan was a step forward, then a step back. We are hoping to be able to restore that market soon after what I am sure will be a very comprehensive and objective report by the Department of Agriculture. With regard to Korea, and before we launched the FTA, there was a decision made on the basis of science in Korea to expand the U.S. beef market there for the boneless product. Boneless beef is our largest export and it is an important accomplishment for our cattlemen. It

was for cattle 30 months and younger, which is the international standard, the OAE standard. We were very pleased with that.

What we are still seeking, though, after commending our Korean trade partners for this opening is that the bone-in product, including short ribs, also be included. We believe that the science supports our position strongly. We believe that even the more recent decisions that have been made here in the United States with regard to certifying the bone-in product support our decision, and we believe that the international standards support the position that we have taken. So, we are hopeful that through the process of additional discussions and focus on science and focus on the international standards, we will be able to open the market even further in Korea. But we are very pleased that prior to the launch of the FTA, we were able to get a significant opening with regard to the boneless product.

Mr. HERGER. Thank you very much.

Mr. SHAW. The time has expired. Mr. McDermott?

Mr. MCDERMOTT. Thank you, Mr. Chairman. Welcome, Mr. Portman. It is good to have you back. We hope we can work together on some bipartisan issues around Africa and other things, but I want to ask you a kind of a philosophical question. Recently, our trade policy with Cuba came into focus when the Treasury called down to some hotel in Mexico City and said, you can't have American businessmen meet with Cubans in your hotel. Was that kind of thing cleared through you or do they just operate like that, sort of independent of you?

Ambassador PORTMAN. Dr. McDermott, I am not aware of the meeting or the U.S. government action there, but I will say that, as you know, this is not something that is handled within USTR. It is handled within Treasury in terms of the specific issue that you are talking about with regard to the sanctions, or the State Department with regard to our policy. So, they didn't nor should they have cleared anything with me.

Mr. MCDERMOTT. Did they, when they made the State of the Union speech, ask you anything about the oil business at all? I notice that the president or the vice Chairman of Chevron just went out to Jeddah in Saudi Arabia and said, "I don't think anyone actually believes the United States can end its dependence on oil in the Middle East at all. Frankly, I think these comments reflect some misunderstanding of global energy supply." Was that cleared with you?

Ambassador PORTMAN. That comment?

Mr. MCDERMOTT. Well, no, not the comment——

[Laughter.]

Mr. MCDERMOTT. —the President's speech about we are going to reduce by 75 percent our dependence on Arab oil, Saudi Arabian oil.

Ambassador PORTMAN. No, but I wouldn't expect it to be. I will say, I mean——

Mr. MCDERMOTT. Well, how does——

Ambassador PORTMAN. You raise an important issue because oil is a big part of trade, in fact. If you look at our deficit numbers this year, which are unacceptably high, and we can talk about the relationship to trade policy, which as Mr. Levin said, it is more

complicated than that, it has to do with a lot of factors, but oil represents, I think, 60 percent. Sixty percent of the increase in our trade deficit from last year to this year was oil.

Mr. MCDERMOTT. That is why I am raising this question——

Ambassador PORTMAN. I mean, that is a significant amount of trade.

Mr. MCDERMOTT. —because it seems to me that we sit here talking. I have been on this Committee as long as you were and before that, actually. I have been here 16 years and I have listened to guys come in from this office over and over again and tell us, next year, it is going to be better in the trade field, and every year, it is worse. We are up to $700 billion and who knows where it will be when you are all done. Then I read a little something in today's newspaper which I sort of wonder what this mean when it says, "Syria Switches to the Euro Amid Confrontation with the United States." Now, if they switch to the Euro and then maybe the Iranians switch to the Euro, tell me what that means in trade terms if people that are trading with us start switching from the dollar to the Euro. How does that affect us? I mean, is it meaningless?

Ambassador PORTMAN. Probably not. Let me just say, I will not be one of those people who comes before you and promises the trade deficit will be less next year. I won't do it.

Mr. MCDERMOTT. You will not?

Ambassador PORTMAN. I will not, and I will also not tell you that it will be more. I think there are lots of factors that affect it. Every economist I talk to tells me the same thing, which is, in varying degrees, there are factors like the one you just mentioned, which is currency or monetary policy or other macroeconomic policies. We mentioned in the pre-meeting the savings issue and the consumption issue and the gap between savings and investment. In this country, we have low savings. In China, very high savings, up to 50 percent. Those are very important factors in terms of how the trade balance ends up. So, as I said to you previously, it could be we do all the right things in trade policy and actually increase exports as a result, which is a more important barometer, and still the trade deficit might go up, or it might go down next year, which a lot of economists are predicting.

Mr. MCDERMOTT. Well, then explain to me what I say to my constituents, because this is the dilemma many of us have. I go home and they say, we have got two huge deficits in this country. The Treasury is in the tank, borrowing money all over the world, and our trade deficit is out of sight. Some people think this is unsustainable. Actually, some people with economics degrees are saying things like that. How do I explain the fact that the Trade Office comes before us and says, there isn't really much I can do about the trade deficit. I am just here negotiating with folks back and forth about cotton or, you know, whatever. What do I say to my constituents to make them not worry about that $700 billion trade deficit?

Ambassador PORTMAN. Well, Jim, I would tell them a few things, and you may not want to hear this, but this is what—you know, only several months ago, I was in your position, and one is that I think it is a concern, more mid- and long-term, and it is a question of sustainability or durability of a large imbalance in the

current account deficit. But I would also tell them two other things. One is the trade deficit is not an indication of our economic strength. Look what has happened in the last year. We have added two million jobs to this economy. We have grown at 3.5 percent, the envy of the developed world. We have gone from 5.2 to 4.7 percent unemployment. The strength of the U.S. economy, in fact, is a factor that is pulling imports here. In other words, as our economy grows in strength——

Mr. MCDERMOTT. Can I just add one fact?

Ambassador PORTMAN. —the trade deficit goes up.

Mr. MCDERMOTT. Could I just add one fact for you?

Ambassador PORTMAN. Yes.

Mr. MCDERMOTT. That is that wages in this country actually dropped last year.

Ambassador PORTMAN. Well, it depends on what analysis you look at. I——

Mr. MCDERMOTT. So, the people that are living in my district are really excited about these graphs that go up——

Ambassador PORTMAN. Yes.

Mr. MCDERMOTT. —but when their paycheck doesn't go up, they think there is something wrong.

Ambassador PORTMAN. I would just tell you, if we didn't have, and we talked about this at the outset, the more open trade philosophy that we have relative to the rest of the world, those wages would go down even further because wages have improved as a result of trade. You have been an advocate of trade. You understand this. But I think it is something you need to explain. It is not the best barometer. During the depression, we had a nice surplus. You know, during recessions, we have had nice surpluses in terms of trade. So, it is not a direct indicator of the economy.

A final point is, in terms of what this guy Portman can do or not do per your comment, I am not telling you that it doesn't have an impact. It does, and it is definitely in our economic interest for us to encourage exports and be sure imports are fairly traded here. It is the right thing to do and it does have an impact on the deficit, but I don't want to mislead you or mislead your constituents by saying it is the silver bullet, because the macroeconomic factors, the currency issue you talked about—switching to the Euro might, incidentally—I am not an economist, so I should be careful here, but it might actually have a positive impact on the trade deficit. But would that be positive for our economy? I don't think so. The strength of our economy is, in part, reflected in the fact that people want to invest here and invest in dollars. But I have gone beyond time, so that is my advice to your constituents. Thank you.

Mr. SHAW. The time of the gentleman has expired. Mr. McCrery?

Mr. MCCRERY. Thank you, Mr. Chairman. Ambassador Portman, welcome, and I know this is not your bailiwick, but my information is that, in fact, after-tax real wages have gone up in this country, not down, and that is to me the best measure of what gets in the pockets of American workers. But now getting to your bailiwick, I want to compliment you for the work that you did to get China to revoke its anti-dumping duties on kraft liner board from this country. It is a very, very important decision for our do-

mestic industry and you were very critical to that decision being made by China. I was wondering, in light of the controversy when we were trying to decide whether we should support China's accession to the WTO, if you might want to use this as an example, along with some others, maybe, to point out the value of having China as part of the WTO and perhaps use this as a lesson for future considerations of countries entering the WTO.

Ambassador PORTMAN. Mr. McCrery, that is a great point and I appreciate it. I did raise it earlier and mentioned you and I talked about it, but this is an opportunity for us to use the leverage that we have obtained by China's accession to the WTO. I mean, it is a great example. Without having the WTO case as a threat, we would never have gotten this resolved, and you are right, it was the best result for the U.S. industry because they actually rescinded their order rather than a year and a half of litigation, probably another 6 months for appeal, and then the remedy being we could retaliate by increasing tariffs on Chinese products, which, depending on what products we chose, could also raise concerns and hurt our consumers and prices and choices.

So, I think we need to use these international mechanisms we now have with China more effectively and it is our intent to do that, but this is a great example. If we had brought the WTO case, I would probably be getting more plaudits from this Committee and particularly from some members who have been critical of USTR for not being tough enough on filing WTO cases. I am telling you, I am so glad we didn't have to file the case because we got a better result for U.S. commercial interests and we opened up a market, a product that comes from 14 of your States that is very important right now in our trade with China. By the way, our exports increased in China over 20 percent again last year, the third year in a row, making it our largest big market, export market for the United States, the highest growth. So, I think it is a good example and I think it is one that shows that we do have some leverage that comes from that accession.

Mr. MCCRERY. Just explain a little bit more as to why China's being a member of the WTO gave us leverage.

Ambassador PORTMAN. Well, specifically in this case, we would not have had the ability to take them to the WTO, so they would have been in a situation, as other countries are now, Russia is an example, where we don't have the ability to go to the WTO and to file, in this case, an action against something which we believe was WTO illegal, which was an anti-dumping order against our products, which we believe was a protectionist move that was not consistent with their WTO commitments.

But even more generally, Jim, as you know, there are a number of disciplines within the WTO that relate more generally to trade that are very helpful to us and these have to do with things like procurement. That is why we want China to get in the government procurement agreement in the WTO. TRIPS, we talked about, intellectual property. That is why we were able to do this Article 63.3 invocation with China on intellectual property and why we are able to, with regard to intellectual property, talk about the WTO possibilities. So, there are a number of different areas where we benefit, and I see it now more clearly than ever, being in this position,

where it is in our interest to have them in the WTO in a rules-based system.

Mr. MCCRERY. Do we win most cases we bring to the WTO?

Ambassador PORTMAN. Our actual averages, in terms of offensive cases, we win most of them. In terms of defensive cases, I don't know if it is 50 percent. Jim, what is the number? Our track record in the WTO has been pretty good, in part because when we take a case to the WTO, we feel we have a pretty good shot at winning it, and that is one of the criteria that I would use going forward, as I talked about earlier. We have a 56 percent win-loss record when you combine offensive and defensive cases. On offensive cases, we have won eight and lost one. On defensive cases, we have won 12 and lost 15, for an overall 20 to 16 record, 56 percent. In the Clinton administration, it was similar, 54 percent.

Mr. MCCRERY. So, bottom line, our experience in the WTO has been that our participating in the WTO has helped us with enforcing trade laws around the globe. It helps our ability to trade and open markets.

Ambassador PORTMAN. Yes, it does. One thing, we can talk about figures, which are important and I am happy to go through that, but there is also a qualitative measurement here. On anti-dumping, for instance, some have said they are concerned because we have lost some WTO cases related to our trade remedy laws, countervailing duties or anti-dumping. When I look at these cases, on the core issues, we have actually won most of them. So, it is not just the win-loss record. I think you need to look behind that and see, what is the real meat of the matter?

For instance, in the Canadian lumber dispute, which has been a very tough one and it has been litigated to death, as I have said on occasion, with regard to the fundamental issue of whether the Canadian practice with regard to stumpage, which Wally Herger and others have been very involved in, and you have been involved with, the WTO upheld the fact that it was a subsidy. That was a core issue.

So, we may have lost on some extraneous issues—one example is we lost on one issue—I don't have the numbers here in front of me—and we had to reduce our tariff by something like in the range of 27 percent down to 24 percent. Well, that is important, but what was more important is in that same matter, we actually won on the core issue. So, you can both look at the win-loss record and the underlying issues, and there, I think an objective analysis would demonstrate that it has been to our benefit to have this rules-based system.

Mr. MCCRERY. Thank you.

Mr. SHAW. The time of the gentleman has expired. Mr. Lewis of Georgia?

Mr. LEWIS OF GEORGIA. Thank you very much, Mr. Chairman. Thank you, Mr. Ambassador, for being here. It is good to see you back in the Committee. We miss your wonderful presence in the Committee, but we greatly appreciate your service as our Trade Representative. I think Mr. Levin raised a point a moment or so ago and I am not sure you responded. With the growing globalization of the economy and trade of the community of nations and this growing sense of discontent and unrest when there is a

world-wide needing. What can you do to eradicate that or to diffuse it?

Ambassador PORTMAN. That is a good question. I think Mr. Levin was talking about Latin America, as I recall, and being down there and sensing some concern.

Mr. LEWIS OF GEORGIA. There is a feeling on the part of a large segment of the world population that they are being left out and left behind.

Ambassador PORTMAN. I guess what I would say is two things. One, I know that we have not done an adequate job in communicating the benefits of opening markets and in giving people opportunity. If you look at the data on Africa, for instance, and you look at those countries that have been relatively open—I talked about the services market earlier, or on agriculture products, which is very sensitive, but the countries that have been more open are the countries that have grown much more rapidly, and I can get you some World Bank data on this, but it is very compelling.

You look at countries that have been relatively open. They are the ones that have been able to raise the standard of living in their country, not just for the wealthy, and that is an issue is distribution of that gain, but to provide water and health care and just the basics. We need to hold that up more and hold up the countries that have made tough decisions to do that, particularly when they are democratic countries. That is what this MCC is about, John, is in part, this Millennium Challenge Corporation, the way you all now give money through foreign aid. Trade is one of the considerations and openness and, obviously, lack of corruption and democracy and so on and human rights. But we need to hold that up more in the countries that have done a good job, and in Africa, there are a number of examples. I think we need to do a better job of communicating what the benefits are of trade.

Second is with regard to something like the Doha Round, where I get involved with this issue a lot because I work a lot with the nongovernmental organizations, I will tell you, I think there is a little different attitude that I am perceiving, and maybe I am not picking up enough on the ground, but a number of the so-called NGOs, nongovernmental organizations, that used to be very anti-trade are now looking at trade differently. Obviously, they are very supportive of our cutting our domestic support in agriculture because they think that is a big negative to the developing country's ability to export their agricultural products, so they are pleased with that part of our proposal right now, so maybe they are feeling the United States has shifted its position somewhat.

But I find a number of these organizations now are not reflexively anti-trade. They are concerned about some of the distributions of the benefits of trade. They are concerned about some of the transition periods and so on. But they believe that trade is a big part of the answer. I will give you one example. I gave a speech recently on Africa and talked about the fact that Africa used to be about 6 percent of global trade. Now, it is about 2 percent. It has gone down. If we could increase that by just 1 percent, which I believe would happen under Doha even under a relatively unambitious Doha result, that would result in $70 billion of additional income to Africa per annum, per year. That is three times all of the dona-

tions to Africa from all of our aid money, assistance money, from the E.U., the U.S., Japan, and so on. It has a tremendous potential, and as a result, I see a little bit of a shift in terms of the attitude of some of the nongovernmental groups that have traditionally been anti-trade of saying trade is part of the answer.

Mr. LEWIS OF GEORGIA. Thank you, Mr. Ambassador. Mr. Ambassador, last week, the trade deficit figures for 2005 came out showing that the United States has a $726 billion trade deficit last year. This is almost double what it was at the end of the year 2000. Does this concern you?

Ambassador PORTMAN. It does concern me. I just talked for a moment with Dr. McDermott about it. I also made the point which——

Mr. LEWIS OF GEORGIA. Are you over-concerned about it?

Ambassador PORTMAN. Well, I don't think I am over-concerned. I think I am concerned more in terms of the mid- and long-term build-up, really, in the surplus dollars coming back here. I think our economy is very strong. I think, in a sense, a trade deficit——

Mr. LEWIS OF GEORGIA. Since my time is running out, do you have any plans, immediate plans, to do something about it?

Ambassador PORTMAN. Yes. I mean, our plan is—it will sound pretty simplistic, but it is to expand exports and to make sure imports are fairly traded and we are aggressive on it. I laid out a 2006 agenda for you a moment ago that is very sharply focused on opening up markets to our products because that will affect the balance of trade. But as I also said to Dr. McDermott, I don't want to mislead you to think that that is going to be the biggest factor in determining what our trade deficit is next year. There will be other macroeconomic factors, including currency, and the China currency issue is not within my bailiwick. I appreciate you are not pushing me on that, but that is a factor in trade, and these macroeconomic factors like how much we consume versus how much other countries like China save. We need to see some changes in policy, in terms of China of consuming more, more of a consumption economy. We need to see our economy save more, and we need to see a transition so there is less of a global imbalance. But no, I am concerned about it, John, and I think our plan in terms of trade policy is the right plan to try to get at it. I did mention that 60 percent of that increase this year was due to energy imports, oil in particular, and that is something that I hope we also will be able to get a handle on over time.

Mr. LEWIS OF GEORGIA. Thank you very much, Mr. Ambassador. Thank you, Mr. Chairman.

Mr. SHAW. The time of the gentleman has expired. Mr. Camp?

Mr. CAMP. Thank you, Mr. Chairman, and Ambassador Portman, good to see you again. I certainly appreciate your eloquent testimony today. I really appreciate your attempts in recent announcements to really promote a rules-based international trading system. I think that is what we all would like to see. I certainly applaud your recent announcement of a new Chief Counsel for China Trade Enforcement. I think that is the exact right direction to go. As you may know, I have introduced legislation, along with Representative Levin, to create a Chief Trade Prosecutor that would seek to enforce all trade agreements, not just those with

China, because we have problems, as you mentioned, with CAFTA and other countries that we need to continue to pursue, and I think we are not afraid of trade in this country as long as people play by the rules. What the problem is, we enter into agreements with countries and then they don't play by the rules and we have no way of leveraging that despite the successes you mentioned of the few cases that have been brought before the WTO, if someone was dedicated to that mission within your office, not just with China but with all countries. So, could you just tell the Committee why that logic that you are using with China should not extend to all countries and all trade agreements?

Ambassador PORTMAN. Well, with regard to China, as you and I talked about before, it is unprecedented. We have never had a country-specific enforcement focus like that. I think it is necessary, given the challenge we have as China enters this new phase now that it is fully a member of the WTO, and it is both with regard to its WTO obligations and its more general obligations that come with being a mature global trading partner. With regard to your legislation, I think it is consistent with what we are doing generally at USTR. I mean, I would hope my General Counsel, who is behind me here somewhere, feels that he already has that accountability and responsibility because I believe he does. There is also as an Assistant U.S. Trade Representative, as you know, who has the sole functioning of monitoring and enforcement. But I will look at that legislation. You and I have talked about it before. Now that I have been at USTR going on nine or nine-and-a-half months, I have a better sense of how it operates. We have, I think, roughly 22 lawyers in the monitoring area, is that right?—22, and they work their hearts out. They do a very good job and I hope that each of them feels that accountability that you are trying to be sure is at USTR through your legislation. So, I will take a look at the legislation, but I would hope that we already have that at USTR through the General Counsel's Office and through this Monitoring Enforcement Office.

Mr. CAMP. Do you think there is room for improvement in USTR's enforcement of WTO commitments and trade agreements?

Ambassador PORTMAN. Yes. There is always room for improvement. However, I do think, as I said earlier, that we have been very targeted and focused on results, appropriately. Sometimes we use WTO, sometimes we can settle something without going through the litigation process. As I said in response to Mr. McCrery's question, the notion of going through a costly and lengthy litigation process with an end result being retaliation or a similar remedy is not always as satisfactory to the U.S. commercial interests as getting a more expedited response, as we did with kraft liner board. So, to the extent we have gone to WTO, and it is always an option and it is always something that the USTR needs to keep on the table as an option, in a sense, we have failed to deliver something more tangible and immediate to the business interests.

Mr. CAMP. On another subject, I wonder if you could just give a brief update on how the Thailand talks are progressing, particularly with regard to the truck tariff issue and, obviously, the concern that an FTA would remove the tariff without reciprocal access

to the Thai marketplace for U.S.-produced vehicles, and I would just appreciate your comments on that subject.

Ambassador PORTMAN. I appreciate that, and I appreciate your correspondence with me on that. It is a huge issue, I know, in your State as well as in my State of Ohio. Two things. One, we have not gotten to that point in the negotiations yet. We still have issues with intellectual property rights, with agriculture. We are still working through some of the financial services issues. We have made progress on all those issues. In fact, we had a good negotiation about 2 weeks ago, two and 3 weeks ago in Thailand, and the Assistant U.S. Trade Representative who is conducting these negotiations for our office has made good progress, but we have not gotten to that point yet of negotiating on the access on automobiles or light trucks.

Second, with regard to Thailand, a concern that you have raised with me before is trans-shipment, in other words, other countries using that as a market and a platform to come to the United States. I think that is a very legitimate concern and one I am very focused on. Then finally, of course, was, you said, the reciprocal benefits. We have got to be sure that with regard to all these markets, and Korea was mentioned earlier, that we have access for our exports, auto parts and automobiles and, for that matter, to the extent we are competitive, light trucks. So, that will also be very much a part of our thinking.

Mr. CAMP. All right. Thank you. Thank you for your testimony. Thank you, Mr. Chairman.

Mr. SHAW. Mr. Becerra?

Mr. BECERRA. Thank you, Mr. Chairman. Mr. Ambassador, good to see you. Always good to see you, and thank you for the work that you do. I want to hit on this whole issue, talk more about this issue of our deficits because I don't think we are doing enough. I think the bottom line is, when you hit three-quarters of a trillion dollars in deficits when it comes to trade, where we are selling a lot less than we are buying, you can only pull out the government credit card so much before you finally go down the tubes. So, I do want to hit on that.

But first, I am intrigued. Give me a sense of something here. We are facing this $726 billion deficit, trade deficit. Our companies and our farmers are being shut out of key markets around the world. We are engaged, as you have mentioned in some cases, in at least seven bilateral trade negotiations in addition to the Doha Round. Yet, if I am correct, the President's budget cuts your office funding. So, my question, I guess, is, is this a case where the administration expects you to do better with less?

Ambassador PORTMAN. You know, I sort of——

Mr. BECERRA. Don't smile. Don't smile.

[Laughter.]

Ambassador PORTMAN. That would be like me asking my teenage son, do you think you are getting adequate allowance? I think I know what his answer would be, but that can't be my answer.

[Laughter.]

Ambassador PORTMAN. Let me say two things. One is, if you look at the budget over the last couple of years, Congress has, I think, wisely seen fit to increase funding at USTR and sometimes

for more specific targeted areas, like enforcement, and we are using that funding and using it well. I will tell you, I truly believe that we have got our budget in good shape. I think we are lean and mean. I think we are spending the taxpayers' money well.

Mr. BECERRA. So——

Ambassador PORTMAN. If you look at the budget from 2005 and 2006 and 2007, you actually will see an increase. The administration request for this year is more than last year.

Mr. BECERRA. Let me tell you, Mr. Ambassador, from $44 million to $42 million, $2 million won't probably have you lose those 22 attorneys you just identified, but it probably makes it more difficult for you. I have got to tell you, you see a $726 billion—billion dollar—trade deficit, I would rather give you a couple million more to hire the folks it takes to go out there and capture the $2.4 billion we know in copyright piracy we lost just in China alone back in 2004. Whatever it takes, we should do, because I know you want to do some good work, and I know that the folks that are with you are trying very hard. But the last thing we should do is strap you with insufficient resources to go out there and do the work to represent America's workers and companies well. So, I just hope that by the time that we have a budget in place, that you won't have to say what your son says with regard to an allowance.

Now, returning to the whole issue of deficits, all-time high, fourth year in a row that we are saying we hit an all-time high trade deficit. We have hit all-time high trade deficits with China, Japan, Europe, the OPEC nations, Canada, Mexico, South America, Central America. Some folks—let me read from an article in the Associated Press that says, "Trade deficits is a major factor in the loss of nearly three million manufacturing jobs since mid-2000, as U.S. companies move production overseas to lower-waged nations. Many economists believe those manufacturing jobs will never come back."

As I look at our trade agreements, Free Trade Agreements that we have entered into over the last, say, 20 years—and by the way, my 13-and-a-half years now in Congress, I have voted against only one trade agreement—in every case but, let me see, I am looking at about eight or nine trade agreements, in every case but two, we have seen our trade balance grow in deficit rather than surplus after we have struck these trade deals, whether it is Israel, Canada, Mexico, Jordan, Chile. The only exceptions there are Singapore and, in a very modest way, Australia, which we reached in 2005. But all but Singapore and Australia, we have ended up seeing our trade deficit grow with these countries.

So, I guess my point, and perhaps there is a little time for you to comment on this, my point is that it doesn't seem that this regime of striking these bilateral Free Trade Agreements with these countries is going to help us with these trade deficits, and so I hope we figure out—we declare victory real quickly and move on to a different way of doing things. Thank you.

Ambassador PORTMAN. Just quickly, if I might, Mr. Chairman, and I talked about this earlier, our exports have grown dramatically to our FTA partners, double what they have for the rest of——

Mr. BECERRA. But so have our imports.

Ambassador PORTMAN. Yes, you are right. In some cases, they have. Jordan would be an example of that, as you mentioned. Mexico would be an example of that. But I wouldn't——

Mr. BECERRA. Mexico, we have a 3,150 percent imbalance of what has happened since 1993. So, by over 3,000 percent, we are now buying more from Mexico than we are selling them as compared to 1993.

Ambassador PORTMAN. We have about, I think, a 120 percent increase in our exports to Mexico, too, which created a lot of jobs. All I would say is, in terms of—and I don't know where you got the figure on the manufacturing jobs—the Council of Economic Advisors did a study recently on this and analyzed our job market. We lose and gain a lot of jobs every year in this country. We had about a two million job gain in the last year, but we lost about 15 million jobs, we gained about 17 million jobs, and about two or 3 percent of those jobs are related to trade.

Mr. BECERRA. A very important area of manufacturing, we continue to lose, and as you saw from the recent news from Ford and General Motors, we will continue to lose it. That is where I think we want to work with you to see if we can turn that around, because those are pretty decent-paying jobs that Middle America has.

Ambassador PORTMAN. Well, again, the jobs related to trade are better jobs, though, and remember, if my figures are right, two or three percent of those jobs are related to trade, the jobs that we lost. Of the 17 million new jobs, 15 million jobs lost, those two million jobs gained in the last year——

Mr. BECERRA. Ambassador, I see a lot of "Made in China" labels on products that I am buying and everyone is buying. I know those used to be made by Americans.

Ambassador PORTMAN. Well, they may be made in China, but I will tell you that we are creating a lot of jobs through our exports, again, an over 20-percent increase in exports to China again this year, a huge market for us, and we need to be very careful to focus on the fact that trade is not something, again, that is a barometer of our economic health. We have gone from 5.2 to 4.7 percent unemployment in the last year. We have added two million new jobs. Now, you could do a lot of——

Mr. BECERRA. You can get a lot of things when you use a credit card——

Ambassador PORTMAN. —during our times of recession and certainly during the depression, we had huge trade surpluses. That is not an indication of our economic health, and that is my only concern here is we confuse the two, I think, which is why I am not promising, as Dr. McDermott said, I am going to promise to come back next year and this will make a difference. There are bigger factors here that relate to our deficit. In terms of our economic health right now, we are in great shape. One reason we have a relatively high deficit is we are in great shape compared to Japan and the E.U. We are growing twice as fast as they are, on average, and that results in more consumption here.

Mr. BECERRA. Thank you, Mr. Chairman, although I would have to challenge the great shape of the economy, in great shape when we have the largest deficits we have ever seen in this country's history.

Mr. RAMSTAD. [Presiding.] The Chairman thanks the gentleman from California, although I am sure I will be deposed soon in that I let you go 3 minutes extra. Mr. Ambassador, thank you. I just want to say you are doing a heck of a job, and as one who knows you well, I know I will never have to take back those words As you know, Congress recently passed and the President signed the repeal of the Byrd amendment, principally for two reasons. One, it was declared an illegal trade subsidy, and two, it threatened our position in international trade talks. Nobody in this room knows that better than you, Mr. Ambassador. Could you explain to the Committee exactly how the Byrd amendment affected your negotiating position, and could you also explain the reaction of the international community, the trade ambassadors you deal with from other nations, how did they react to the Byrd repeal and how did that repeal change the dynamic, change your posture in negotiations?

Ambassador PORTMAN. I appreciate your strong interest in the trade issue. I hear from you a lot—and I appreciate it—and I expect to hear more in the future on these multilateral issues as well as the regional and bilateral ones. On Byrd—as well as step 2, by the way, which was the agriculture program that relates to export subsidies for cotton. It was a very positive development for the United States in terms of the international trade talks. Significantly though, also recall that with regard to Byrd it was a matter of stopping the retaliation. One of my concerns is that not all of our trading partners have agreed to stop the retaliation because we phase out the Byrd amendment over time. So, I am disappointed that we didn't get more plaudits from them immediately, but they are not going to be able to retaliate once we phase it out.

That was significant for a lot of U.S. companies that are involved in exporting. So, it was the right thing to do in terms of our economy, it was the right thing to do in terms of our trade posture, and I know it was a tough decision for some members of this Committee. I appreciate the work you did on it, and initiating it, and I have specifically identified Chairman Thomas in this regard because it took courage to move it when he did and how he did, and I think it was the right thing to do for our economy and the right thing to do for trade policy. My answer would be that it was beneficial to our trade negotiating position.

Mr. RAMSTAD. Thank you, Mr. Ambassador. I was pleased to lead the charge, and you are right, without the Chairman of the full Committee, we couldn't have made it happen, and we got good bipartisan support certainly. Implicit in my question was the fact that, as you pointed out, it is not actually repealed until October 1 of 2007. I want to switch gears now, Mr. Ambassador. You described in your testimony—and those of us who work closely with you know that you are very much interested in seeking additional bilateral and multilateral agreements. As you also know, I believe, Mr. Jefferson, on the other side of the aisle, and I have sponsored a resolution calling on the United States to enter FTA negotiations with Taiwan. In fact, in the last Congress we gained 69 cosponsors to our resolution, which I think demonstrates significant congressional support for such an FTA. Today, in fact, we are going to reintroduce that very same resolution.

It seems, Mr. Ambassador, that Taiwan serves as an ideal candidate because it benefits the United States both economically and politically. It is the United States' eighth largest trading partner, and it has always been a stalwart supporter of United States foreign policy. I realize there are some problems that relate to intellectual property right protection. I know there are some improvements that need to be forthcoming on the part of the Taiwanese before an agreement is finalized, especially in the area of optical medical piracy. I would expect nothing less than a hard stance on the part of the United States in protecting American intellectual property. We all know how important that is. But it seems to me that those improvements could be discussed in the context of negotiations. My question is this, Mr. Ambassador, would you be willing to consider Taiwan as a potential FTA candidate?

Ambassador PORTMAN. First of all, Mr. Ramstad, I appreciate your leadership on that as well as other issues like the Byrd amendment. You talk about the importance of the Taiwan economy to the U.S. economy. We have a very strong and growing relationship. We also have some trade issues, as you mentioned. I do believe that we have seen some progress recently. Taiwan made improvements to its copyright laws, as you know, and we believe that they are doing a better job enforcing their laws. But we have a need, I think, to move forward with our trade discussion at a different level than the FTA at this point.

Typically, as many of you know, we work with these trade investment framework agreements first, TIFAs, and with regard to Taiwan, we had a TIFA discussion with them, which was productive, in 2004. It was the first one we had had since 1998, and I am pleased to announce today to you, Mr. Chairman, that we are planning another TIFA meeting in the first half of 2006. This is where we have this very serious and sometimes intense dialog on the trade issues and our concerns, and that will include the IPR issues I discussed as well as other issues. That will be the next step. We, again, have a very strong economic relationship. We will look at the same criteria we look with regard to other potential FTA partners, and we look forward to having a successful TIFA meeting the first half of this year.

Mr. RAMSTAD. Mr. Ambassador, let me thank you and your hard-working staff for your activist agenda, for your activist approach to knocking down trade barriers, to liberalizing our trade policy, finding those markets, and we need to continue that, and I applaud the good work you are doing. Thank you for your testimony here today. I ask unanimous consent to submit additional questions that I would like answers to, to the record. Without objection, so ordered. The Chair now recognizes the gentleman from Texas, Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman. Thank you for your service, Ambassador, and let me touch just on three topics that were not covered by your expansive testimony and your PowerPoint presentation. The first one is the environment. We could increase trade by millions of dollars if we permitted the import of certain endangered species, but we have, through many administrations, recognized that it wasn't worth the damage that was caused to add a few million dollars to our trade balance. This is just one example

of many of where our trade policy needs to be broad enough to consider more than just how many widgets flow back and forth across international borders. I am concerned particularly with the Andean agreements, with Peru and the other countries, that we have fully 25 percent of the biological diversity of entire Earth in the Andean region's tropical areas. There was, for example, a recent New York Times story about the immense danger to that region from expanding gold mining and other types of resource extraction that damaged the rain forest. We know that damage to the rain forest not only will damage a great source of potential future pharmaceuticals, but also can contribute to the near runaway crisis we already have with global climate change. In the FTA agreement to this point with Peru, am I correct in understanding that there is no enforceable provision to discourage the obliteration of the Andean rain forest?

Ambassador PORTMAN. Thank you for your question, and it is a concern. As you may remember, the Tropical Forest Conservation Act is something I offered here, and something Peru has taken advantage of, so I am somewhat familiar with that particular issue. The agreement we sent to you for your review did not include the environment provision. Since that time we have had a number of discussions, including with Senator Baucus, as you know has had a strong interest in this, and working with the interagency process we believe we have come up with something that would create a public submissions process, and independent secretariat to allow the nongovernmental organizations who are in Peru and other countries, some of the groups that are most knowledgeable about the issue of tropical forests and biodiversity to have access that they do not have now. So, that you would have, through the Free Trade Agreement, an improvement in the environmental situation there. I can get that to you. It, frankly, took us a little while to work through this in our process, and I am happy to sit with you and go through it with you, but in the meantime we will get you the documentation.

Mr. DOGGETT. I appreciate that.

Ambassador PORTMAN. Essentially what you will see now in the agreement is a place mark for it, but this would be something that we would like to pursue.

Mr. DOGGETT. I think the real question will be what kind of enforcement mechanism there is, a concern you have heard me voice before in this Committee. A second topic that I am concerned about is tobacco. Is USTR seeking to promote the sale or export of tobacco or tobacco products by reducing either tariff or nontariff barriers in Korea?

Ambassador PORTMAN. Mr. Doggett, I think we are treating tobacco just as we would other products. I will check on that. With Korea we have not, of course, come to that point yet because we are not beginning the negotiation yet. But on these other agreements, including some of our accession agreements, I know tobacco has been an issue. My understanding is that, again, we treat tobacco as we would other products, but I will get back to you on that. With Korean, we have not entered that phase of the discussion yet.

Mr. DOGGETT. Specifically because of the unique agreements that we have going back to the Reagan administration when they were promoting tobacco overseas in 1998, I would also appreciate your responding concerning whether we will continue to require Korea to consult with us in advance before it changes tobacco taxes or its restrictions on advertising and promotion of tobacco products. A third area, another one you have heard me raise here in the Committee before, is the investor state mechanism. As you know, there was no investor state mechanism included in the Australian trade agreement. Is it your plan to seek an investor state dispute provision that would perhaps accord foreigners more rights than Americans in your negotiations with Korea?

Ambassador PORTMAN. Again, we are not at that stage yet, but I think if you look at what we have done in other FTAs, including in the Central American-Dominican Republic Free Trade Agreement, I think we ended up with an investor state approach, which was consistent with our own due process, but did not give advantages to those, in that case, Central American entities that you would be concerned about. So, I guess I would look more at the model of CAFTA, which you may or may not be satisfied with.

Mr. DOGGETT. As you know, I am not, but you envision following the CAFTA model rather than the Australian model?

Ambassador PORTMAN. Well, again, we haven't gotten to that point yet. With regard to Australia, we were dealing with a developed country which had also a very developed judiciary and a system to resolve disputes. We are still in the process with Korea of analyzing that.

Mr. DOGGETT. In your comments on Korean on your Web page and the like, you present Korea as a very advanced democratic country——

Ambassador PORTMAN. It is.

Mr. DOGGETT. Is there less confidence in the Korean courts than in the Australian courts?

Ambassador PORTMAN. Not necessarily, not necessarily. We just are not at that point yet. Honestly, with Korea we have a 90-day requirement to give you the ability to consult with us, and this is what is going on today, and you and I will have this discussion on these two issues that relate to Korea going forward. Then I believe it is in May we are permitted to begin the intensive negotiations, and we want to be prepared to do that, so I want to have this discussion with you during this period of congressional consultation.

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

Mr. RAMSTAD. Thank you. The Chair would just remind the members that the Ambassador now has testified for 2 hours and 30 minutes, and would appreciate if members would stay within the 5-minute rule. The gentleman from Texas, Mr. Johnson.

Mr. JOHNSON OF TEXAS. Thank you, Mr. Chairman. Good morning, Rob. You know, in 1991, I understand that under the Andean Trade Preference Act, unilateral trade benefits were granted to Peru under conditional circumstances, and according to the law, I understand it makes clear that a benefiting country must not have expropriated property owned by a U.S. citizen of company un-

less the country provides prompt and adequate compensation. We have a company, Laterno, in Texas, from our district in Rowlett, that has been battling in and out of court with the government of Peru for about 30 years. Laterno built a 40-mile highway in the Peruvian jungle, and was supposed to be compensated roughly one million acres for the work. In 1970 Peru expropriated the property, and to this day refuses to pay the company. Peru committed to President Bush back in 2002 that this issue would be cleared up by February of 2003. Nothing has happened, and the Congress, you are about to ask the Congress to act on a free trade agreement with this country. I am sending you a letter on it, so I won't go into any more specifics. My concerns is simply this: by law, countries given unilateral trade benefits like Peru must not have expropriated property, and what amount of importance, if any, are you placing on cases like this before you enter into trade negotiations with offending countries?

Ambassador PORTMAN. Mr. Johnson, I am glad you raised the issue because we do have some investment disputes still with Peru. We have had some concerns about Peru. As you know, thanks to you encouraging me to do so, I met with Mr. Laterno personally, and your colleague, Ralph Hall, has also been corresponding with me on this and encouraged me to meet with him. What I am hearing is that the Peruvian government has now made a settlement offer. It may be less than Mr. Laterno and his company believes is appropriate, but at least they are talking and we have some offers on the table. I have been pushing this case, just as you would imagine that I would, because I want to get it off the table. I want to resolve it to the satisfaction of the U.S. interests here. So, we will continue to push it. We have a couple of other issues too with Peru that we are working on, but this would be—in my view, the FTA is an opportunity for us to get more focus and attention on that issue, and you will certainly have that in my office.

Mr. JOHNSON OF TEXAS. Do you intend to clear this up before you offer them free trade?

Ambassador PORTMAN. I would certainly hope so. I mean it takes the two parties being able to agree.

Mr. JOHNSON OF TEXAS. I am aware that Peru made that proposal, and it wasn't the result of a fair and impartial process I don't think, and I don't believe American companies ought to be pressured into accepting a deal that no other company would be expected to accept. I would just like to work with you on a reasonable outcome, and I know you will. Changing the subject, I was in Thailand just 3 weeks ago now, I guess. We discussed free trade with them. That was high on their list, and I want you to know that we told them that they needed to do some stuff too to make it happen. They thought—and we cleared it up—that the U.S. Congress could snap their fingers and it would happen, and, obviously, they wanted it tomorrow. But you know and I know that it is a long drawn out process, but I hope we helped you a little by telling them to get off the stick and do their end of the bargain as well. So, keep up the good work over there, and I thank you for being here today.

Ambassador PORTMAN. Thank you, Sam. Let me just say briefly—and you have heard me say this before—but I really appreciate that. I think members of Congress are under utilized in our trade

policy initiatives, including these FTAs. So, I encourage you to travel and I encourage you to check in with us. We try to keep track of where you are going and provide you the talking points, as I think we did in your meetings, but just to give you our point of view at least, and I hope that it will be your point of view in most cases. That is very helpful. You are right, most of these countries do not recognize the significant role that our legislative branch plays over here. I run into this all the time, and I believe it can be very, very helpful, so thank you for doing that.

Mr. JOHNSON OF TEXAS. Well, you helped us out. Thank you. Thank you, Mr. Chairman. Yield back.

Mr. RAMSTAD. The gentleman from North Dakota, Mr. Pomeroy.

Mr. POMEROY. Mr. Ambassador, it is great to see you again. When your predecessor would testify, I would be absolutely amazed at the grasp of what seemed like infinite detail that he held in his head, and I must say that you have been studying. You have demonstrated a very impressive mastery, you and the rest of your Department here this afternoon. Anyway, it is good to see you again, and congratulations on what a quick study you have been. I want to quote to you from today's CQ Today. This is an article, according to Saxby Chambliss, Senate Ag. Committee Chairman, "Chambliss noted he has been critical of Bush administration's trade policies in the past because he felt as though agriculture had been the sacrificial lamb in trade agreements such as NAFTA and CAFTA. However, he said, this has changed because we now have a U.S. Trade Representative, Rob Portman, who understands agriculture. Now we have got folks who are negotiating bilateral trade agreements who actually care about agriculture."

I ascribe to the remarks of my former colleague and the Senate Ag. Committee Chairman Chambliss. So, the expectations are high on your shoulders as you now seek to level the playingfield that U.S. agriculture finds itself in, as well demonstrated on these handouts. First I want to ask you about farm bill strategy. We have to build a farm bill in the next year. The WTO Round will not be over yet. It seems to me that if we are not very careful, we could be in a situation. We already stand at a disadvantageous position relative to Europe, and we structure our farm program shy of an agreement that actually amounts to unilateral disarmament before we sit down to the table. We are taking away ammunition that you might have relative to trying to negotiate some more level treatment in support of agriculture across the globe. Do you have counsel for us relative to the farm bill?

Ambassador PORTMAN. Thank you, Mr. Pomeroy. There could be another scenario, which is Congress could move ahead, which may in a sense be more likely in this environment, and not make the changes in the so-called amber box, the trade distorting subsidies, which might put us in an even more difficult position trade wise for whatever number of years that farm bill were in place.

Mr. POMEROY. Some of us think, Mr. Ambassador, we would be well served continuing our present structure until the round is concluded, and then we would know what target we have to shoot for.

Ambassador PORTMAN. I guess it is not in my interest necessarily to have raised that issue, but my conclusion would be the

same on both scenarios, which is, we need to work extremely closely together, and as you know, from our testimony and discussions in the Ag. Committee, where you said something which really impressed me, by the way, about the fact that you need to be in a position to walk away from these agreements, which we are, and we must be, and you are right. When we put our best offer on the table on not just agriculture, but on services, and we are the most ambitious and open trading player among the major players, and others do not come up with commensurate offers, at some point you have to be able to say, "Maybe this process is not one that is conducive to a good result." We will always keep that as an option. In the meantime, we are going to push really hard to get this resolved this year, so that you, when you are writing the farm bill, have in mind not a micro management of the legislative process but the parameters within which you can operate, not just to deal with the Doha Round, but also the potential litigation as we have seen with the cotton case.

Mr. POMEROY. My time is expiring here.

Ambassador PORTMAN. That would be the goal.

Mr. POMEROY. Thank you. Let me just—I was a little alarmed to see that the White House released a report from the Commerce Department saying that domestic sugar prices are costing the United States jobs, and they talk about the demise of the candy manufacturing industry, which has got really a whole range of reasons. The report also doesn't talk about the jobs created in the sugar sector, our agriculture and processing sector. So, we don't think it is a fair report. Now, up to this point you have indicated, and Secretary Johanns has indicated, that sugar would be deemed to be a sensitive product excluded from tariff elimination in the even this whole concept of tariff elimination for the least developed countries would proceed. Is that still the position of the administration? Is there something about this commerce, what we think of as an unfair Commerce Committee report that indicates some administrative shifting on treatment of the U.S. sugar policy?

Ambassador PORTMAN. No, I don't believe so. When you weren't here I talked about the American Sugar Alliance letter on Peru, by the way, and I appreciate the fact that they are working with us on these trade agreements, and I this case they have said that because we have shown some sensitivity they support the agreement, despite the fact there are some sugar imports as you know. With regard to the duty free/quota free issue, we worked closely with some of the same people who are involved in this letter and in other efforts, to be sure that they understood what we were doing. We didn't make any commitments, but we did leave enough flexibility there to cover some of the concerns that they had, and the letter doesn't reflect a change in our communication that we had with them with regard to that issue.

Mr. JOHNSON OF TEXAS. [Presiding.] The gentleman's time has expired.

Mr. POMEROY. Thank you. Mr. English.

Mr. ENGLISH. Mr. Ambassador, I would like to congratulate you on what I think has been a virtuoso performance today. I think one of the most detailed and impressive presentations of American trade policy that I have ever heard, and I found it to be most in-

formative. I will also offer you at least one insight from going back to the statement of the last questioner. I would like to congratulate the administration for being willing to take a nuanced approach to sugar issues, since I represent a State which is a State that uses sugar as part of the manufacturing process in a whole range of food products. I bring that out because I thought you would find it refreshing that I could find at least one issue where Pennsylvania doesn't bounce protectionist. Mr. Ambassador, reviewing your top to bottom review—and we are still in the process of doing it—I am disappointed in a small way that it doesn't point to the opportunity to strengthen the available trade remedy laws to the extent allowable under international rules, which I think is an obvious conclusion of the bulk of the report. There are opportunities to do that, I think, including adding applying countervailing duties to nonmarket economies, which as the Chairman noted at the beginning of the hearing, we have passed China-specific legislation out of this Committee, H.R. 3283, which would apply countervailing duties to non-market economies. May I ask what is the administration's position on this bill?

Ambassador PORTMAN. Mr. English, I appreciate the fact that you have read the report, and I know you have, and you will have a very thorough analysis of it. You are right, we did not get into a specific recommendation on really any legislative issue. I did say in the report and in the cover letter to Mr. Thomas and Mr. Rangel that I welcomed that, and I thought that this information we provided, which was a review, a top to bottom review of where we have been, where we are and where we are going on China trade policy would be helpful to inform policymaking, including the way in which the English bill is ultimately handled in the U.S. Senate, because I think that legislation is currently under consideration in that body. I hope it is a helpful addition to the information you already have about China, and where we are going and where we have been——

Mr. ENGLISH. Yes. I am grateful for it, and given the limitation of my time, let me simply press the question. Has the administration taken a position on this bill?

Ambassador PORTMAN. No. To my knowledge, the administration has not taken a position.

Mr. ENGLISH. Thank you. Another approach mentioned in the top to bottom review, in fact, first revealed when the President declined to implement relief under section 421 for the pipe and tube industry, as per our recent discussion, is the establishment of a bilateral high-level dialog on steel in the JCTT. First, can you please elaborate on what the scope, goals and timeframe for these discussions would be? Second, could you please give us your thoughts on why in your opinion China would be more receptive to participating in bilateral steel talks than it was to participate in the multilateral OECD Round to eliminate steel subsidies in all countries?

Ambassador PORTMAN. That is a very good question. My view is that it is time to have a more serious dialog on the whole issue of steel, not just the tube issue, as important as it is to you, Mr. English, and I appreciate your meeting on that and your advocacy on their behalf. But as you know, there is a much bigger issue even than these specific imports which is what is the China industrial

policy here? Why are they so dramatically expanding their steel production? What is their intent and how are we going to deal with it? So, I am very concerned about it, and that is why we identified that in the top to bottom review as a specific area, not telling you how to legislate, but telling you that we believe it is appropriate to have that high-level dialog. We have talked to the Chinese about this. They have agreed to engage in this dialog, as compared to the OECD dialog, so, so far, so good.

Mr. ENGLISH. Very good.

Ambassador PORTMAN. In terms of timeframes, we are beginning the process in April. We are looking, again, at the broad range, and once we have that initial discussion, I think we will have a better sense of where it is going and what the timeframe ought to be. We will get back to you on that.

Mr. ENGLISH. My time is expired.

Mr. JOHNSON OF TEXAS. The gentleman's time has expired.

Mr. ENGLISH. I thank you for your time, and I will submit.

Mr. JOHNSON OF TEXAS. I am going to ask everyone to use the 5 minutes judiciously because the Ambassador has a meeting that he needs to make, and I recognize Ms. Tubbs Jones.

Mrs. TUBBS JONES. I don't know why that prohibition always comes when it is my turn to ask questions.

[Laughter.]

Mr. JOHNSON OF TEXAS. You got 5 minutes.

Mrs. TUBBS JONES. Everybody else goes over time, but anyway, Ambassador Portman, it is nice to see you. Always good to see a Buckeye doing well. I want to focus my questions around trade adjustment assistance. Coming from Ohio, you know how terrible the job situation is in the State of Ohio. We lost more than 200,000 of manufacturing jobs, and the jobs that they are being replaced with are not the same kind of jobs that people had. The money is not the same. They are often service jobs without any health care, without any real benefits. What I am concerned about is that in the budget in 2005, the amount for trade adjustment assistance was $1,057,300,000. In 2006 it was $966,400,000, and in this proposed budget it is $938,600,000. At a time when you are entering into more agreements and we are losing more jobs—I am going to make my statement, then give you the rest of the time to answer the question—at a time when there is this whole discussion about 2 million new jobs, I don't know what those 2 million new jobs are paying.

I don't believe the number about it being only a 4.7 percent unemployment rate. There are areas in my congressional district where the unemployment rate is 12 percent. So, I don't know what these numbers are, but in Ohio, we are suffering. I would like to know how it is that you can afford to operate—and don't give me that answer about having a little bit of, what was that, allowance or something like that? I don't quite remember what you said. The reality is we need to be planning for trade adjustment assistance and retraining and opportunities for people in Ohio and across the country to have jobs. Tell me what you are going to do.

Ambassador PORTMAN. First of all, I am out of my lane here, as they say, because trade adjustment assistance doesn't come under me, as you know. It is Department of Labor. But let me

make a couple comments quickly. I don't think the system works very well because——

Mrs. TUBBS JONES. The note the guy sent you was at—you all know you work together on these issues. Give that note back there.

[Laughter.]

Ambassador PORTMAN. That is why I am going ahead and answering your question even though I shouldn't. You know, one of the reasons the funding is going down, I think—and I have some data here; I don't know if it is accurate, so I am going to double-check it—is that we haven't seen the uptake that we expected. In other words, people are not applying for it because they do not believe they are eligible. Maybe they are, maybe they aren't, because it is restricted to that causal connection to trade which is tough to make. I mean, my own view is, from a trade perspective—I need to be careful here, it is not an administration view, giving my personal view here—that the system needs to be reformed so that it works better for trade because I think if you look at these number, I think what you will find is that it is not that we are reducing funding when there is a demand. It is that the demand is not there because perhaps that link to trade is too restrictive. That is my view.

Mrs. TUBBS JONES. I do have a little time left. Without doing it one plus one equals two, you recognize that the manufacturing belt across this country, the loss of those jobs comes as a result of trade and doing business with other countries. It doesn't take a rocket scientist to come to that conclusion. When you were—and I am not saying you are in a new role—but when you were sitting in that other chair up there and we both, as Republicans and Democrats, were complaining about the loss of jobs in Ohio and the impact that trade has on it. All I am saying to you is, Ambassador Portman, my old friend, Rob, from Ohio, work on it. The people in Ohio need your help in that role that if we are going to open up the trade doors, then we have to help and figure out how we keep the people in Ohio employed. Simple.

Ambassador PORTMAN. I appreciate that comment.

Mrs. TUBBS JONES. Mr. Chairman, I yield back the balance of my time. It is nice to see you.

Ambassador PORTMAN. Thank you, I appreciate it.

Mr. JOHNSON OF TEXAS. Bless your heart. Thank you. You know, we need those jobs in Texas too. We probably took them all from Ohio to Texas and Missouri. The gentleman from Missouri is recognized.

Mr. HULSHOF. Thank you, Mr. Chairman. Mr. Ambassador.

Ambassador PORTMAN. How did you get up in the top tier?

Mr. HULSHOF. Well, I want to touch on that. First of all, very few are probably aware that you and I were next door neighbors in a nearby apartment building, and I promise not to talk about how loud your television set was.

Mrs. TUBBS JONES. Mr. Chairman, can I get in on that one? No, I am kidding.

[Laughter.]

Mr. HULSHOF. If you promise not to talk about how frequently my kids would wake you up in the middle of the night. I am one of your biggest fans, Rob, and when your name was in consider-

ation I know it was a tough decision for you and Jane. You are providing an essential service to our country, and the fact that I am a huge cheerleader has nothing to do with the fact that your vacancy allowed me to go from the bottom tier to the top tier. In Article I, section 8, obviously enumerates to this body, this legislative body, the power to regulate commerce among the nations, and yet we have to have a partner, and you are doing a great job. I have just met recently, stepped out, in fact, during your testimony, to meet with some rice growers from Missouri. They applaud the fact that we have been very aggressive in going after the anti-dumping case with Mexico. They hope that that will actually bear fruit. I am mixing crops here, rice and fruit, but hopefully we will actually see some benefit from that.

I have to go on a bit of a rant, and if you want to comment, you can do that, and as I have shared with you publicly, last week the WTO panel found the European Union has illegally banned our genetically enhanced crops. This is something I have personally shared with EU Ag. Ambassador Mariann Fischer Boel last year when she was here in a very aggressive way. To me, this replicates the history of the European Union, where it goes through beef hormones, when it goes through the bananas case that you worked on personally when you were sitting here. Yet now, then, we have got, at least to all indications, the European Union thumbing its nose again at the United States, at the WTO, and in the same breath it seems, after this legislative body has worked its will in a very tough way on foreign sales corporation and legislatively fixing the extraterritorial income issue, the European Union is quick to say that they are going to retaliate with sanctions, possible sanctions.

To me it is unconscionable to be considered a trading partner of these United States, to say, well, we are going to quickly retaliate, but we aren't willing to change our regime. I recognize I am on a bit of a personal rant here, but thank you for your aggressive stance. I look forward to working with new Ambassador Dick Crowder on agriculture issues. I know he stepped out. I don't have enough time. I have been on the record as far as Japan. You covered that as far as the ban on U.S. beef, but any comments, I will just yield to you the remainder of my time, specifically regarding the European Union. Again, thanks for what you are doing for our country.

Ambassador PORTMAN. Thank you, Mr. Hulshof. You have touched on a huge issue, not just with regard to the European Union, by the way, but with regard to a science-based system for food safety. What this WTO decision allows us to do now is globally to help ensure that other countries don't follow along the path of certain EU member states, and unfairly block the exports of U.S. products which are safe, and which can add to the prosperity particularly of the developing world because of some of the disease and drought resistant qualities. So, it is a very big decision that has big implications, and we need to be sure that it is properly implemented. We will be on top of that.

I also share, as you know, your concern on FSC-ETI, because this is a piece of legislation that not only went through a very tough process—and they don't have to be sympathetic to our tough political process here—but they do have to be sympathetic to the fact

that the transition is this year, and then the grandfathered amount is relatively minor. The Joint Tax Committee has said it is $75 million, and yet they are talking about retaliating it to the tune of billions of dollars. So, it just doesn't make any sense, and I am not sure that I fully appreciate what the intention is here. We will follow up on that as well, and if necessary, we will take action to ensure that there is not unfair retaliation.

Mr. JOHNSON OF TEXAS. Mr. Foley, you are recognized.

Mr. FOLEY. Thank you very much, Mr. Ambassador, and I want to commend you on the report that you provided today, because one of the concerns I have had—we have never had a scoring mechanism to determine victories. We always hear the losses we have in tribunals. We never hear the victories. We are finally starting to see us claw our way into equality in trade disputes. Let me ask you the question: do you believe in your heart that American candy manufacturers have left this country solely because of the price of sugar?

Ambassador PORTMAN. I don't know. Mark, I have been told by members of Congress who represent some of the sugar users, which includes candy, chewing gum and other processors, that it is a factor, and it is a factor because it is a cost of production. I have not had a chance to review this report yet that was discussed by Mr. Pomeroy. I will do that now. But I think it is a factor.

Mr. FOLEY. But I think it singles out one area of the equation unfairly, in my view. I just want to express my view here, because otherwise, why is Motorola building in China? Why is everyone else going to Mexico to construct cars? It seems like there are a lot of people leaving to build, based on salaries, liability considerations and a number of factors. It grieves me as a member representing the sugar communities, that it always seems to be deduced to one little level, because right now the sugar price is at 19 cents, an all-time high in the world market, so maybe because it will be cheaper to produce here we will start getting the jobs back.

A specific question I do have for you. You sit on the Committee on Foreign Investments. This Committee recently has allowed for the purchase of United States ports, six specific strategic ports, to be assumed by the United Arab Emirates. Today the United Arab Emirates, in a conversation with Iran on increasing—it just crossed the wires—increasing their bilateral trade, at a time when we are trying to put pressure, along with international partners, on getting Iran to back down on their nuclear proliferation. Today in the Washington Times they said: "We should be improving port security in an age of terrorism, not outsourcing decisions to the highest bidder. The ports are thought to be country's weakest homeland security link with good reason. Only a fraction of the Nation's maritime cargoes are inspected. The root question is this: why should the United States have to gamble its port security on whether a subsidiary of the government of the United Arab Emirates happens to remain an antiterrorism ally?"

In all of my conversations with our trading partners, NAFTA, CAFTA, I have been down, and I have asked spy what they are doing to inspect cargo. Now my fear comes home to roost that New York and Miami and New Orleans and Philadelphia and Newark, we have turned over the ports to a foreign entity, a government,

foreign government. Can you provide some illumination on why that is a good process, a good procedure, or are you assured, at least from your deliberations, that we are going to be able to maintain the integrity of these facilities based on a foreign nation's ownership?

Ambassador PORTMAN. Mr. Foley, you raise an important issue I am not prepared today to be able to give you that answer, because I just don't know enough about it. I have taken some notes here, and if you could follow up with me with some more specific information, it would be helpful, and I will get back to you on it.

Mr. FOLEY. Thank you. The other issue is, obviously, and I think you have illuminated it, and I understand particularly your sensitivity to the agricultural products which, like Florida, like sugar, are almost exclusively domestic, and I appreciate your acknowledgement of the Sugar Alliance's letter. I know, as you recall, I played what I hope was a constructive role in CAFTA. Then I get reports from Commerce about singling ut sugar, I get a little nervous was that effort in vain? Not to suggest that they are supposed to create and fabricate reports for one member, but I hope you will continue to display the sensitivity.

I would also like to suggest that, at the behest of Ms. Tubbs Jones, who was mentioning about domestic loss of manufacturing, I think here State—and you did acknowledge—thanks to the trade policies, we have grown exponentially in new starts in employment and manufacturing. Honda Motor Cars, Toyota, BMW, a lot of international, multinational corporations have in fact come domestically and created jobs. I hear one side of the equation we have lost jobs, and that is a concern to everyone, but I don't hear any amplifications. Today we crossed 11,000 on the Dow. We have an all-time low unemployment. In Florida it is below 4 percent. Nationally it is below 5. We have a greater capacity for homeownership than ever, and I think that largely goes on trade policy and tax policy by this administration. I commend you.

Ambassador PORTMAN. Thank you. I appreciate those comments.

Mr. SHAW. [Presiding.] Mr. Brady.

Mr. BRADY. Thank you, Mr. Chairman. Rob, in addition to the other compliments you heard today, I really appreciate the effort you make in trying to find bipartisan consensus on trade issues. We ought to speak as one voice. America should, in our trade initiatives—and while Republicans and Democrats may differ, I know that we agree you are always sincerely trying to find a common ground we can base from, and I encourage you to continue those efforts, that they will do us all well. I also appreciate your honesty on the trade deficit. The fact is, you can't control the savings rate in America would drives so much of our consumption including foreign products. You can't control the economy of America, which thankfully is strong, which always mirrors trade surpluses and deficits as well. What you have said is what you can continue to do is recognize that 80 percent of our trade deficit comes with countries we don't have pretrade agreements with. As we open these markets to American products and services, we have an impact of some measure on that trade deficit. The question I have for you, two issues. What progress do you see, if any, in the coming 2 years

on the dispute with Canada on softwood lumber, and on the Free Trade Agreement of the Americas, recognizing the second one gets more difficult as decisions are made in that hemisphere, but knowing that you have been laying and our administration has been laying some careful stepping stones toward the FTAA in our hemisphere?

Ambassador PORTMAN. Thank you, Mr. Brady. I appreciate that comment you made about the fact that 80 percent of our trade deficit comes from countries we don't have a free trade agreement with. That chart that I had during the presentation indicates the degree to which exports are increased to our free trade partners, but then it also lists where the largest economies are, and you are right, it is an interesting point. What I tried to say earlier was we need to look at the trade deficit. It is important, but the goal of this Committee and I think of USTR in terms of trade, ought to be maximizing our exports, and we have done that with these free trade agreements, and I think it has been in the interest of not just the U.S. economy, but specifically workers who are making better salaries and having better jobs as a result of it.

With regard to Canada and the softwood lumber discussions, I said earlier that I think the litigation has been excessive in the sense that it hasn't resulted in the kind of—as I view it—positive results for our industry, and acknowledgement of the subsidy and dealing with it in a straightforward way. So, that has been our goal since I took this job, was to try to get beyond the back and forth of the filings. I think there are 24 different ongoing litigation matters right now in this case. It has been going on, some would argue, since the mid 1800s, but it has certainly been going on, this latest round, for several years with a lot of legal fees, and frankly, very little progress.

So, I am hopeful that with the new administration, we will be able to make more progress. The Harper government has indicated that they would like to improve relations with the United States. We welcome that. I have also had good discussions with my new colleague, David Emerson, who is the new Trade Minister for Canada, had a very good discussion with him on trade in general, and specifically on our mutual interest to try to resolve this issue. I believe the Ambassador, Frank McKenna, from Canada, who has been here under the previous government, has been a constructive force in trying to come up with a solution that makes sense for both sides. So, I am more hopeful than I have been that we can resolve this issue with Canada.

By the way, Canada is our biggest trading partner. We have almost a dispute-free trade relationship with the biggest trading partner of the United States. We are their biggest trading partner. They now enjoy a considerable surplus with us. It has been a very positive trade relationship for Canada and for jobs in Canada. So, sometimes this one issue gets a little blown out of perspective. It is an important issue. It is one that we spent a lot of time on, I will focus on in trying to resolve, but we ought not to ignore the fact that we have in general a very healthy trade relationship with Canada.

That goes to your second question, FTAA, going from Canada down to Tiera del Fuego. One would hope we could have a Western

Hemisphere Compact that would result in economic prosperity, increase prosperity for all of us. That is not something that is going to happen in the short term, but I think it needs to continue to be our goal, and in the meantime we need to continue to work on a bilateral and regional basis as we did with Central America to achieve that goal, country or region by region, and that is what we are doing. If you look at our recent announcement of completion of our talks with Peru, and we have discussions with Colombia this week. President Uribe is here. I will be meeting with him. We are trying to, as you know, make further progress with Panama. We are very close to a final agreement there that we will be bringing to you for your input. So, we are making progress in the Western Hemisphere, but all the while understanding that ultimately it would be beneficial for our hemisphere to achieve this goal of a free trade area of the Americas.

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

Mr. SHAW. Mr. Portman, how much more time do you have? I understand you have some time restraints right now.

Ambassador PORTMAN. I do, but I think it is more important that I answer the questions that any of the remaining members have.

Mr. SHAW. Okay. I would ask the members to be as short as they can, and perhaps you want to shorten your answers a little bit just so you can get back on schedule.

Ambassador PORTMAN. I will.

Mr. SHAW. Thank you. Mr. Thompson?

Mr. THOMPSON. Thank you, Mr. Chairman. Mr. Ambassador, thanks very much for being here. I want to make one comment, and then I will ask you a couple of questions, and I will just let you respond in a short answer so other folks can go. I am one of those who believe or I am concerned about our trade policy driving our farm policy, and I too highlighted the Saxby Chambliss concerns about agriculture being a sacrificial lamb. We have other examples, and you are very familiar with the concern that some of us from the northwestern part of the United States have in concern to trade agreements that have really adversely impacted the pear industry in the three northwest States. I really think we need to—it is probably a hearing of its own just to deal with those two issues and how they will affect both the trade policy as well as the ag. policy.

I have a couple of very specific regional issues that I want to present to you and ask you just to respond to those. One is the WTO's TRIP agreement that was designed to protect geographical designations such as in my home, the Napa Valley. So, I am interested in knowing what you are doing to provide that protection and protect against the misuse of geographical indicators. Also in regard to wine, the U.S.–EU wine agreement sparked some concern by some of our friends in Germany who made some pretty nasty remarks about our wine industry and our product, which hasn't done a lot to help. That is a big issue not only for my district but for the State of California and for the country. That is a major industry. So, I would be interested to know what you are able to do to try and help protect our reputation and the sales viability of our wine from this country.

Then to follow up on Mr. Brady's comment about the soft lumber issue, I guess what I would like to get some direction from you as to how we can help in that regard. I don't know if we are precluded because of the lawsuit from doing it. Does that have to play out or can we get involved now? From someone who represents a timber area, it may be a little issue in the big picture, but for those of us from timber areas, this is a giant issue for us. So, I would like to be able to get some direction how we can help or some idea from you specifically what you are able to do to move this issue along.

Ambassador PORTMAN. Thank you. If I can quickly tick down some of your questions, and then we can have a further discussion perhaps after this hearing, we can correspond. One. On ag., generally front and center on all the FTAs and in the Doha Round, and it will continue to be, as long as I am in this job. Softwood. No reason we can't have a negotiation even while the litigation is ongoing. Litigation will come and go. We are going to win some, we are going to lose some, but in the meantime we need to be sure that we have focused on the issue, which is the subsidy in Canada, and come up with a fair result.

Mr. THOMPSON. What is the status of the lawsuit?

Ambassador PORTMAN. Well, there are, as I said, I think 24 different legal actions out there right now including——

Mr. THOMPSON. The subsidy issue.

Ambassador PORTMAN. The subsidy issue is still in litigation. It has been determined that there is a subsidy question as to how much and what the countervailing duty should be, and as you know, we have reduced our countervailing duties here recently based on a decision by the NAFTA appellate panel, essentially, which is the ECC. But it doesn't mean that we can't have a negotiation, and we should. With regard to the wine agreement, we have not singed that agreement yet, as you know. Hoping to sign it perhaps when I am in Europe in the next month or so. Ambassador Crowder was just over in Europe talking about the specific issue of Germany. I met with the Wine Institute, as you know, a couple weeks ago, actually had an opportunity to review some of the footage of some of the German television analysis of our wine product, which was quite disturbing, and this is something that we are very focused on, and we have raised deep concerns with the German government over. He indicated to me, when he returned this morning, that he thought he had been able to have a good dialog on that with the German government. We can follow up with you on that.

With regard to Napa Valley, the European Commission actions there are troubling to us. They appear to directly contradict statements they made during the course of the WTO case, which we won, by the way, that I mentioned earlier. We have already talked to your constituents and others in the Napa Valley about the problem, and we will continue to raise it with the EC. If it is not corrected, we will consider appropriate legal action. Finally, on the northwest generally, you are right, we have some challenges. We also have some great opportunities for agriculture from the northwest in terms of new export markets.

Mr. THOMPSON. Well, the pear issue has really hurt the whole region, so look forward to working with you on those.

Ambassador PORTMAN. Thanks, Mike.

Mr. SHAW. Mr. Beauprez?

Mr. BEAUPREZ. Thank you, Mr. Chairman. Mr. Ambassador, I marveled at your opening statement. I don't know that in my limited time in Congress I have ever heard one as thorough or as substantive, so I was impressed by that, but I am even more impressed by your persistence, the breadth of knowledge that you obviously have, the dedication to the job, so I commend you for that. To your personal attention, you and I have already had a visit about a very personal issue for me, business back in my district named Goldbug, and I think they are an example of what I would determine or would characterize as the unintended consequences of the U.S.–China textile agreement.

I completely agree with your statement about wanting to provide predictability and stability for our American businesses, but with all due respect—and this is not your problem you created, far from it—it is one that you kind of got dumped in your lap I know when you took over, but I will commend you again for trying to get a resolution to it. With Goldbug—and the issue is baby socks, and who would have thought? But they survive on marketing baby socks, ones that they have imported from China for a long, long while, and thought with, I think full expectation, that they were not going to be impacted. They found out that they were in kind of a last minute of revision to the agreement impacted. One could say that they have found a solution, that they got quota from the Chinese Government. They got a solution, but at the cost of $3 million out of their pocket from their bottom line. It is very difficult for a business, a small business such as this, to take a great degree of comfort in that kind of a solution. Now, I find most recently that confusion in the agreement has also raised the specter with regard to outdoor apparel, and so some additional consternation on behalf of people in my district. Do you care to respond to that and how we might really provide that predictability and stability that you have identified, and I know you are personally very pledged to?

Ambassador PORTMAN. Thanks, Bob. I appreciate the fact that you raised this with me shortly after the agreement. As you know, there was some issue as to the proper classification which made this more complicated than it otherwise would have been, and these were honest mistakes that were made, and that has created more of a problem. But you have been a great advocate for Goldbug, and as a result of that, as you know, I have talked to them directly, worked with them. We have worked with the Chinese government directly. We have a situation now where they were able to get the adequate quota allocated for 2006. As you say, there is an issue of price. We also now are working with Customs, and with the Commerce Department to develop a definition of this issue of babies' booties so that those goods can be exempted from this quota. That is, I think, the most pressing issue right now, is to be sure that that definition doesn't create additional problems for them. So, we will keep working with them. We have also worked with them, as you know, on some other sourcing opportunities.

Mr. BEAUPREZ. Right.

Ambassador PORTMAN. We will be very willing to be facilitators and to help in ways that maybe go beyond our immediate mission here, because we want to be sure that this agreement does work, not just for the U.S. manufacturers, but also those who import products. This is one where we will continue to focus on the definition and on the sourcing for them so they can work through it.

Mr. BEAUPREZ. I applaud you for that, and I think it is important. At the moment it looks like the main beneficiary in this agreement, at least in this very narrow portion, has been the Chinese government, and I hope we can find a long-term solution. Last, I will just make a comment. I very much applaud and appreciate, look forward to your efforts relative to the benefit of American agriculture. I have long through that the American farmer would feed the world if given a free and fair change to do that. From materials you have provided today, it is clear that there is a lot of opportunity.

Ambassador PORTMAN. A lot of opportunity.

Mr. BEAUPREZ. I very much applaud you for that. Agriculture is still a huge piece of who Colorado is. We are the No. 4 producer of beef in the entire Nation of the 50 States, and pretty proud of that, as well as other commodities, and look forward to exporting those and sharing that quality product with much of the world. Thank you very much, again, for your service, and I yield back.

Ambassador PORTMAN. Appreciate it, thank you.

Mr. SHAW. Mr. Emanuel?

Mr. EMANUEL. Mr. Chairman, the Congresswoman was here longer, and I have no problem with her going first, and then I will go.

Mr. SHAW. Okay. Ms. Hart.

Ms. HART. Thank you. It is great to see you here, Rob, Mr. Ambassador, and I am going to follow along the same lines of Mr. English, and I believe Mr. Levin. I am very interested in the 421 process. I want to do as your interagency goals suggests, to ensure full and transparent enforcement of U.S. trade remedy laws and agreements, and I expect that includes section 421. I am still mystified about the application of 421s. I have testified in front of the ITC several times. We have had some relief. We have had some relief suggested by the ITC or encouraged by the ITC, and then denied by the president. In my opinion, it is actually one of the least transparent of the trade remedies that are available, and I am hoping that you will use this opportunity, the interagency process, to do a couple of things. One, help make it useful for us. If you think it is useful now, then I would beg to differ simply because of the facts that are presented at those hearings, and then the results that certainly are not I agreement with what the actual commission suggests. I guess my question for you is, is there a specific goal provided within your interagency process to make the 421 more transparent, change it in some way, provide a little more opportunity to use it to, obviously, the assistance of some of our American companies?

Ambassador PORTMAN. That is a very fair question, and this is one of the tools that we would like to use where the facts justify it. We have not been shy about using it. For instance, I talked about the fact that China is the number one country now where we

have anti-dumping orders, and we were not shy with regard to the textile safeguards. With 421, I will do some additional thinking on this and get back to you with, I hope, a more helpful and thoughtful response as to how perhaps the legislation could be changed. I will tell you, under the authority the President has, when the ITC tells him that there has been material injury, he has accepted that, and in four cases that happened. In two cases it didn't happen. One of the four, of course, was the most recent pipe case, the standard pipe case. But he also then is required to consider how the import restrictions would affect the economy, and a broader set of U.S. interests.

In each case, the remedies were not deemed to be effective in helping the domestic industry. One of the reasons, as I said, and under the pipe case, I said earlier there were—I don't know how many countries I indicated, but a number of countries. In the steel pipe case, the ITC documented more than 50 other countries supplying the U.S. market, ready to step in and replace the curtailed Chinese imports. That is the data that he relied on I part to make his decision. So, just so you know how it operates. There may not be adequate transparency, and I am happy to talk to you about that, but my understanding is, is that in that case, the ITC material injury issue was not the question. The question was whether in the end the remedy would be effective in helping the industry in Pennsylvania and elsewhere. The market disruption issue was not the issue. The market disruption issue was accepted. I am happy to work with you more on this, and talk about maybe how to use the existing authority more effectively, or whether this authority is adequate to meet the concern we have with products coming in from China.

Ms. HART. I am not sure what a yellow light means, but I think it means I am getting close to the end. I appreciate that, and we will follow up with you on that. Significant progress has been made—and I think you are aware of this—in many of these industries as far as their technology and their process, and they are now state of the art, and they are still in this situation where they are unable to compete. There comes a point where I think we really do have to re-examine what we are doing to determine whether we do want every particular of our, for example, heavy manufacturing, steel manufacturing, to be offshore. I just—now the red light—I just would suggest that the entire issue be examined on sort of a larger, with a larger world view, and a view about the United States and our security as well. Thank you. I yield back.

Mr. SHAW. Time of the gentlelady has expired. Now the gracious Mr. Emanuel.

Mr. EMANUEL. Let the record show.

Mr. SHAW. The record is showing that.

Mr. EMANUEL. Thank you, Mr. Chair. Mr. Ambassador, I have a couple of questions, mainly dealing with the issue of public health and health care. When we were dealing with CAFTA, I had offered an amendment. Obviously, it was ruled not germane, but nonetheless, actually, the now-Chairman said it was an important issue. He and I have communicated about creating an Office of Public Health over at USTR. As you know, part of the issues that dealt with CAFTA, specifically Honduras, dealt with their own pub-

lic health needs, and so forth. You have advisory boards, Eli Lilly represented on it, Pharma's represented on it, Schering Plough is represented on it, but you don't have a person specifically for public health, and a lot of the issues, whether you are dealing with South Africa now, whether you are dealing with Colombia, the issue of Thailand, all deal with their public health concerns and our pharmaceutical companies' interest.

I would hope that at some point you would take a serious look. I got a letter actually from your office today on this, and quote, unquote, it talks a fairly balanced—anyway, it was a very good letter, but, Rob, I would hope that you would really take the potential of creating an office, an ombudsman for public health to be on the advisory panels. They have an equal voice. I am not saying not Schering Plough, Eli Lilly or Pharma off, but they get heard. There is no doubt about it, they get heard. Some of us think some of these trade deals unfairly benefit them, and damage public health both here and abroad. But I encourage you to really create either an office for it, a person for it, or give the public health officials, one or two people on these advisory panels, because right now it impugns the character of what we actually negotiate, and you know this issue is coming up in all these one-on-one deals that we are working on, bilateral agreements.

Ambassador PORTMAN. Rahm, two things. One, I agree with you, and I think when I first came in the concern was expressed during my confirmation process about the generic representation, and I agreed that we had to broaden the representation there. On public health, my understanding is—and I will check on this—that we have not issued a Federal Register notice asking for public health nominees for the advisory board. I think it makes sense. So, I will follow up on that. I will let you know more specifically where we are in terms of that advertising process we have to go through. But I think you are right.

I do think we have not done a very good job of explaining what the TRIPs agreement provides for in terms of public health, and specifically what TPA provided for, and I don't think it is inconsistent to say we ought to be helping with regard to where we have a comparative advantage in pharmaceuticals and being sure that these countries—you mentioned Honduras I think—but Guatemala or other counties we might do an agreement with in Latin America, Africa or Asia, that they have the ability, when they have a public health crisis, to access a medicine they need. I think we have worked that out now with this latest Doha TRIPS agreement. It would be consistent with the approach that we would take.

Mr. EMANUEL. You will know more about this, but from my understanding, part of the implementation problems on CAFTA now relate to health care. Australia pushed back on us when we tried to get certain changes to their market as related to pharmaceuticals. All I am recommending—and if you need names, I encourage you to do this, hope you do it. The second thing on the issue of pharmaceutical products, you know when we passed the appropriations for Commerce, State and Justice, we talked about no-trade deals would impact the ability for re-importation. The executive branch's view was we will take it under advisement. That was not the intent when Congress passed that. It was not to be

taken under advisement. It was to be actually executed, implemented accordingly. I would hope that you wouldn't ignore Congress's intent when we passed that legislation. You know this is an issue I care deeply about, as it relates to re-importation, and hope that it would not be—it was not intended to pass for advisory. We intended it specifically to be implemented. As I understand the Constitution—this is just one man's reading—we have an impact on trade as it is related to that, Congress, and international trade.

Last, I have a specific issue about a company in my district. I mean we always talk about China as it relates to intellectual property. It is the largest ladder manufacturer in the country, and about a knock-off that China is making. I would like to talk to you about that individually. We don't have to take everybody's time here, your time here. I will work with your staff accordingly, but to help them as it relates to their competition, and especially with retail operations here in this country, and they get really treated unfairly.

Ambassador PORTMAN. I would love to talk about that. Is it a patent issue among others?

Mr. EMANUEL. Yes, it is a patent issue.

Ambassador PORTMAN. A trademark issue?

Mr. EMANUEL. Exactly. We talk about it from intellectual property, but here is a manufacturer, about 400 some odd jobs. They have a facility here and one in Alabama, and they are competing against a Chinese operation that does a total knock-off.

Ambassador PORTMAN. We would love to work with you on that. I should have said earlier in my testimony when more members are here, we are very interested in pursuing those individual cases, and we will do aggressively. One reason I want somebody in Beijing is to be able to do it even more directly with our embassy in Beijing.

Mr. EMANUEL. Thank you also for taking the time to stay behind.

Ambassador PORTMAN. Thank you, Rahm.

Mr. SHAW. Well, we thank you very much. It is wonderful to have you back here, and it is all too rare in this political climate to see the mutual respect between the members of this Committee and you as a member of the administration, which we greatly appreciate. Thank you very much. We are adjourned.

[Whereupon, at 4:58 p.m., the hearing was adjourned.]

[Questions submitted from Chairman Thomas, Mr. Herger, Mr. Ramstad, Mr. Weller, Mr. Hulshof, Mr. Brady, and Mr. Nunes to the Honorable Rob Portman, and his responses follow.]

Question from Chairman Thomas to the Honorable Rob Portman

Question: The House passed H.R. 3283 last year, and sec. 5 contained a long list of commitments voluntarily taken on by the Chinese in the U.S.–China Joint Commission for Commerce and Trade process. For example, the Chinese committed to increase civil and criminal prosecutions of intellectual property violators and to ensure all government agencies are using legal software by the end of 2005. Did China meet these commitments? If not, how will the Administration react?

Answer: With regard to IPR prosecutions, some U.S. companies report that Chinese authorities have been working harder to penalize violators, as China committed to do. Our law enforcement agencies have seen a degree of increased cooperation from China's public security ministry on trans-border cases, which we and

China are seeking to expand. In general, however, copyright owners report that they have not seen significant numbers of prosecutions, and trademark owners report that their ability to bring criminal cases has only marginally increased. U.S. companies continue to report that Chinese authorities rarely take effective action, violators pay token fines, infringing goods end up back on the street, and almost no one is prosecuted criminally. This is in part because China still maintains volume and value thresholds that allow commercial scale violations to escape criminal procedures and penalties. Much more is needed, and the solutions need to be top-down, politically driven and consistent.

China agreed at the U.S.–China Joint Commission on Commerce and Trade meetings in 2004 and 2005 to ban government use of unlicensed software by the central, provincial and local governments, and to extend this ban to large enterprises, including state-owned enterprises, this year. China tells us that its central government program has been completed. However, they have not provided us with specific information to confirm this and we are concerned that they do not have an effective audit process in place. We also have not seen effective steps taken to reduce use by large enterprises of unlicensed software. I have made it clear to my counterparts that the Chinese government needs to allocate the budget needed to ensure that governments at all levels use only licensed software, and to take verifiable steps to make sure this is happening.

Questions from Representative Herger to the Honorable Rob Portman

Question: Since U.S. fruit and vegetables do not receive amber box subsidies, what trade negotiation procedure can we use to assure the U.S. fruit and vegetable growers they will see European fruit and vegetable subsidies be reduced?

Answer: In addition to the United States proposing the EU cut its allowed overall trade distorting domestic support by 75%, it has also suggested the EU cut its allowed aggregate measure of support (AMS) by 83% and product-specific caps be set at a 1999–2001 base period. The EU has offered to cut its allowed AMS by 70%. Since EU fruit and vegetable subsidies have historically totaled roughly $10 billion and account for just under one-fourth of all EU AMS, we can expect these products to be among the first to make significant contributions in cuts to EU domestic support. In addition, a modest level of export subsidy support for EU fruits and vegetables will be fully eliminated by 2013. The elimination of export subsidies, along with an aggressive U.S. market access proposal will mean that trade for U.S. fruits and vegetables in all foreign markets will face fewer barriers and trade distortions.

Question: Regarding Ecuador, I am concerned about U.S. businesses that have been subjected to unfair practices and corruption in the Ecuadorian judicial system. It appears that the system encourages Ecuadorian interests to exploit and blackmail U.S. companies by bringing unfounded actions against them in Ecuador. I would like to know how your office is pursuing this matter, and further, whether you believe it will be possible to resolve such difficulties prior to moving ahead with a free trade agreement?

Answer: We share your concern about the outstanding investment disputes and have repeatedly reminded the government of Ecuador that resolving these disputes is important both for Ecuador's investment climate and for Congressional passage of the free trade agreement we are negotiating. We view our role as encouraging foreign governments to promote the fair and prompt resolution of disputes involving U.S. investors, consistent with the rule of law. Further, it is in Ecuador's interest to demonstrate that investors receive fair and expeditious treatment under its judicial and administrative systems. As we continue our negotiations with Ecuador, we will continue to work hard to get these disputes resolved as soon as possible.

Questions from Representative Ramstad to the Honorable Rob Portman

Question: The medical technologies healthcare sectoral initiative in the Doha Development Agenda (DDA) would eliminate tariffs on a range of healthcare related products in WTO members. The remaining tariffs—usually in the 10–20 percent range—are almost entirely in developing countries, so this initiative is helpful in reducing healthcare costs in these countries. How do you see these "zero-for-zero" initiatives proceeding in the DDA, and the healthcare sectoral in particular?

Answer: We were pleased to achieve a specific mention of sectoral initiatives as a key part of the NAMA modality in the Hong Kong Ministerial text. We see negotiations on sectoral initiatives that eliminate or harmonize tariffs as an essential

element of the ongoing DDA negotiations on non-agricultural market access (NAMA). While we believe that a Swiss tariff-cutting formula will deliver increased overall market access, sectoral initiatives offer an avenue to go further than the formula and create new opportunities for U.S. exporters.

On February 27, Singapore and Switzerland joined the United States in formally tabling at the WTO a proposal to eliminate tariffs on medicines and medical devices. We have worked closely with health-focused NGO groups in creating this proposal. A recent research paper published by the AEI–Brookings Joint Centre finds that several countries' taxes and tariffs inflate the price of medicines to patients by around 10% and often higher.[1] Last year a report by the World Health Organization confirmed that many countries, several of which are grappling with severe public health problems such as HIV/AIDS, TB and malaria, continue to impose import tariffs on medicines and medical devices. The WHO urged countries to remove these tariffs and argued that the loss of government revenue from their removal will be insignificant.

The Hong Kong Ministerial text directs Members to determine which sectors are viable for inclusion in the overall tariff cutting package by April 30, 2006. In order to advance sectoral proposals in the WTO, we must increase participation, especially by developing countries. We are working both in Geneva and on a bilateral basis to encourage key countries to participate in sectors of interest. Industry groups are coordinating with their counterparts overseas and in the medical technologies sectoral, NGO groups are assisting with outreach. Yet more work remains. We need to see visible support from Europe, African countries such as Kenya, U.S. FTA partners such as Morocco, Mexico, Chile and Thailand, as well as other ASEAN countries. Important issues such as the precise products to be covered by the sectoral initiative, options for addressing sensitive products, and flexibility for developing countries, will be negotiated in each sector group.

Question: It appears the United States is well on the way to completing its talks with Vietnam as part of the process for Vietnam joining the World Trade Organization. I have heard conflicting reports about these negotiations on whether the U.S. wants to include a special textile safeguard mechanism in an agreement with Vietnam—an action I would strongly advise against. With most of the world no longer subject to textile and apparel quotas, I fail to see an economic argument in favor of a mechanism that would continue to impose quotas on Vietnam, which accounts for only 2 to 3 percent of all imports of textiles and apparel into the U.S. Given the confusion on this issue, I would like to understand better the potential costs and benefits of tabling a proposal for a special textile safeguard in the negotiations with Vietnam. Therefore, I would appreciate hearing your position on this issue, and your views on the following points:

- **a. Since Vietnam considers quota free treatment for their textile and apparel products to be a major benefit of WTO membership, it is clear that getting good commitments from the Vietnamese on things like market access, services and intellectual property would be jeopardized if the U.S. were to press for inclusion of a textile safeguard in the agreement. Therefore, what would the U.S. gain from having a textile safeguard in this agreement that would be worth putting at risk substantial benefits to U.S. exporters?**
- **b. Notwithstanding pressure from its own domestic textile industry, the European Union did not negotiate a textile safeguard with Vietnam. If the U.S. bows to similar pressure and pushes for Vietnam to accept a textile safeguard, why would we want to provide a benefit to the Europeans from a concession that we alone would have to pay?**
- **c. Given that all previous legislation to continue the normalization of political and economic relations with Vietnam has passed Congress with strong bipartisan majorities, do you think that having a textile safeguard is necessary for Congress' approval of legislation to give Vietnam permanent normal trade relations status, and if so, why?**

Answer: The United States is continuing to negotiate a bilateral market access agreement with Vietnam as part of its WTO accession. The negotiations are conducted on two tracks: (1) bilateral negotiations to open Vietnam's markets to WTO Member exports, and (2) multilateral negotiations in the Working Party to bring Vietnam's trade regime into conformity with WTO rules and obligations. We have

[1] 'Still Taxed to Death' by Roger Bate, Richard Tren and Jasson Urbach, available at http://www.aei-brookings.org/publications/abstract.php?pid=930.

made substantial progress, including in the most recent visit of our negotiating team to Hanoi in January of this year. We will continue our discussions in Geneva soon.

With respect to textiles, the Administration has not proposed a special safeguard. However, we have made clear to Vietnam that we will be looking closely at its trading regime, including areas such as industrial subsidies, an issue that the U.S. textile industry has flagged as a potential concern in the negotiations. We have made similar comments to U.S. stakeholders who have, as you indicate, a range of views on this issue.

We want to work with the Congress and industry on a strong commercial agreement that helps to strengthen our bilateral trading relationship with Vietnam.

Question from Representative Weller to the Honorable Rob Portman

Question: I recently introduced a bill that would force transparency on the traditionally opaque decisionmaking in the Committee to Implement Textile Agreements, or CITA. I know it is a U.S. priority to encourage our trading partners to adopt transparent decisionmaking processes as they relate to trade policy, and page 22 of your power point presentation says that promoting transparency is a priority with China (ironically, right after the priority of China textile safeguards). Doesn't it hurt U.S. credibility on transparency to allow CITA to operate in a black box, and as USTR is a member agency of CITA, what is your view on introducing to CITA notice and comment procedures that are consistent with the Administrative Procedures Act?

Answer: The Committee for the Implementation of Textile Agreements (CITA) is the interagency group vested with making sure that the textile provisions of our trade deals work. For instance, they administer the "short supply" processes and other aspects of our free trade agreements. We are aware of the concerns that you raised about the transparency of CITA's operations and are working to improve it, where appropriate.

For example, the new short supply process for the United States-Dominican Republic, Central American Free Trade Agreement (CAFTA–DR) is anticipated to involve significant public notice as well as an open registration for email alerts. The statutory requirement is that these decisions be made in 30 business days. Interim regulations were published in the Federal Register on February 24.

Despite our efforts to enhance the transparency of CITA's work, we feel it would be inappropriate to subject *all* of CITA's actions to prior notice and comment procedures. For example, in many cases, giving a foreign government prior notice of CITA's intentions could harm U.S. interests and interfere with our conduct of foreign policy. U.S. Commerce Secretary Gutierrez, on behalf of CITA, has conveyed the Administration's position on Congressman Weller's legislative proposal on this matter.

Questions from Representative Hulshof to the Honorable Rob Portman

Question: An interim WTO panel recently ruled against the European Union's de facto moratorium on certain genetically modified crops. The EU's inertia on this issue results in the loss of up to $300 million in agricultural export sales annually. I am confident that you know how important these foreign agricultural markets are for American farmers. For instance, Missouri exports about 1 out of every 5 rows of corn and half of our soybean crop, and as more of these crops are farmed using biotech products, it is imperative that we continue to push the EU to end the ban on our Nation's biotech farm products. While the WTO's ruling is a strong step in the right direction, I fear the EU will ignore this ruling and continue their standing precedent on food safety policy and close their borders to our farm goods. In your opinion, what recourse does the U.S. have, and would you contemplate the filing of a WTO challenge against the EU's protectionist regulations?

Answer: We of course share your views on the importance of foreign agricultural markets for American farmers, and we welcomed the results of the interim report of the panel in the EC–Biotech dispute. As you know, in the dispute the United States has argued that the EC's administration of its biotech approval procedures are inconsistent with the EC's WTO obligations. The interim report is an important step, but the Panel must still issue a final report, and then there will be the possibility for an appeal. In the event that the dispute results in a final finding that the EC is out of compliance with its WTO obligations, we would certainly hope and expect that the EC will proceed to comply with its WTO obligations. Although it would

be premature at this point to speculate on what specific steps the United States might take should the EC fail to come into compliance with its WTO obligations, we can confirm that the United States would consider all the tools available to encourage the EC to comply.

Question: European Trade Commissioner Peter Mandelson made a statement prior to the Hong Kong Ministerial that the EU is willing to consider a proposal by certain developing countries to amend TRIPS to include new mandatory patent disclosure requirements for genetic resources used in pharmaceutical or biotechnology products. The U.S. biotech industry maintains that such changes to U.S. patent laws would significantly frustrate the industry's research and development of new products for the public good. USTR has taken a position against these additional patent disclosure requirements. How do you plan to respond to the EU?

Answer: This issue has been under discussion at the WTO over the past few years. USTR has submitted several position papers to the WTO TRIPS Council arguing against new disclosure requirements in the TRIPS Agreement, on the grounds that such requirements would not achieve the purported goals of ensuring prior informed consent upon access to genetic resources and equitable sharing of benefits arising from the use of genetic resources. Further, we are concerned that such requirements would undermine the innovation incentives built into the patent system by creating uncertainty in patent rights. We will continue to work in the WTO against the introduction of new disclosure requirements by encouraging countries to implement national contract-based access and benefit sharing systems that promote the goals of prior informed consent and equitable sharing of benefits for use of genetic resources.

Questions from Representative Brady to the Honorable Rob Portman

Question: With respect to the DR–CAFTA implementation, which I understand will now proceed on a rolling basis, can you tell us how you will preserve the access that the trade is entitled to under the agreement for goods from the first country or countries on board? Specifically, how those countries, and more importantly U.S. importers, will have duty-free treatment upon importation when goods contain the inputs from another country for which the agreement is not yet in effect? I applaud the Administration for taking the responsible approach of delaying implementation with those countries not ready to implement their commitments, and proceeding with those that are ready. Nonetheless, it appears that USTR has sufficient proclamation authority as given by Congress in the implementing legislation to ensure there is a seamless transition for all parties from the CBTPA to the CAFTA and we encourage you to affirm that this is your intention. The Administration must ensure that the trade is not harmed by the rolling implementation.

Answer: The rolling admission approach enables us to bring the CAFTA–DR into force for each country as it becomes ready to carry out its obligations under the agreement. This procedure, which our CAFTA–DR partners have encouraged, has enabled us to get the agreement underway in the shortest possible time. We recognize, however, that there are concerns that textile and apparel goods produced in a CAFTA–DR "party" from materials made in a country that remains just a "signatory" may become ineligible for preferential duty treatment.

The most effective and practical way to ensure that our CAFTA–DR partners will be able fully to cumulate their production and receive tariff preferences is to bring each signatory into the agreement as soon as possible. We are working hard with our CAFTA–DR partners to accomplish that.

The CAFTA–DR is now in force between the United States and El Salvador. We are making every effort to bring additional CAFTA–DR partners on board as soon as possible. As that occurs, it will help to reduce cumulation concerns.

We have been consulting closely with representatives of our domestic textile and apparel industry to solicit their views on ways to address concerns on this subject. We are examining all avenues—including existing Presidential authority and possible legislative action—that may be available to resolve these concerns. I look forward to working with you and your colleagues on the Ways and Means Committee as we seek an appropriate and timely resolution to this issue.

Question: Continuing on this line of questioning, what happens for short supply designation requests if, for example, a short supply request is still pending when the FTA is in effect for the first country, which is subsequently approved? If another country then implements the FTA, would

only the second country get to use the short supply designation and not the first country? We should not put the trade and such petitions in "never land" as we transition from CBTPA to DR–CAFTA.

Answer: All items on the approved CBTPA short supply list as of March 1, 2006 were incorporated into CAFTA–DR. Going forward, CAFTA–DR provides a new, streamlined procedure for considering new short supply requests. Any potential producer or supplier, even if located in a country that has not yet completed CAFTA–DR implementation, may submit a petition under the new procedure. Once a product has been designated as not commercially available in the CAFTA–DR region, the benefit of that designation extends to all CAFTA–DR parties.

Under this new procedure, within 30, or at most 45, business days from the receipt of a petition, CITA will either match the petitioner with a regional supplier of that input or designate the input as not commercially available, allowing manufacturers to obtain the input from any source and maintain duty-free treatment for the finished product. We believe that the new CAFTA–DR process will provide better and faster results for both producers and suppliers.

Question: We support the long term objective of establishing a free trade area linking the countries of the Western Hemisphere. It now seems to be increasingly clear that some countries in the Hemisphere will continue to be holdouts. In the Committee's report on CAFTA, we expressed our interested in seeing broader cumulation provisions in future agreements. What steps is USTR taking to ensure that opportunities for cumulation are fully developed in our trade agreements and specifically, in the current Andean negotiations? Cumulation among our FTA partners offers an important strategic opportunity to put some real muscle into a free-trade oriented hemispheric system.

Answer: Cumulation is an important component in promoting hemispheric integration. In the Andean FTA negotiations, we worked closely with our Andean partners to ensure that the proposed agreement will allow cumulation for all products and between all participating countries. We expect that the cumulation provisions in the FTA will generate new commercial opportunities that will encourage Andean economies to integrate with each other as well as with the United States.

Questions from Representative Nunes to the Honorable Rob Portman

Question: We are on the road to completing free trade agreements (FTAs) with South Korea and Thailand—both important markets for fruits and vegetables. As of today, we have completed about 10 FTAs, and the fruit and vegetable industry has supported each one in an attempt to gain market access. However, after agreements are signed, they find market access unrealized because of sanitary and phytosanitary (SPS) restrictions imposed by those countries. How can we learn about the SPS restrictions during the negotiations so that we can elect not to complete the South Korea FTA until all SPS barriers are disclosed?

Answer: The fruit and vegetable industry can assist us in this effort prior to the negotiations by identifying market access priorities in the Republic of Korea. With the access priorities clear, USTR will be better equipped to solicit information related to Korea's current and anticipated sanitary and phytosanitary regulatory requirements for the entry of specific fruit and vegetable products into Korea. We therefore encourage U.S. fruit and vegetable industry interests to testify during the interagency Trade Policy Staff Committee (TPSC) public hearing concerning the proposed U.S.–Korea FTA, scheduled for March 14, 2006(as notified in the Federal Register on February 9, 2006). This hearing will assist USTR in clarifying the negotiating objectives for the proposed FTA before negotiations get underway, based on advice on as to how specific goods should be treated under the proposed agreement.

Question: I believe that our Nation can compete against any other in terms of efficiency and quality, including in the production of agriculture commodities. My district is the largest agriculture district in the United States, with the most diverse crop base in the nation. Many of the crops in my district are not traditional Farm Bill crops and are not offered domestic support of any kind. These farmers are particularly susceptible to trade policy. I believe it is essential that meaningful and measurable market access be part of any trade pact Congress is asked to support. However, even when we are assured this market access we have found that trading partners have put up roadblocks. Recently, a farmer in my district has tried to access the Moroccan market under the new FTA and failed. This was the first effort my district has made in shipping to Morocco under the

FTA. The message that has been sent back to us is not a good one. I would like to know what USTR is doing to make certain not only that agreements in the pipeline are good ones, with meaningful liberalization of trade in theory, but also what USTR is doing to make certain that once these agreements are reached we get the access we were promised? The time it is taking to resolve these barriers hurts my farmers and it hurts my ability to effectively represent the importance of FTAs in the future.

Answer: USTR and other U.S. agencies work in a number ways to assure that U.S. exporters receive the market access to which they are entitled, including under our FTAs and other international agreements. We cooperate daily with other agencies in responding directly to complaints such as this one brought to our attention by U.S. exporters and companies. We hear from companies directly through numerous channels, including industry advisory groups and industry associations.

A case in point is our effort to assist your constituent who has had a problem exporting almonds to Morocco. Working with the U.S. Embassy in Rabat, USDA, and U.S. Customs and Border Protection, USTR carefully reviewed Morocco's decision that the almonds failed to meet rule of origin requirements. We wrote to the Moroccan government to express our view that the Moroccan customs service erred in its decision. We requested that the almonds be given FTA treatment and that the Moroccan government change its policy regarding this type of case. We will be following up to ensure that Morocco responds to this request and to assure that this problem does not arise for other U.S. exporters.

In addition, as with our other FTAs, the agreement with Morocco has provisions to allow our countries to work together to assure full implementation and avoid similar complaints in the future: The Customs Administration chapter, for example, spells out how the two sides will cooperate to help assure efficient customs processing. The agreement obligates our two countries to identify contact points to address any matter pertaining to the agreement. The FTA also creates a Joint Committee that meets annually to review the working of the agreement and to identify steps that might be needed to make sure that the FTA is fully meeting its objectives.

[Submissions for the record follow:]

Statement of Center for Policy Analysis on Trade and Health, San Francisco, California

EXECUTIVE SUMMARY

I. PUBLIC HEALTH ISSUES ARE CRITICAL TO TRADE POLICY

The United States has signed and is currently negotiating multilateral and bilateral trade agreements with significant implications for public health and health care. These agreements can provide a basis for altering domestic U.S. laws and policies, as well as those of our trading partners. Vital issues in current international trade negotiations which are directly related to health include: Intellectual property, affecting access to affordable prescription drugs; Trade in essential human services such as health care and water; Standards for health professional licensing; Regulation of alcohol and tobacco distribution; Standards for the safety of plants and food; and Rules on how state and federal government entities procure goods and services, such as affordable medicines for veterans and seniors.

II. INTELLECTUAL PROPERTY PROVISIONS REDUCE ACCESS TO MEDICINES; DMINISTRATION INTENDS TO DISREGRD CONGRESS ON REIMPORTATION

Controversies regarding intellectual property (IP) provisions are delaying conclusion of agreements with Central America, Thailand, and South Africa. Public health officials, clinicians, and patients are concerned that trade policies designed to extend pharmaceuticals' monopoly rights will delay competition from generic medicines, propping up high prices for brand name drugs in the U.S., and effectively denying access to life-saving medicines in developing nations. These provisions include extended terms for patents and for data exclusivity. They present barriers to compulsory licensing, thus further undermining the ability of governments to protect public health.

In 2005, Congress passed H.R. 2862, the "Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006,"that calls for the USTR to refrain from negotiating trade provisions that would bar the reimportation of prescription drugs into the U.S. Unfortunately, President Bush's signing statement asserts his intent to treat Congress' legislation on reimportation as "advisory." Disregarding this im-

portant legislation would both flout the will of the people's representatives in Congress, and continue an unfortunate and unpopular policy.

III. PUBLIC HEALTH MUST BE REPRESENTED IN TRADE NEGOTIATIONS

Following months of discussions, CPATH and a coalition of public health groups filed a suit to demand that corporate interests be balanced with public interest representation on six influential U.S. Industry Trade Advisory Committees (ITACs). Partners include the California Public Health Association-North, the Chinese Progressive Association, Physicians for Social Responsibility, and the American Nurses Association, represented by the legal firm Earthjustice. In response, USTR and the Department of Commerce published a request for nominations to two ITACs not named in our suit, which are heavily dominated by the pharmaceutical industry. While a positive step forward, USTR has given no deadline for selecting appointees even to these two committees, and has delayed finalizing the appointment of a representative from the Generics Pharmaceutical Association to ITAC 3. USTR must take positive and immediate steps to include public health in determining critical trade policies.

IV. CPATH RECOMMENDATIONS

CPATH urges Congress to pass legislation that promotes transparency and democratic accountability at all levels of the trade negotiation process, including enabling public access to all trade advisory committee meetings, proceedings and submissions related to multilateral and bilateral trade negotiations. We recommend an assessment of the impact of the trade agreements on population health, and follow-up measures to assure, based on such assessment, that these agreements do not have an adverse impact on health.

I. PUBLIC HEALTH ISSUES ARE CRITICAL TO TRADE POLICY:

The United States has signed and is currently negotiating multilateral and bilateral trade agreements with significant implications for public health and health care. These agreements can provide a basis for altering domestic U.S. laws and policies, as well as those of our trading partners. Vital issues in current international trade negotiations which are directly related to health include:

- Intellectual property, affecting access to affordable prescription drugs;
- Trade in essential human services such as health care and water,
- Standards for health professional licensing,
- Regulation of alcohol and tobacco distribution;
- Standards for the safety of plants and food; and
- Rules on how state and federal government entities procure goods and services, such as affordable medicines for veterans and seniors.

Trade policies can undermine efforts of national, state, and local municipalities to enact a diverse array of public health regulations: they could prohibit public school systems from requiring limits on school soda machines, and they could even remove privacy protections from medical records. Trade policies could also promote privatization of public water supplies and other vital services.

II. INTELLECTUAL PROPERTY PROVISIONS REDUCE ACCESS TO MEDICINES; ADMINISTRATION INTENDS TO DISREGARD THE WILL OF CONGRESS:

Controversies regarding intellectual property (IP) provisions are delaying conclusion of agreements with Central America, Thailand, and South Africa. Public health officials, clinicians, and patients are concerned that new policies designed to extend pharmaceuticals' monopoly rights will hinder access to life-saving medicines. The IP provisions in these bilateral and regional agreements would delay competition from generic medicines, helping to prop up high prices for brand name pharmaceuticals in the U.S., and effectively deny access to life-saving drugs in developing nations. IP provisions that would discourage generic competition include extended terms for patents and for data exclusivity. Also, new provisions present barriers to compulsory licensing, thus further undermining the ability of governments to protect public health.

The pharmaceutical industry argues that high prices allow them to recoup expenses from costly research and development, and that since other (developed and developing) countries charge less for medications, they are essentially getting a "free ride" from the U.S. However, this approach is misguided and based on inaccurate assumptions. In actuality, European pharmaceutical companies do invent new drugs

at proportionately the same level as U.S. companies and they do recoup their research and development dollars, while charging substantially less for their products (see Light and Lexchin article, attached). In addition U.S. taxpayers pay for much of the basic research that is conducted in this country. The current patents system maintains high prices, and has resulted in producing hundreds of "me too" products, (e.g., slight variations on allergy medications,) while there are not enough innovative products for life-threatening, highly prevalent diseases such as tuberculosis, and HIV–AIDS.

The "free rider" argument was used to justify the U.S. position on medicines in the U.S.–Australia FTA. CPATH found that the U.S.–Australia FTA contained provisions prohibiting reimportation of drugs from Australia to the U.S., and that the agreement would directly conflict with pending Congressional legislation to authorize reimportation of less expensive medications. CPATH found that the agreement would also give drug companies the right to challenge drug listing, purchasing and reimbursement decisions by the U.S. Department of Veterans Affairs, Medicare, Medicaid and other government authorities, which could lead to higher drug prices for the vulnerable populations affected.

CPATH submitted public testimony to the Ways and Means Committee of the U.S. House of Representatives, and worked closely with Congressional Representatives and Senators concerned with public health. Many drew a line in the sand, calling for an end to trade rules in the future that may limit access to medicines.

In 2005, Congress passed H.R. 2862, the "Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006,that calls for the USTR to refrain from negotiating trade provisions that would hinder Congress' ability to pass legislation for reimportation of prescription drugs.

Unfortunately, President Bush's signing statement asserts his intent to treat Congress' legislation on reimportation as "advisory" only. Disregarding this important legislation would both flout the will of the people's representatives in Congress, and continue an unfortunate and unpopular policy.

III. PUBLIC HEALTH REPRESENTATION IN TRADE NEGOTIATIONS:

It is important for Congress, the U.S. Trade Representative (USTR) and the Department of Commerce to receive information and guidance from the public health and health care community on trade negotiations which affect the public's health, and to benefit from a transparent public debate.

Public health vastly outnumbered:

While there is no representation on the trade advisory committees for public health regarding the impacts of international trade on public health and health care (other than a representative from nursing on the Tier 2 labor advisory committee), there is substantial representation from the pharmaceutical, tobacco, alcohol, food processing and health insurance industries. In fact, on six relevant committees (dealing with issues ranging from distribution of tobacco and alcohol to regulation of hospital services, to intellectual property), there are a total of 42 representatives from these industries, and absolutely zero public health representatives.

Public health request:

The public health community has called for representation on the trade advisory committees, which is both legally required and a sound policy step. In May 2005, several organizations, including the American Public Health Association, American College of Preventive Medicine, American Nurses Association, Doctors for Global Health, National Association of Community Health Centers, California Conference of Local Health Officers, Physicians for Social Responsibility (PSR), Physicians for Human Rights, and CPATH formally requested representation for public health on

6 advisory committees affecting public health. These committees and the issues they address are described below:

Committee	Issues Relevant to Public Health
Consumer Goods (ITAC 4)	Trade in tobacco, alcohol, processed foods and other consumer goods
Distribution Services (ITAC 5)	Distribution of food, alcohol, tobacco, pharmaceuticals, hazardous products
Information and Communications Technologies, Services, and Electronic Commerce (ITAC 8)	Information technologies and services including those used to store and transmit medical information, and to conduct telemedicine and research
Services and Finance Industries (ITAC 10)	Health-related services including health care, water supply, sanitation, research, health professional education and other education
Customs Matters and Trade Facilitation (ITAC 14)	Movement of goods which affect injury control (tobacco, alcohol, and firearms) and government ability to safeguard public health
Intellectual Property Rights (ITAC 15)	Terms of access and pricing for pharmaceuticals, and copyrighted materials for research
Standards and Technical Trade Barriers (ITAC 16)	Standards and measures affecting environmental health and safety, agricultural and processed food safety, and alcohol products.

CPATH's May 2005 letter also requested that the USTR create a new Tier 2 committee to address public health implications of trade, and that the USTR promote transparency and democratic accountability at all levels of the trade negotiation process, including enabling public access to all trade advisory committee meetings, proceedings and submissions related to multilateral and bilateral trade negotiations.

Members of the tobacco control community responded to a published requested for nominees to the advisory committee on Agriculture Committee on Cotton, Peanuts & Tobacco in March, 2005. The USTR appointed Judy Wilkinfeld of the Campaign for Tobacco Free Kids to this ATAC. However, Ms. Wilkenfeld was unable to serve due to illness. Although the USTR stated in October, 2005 that they would appoint her colleague, Eric Lindblom, as a replacement, they have delayed actually doing so. The tobacco control groups also sent a companion letter in May, 2005, supporting the requests of CPATH and colleagues.

The USTR still has not implemented the appointment announced months ago of Shawn Brown from the Generic Pharmaceuticals Association to ITAC 3, which also includes significant representation by brand name pharmaceutical companies. We applaud this appointment and urge that Mr. Brown be seated immediately.

The USTR moves at snail's pace to appoint public health representatives, while feverishly negotiating binding agreements without benefit of public health expertise:

On December 16, 2005, in response to our imminent lawsuit, the USTR published a Federal Register notice calling for public health representatives to apply to two advisory committees: ITACs 3 (Chemicals) and 15 (IP).

The good news is that these are important committees for pharmaceutical issues. The announcement calls for representatives from public health organizations who do not work for industries that are already represented.

The bad news, however, is that the announcement gave no timeline for making appointments. CPATH sent a letter to the USTR and Department of Commerce in December asking for the deadline for applications and appointments. We have received no response from either office.

In response, CPATH and our colleagues solicited applications from several well-qualified applicants:

William Von Oehsen, General Counsel to the Public Hospital Pharmacy Coalition (PHPC), which is a coalition of the National Association of Public Hospitals and Health Systems (NAPH);

Professor Kevin Outterson of the West Virginia University School of Law;

Sharon Treat, Executive Director of the National Legislative Association on Prescription Drug Prices (NLARx);

Hongmai Pham, MD, Johns Hopkins University; and

Kyle Kinner, JD, MPA, Director, Policy and Programs, Environment and Health,Physicians for Social Responsibility.

CPATH has sent letters of support for these individuals and we may nominate others. So far USTR has acknowledged to these individuals that they've received their applications; but there has been no other progress, and no response to CPATH.

As of this date, there are still no public health representatives on the USTR advisory committees. The public health community and policy-makers are disheartened that since we first approached the USTR, numerous trade agreements have been negotiated and are currently in process: CAFTA has been approved, the Hong Kong WTO ministerial occurred in December, negotiations are in process with Thailand, Southern Africa, and the Andean nations (and completed with Peru), all without our participation.

Public health sues USTR

On December 15, 2005, CPATH and a coalition of public health groups including California Public Health Association-North, the Chinese Progressive Association and Physicians for Social Responsibility, filed suit against the USTR, to demand that corporate interests be balanced with public interest representation on the U.S. Industry Trade Advisory committees. We called for representation on six relevant committees, per our May 2 letter (ITACS 4, 5, 8, 10, 14, and 16). The USTR has 90 days to respond, or until March 15. A magistrate has been appointed but there has been no response from the USTR.

The Federal Advisory Committees Act (FACA) requires that advisory committees be "fairly balanced in terms of the points of view represented." Though the U.S. General Accounting Office recently issued a report criticizing the USTR for not opening most of its committees to public interest representatives, the USTR has failed, despite repeated requests from CPATH and others, to appoint representatives of public and environmental health organizations to several ITACs. Thus, we have been forced to go to court, seeking to ensure balance on these federal advisory panels. Several plaintiffs in the lawsuit voiced their frustration:

"Currently the health advisory committees are made up exclusively of industry representatives," said Peter Abbott,MD MPH, President of California Public Health Association-North. "The foxes are not just guarding the hen house, but they are selling the eggs in a private market. That's no way for international trade policy to be made."

"You would think that a trade panel empowered to make public health decisions that will impact millions of people would seek out a few doctors and medical experts with no ties to industry," said Kyle Kinner, JD MPA, of Physicians for Social Responsibility. "But unfortunately, that is not happening. Hopefully this legal action will bring some balance to the process."

IV. CPATH'S RECOMMENDATIONS:

We urge Congress to pass legislation that promotes transparency and democratic accountability at all levels of the trade negotiation process, including enabling public access to all trade advisory committee meetings, proceedings and submissions related to multilateral and bilateral trade negotiations. The public interest, including public health, must be represented on the Tier 3 Industry Trade Advisory Committees. In addition, we recommend that a new tier-2 public health advisory committee be created to provide information, reports, and advice to and consult with the President, to Congress, and to the U.S. Trade Representative (USTR), in accordance with the Trade Act of 1974, as amended. In addition to these changes to the negotiation process, we recommend:

- Congress should not extend "Fast Track."
- An assessment of the impact of the trade agreements on population health, and assure based on such assessment that these agreements do not have an adverse impact on health.
- Exclude vital human services such as health care and water, and intellectual property rules that affect affordable medications, from trade negotiations and challenge under free trade agreements.
- Support enforceable commitments to advancing population health, and to achieving universal access to health care, affordable medications, and safe, affordable water in the U.S. and internationally.

Foreign free riders and the high price of U.S. medicines

Donald W Light, Joel Lexchin

The U.S. government, backed by the pharmaceutical industry, wants to convince Americans that they're paying more for drugs because they're contributing more than their fair share of the costs of research and development. Not so, argue two researchers who have looked at the evidence.

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The United States government is engaged in a campaign to characterise other industrialised countries as free riding on high U.S. pharmaceutical prices and innovation in new drugs.[1] This campaign is based on the argument that lower prices imposed by price controls in other affluent countries do not pay for research and development costs, so that Americans have to pay the research costs through higher prices in order to keep supplying the world with new drugs.[2] Supporters of the campaign have characterised the situation as a foreign rip-off.[3] We can find no evidence to support these and related claims, and we present evidence to the contrary. Furthermore, we explain why the claims themselves contradict the economic nature of the pharmaceutical industry.

Origins of the campaign

The campaign, strongly backed by the pharmaceutical industry, seems to have started in the late 1990s as a response to a grass roots movement started by senior citizens against the high prices of essential prescription drugs.[4] This issue was the most prominent one for both parties in the 2000 elections and has since been fuelled by a series of independent reports documenting that U.S. drug prices are much higher than those in other affluent countries.[5,6,7] The idea that other countries are exploiting the U.S. has led to a hearing of the U.S. Senate Committee on Health, Education, Labor and Pensions and was behind a Department of Commerce report that strongly advocated that other developed countries raise prices on patented medicines.[8] But are higher prices really necessary?

The free rider myth

We can find no convincing evidence to support the view that the lower prices in affluent countries outside the United States do not pay for research and development costs. The latest report from the UK Pharmaceutical Price Regulation Scheme documents that drug companies in the United Kingdom invest proportionately more of their revenues from domestic sales in research and development than do companies in the U.S. Prices in the UK are much lower than those in the U.S. yet profits remain robust.[9,10]

Companies in other countries also fully recover their research and development costs, maintain high profits, and sell drugs at substantially lower prices than in the U.S. For example, in Canada the 35 companies that are members of the brand name industry association report that income from domestic sales is, on average, about

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[1] McClellan MB. *Speech before first international colloquium on generic medicine.* Washington, DC: U.S. Food and Drug Administration, 2003. www.fda.gov/oc/speeches/2003/genericdrug0925.html (accessed 15 Aug 2005).

[2] Aldonas G. *International trade and pharmaceuticals*. Washington, DC: U.S. Senate Finance Committee, Subcommittees on Health and Trade, 2004:1–17.

[3] Safire W. The donut's hole. *New York Times* 2003 Oct 27:A21.

[4] Light D, Castellblanch R, Arrendondo P, Socolar D. No exit and the organization of voice in biotechnology and pharmaceuticals. *J Health Polit Policy Law* 2003;28:473–507.

[5] National Institute for Health Care Management Research and Education Foundation. *Prescription drug expenditures in 2001: another year of escalating costs*. Washington, DC: NIHCM, 2002.

[6] Gross D, Schondelmeyer S, Raetzman S. *Trends in manufacturer prices of brand name prescription drugs used by older Americans, 2000 through 2003.* Washington, DC: AARP Public Policy Institute, 2004.

[7] Families USA. *Sticker shock: rising prescription drug prices for seniors*. Washington, DC: Families USA, 2004.

[8] United States Department of Commerce. *Pharmaceutical price controls in OECD countries: implications for U.S. consumers, pricing, research and development and innovation*. Washington, DC: USDC, 2004.

[9] Pharmaceutical Research and Manufacturers of America. *Pharmaceutical industry profile 2004*. Washington, DC: PhRMA, 2004.

[10] Department of Health. *Pharmaceutical price regulation scheme:seventh report to parliament*. London, DoH, 2003.

10 times greater than research and development costs.[11] They have profits higher than makers of computer equipment and telecommunications carriers[12] despite prices being about 40% lower than in the U.S.[11]

Lower prices do not lead to less research

Mark McClellan, the former commissioner of the Food and Drug Administration, maintained that low prices are "slowing the process of drug development worldwide."[1] A corollary to this claim is that drug companies are shutting down their European operations because prices are too low and moving to the U.S. This assertion is contradicted by the industry's data. The European Federation of Pharmaceutical Industries and Associations reported that, between 1990 and 2003, its members increased their research and development investments in Europe by 2.6-fold and in the U.S. by fourfold.[13] The federation concluded that this differential was due to multiple factors, such as the economic and regulatory framework, the science base, the investment conditions, and societal attitudes towards new technologies.

On several measures, other developed countries spend proportionately as much as the U.S. on research and development. The table presents the spending on research and development as a percentage of gross domestic product for eight developed countries.[14] The U.S. is about at the median. Prices in the countries with better ratios than the U.S. were 31–36% less than those in the U.S.[15] Pharmaceutical companies commit as large a percentage of sales to research and development in Europe as in the U.S., about 19% on average over the past seven years.[9,13] This little reported fact contradicts the widely circulated claims that European countries deliberately ignore research and development costs in calculating prices.[1]

Europee no less innovative than the U.S.

Contrary to claims of American dominance, pharmaceutical research and development in the U.S. has not produced more than its proportionate share of new molecular entities. The U.S. accounts for just under 48% of world sales and spent 49% of the global total on research and development to discover 45% of the new molecular entities that were launched on the world market in 2003, less than its proportionate share. European countries account for 28% of world sales, 36% of total research and development spending, and 32% of new molecular entities, more than its proportionate share.[13]

Limited investment in breakthrough research

Pharmaceutical research and development is traditionally divided into three categories: x Basic—work to discover new mechanisms and molecules for treating a disorder x Applied—work that develops a discovery into a specific practical application, including research on manufacturing processes and preclinical or clinical studies x Other—work that includes drug regulation submissions, bioavailability studies, and post-marketing trials.

Although all types of research are valuable, it is basic research that leads to important therapeutic breakthroughs. Only a fraction of overall industry expenditure is on basic research, and it does not require the high prices currently seen in the U.S. to support it.

The Pharmaceutical Research and Manufacturers of America reports that companies invest on average about 18–19% of domestic sales into research.[9] This figure is considerably higher than that produced by the U.S. National Science Foundation.[16] Its 1999 data show that drug companies invest 12.4% of gross domestic sales on research and development (10.5% in-house and 1.9% contracted out), but only 18% of the amount spent in-house went on basic research. Assuming that 18% of contracted out research is also spent on basic research (the actual figure is not reported) then only 2.2% (18%¥.4%) of revenue goes to basic research. The after tax

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[11] Patented Medicine Prices Review Board. *Annual report 03*. Ottawa: PMPRB, 2004.

[12] Statistics Canada. *Financial performance indicators for Canadian business.* Ottawa: Statistics Canada, 1996.

[1] McClellan MB. *Speech before first international colloquium on generic medicine.* Washington, DC: U.S. Food and Drug Administration, 2003. www.fda.gov/oc/speeches/2003/genericdrug0925.html (accessed 15 Aug 2005).

[9] Pharmaceutical Research and Manufacturers of America. *Pharmaceutical industry profile 2004*. Washington, DC: PhRMA, 2004.

[13] European Federation of Pharmaceutical Industries and Associations. *The pharmaceutical industry in figures*. Brussels: EFPIA, 2004.

[14] Patented Medicine Prices Review Board. *A comparison of pharmaceutical research and development spending in Canada and selected countries (2002)*. Ottawa: PMPRB, 2002.

[15] Patented Medicine Prices Review Board. *Annua* l *repor* t *00*. Ottawa: PMPRB, 2001.

[16] National Science Federation. *Research and development in industry*: *1999*. Arlington: NSF, 2002.

cost of $1 of research and development expenditures in the U.S. seems to be $0.53 to $0.61, owing to tax incentives to do research.[17] Thus U.S. pharmaceutical companies devote a net of only about 1.3 cents (2.4%x(0.53+0.61)/2) of every dollar from sales to innovation.

Only 10–15% of newly approved drugs provide important benefits over existing drugs.[18,19] From a drug company's point of view, investing principally in research to produce new variations of existing drugs makes sense. Government protections from normal price competition do not distinguish between the lower risk, less costly derivative kind of research and high risk basic research needed to discover new molecules.

Ratio of pharmaceutical spending on research and development to gross domestic product and ratio of drug prices to U.S. prices, 2000 [12,15]

	Country							
	Canada	France	Germany	Italy	Sweden	Switzerland	United Kingdom	United States
Percent of GDP	0.08	0.14	0.11	0.06	0.35	0.55	0.32	0.24
Price as a percent of U.S. price	63.6	55.2	65.3	52.9	63.6	69.2	68.6	—

[12] Statistics Canada. *Financial performance indicators for Canadian business.* Ottawa: Statistics Canada, 1996.
[15] Patented Medicine Prices Review Board. *Annual report 00.* Ottawa: PMPRB, 2001.

Misusing economic theory

The industry's principal claims, as well as being contradicted, are based on false premises. First, counting which country discovers the most new molecular entities is irrelevant in a global market. Companies know that where a good drug is discovered does not matter, and often a discovery comes from research in several countries. Whether domestic revenues recover a given country's research and development costs is also irrelevant. If this were not the case the industry would have shut down operations in Switzerland long ago because of its small market size.

If revenues are inadequate, it would make more sense to conclude they do not cover all marketing costs rather than research costs. Research is central to the industry, and costs associated with it should be deducted first. Pharmaceutical companies report that they invest around three times more in the combination of marketing, advertising, and administration than in research, leaving ample room to cut costs.[20]

Secondly, every student in introductory economics learns that fixed costs like research do not determine prices.[21] The market sets prices, implying they are open to free trading like stock prices. Patents, and especially patent clusters, turn the market into a monopoly, and only a monopoly can claim that fixed costs determine prices because it can make that a self fulfilling prophecy. The claim by companies that they have to set prices at 50–100 times production costs to recover research and development costs has never been substantiated, because they have never opened their books to independent public inspection to prove it. What we do know is that all research and development costs are fully recovered each year from domestic sales in the UK and Canada at prices that are far lower than those in the U.S.

Thirdly, free rider is both a vivid public image of someone jumping on for a free ride and a highly misleading economic term. Technically it refers to a method for allocating fixed costs in proportion to the prices that different groups pay. For example, if Group A (call it Europe) pays $1 per pill and Group B (call it the U.S.) pays $2 a pill and each buys a million pills, then this accounting method would assign half as much of the fixed cost to Group A as to Group B. If, however, the fixed costs are only $300 000 (a tenth of the total revenue) for the two million pills, the fixed

[17] Bindra G, Sturgess J. *Assessment of current competitiveness of Canadian R&D in the pharmaceutical industry*. Ottawa: Industry Canada, 1996.
[18] Industrial interests versus public health: the gap is growing. *Prescribe Int* 2004;13:71–6.
[19] National Institute for Health Care Management Research and Education Foundation. *Changing patterns of pharmaceutical innovation*. Washington, DC: NIHCM, 2002.
[20] Families USA. *Off the charts: pay, profits and spending by drug companies*. Washington, DC: Families USA, 2001.
[21] Gregson N, Sparrowhawk K, Mauskopf J, Paul J. Pricing medicines: theory and practice, challenges and opportunities. *Nat Rev Drug Discov* 2005;4:121–30.

costs could be allocated by volume rather than by price ($150 000 for each group) and conclude that Group A more than pays the fixed costs and Group B pays much more than it has to. In short, the free riding argument economically is the artefact of an accounting convention and can be eliminated by Group B cutting its prices in half, rather than forcing Group A to double its prices.

Conclusions

The pharmaceutical industry has provided invaluable medicines to cure and relieve millions of patients throughout the world. As an industry, it drives economic growth and employs thousands of skilled people. But it also uses false economics and makes up stories to justify higher prices. Higher prices strain budgets, causing millions of U.S. patients not to take the drugs their doctors think necessary. The pharmaceutical industry and the U.S. government want to blame other developed countries for these higher prices rather than make drugs more affordable.

Statement of the Coalition for GSP

I. Introduction

This written statement is submitted by the Coalition for GSP (the Coalition) in response to the request of the Committee on Ways and Means (the Committee) for comments from the public regarding President Bush's trade agenda in 2006. The Coalition is a diverse group of U.S. companies and trade associations that use the GSP program. A list of our members, as of today, is attached. We care so much about GSP renewal because, over the years, the program has become an integral part of our businesses. Coalition members import a wide range of goods under GSP, from jewelry to plywood to batteries to spices.

The Coalition was formed in 1992 to work with Congress on a renewal of the program, which was then set to expire on July 3, 1993. We have worked for repeated Congressional renewals of the program ever since. Over the years, we have learned much about how important this program is to American consumers, be they families or manufacturers or farmers. We have also learned much about how the renewal process has affected U.S. companies and consumers. We are pleased to have the opportunity to share with you some of those lessons learned, and hope they are helpful in guiding your consideration of how Congress can best support this important program.

II. Long-term Renewals Are Crucial to American Users of the Program

We urge Congress and the Administration to work together towards the longest period of seamless reauthorization possible. Our ability to use the duty-free benefits available under the program is most effective when we know those benefits will be available by the time we need to import the product or products of interest to us. While the time from design to order to importation varies for each of us, for some companies it can be quite long. For example, some products take as long as one year from design to importation. For others, the products are advertised in catalogues with a shelf life of at least six months. In all cases, we need to know what we will be paying for the imported product at the very beginning of that process. If we can count on receiving duty savings under GSP, we can incorporate those important cost savings into our pricing. But if the program expires mid-stream in the order-to-delivery process, we can be caught with a serious financial load. We cannot always adjust our prices to our customers to pass on the unexpected duties, especially if those prices are advertised in catalogues. So we have to evaluate the risk of losing GSP mid-stream against the benefits of the duty savings. If the program is likely to expire, we often cannot incorporate it into our sourcing plans, and our prices to our customers need to be higher.

With those planning constraints in mind, you can see how short-term renewals of GSP in the 1990s, compared to the long-term period of the past five years, have affected our use of the program. From July 1993 through September 2001, Congress renewed GSP in fits and starts (largely due to the need to meet "pay-go" constraints). Planning our sourcing using GSP was difficult if not impossible. Over this period, from 1994 to 2001, U.S. imports under GSP actually *declined* an average 2.2 percent annually. But in 2001 Congress renewed GSP for five years, and as a result, imports from GSP beneficiary countries to the United States have increased an average 11 percent annually.

A long-term renewal of the program is also important in encouraging sourcing from countries that do not yet have the infrastructure or production capability to

be competitive suppliers of GSP-eligible products. You can see from the table below how the long-term renewal of GSP has increased interest in sourcing from poorer beneficiary countries. To the extent that some of our members are interested in investing in new overseas production relationships, we need time to grow these suppliers. Short-term renewals of the program do not encourage this, and keep us focused on more traditional GSP-eligible countries. Taking GSP away from some of the larger users of the program, like India or Brazil, will not increase interest in sourcing from least developed countries (sourcing would shift from India and Brazil to China instead), but a long-term renewal of GSP will.

Average Annual Increases in U.S. Imports under GSP from Selected Beneficiary Countries

	1994–2001 Stop-and-Start Renewal Period	2001–2005 Stable Renewal Period
Guyana	− 0.6%	+85.1%
Lesotho	−73.2%	+63.7%
Croatia	−10.8%	+47.0%
Kenya	− 5.5%	+14.3%

Source: U.S. Census Bureau

A long-term renewal of GSP is so important to American companies—again, many of them small businesses and manufacturers—that we recommend Congress extend GSP indefinitely, with a requirement that the Office of the U.S. Trade Representative (which administers the program) submit a report to Congress every three years on the operation and effect of the program over the previous three years. Upon receipt of the report, Congress would have a specific opportunity to modify, if necessary, the program—or terminate it altogether. But if termination is not approved, importers could count on the program's continued operation (albeit, perhaps, with some modifications).

III. GSP Matters to American Companies and Workers

While it is traditional to view GSP as a program designed to benefit primarily least-developed countries, over the years it has become just as important to U.S. farmers, manufacturers and consumers. Today, consumer goods account for 30.0 percent of GSP imports; raw materials and components further processed in the United States account for another more than two thirds of GSP imports. For example, U.S. manufacturers incorporate raw materials like ferroalloys used in steel production, imported under GSP, or aluminum ingots imported under GSP for the aluminum they produce in the United States. Leather from Argentina is incorporated into furniture in North Carolina. The U.S. automotive industry incorporates nearly $2.5 billion worth of duty-free auto parts and components, imported under GSP, in into motor vehicles manufactured in the United States. American farmers benefit from the duty-free savings afforded by the program to agricultural chemicals used to make fertilizers in the United States.

The duty savings afforded by GSP are significant. For example, GSP saves consumers from paying a 12.5 percent duty on flashlights and duties of up to 13.5 percent on jewelry. By importing auto parts and components under GSP, the U.S. auto industry saves millions of dollars on tariffs that range up to 25 percent.

Numerous small businesses owe their continued competitiveness to the GSP program, and indeed small businesses are some of the most enthusiastic Coalition members. The duty savings afforded by GSP for many products used by these companies may appear modest, but in the savings can make the difference between profitability and survival in tough markets.

Lapses of the GSP program place a large financial burden on U.S. companies who must pay thousands of dollars in duties to the Bureau of Customs and Border Protection for an unknown period of time. After Congress approves reauthorization, typically retroactively to the expiration date, those companies must file requests with Customs to have their money refunded. If we were to return to a period such as that, it is very likely U.S. companies would simply chose to source their products from other countries where the tariff situation is stable and predictable.

Therefore, we strongly urge the Committee to consider heavily the positive impact of GSP on *American* companies, workers and consumers. Failure to renew GSP be-

fore it expires December 31, 2006 would have a serious adverse impact on American companies, workers and consumers.

IV. GSP Helps Achieve U.S. Trade Objectives

For nearly 30 years, the GSP program has been an important tool of U.S. trade policy. The United States has used GSP to encourage developing countries to improve their worker rights and intellectual property rights protections. Within the past month, USTR reinstated GSP benefits for the Ukraine because that country has taken drastic steps to combat piracy of DVDs, CDs and other optical media. USTR also recently terminated investigations of Pakistan's and Brazil's intellectual property rights practices because both countries have made substantial progress in combating piracy and enforcing copyrights. In addition, the United States restored certain GSP benefits for Pakistan in 2005 because that country has made substantial progress in granting internationally recognized worker rights. (The United States had suspended those benefits in 1996.)

Some Members of Congress have suggested that it may be best to allow GSP to expire so that the program does not distract beneficiary developing countries from participating in meaningful negotiations in the Doha Round. If the object of such a strategy is a GSP beneficiary such as Brazil, Members should remember that Brazil has been especially supportive of U.S. goals for agricultural trade liberalization in the Doha round. If the objects of such a strategy are countries in Sub-Saharan Africa (and South Africa in particular), which have been most vocal about their fears of "preference erosion" they believe would result from tariff reductions through the Doha round, Members should note that SSA countries will be unaffected by an expiration of GSP because their GSP benefits (expanded with textile and apparel benefits) will continue through 2015 on a separate track thanks to the African Growth and Opportunity Act (AGOA).

V. Conclusion

While it is certainly true that GSP was born of a desire to provide a temporary way to assist developing countries to become competitive producers and exporters, over time the program has evolved into an important contributor to *American* competitiveness. Duty-free benefits on a wide variety of products enable American retailers to supply their customers with lower-cost goods, and American companies, many of them small businesses, to purchase raw materials for their U.S. manufacturing and farming operations. Today, *Americans* need this program. We urge the Administration to support a long-term rollover of the existing program, and for us to pursue, together, that rollover before the end of the next Congressional session.

COALITION FOR GSP

Members

Companies

*Albaugh, Inc. (Ankeny, IA)
Binney & Smith (Easton, PA)
Cost Plus/World Markets (Oakland, CA)
*Friitala of America (Connelly Springs, NC)
The Home Depot (Atlanta, GA)
J. C. Penney Company (Plano, TX)
JVC Americas Corp. (Wayne, NJ)
Leo Schachter Diamonds (New York, NY)
*Liberty Woods (Carlsbad, CA)
McCormick and Company, Inc. (Sparks, MD)
Panasonic Corporation of North America (Secaucus, NJ)
PBI Gordon Corporation (Kansas City, MO)
*S&V Industries, Inc. (Akron, OH)
Target Corporation (Minneapolis, MN)
*Ten Strawberry Street (Denver, CO)
Timex (Middlebury, CT)
ZF Industries (Vernon Hills, IL)

Associations

American Spice Trade Association
Association of Food Industries
Consumers for World Trade
International Wood Products Association
National Customs Brokers and Forwarders Association
National Retail Federation
Retail Industry Leaders Association
U.S. Chamber of Commerce
* signifies a small business (less than 100 workers)

Statement of Doctors Without Borders, New York, New York

Introduction

Doctors Without Borders/Médecins Sans Frontierès (MSF) is pleased to submit these comments to the Committee on Ways and Means of the House of Representatives in response to the Committee's Hearing regarding President Bush's Trade Agenda held on February 15, 2006. This testimony focuses entirely on the potential negative consequences of the Administration's trade agenda on access to essential medicines. MSF is deeply concerned that provisions sought by the Office of the United States Trade Representative (USTR) will undermine the historic World Trade Organization (WTO) Ministerial Declaration on the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement and Public Health ("Doha Declaration"), resulting in devastating consequences in terms of access to medicines for millions of people with HIV/AIDS and other diseases throughout the developing world.

MSF has called repeatedly on USTR to ensure that the Doha Declaration remains a ceiling for trade negotiations on IP as they relate to health technologies. Because of the clearly stated negotiating objectives of the U.S., however, we have been forced to go one step further in recommending that IP be excluded from bilateral and regional free trade agreements (FTAs) altogether. The standards for IP protection established in the WTO TRIPS Agreement are sufficiently high and do not justify seeking additional norms in WTO Members by the USG.

Specifically, MSF has raised concerns about the following IP provisions in various FTAs:

- Restrict the use of compulsory licenses to overcome barriers to access created by patents
- New obstacles related to pharmaceutical test data, which will delay the registration of generic medicines ("data exclusivity") and render compulsory licensing ineffective;
- Rules that will confer abusive powers to regulatory authorities to enforce patents ("linkage"); and
- Extensions of patent terms on pharmaceuticals beyond the 20-years required in TRIPS.

Each of these provisions, which are elaborated upon below, appear in multiple FTAs and threaten to hamper generic competition—the only reliable mechanism for ensuring significantly lower drug prices—and therefore restrict access to affordable medicines.[1]

We urge members of this Committee in the strongest possible terms to take every necessary measure to ensure that the health and lives of millions of people in developing countries are not jeopardized by future U.S. FTAs.

Background: MSF

MSF is an independent, international medical humanitarian organization that delivers emergency aid to victims of armed conflict, epidemics, natural and man-made disasters, and to others who lack health care due to social or geographic marginalization. We operate medical relief projects in over 70 countries throughout the world. MSF currently has a field presence in numerous countries included in regional or bilateral agreements with the U.S., including Bolivia, Brazil, Colombia, Ecuador, Guatemala, Haiti, Honduras, Lesotho, Morocco, Nicaragua, Peru, South Africa, and Thailand. Teams provide medical care for people with HIV/AIDS, malaria, tuberculosis, Chagas' disease, leishmaniasis, and other diseases, as well as primary care, maternal/child health care, and other services for displaced and homeless populations and for indigenous people. The organization was awarded the 1999 Nobel Peace Prize. Patents, Prices & Patients: The Example of HIV/AIDS

Patents, Prices & Patients: The Example of HIV/AIDS

According to UNAIDS, there are currently over 40 million people living with HIV/AIDS in the world; six million of whom clinically require antiretroviral therapy now.[2] The AIDS epidemic is having major consequences for infectious diseases in the region, such as tuberculosis. It is estimated that 95% of the people who require immediate treatment for HIV/AIDS do not have access to antiretroviral therapy—which, in wealthy countries such as the U.S., has dramatically extended and im-

[1] It is important to note that USTR issues "side letters" about public health. These are not legally enforceable and do not supercede the (contradictory) language in many FTAs and cannot be seen as providing any assurance for countries to make use of TRIPS safeguards.

[2] http://www.unaids.org/epi/2005/doc/EPIupdate2005 _ html _ en/epi05 _ 02 _ en.htm—Accessed February 28, 2006

proved the lives of people living with HIV/AIDS, reducing AIDS-related deaths by over 70%[3]—simply because they, and the health systems that serve them, cannot afford it.

Just five years ago, the average cost of a triple combination of antiretrovirals was between $10,000–$15,000 per patient per year, and today it is available for as little as $140 per patient per year under certain circumstances. These price reductions were the direct result of international public pressure and generic competition, particularly from Indian and Brazilian manufacturers. Generic competition was possible as a result of the lack of patent protection for pharmaceutical products in those countries. With the full implementation of the TRIPS Agreement in all but least-developed countries in January 2005, such competition is likely to disappear, unless flexible conditions for granting compulsory licenses are available, as per the Doha Declaration. Compulsory licensing of pharmaceuticals will become one of the most important policy tools for ensuring generic production and competition.

The case of AIDS drug prices helps illustrate the need for routine use of compulsory licenses now that all new pharmaceutical products may be patent protected as of 2005, when most WTO Members with pharmaceutical capacity implemented the TRIPS Agreement.[4] As a consequence, prices of new medicines will remain far beyond the means of patients in need in poor countries. The lever that has brought the price of AIDS drugs down will be lost. The U.S. regional and bilateral agreements are creating a system that blocks use of equivalent but cheaper drugs, which will be a catastrophe for our patients and for all people in the region, because the difference in price can be the difference between life and death.

MSF comments to USTR on TRIPS–Plus Provisions

On numerous occasions, MSF has raised concerns publicly about the U.S. insistence on including IP provisions that far exceed requirements set forth in the TRIPS Agreement, and directly undermine the Doha Declaration, which clearly recognized concerns about the effects of patents on prices and stated unambiguously that TRIPS should be interpreted and implemented in a manner "supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all."[5] MSF has called repeatedly on USTR to ensure that the Doha Declaration remains a ceiling for trade negotiations on IP as they relate to public health technologies, and, as a logical consequence, to exclude IP from bilateral and regional trade agreements altogether.

It is important to point out that the draft text of most regional and bilateral agreements pursued by the U.S., including DR–CAFTA, U.S.–Morocco FTA, and U.S.–Thailand FTA, are not made available during, and sometimes after, negotiations. We urge USTR to make the text of U.S. regional and bilateral free trade agreements available to the public throughout negotiations in order to increase the level of transparency and to promote democratic debate and to engage in an informed public debate about crucial issues that directly affect the lives and health of people.

Comments on Common Intellectual Property Provisions Included in U.S. Free Trade Agreements

1. *Restrictions on the use of compulsory licenses*

Compulsory licenses for pharmaceuticals are one of the most important tools for ensuring generic competition. In other fields of technology they are commonly used by industrialized countries such as the U.S. They are especially important now that all WTO countries with pharmaceutical manufacturing capacity, except for least developed countries, may provide patents for pharmaceutical products and processes. Generic production of new medicines will increasingly become dependant upon compulsory licensing, meaning that flexible conditions for granting compulsory licenses must be in place in order to ensure the continued supply of affordable generic medicines.

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[3] According to the U.S. National Institute of Allergies and Infectious Diseases (at the National Institutes of Health) and the Centers for Disease Control and Prevention, the estimated annual number of AIDS-related deaths in the United States fell approximately 70 percent from 1995 to 1999, from 51,117 deaths in 1995 to 15,245 deaths in 2000. This drop is attributed primarily to the introduction of highly active antiretroviral therapy (HAART). Centers for Disease Control and Prevention (CDC). HIV/AIDS Surveillance Report 2001; 13 (no.1):1–41.

[4] Note that least-developed countries (LDCs) do not have to grant or enforce patents on pharmaceutical products before 2016, as per paragraph 7 of the WTO Declaration on the TRIPS Agreement and Public Health, available at http://www.wto.org/english/thewto _ e/minist _ e/min01 _ e/mindecl _ trips _ e.htm

[5] To view the full Declaration, see http://www.wto.org/english/thewto _ e/minist _ e/min01 _ e/mindecl _ trips _ e.htm

A compulsory license is a public authorization to others than the patent holder to produce, sell and export a particular product. However, it is of no use if the drug regulatory authority cannot register any generic drug during the life of the patent. This is what USTR has managed to negotiate in almost all previously signed FTAs (such with Australia, CAFTA, Chile, Morocco and Singapore).[6] By barring drug regulatory authorities from registering generic versions of drugs under patent, the U.S. is blocking the ability of countries to make use of compulsory licenses to ensure access to medicines for their people.

We urge USTR to refrain from including provisions that will restrict the use of compulsory licenses in future regional and bilateral free trade agreements, in order to preserve the full use of this important safeguard for low- and middle-income countries.

2. *Abusive powers to drug regulatory authorities (DRAs) to enforce patents*

As explained above, provisions in numerous free trade agreements negotiated by the U.S. use drug regulatory authorities to help enforce patents and prevent generic competition. This is clearly going beyond the traditional role and functions of drug regulatory authorities, which are limited to checking the safety, efficacy and quality of medicines authorized for use in human beings. In a number of U.S. FTAs, DRAs are requested to refuse the marketing of quality generic medicines if the original medicine is patented in a given country.[7] This effectively means that drug regulatory authorities will function as patent enforcement agencies and will potentially result in the enforcement of "bad quality" patents, which would be revoked if challenged before courts.

We urge USTR not to include a similar provision in other U.S. FTAs, as it can only serve to protect invalid patent claims, since valid claims receive adequate protection through normal judicial processes.[8]

3. *Exclusive rights over pharmaceutical test data*

The TRIPS Agreement only requires WTO Members to protect clinical information that is generally required by drug regulatory authorities to approve/register the marketing of a new medicine ("undisclosed test or other data") against "unfair commercial use" and "disclosure" in the framework of unfair competition law. However, many U.S. FTAs[9] clearly go beyond this minimum requirement and confer exclusive rights on these pharmaceutical test data for a period of five years, from the date of approval of the original medicine in the developing country. Some agreements go even further by conferring data exclusivity also in cases where the original medicine is not registered in the developing country[10]. Under these conditions, market exclusivity could last for up to ten years.

Such proposals are clearly aimed at preventing generic competition of medicines, which are not patented in some countries as a result of pre-TRIPS legislation, and result in a de facto market monopoly. In cases where the original medicine is not registered in the developing country, which may be the case for countries that do not constitute an attractive market for the original manufacturer, the prevention of generic competition will lead to a complete lack of access to medicines, at any cost, for up to ten years.

We therefore urge USTR not to pursue these unacceptable provisions that contradict the letter and spirit of the Doha Declaration.

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[6] Article 15.10 CAFTA—*Measures Related to Certain Regulated Products,* paragraph 3.a; Article 16.8 U.S.–Singapore FTA—*Certain Regulated Products*, paragraph 4.(a)(b); Article 17.10 of U.S.–Chile FTA—*Measures Related to Certain Regulated Products*, paragraph 2.(b)(c); USTR fact sheet on U.S.–Morocco FTA available at www.ustr.gov/new/fta/Morocco/2004–03–02-factsheet.pdf; U.S.–Australia FTA *Chapter 17* available at www.ustr.gov/new/fta/Australia/text/text17.pdf.

[7] Article 15.10 CAFTA—*Measures Related to Certain Regulated Products,* paragraph 3.a; Article 16.8 U.S.–Singapore FTA—*Certain Regulated Products*, paragraph 4.(a)(b); Article 17.10 of U.S.–Chile FTA- *Measures Related to Certain Regulated Products*, paragraph 2.(b)(c).

[8] See also Essential Action comments in response to USTR request for public comment on FTAA draft text, August 22, 2001, Rob Weissman—available at *http://lists.essential.org/pipermail/pharm-policy/2001–August/001422.html*

[9] Article 15.10 CAFTA—*Measures Related to Certain Regulated Products*, paragraph 1.(a); Article 16.8 U.S.–Singapore FTA—*Certain Regulated Products*, paragraph 1; Article 17.10 of U.S.–Chile FTA— *Measures Related to Certain Regulated Products*, paragraph 1.

[10] The original manufacturer is given five years, from the date of approval in the original country, to apply for registration in the developing country and get a new five-year period of data exclusivity, resulting in a possible total of 10 years of data exclusivity in the developing country. See Article 15.10 CAFTA—*Measures Related to Certain Regulated Products*, paragraph 1.(b)

4. *Extensions of patent terms beyond the 20-year minimum in TRIPS*

The TRIPS Agreement obligates WTO Members to provide patent protection on medicines for 20 years. However, the U.S. has been pushing for patent extension to "compensate" for delays either in drug registration or in patent granting. These are unjustifiable extensions of patent terms. Extensive literature [11] has shown that twenty-year patents are more than enough—indeed they may be considered excessive—to allow the pharmaceutical industry to recoup investments made in research and development.

Patent extensions are not required by the TRIPS Agreement and a WTO panel expressly stated that extensions to compensate for drug registration delays do not constitute a "legitimate interest" of patent owners.[12] From a public health perspective, it is critically important that the terms of pharmaceutical patents not exceed what is required in TRIPS. Extending patent terms on pharmaceuticals beyond the 20-years required in TRIPS would be detrimental to the health of people in developing countries as it would unnecessarily further delay generic competition. We therefore urge USTR to refrain from seeking such measures in upcoming regional and bilateral agreements.

Conclusion

Recently negotiated trade agreements by the U.S., including DR–CAFTA, U.S.–Chile, and U.S.–Singapore, as well as the U.S. negotiating objectives for U.S.–Thailand [13] and U.S.–SACU [14] demonstrate its intent to strengthen intellectual property regulations beyond what is required in TRIPS, and reduce the effectiveness of TRIPS safeguards to the detriment of public health. If U.S. free trade agreements continue to create a system that undermines and contradicts the Doha Declaration, blocking use of affordable generic medicines, it will be a catastrophe for our patients and millions of others in the developing world with HIV/AIDS and other diseases.

One hundred and forty two countries, including the U.S., negotiated and adopted the Doha Declaration, firmly placing public health needs above commercial interests and offering much needed clarifications about key flexibilities in the TRIPS Agreement related to public health. We have repeatedly stated that the Doha Declaration must remain a ceiling for international trade negotiations on intellectual property as they relate to public health technologies and called upon the U.S. government to ensure that regional and bilateral free trade agreements do not renege on the historic agreement reached in Doha.

The TRIPS Agreement already establishes comprehensive standards for IP protection in WTO members, which protect sufficiently the interests of IP holders. The promise of Doha is that the TRIPS Agreement can and should be interpreted and implemented in a manner "supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all." [15] Regional and bilateral U.S. free trade agreements threaten to make it impossible for countries to exercise the rights re-confirmed in Doha.

In order to ensure the protection of public health and the promotion of access to medicines for all, we therefore strongly recommend that intellectual property provisions be excluded from U.S. regional and bilateral free trade agreements altogether.

Statement of Jackson-Vanik Graduation Coalition

The Need for Action Now

The Jackson-Vanik Graduation Coalition, which currently includes more than 250 businesses and Ukrainian-American, Jewish-American and non-governmental orga-

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[11] MSF and Drugs for Neglected Diseases Working Group (now Neglected Diseases Working Group), *Fatal Imbalance,* September 2001 available at www.accessmed-msf.org/documents/fatal_imbalance_2001.pdf and The Report of Commission on Intellectual Property Rights, September 2002, available at http://www.iprcommission.org/papers/text/final _ report/reportwebfinal.htm

[12] Canada—Patent protection of pharmaceutical products—Complaint by the European Communities and their member states (WT/DS114/R).

[13] Available at http://www.ustr.gov/releases/2004/02/2004-02-12-letter-thailand-house.pdf

[14] http://www.ustr.gov/Document _ Library/Letters _ to _ Congress/2002/USTR _ Notifies _ Congress _ Administration _ Intends _ to _ Initiate _ Free _ Trade _ Negotiations _ with _ Sub-Saharan _ Nations _ House _ Letter.html

[15] To view the full Declaration, see http://www.wto.org/english/thewto _ e/minist _ e/min01 _ e/mindecl _ trips _ e.htm

nizations, calls on the House of Representatives to *pass legislation in February* to graduate Ukraine from the provisions of the Jackson-Vanik Amendment.

The Senate passed by unanimous consent in November 2005 legislation to graduate Ukraine from Jackson-Vanik. Failure by the House now to pass similar legislation will be seen in Ukraine as a failure of the government's foreign policy and an indication of Western disinterest, at a time when the country is struggling to realize the full promise of the Orange Revolution. Ukraine holds critical Rada (parliament) elections on March 26. Congressional inaction in the run-up to those elections will be exploited by opponents of the government's pro-reform, pro-West course; indeed, Rada deputies have expressed concern to Coalition leaders about precisely such tactics by the opposition. The Coalition thus seeks House passage of legislation in February to signal support for U.S.–Ukraine relations, and for Ukraine's efforts to consolidate democratic institutions and build a robust market economy, fully integrated into the Euro-Atlantic community.

Passage of graduation legislation is also necessary to support a key element of President Bush's policy toward Ukraine. In his April 2005 joint statement with Ukrainian President Viktor Yushchenko, President Bush called for "immediately ending application of Jackson-Vanik to Ukraine."

Background

The Jackson-Vanik Amendment, as contained in Title IV of the 1974 U.S. Trade Act, was a response to the discriminatory emigration policies of the former Soviet Union. The communist restrictions had the most serious impact on religious minorities, particularly on the ability of Soviet Jews to emigrate. The Jackson-Vanik Amendment stated that non-market economies that continued to impose emigration restrictions on their citizens would not be granted permanent normal trade relations or "most favored nation" status by the United States until they had met the Amendment's freedom-of emigration requirements.

Since regaining its independence in 1991, Ukraine has built a strong and impressive record of allowing open emigration. Indeed, a large number of Ukrainian Jews have emigrated over the past fourteen years. Ukraine has also created conditions for religious minorities to pursue their beliefs freely. Ukraine thus is a success story for Jackson-Vanik and now merits graduation from the Amendment's provisions.

Ukraine's excellent emigration record was recognized in 1997, when President Clinton found Ukraine to be in full compliance with the Amendment's freedom-of-emigration requirements. President Bush has regularly endorsed this finding and has called on Congress to take the next step: to graduate Ukraine from Jackson-Vanik. Before the House International Relations Committee in July 2005, Assistant Secretary of State for European and Eurasian Affairs Fried said:

"Ukraine has complied with the provisions of the Jackson-Vanik Amendment to the Trade Act of 1974 for over a decade. This Administration strongly supports Ukraine's immediate graduation' from Jackson-Vanik. As the Ukrainian people look for tangible signs of our new relationship, they are perplexed that Ukraine remains tainted by the legacy of Jackson-Vanik. We urge Congressional action on this matter."

In a November 8, 2005 letter to key Congressional leaders, Secretary of State Rice wrote:

"The Administration strongly supports appropriate legislation that would authorize the President to terminate application of Title IV of the Trade Act of 1974 (the Jackson-Vanik Amendment), with respect to Ukraine, and to extend permanent normal trade relations treatment to the products of that country."

"Congressional action to lift Jackson-Vanik and extend permanent normal trade relations would sent a strong signal of support to Ukraine at a critical juncture."

Various non-governmental groups, including the National Conference on Soviet Jewry and the Euro-Asian Jewish Conference, agree that Ukraine has demonstrated its full compliance with the Amendment's requirements and therefore should be graduated from the restrictions it imposes.

When President Yushchenko spoke before a joint session of Congress on April 6, 2005, he focused on the importance to Ukraine of being graduated from Jackson-Vanik. He received a standing ovation when he declared, "I'm calling upon you to waive the Jackson-Vanik Amendment. Make this step. Please make this step toward Ukraine. Please tear down this wall." There is nothing more important that Congress could do now for Ukraine than pass graduation legislation.

In Sum

The House must act now to pass legislation to graduate Ukraine from Jackson-Vanik:

- It is the right thing to do. Ukraine has long fully met the freedom-of-emigration requirements of the Amendment.
- It is imperative to send Ukraine a positive political signal now, on the eve of the March 26 parliamentary elections. Failure to do so will be exploited by political forces in Ukraine that oppose the government's pro-reform, pro-West course.
- It is essential that Congress help President Bush carry out his April 2005 commitment to President Yushchenko.
- It is important for the sake of the Jackson-Vanik process that Congress show that, when a country meets the freedom-of-emigration requirements, it will be graduated. What incentive will countries have to meet such requirements if Congress moves the goal posts?

COALITION MEMBERSHIP LIST

February 2006

ABEA Ltd.
ACDI/VOCA
Adams and Reese, LLP
AES Corporation
Affiliated AppraisersAmerican Chamber of Commerce in Ukraine
American Jewish Committee
American Jewish Congress
American International Group (AIG)
American Ukrainian Medical Foundation
Americans for Human Rights in Ukraine
Andrew J. Futey & Associates
Arbor View Dental Clinic, Mt. Prospect, IL
Aspect Energy, LLC
Association for the Democratization of Ukraine
Association of American Youth of Ukrainian Descent—ODUM
Atlantic Group, Ltd.
"Awakening" Independent Film Studio
A W and Sons Inc
Baker, Donelson, Bearman, Caldwell & Berkowitz
Berdyansk Reapers
B'nai B'rith International
Boeing
Bolshoi Agrotechnica Machina (BAM) America
Borough of Roselle Park, New Jersey
BRAMA, Inc.
Breakthrough to People Network, Inc.
Breeze Ventures Management
BSI Group
Buckner Orphan Care International
Canada-Ukraine Foundation
Cape Point Capital Inc.
Case New Holland, Inc.
Cardinal Resources PLC
Cargill Inc.
Center for U.S.–Ukrainian Relations, NYC
Chadbourne & Parke, LLC
Chicago Kyiv Sister Cities Committee
Chopivsky Family Foundation
Coca-Cola Company
Conlan & Associates
Council of Ukrainian-American Organizations of Greater Hartford
Crestway Manor Apts. LTD
Customs, Trade & Risk Management Services, Ltd.
David D. Sweere & Sons International, Ltd.
Democrats Abroad—Ukraine Chapter
Diaspora Enterprise
Dr. James Mace, Holodomor-Genocide Memorial Fund
Drake Group Holding Corporation
Draper Fisher Jurvetson NEXUS
Dutko Worldwide
ECdata, Inc.
Energy Alliance
Excelsio Communications
Exquisite Elixirs, Inc
Eye Center of Delaware
Floral Designs by Katya, Chicago
"Freedom" Ukrainian-American Publishing House
GN Associates
Gold Coast Construction
Gold Coast Properties, Inc.
Gongadze Foundation
Gordon C. James Public Relations
Gnxpert Color Inc.
Gnxpert Netral Technologies, Inc.
GnxTach, Inc.
Hamalia South Travel
Heller & Rosenblatt Law Firm
Heritage Foundation of 1st Security Federal Savings Bank, Chicago
Hollywood Trident Foundation
Holodomor Survivors, Inc.
Inco Americas
Independent Voters for Equal Education & Opportunity
International Republican Institute
International Ukrainian Genocide-Holodomor Committee
Irondequoit-Poltava Sister Cities Committee
ISTIL (Ukraine)
ISTIL Group Inc.
Ivan Bahrianyj Foundation, Arlington Heights, IL
Jewish Institute for National Security Affairs
John A. Wood, Associates Inc.
John Deere
John Wood Ministries, Inc.

Kalik Lewin Law Firm
Kiev-Atlantic Ukraine
Kobzar Society, Ltd.
Kraft Foods, Inc.
Krislaty Realty Investments
Kvazar-Micro Corp.
Kyiv Mohyla Foundation of America
Largo Asset Management, LLC
Larry M. Walker Ministries, Inc.
L. B. Lyons & CompanyLemberg Unternehmensberatung, GmbH
Light of Crimea Foundation
Lithuanian-American Community, Inc.
LPL Financial Services, Inc.
MACOIL & Gas International
Maple Investments
Media Finance Management, LLC
Medical Relief Charity Fund
Melitopol Tractor Hydro Units Plant
Meta
Ministering to Ministers Foundation, Inc.
MJA Asset Management, LLC
Moye Handling Systems, Inc.
NAS Global Trade Ltd.
National Conference on Soviet Jewry
National Tribune
Nealon and Associates, P.C.
New Millennium Strategies
New Roots Restoration
North Winnipeg Credit Union Limited, Winnipeg, MB
Nuclear Information and Resource Service
Odza, Gindhart, Steckiw & Farion
Organization for the Defense of Four Freedoms for Ukraine, Inc.
Organization for the Rebirth of Ukraine
Paco Links International
Parents Targeting Achievement
Parents Targeting Opportunity
Perekhid Media Limited
Prerkhid Outdoor
Prerkhid Business Publishing
Piedmont Trading, Inc.
Plast Ukrainian Youth Organization
Poltava Confectionery
Pro Trade Group
Pro-W International Corporation
Raymond Linsenmayer & Associates
Rescare, Inc.
Reut Consulting
Richard W. Murphy Consulting Group
Ring Publishing
RUKH—Ukrainian Movement to aid Democracy in Ukraine, Chicago
Russian-Ukrainian Legal Group, P.A.
Russin & Vecchi LLC, Moscow
Salans Law Firm
Sevastopol Shipyard
Shevchenko Scientific Society
Sibik and Cataldo
Sigma Venture, Inc.
SigmaBleyzer Emerging Markets Private Equity Investment Group
Siguler Guff & Company, LLC
Skarabey Group LLC
Society for Fostering Jewish Ukrainian Relations
Softline
Solid Team, LLC
Squire, Sanders & Dempsey LLP
St. Andrew's Ukrainian Orthodox Church, Bloomingdale, IL
St. Nicholas' Ukrainian Catholic Cathedral—B.M.V. Sodality, Chicago
"St. Sophia" Religious Association of Ukrainian Catholics, Inc. USA
SUM Ukrainian Youth Organization
Svitanok
Sweet Analysis Services, Inc.
Techinvest
TEREX Corporation
Town of Irondequoit, New York
The Action Ukraine Report (AUR)
The Bleyzer Foundation
The International Medical Education Foundation, Inc.
The PBN Company
The School of the Voloshky Ukrainian Dance Ensemble
The Ukrainian Museum
The Washington Group
TransNational Resource, LLC
UBCTV
UkrAgroAssets, LLC
UkrAgroSystems, LLC
Ukraine-United States Business Council
Ukrainian Academic and Professional Association
Ukrainian Academy of Arts and Sciences in the USA
Ukrainian American Bar Association
Ukrainian American Chamber of Commerce
Ukrainian American Civil Liberties Association
Ukrainian American Club of Southwest, Fl
Ukrainian American Coordinating Council
Ukrainian-American Environmental Association
Ukrainian-American Freedom Foundation
Ukrainian American Senior Citizens Association
Ukrainian American Soccer Association, Inc.
Ukrainian American Sports Center "Tryzub"
Ukrainian Association in Austria
Ukrainian Citizens International Association
Ukrainian Community Action Network, Chicago
Ukrainian Congress Committee of America, Illinois Branch
Ukrainian Cossack Brotherhood, Chicago
Ukrainian Credit Union Development Committee
Ukrainian Cultural Center, Fairfax, VA
Ukrainian Cultural & Humanitarian Institute

Ukrainian Development Company, LLC
Ukrainian Education & Cultural Center
Ukrainian Engineer's Society of America, Inc. Philadelphia Chapter
Ukrainian Federal Credit Union
Ukrainian Federation of America
Ukrainian Fraternal Organization
Ukrainian Genocide Famine Foundation, Chicago
Ukrainian Gold Cross, Inc.
Ukrainian Holodomor Exhibition Committee
Ukrainian Human Rights Committee
Ukrainian Institute of America
Ukrainian Museum-Archives, Cleveland, Ohio
Ukrainian National Credit Union Association
Ukrainian National Association
Ukrainian National Museum of Chicago
Ukrainian National Women's League of America, Inc.
Ukrainian National Women's League of America- Regional Councils:
Detroit, New York, Central New York, Northern New York, Ohio,
New Jersey, Chicago, New England, Philadelphia;
Branches at Large: Phoenix, Atlanta, Miami, Pittsburgh, Denver, North Port,
Washington D.C., San Jose, Los Angeles, Houston, Tucson, St. Petersburg
Ukrainian Selfreliance New England Federal Credit Union
Ukrainian Wave Radio Program, Chicago
UKRUSA International Ltd.
United Software Corporation
United Ukrainian American Organizations of Greater New York
United Ukrainian Organizations of Greater Cleveland (UZO)
Usability Matrix Corporation
U.S. Chamber of Commerce
U.S. Civilian Research & Development Foundation (CRDF)
U.S.–Ukraine Foundation
Vantage Enterprises, L.L.C.
Venable LLP
VIKO Corporation
Volia Cable
Volia Software, Inc.
Voloshky Ukrainian Dance Ensemble
Westinghouse
Wilton S. Tifft Photography
WJ Group of Agricultural Companies
WJ Hopper & Co., Limited
World Federation of Ukrainian Medical Associations
World Federation of Ukrainian Women's Organizations, Financial Committee
World League of Ukrainian Political Prisoners
www.ArtUkraine.com Information Service (ARTUIS)
Zaporizhya Meat Processing
Zen Architects

Statement of Kathleen Jaeger, Generic Pharmaceutical Association, Arlington, Virginia

The pharmaceutical provisions in recent Free Trade Agreements (FTAs) negotiated by the United States Trade Representative (USTR) are contrary to or exceed U.S. law. Specifically, recent FTAs allow brand pharmaceutical companies to garner greater intellectual property rights than those afforded under U.S. law by removing limits on patent extensions and expanding provisions that protect intellectual property beyond the legal parameters of the U.S. patent system. At the same time, FTAs lack sufficient generic drug access provisions essential to the vitality of the U.S. generic pharmaceutical industry.

The Generic Pharmaceutical Association (GPhA) strongly supports a balance between fostering innovation and ensuring access to affordable medicine here at home and abroad through our agreements with other nations. The effectiveness and sustainability of the U.S. health care system depend increasingly on such a balance. Accordingly, FTAs that fail to promote these interests equitably will result in a less productive global pharmaceutical industry, and will damage the U.S. health care system in turn.

One important goal of President Bush's administration is to increase global sharing of pharmaceutical research and development (R&D) costs through eliminating price controls and fostering a robust generic pharmaceutical sector. Thus, GPhA strongly supports such initiatives and sufficient protection of intellectual property, and views the reduction of price controls and greater sharing of R&D costs as beneficial to the entire pharmaceutical industry—a win-win for all involved. Yet, recent FTAs are in direct conflict with this policy, as they neglect to ensure the proper balance between innovation and access.

Simply put, the FTAs increase protection of innovation, but blatantly exclude provisions to ensure access to affordable medicine. Over 53% of U.S. prescriptions are filled with generic medicines, yet they account for only 12% of the total cost of prescriptions in the U.S. Without a robust generic industry to complement the brand

industry, neither the U.S. health care system, nor that of any foreign nation would be sustainable. FTAs should export the U.S. balance of pharmaceutical innovation and access to affordable medicine in order to ensure the same prosperity.

Furthermore, trends among FTAs could begin to establish an international standard for governing pharmaceuticals that clashes with U.S. law. In the near future, U.S. law makers may be pressured to conform to such a standard through harmonization efforts. Even now, for instance, the vast majority of the FTAs do not contain a "best mode" provision and the recent Patent Reform bill H.R. 2795 proposes to eliminate the "best mode" requirement under the premise of international harmonization. The USTR should not be promoting agreements with trading partners that will stifle generic competition or make U.S. law anomalous.

I. Free Trade Agreements Conflict with International and U.S. Law

Numerous FTA provisions regarding IP and other measures involving pharmaceuticals contradict, both explicitly and in spirit, commitments made by the United States in the World Trade Organization in both the November 2001 *Declaration on the TRIPS Agreement and Public Health* (the Doha Declaration) and the September 2003 *Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health* (the Paragraph 6 Decision). Moreover, several of these provisions are contrary to or exceed U.S. law. GPhA is concerned that such measures will block generic drug exports abroad, substantially delay the timely access to affordable pharmaceuticals in those territories, and create the means to delay generic competition here at home, such as through international harmonization measures. USTR should make efforts to ensure that any FTA negotiated is fully consistent with both the letter and spirit of our country's WTO commitments and U.S. law.

II. Patent Extensions For Pharmaceutical Products

The patent term extensions available in existing FTAs allow extensions beyond those permitted under U.S. law (Hatch/Waxman patent extensions, 35 U.S.C. § 156). Among other things, the FTAs are not clear that the patent extensions apply only to "new chemical entities." The FTAs also require Parties to adopt an overly vague standard for restoring patent terms for pharmaceutical products in instances of "unreasonable curtailment" of the effective patent term resulting from the marketing approval process. These provisions thus fail to take into account the limitations on extensions contained in current U.S. law, which include the five year cap and the fourteen year limit on the total length of the restoration period.

FTA patent term extensions should be subject to the same limitations found in U.S. statutory and corresponding case law. Those limitations are as follows: (1) the product must contain a new chemical entity (NCE), i.e., a truly novel medicine; (2) the product must be subject to a regulatory review period; (3) the approval for marketing or use of the product upon which the patent extension application is based must be the first permitted commercial marketing or use of the product; (4) only a single patent can be extended; (5) the applicant must have acted with due diligence; (6) the patent restoration period may not exceed five years; and (7) the restored patent may never exceed 14 years. Without these limitations, patent extensions could be available for almost every pharmaceutical product marketed in the territories of the Parties, including the United States, for periods far exceeding what our domestic law currently permits.

III. Market Exclusivity

The FTAs allow marketing exclusivity for pharmaceutical products in excess of five years and do not make clear that the exclusivity is limited to "new chemical entities." The FTAs prohibit marketing approval for third parties relying on data submitted by another for *at least* five years from approval granted to the original party in the territory of the Party. Moreover, where approval is based on approval in another country, some FTAs (*e.g.*, Singapore, Australia) state that marketing may be delayed for at least five years after approval in the Party or approval in the other country, whichever is later. There are no requirements in most cases to register a product in the Party within a short defined period of time after receiving approvals in other countries (except for the FTAs with Chile and CAFTA which provide for a protracted 5-year registration period), further enabling delays in marketing approvals for generic products.

The practical effect of these provisions is that they could permit brand companies, without penalty, to deny access to innovative pharmaceuticals for approximately seven years and block the marketing of affordable generics in those countries for a period of about 12 years. Marketing approval for the brand company would take

about two years[1] and the company would have marketing exclusivity for another five years after that. If a brand company waits until the end of its five-year market exclusivity period in one country before filing in another, the introduction of generics could take 12 years.

Permitting brand companies to wait up to five years after receiving approval in one country before filing for approval in another country, with no erosion of market exclusivity, would limit one of the flexibilities identified in the Doha Declaration for increasing access to medicines, and accordingly, it appears to contradict the direction in section 2102(b)(4)(c) of the Trade Act of 2002 ("Trade Promotion Authority" or "TPA"). Specifically, the Doha Declaration reaffirmed that the TRIPS Agreement provides flexibility for WTO Members to take measures to protect public health, including "promot[ing] access to medicines for all." In keeping with the spirit of the Doha Declaration and the TPA, the FTAs should encourage signatories to take action to require companies to expeditiously seek approval of life-saving medicines for use in their countries.

U.S. law provides for a total of five years of exclusivity for products containing "new chemical entities," and five years appears to be the global standard. Anything more than that is injurious to the U.S. economy and will drive up already skyrocketing health care costs here at home and abroad. No FTA should be interpreted to suggest that U.S. law can, or should be changed to extend the carefully balanced five-year NCE exclusivity period. USTR should modify its negotiations template to only proffer a five-year NCE exclusivity period for products containing new chemical entities.

Certain of the FTAs (*e.g.*, Singapore, Bahrain) also prevent marketing of the "same or similar product" for a period of three years.[2] This language appears to permit marketing to be delayed based on information not tied to the product for which marketing is sought, and for attributes of the product that have been previously approved. This overly broad protection is contrary to U.S. law in that refers to "same or similar product" rather than narrowing the three-year protection to the new "conditions of use." USTR should remove this expansive language from the text of any FTAs.

IV. Linkage Without Exceptions (Hatch/Waxman)

The FTAs that the United States has been negotiating require that our trading partners establish a generic approval process that "links" generic approvals with the expiration of brand patents, an approval process similar to that in the U.S. However, the FTAs incorporate only those provisions that give protection to the patent owner while failing to provide for the corresponding provisions that ensure access to generic products. With no measures to ensure timely resolution of patent disputes, brand companies will enjoy *de facto* patent extensions in this country and in others. In other words, linkage without generic access provisions, blocks generic competition indefinitely.

The FTAs require signatories to prohibit, **without exceptions,** the marketing of generic pharmaceutical products during the term of the patent by persons other than the person who originally submitted safety and efficacy data for approval of the product without the consent or acquiescence of the patent owner. In contrast, in the United States, where a generic applicant files a Paragraph IV Certification challenging a drug patent and is not sued by the patent owner within 45 days of its Paragraph IV Notification, FDA approval and marketing may occur immediately notwithstanding the existence of an unexpired patent.[3] In such cases, the failure of the patent owner to file an infringement action could be construed as consent. However, U.S. law also permits FDA approval and marketing at the expiration of the 30-month stay (30 months after a patent infringement lawsuit is filed) even if the lawsuit is still pending and the patent has not expired.[4] If the filing and continued prosecution of such suit were construed to mean that the patent holder does not consent to third-party marketing, this provision could nullify existing U.S. law by requiring the conversion of the 30-month stay into an indefinite stay of generic ap-

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[1] In contrast, NAFTA Art. 1711:7 provides that "[w]here a Party relies on a marketing approval granted by another Party, the reasonable period of exclusive use of the data submitted in connection with obtaining the approval shall *begin with the date of the first marketing approval relied on.*"

[2] The FTA with Australia also contains similar language "[Party] will not permit marketing of the same or similar product for at least five years from the date of marketing approval by the Party." Art.17.10:1(c). Art.17.10:2 also requires *at least* 3 years of additional exclusivity if the Party requires submission of new clinical information (other than information related to bioequivalency) essential to the approval of the product.

[3] 21 U.S.C. § 355(j)(5)(B)(iii).

[4] *Id.*

proval. Ultimately, this would discourage timely resolution of patent disputes and result in de factopatent extensions for the brand companies—a result that would have substantial financial implications for this nation's health care system.

The FTAs consistently fail to require the inclusion of U.S. counterbalancing access measures that allow challenges to questionable patents that stand as barriers to market entry, patents that are frequently found un-infringed or invalid in the United States. Access measures should include provisions that are identical to the U.S. system related to: scope of patent listability (to prevent improperly listed patents that block generic product approvals); the mechanism to delist patents that fail to meet the eligibility for listing; the 45-day window to facilitate patent dispute resolution and corresponding means to permit FDA approval despite patent litigation, such as the 30-month stay period; and measures to ensure that brand companies do not receive *de facto* patent extensions by sitting idly by, such as declaratory judgment actions. If USTR requires our trading partners to duplicate two-thirds of the U.S. Hatch/Waxman system to the benefit of brand pharmaceutical industry, USTR also must seek to include the generic access provisions. To do otherwise forces FTA countries to accept a lopsided system that protects innovation, yet fails to promote access.

The United States recently passed measures in the Medicare Modernization Act of 2003 (MMA) to restore the balance between pharmaceutical innovation and access by closing unintended loopholes in the U.S. system that needlessly blocked generic competition. In so doing, the United States has set and maintained the gold standard in balancing pharmaceutical innovation and access. We should not reverse this accomplishment by being a party to agreements that upset that balance in favor of innovation to the detriment of American generic manufacturers and consumers. Accordingly, FTAs that require the implementation of a drug approval system linking generic drug approvals to patent protections of brand products must also expressly require generic access measures.

V. Omission or Weakening of Best Mode Provision

The monopoly afforded by a patent is given in consideration of full disclosure of the invention so that the public can enjoy the full use of that invention upon expiration of the term of the patent. In the United States, full disclosure includes (a) disclosure of the invention (the "written description"), (b) a clear, concise, and exact enabling description of how to practice the invention ("enablement"), and (c) disclosure of the best mode of practicing the invention known to the inventor ("best mode"). FTAs (*e.g.*, CAFTA, Australia, Bahrain, Morocco, Jordan) do not require disclosure of the best mode, and thus patents under these FTAs can disclose less than the minimum required in the United States. The "best mode" requirement is that the inventor shall disclose in the patent application the most efficient method known to him (or her) to reduce the invention to practice. Failure to disclose the "best mode" would result, upon patent expiry, in a less than efficient means of producing the invention, potentially giving the patent owner a further monopoly. FTAs should require at least the same disclosure standard for each Party as that which the U.S. requires in exchange for granting a monopoly.

VI. Mandatory Access Provisions: "Bolar"

The United States should support *mandatory* access provisions in all FTAs so that access to affordable medicine cannot be circumvented through implementing legislation. Recently negotiated FTAs do not mandate a "Bolar"-type provision, which is a critical element in the U.S. generic drug approval process. Such provisions allow for the testing, manufacture and use of the subject matter of a patent for purposes related to the development and submission of information to support generic drug marketing approval. Under U.S. law, actions relating to the development and submission of a generic drug application do not constitute an infringement of patent rights. Permissive adoption of this provision in FTAs, however, leaves FTA countries open to pressure by special interests not to adopt provisions that are consistent with U.S. law. Unfortunately, this situation has already occurred in Guatemala. To prevent special interests from undermining the purposes of the Doha Declaration in the future and to facilitate access to affordable medicine, USTR must encourage our trading parties to adopt mandatory Bolar and other access provisions.

VII. Conclusion

The United States has achieved excellence in health care by properly balancing pharmaceutical innovation and access. USTR, therefore, should be holistically promoting both of these features of U.S. law in trade negotiations with other countries. To do otherwise is damaging to the U.S. generic pharmaceutical industry, and adversely impacts both the U.S. economy and our overtaxed health care system. Rather than act in a manner detrimental to affordable health care both home and

abroad, USTR should seek to export the U.S. balance of innovation and access to ensure access of affordable medicine around the globe. This is especially critical in light of the Administration's stated objective to secure global research and development support by the elimination of price controls.

Consumers for World Trade
February 14, 2006

The Hon. Bill Thomas
2208 Rayburn HOB
Washington, DC 20510

Dear Chairman Thomas:

I am writing on behalf of Consumers for World Trade (CWT), to express our views concerning the Congressional 2006 trade agenda. By way of background, CWT is a national, non-profit, non-partisan organization, established in 1978 to promote the consumer interest in international trade and to enhance the public's awareness of the benefits of an open, multilateral trading system. CWT is the only consumer group in America whose sole mission is to educate, advocate and mobilize consumers to support trade opening legislation.

In summary CWT urges Congress to pursue two key goals as it moves forward with its trade policy in 2006. First, we urge Congress to assist lower-income Americans by removing high tariffs, dumping and countervailing duties, and import quotas on the necessities of life such as food, clothing and shelter. Second, we urge Congress to take immediate steps to open up the trade policy and trade remedy process so that consumers are no longer excluded. The current exclusion of consumers is unfair and should be ended as quickly as possible.

Our detailed comments on these priorities follows.

Reduce Tariffs on Clothing, Footwear and Food

Tariffs are simply taxes that, although technically paid at the customs border by importers, are ultimately passed through to consumers in the form of higher prices. In this way, tariffs are like the worst kind of sales tax—hidden from view, but definitely felt in the pocketbooks of the nation's lowest income families.

Although the overall average tariff on goods entering the U.S. market has been reduced through numerous trade rounds to less than 4%, this national average masks the high tariff rates on particular goods consumed by the nation's poorest families. Consumers for World Trade recommends that Congress impress upon U.S. trade negotiators to give priority consideration in the Doha negotiations of the World Trade Organization (WTO) and in bilateral free trade agreement negotiations to tariff reductions on goods that have above-average tariffs in the United States.

In particular, CWT urges the elimination or substantial reductions in tariffs on products with above-average tariffs in the food, clothing and footwear sectors. These products are all basic commodities that every American consumes or uses in his or her daily life. Yet many of these basic staples are subject to high tariff barriers that artificially increase their costs to consumers.

Food Tariffs: The United States is a major world producer of most agricultural commodities and processed food products, as well as a major consumer of these goods. As a result of the Uruguay Round, import quotas no longer exist on agricultural products. However, tariff-rate quotas now provide substantial border protection for many of these same goods, through restrictive lower-tier quota levels and high upper-tier (over-quota) tariff rates. While the average agricultural tariff in the United States is about 12%, this average reflects the fact that many agricultural products enter the U.S. duty-free, while certain other products have extraordinarily high tariffs.

For example, according to USDA's Economic Research Service, the following six groupings of food commodities have U.S. tariffs at or above the U.S. average: fresh meat (12%), oilseeds (17%), nuts (17%), cocoa beans and products (18%), dairy products (43%), and sweeteners (46%). Even these figures, however, are averages and therefore somewhat misleading, as an examination of the individual tariff lines reveals much higher tariff rates, often exceeding 100% (called megatariffs).

Megatariffs are most prominent in the U.S. tariff schedules for dairy, sweeteners, and nuts—all food commodities subject to tariff-rate quotas. About 24 tariff lines in the agricultural chapters of the U.S. tariff schedules identify over-quota tariff rates in excess of 100%. The U.S. over-quota tariff rate on sweeteners exceeds 200%, and on peanut butter is 132%. Seven different dairy products have over-quota tariffs ex-

ceeding 100%. Some of these food products are direct consumer goods and some are ingredients used to make other food products. Either way, such extraordinary tariff rates impose substantial costs on American consumers. *These megatariffs and other above-average tariff rates must be a high priority for immediate, substantial reduction both in multilateral and bilateral negotiations.*

CWT notes that many of these agricultural and food products with high tariff rates in the U.S. are similarly protected in other major agricultural producing nations. The Doha negotiations therefore provide an ideal opportunity to dismantle these tariff walls on a global basis, benefiting consumers everywhere.

Clothing and footwear: There is also a significant opportunity for meaningful tariff relief to be achieved in the clothing and footwear sectors. While the United States has removed quotas from wearing apparel under the terms of the terms of the Agreement on Clothing and Textiles, more needs to be done. The effective tariff rate for wearing apparel now stands at 11%, taking into account recent U.S. trade preference programs. The average tariff for clothing excluding preferences is still quite high at 15% and at 40% for footwear products.

Because the United States has significantly liberalized trade in virtually every other industrial sector, much of the United States' tariff protection is now concentrated in these two industries. Fully half of all duties collected by the U.S. Government are collected in these products (Chapters 50 to 65), even though the products represent only about 8 percent of total U.S. imports.

Reducing duties on these consumer products would have a significant impact on the prices consumers pay at retail since these markets are highly price sensitive. Over the past decade, while overall U.S. retail prices have slowly increased, U.S. apparel and footwear prices have actually declined. As apparel and footwear companies and retailers strive to take additional costs out of the supply chain in order to allow further price reductions for consumers, the importance of reducing these high tariffs cannot be overstated. Through simple market pressure, consumers will demand that these savings be passed on, and thereby would clearly benefit from a removal of these duties

Ironically, it is unclear whether these high tariff rates have been effective in protecting the domestic industry. Import penetration in apparel and footwear—where most of these duties are assessed—now stands at 90 and 98 percent, respectively, begging the question just who in America benefits from these high tariffs.

We hope that Congress urges the administration to aggressively pursue reductions in wearing apparel and footwear tariffs, not only in the Doha round of trade negotiations but in bilateral free trade agreements, as well. Efforts to limit tariff reductions in these sectors through complex rules of origin do not protect apparel and footwear jobs—they simply make these necessities of life more expensive than they ought to be.

High tariffs on footwear, clothing and food hits certain Americans harder than others. Minority households and single parent households spend a greater proportion of their income on the necessities of life. As a consequence, these families pay a higher percentage of the hidden price tag for the U.S. high tariff policy. It is time to recognize that there is little domestic industry to protect, and to eliminate tariffs in this sector, thereby helping hard working American families.

The U.S. should eliminate tariffs on softwood lumber imports from Canada

CWT urges you to recommend that the Administration eliminate the dumping and countervailing duties imposed on imports of Canadian softwood lumber products. Today, the 27% duties imposed on these building products have inflated the price of new homes by roughly $1,000. In the era of high home prices, this price increase adversely impacts the poorest Americans struggling to make a down payment on a new home. Furthermore, duties imposed on Canadian building products disadvantage those Americans rebuilding their homes devastated by last summer's hurricanes. For those impacted Americans along the Gulf Coast, every penny counts towards their recovery efforts. The United States could help many Americans by reducing the cost of lumber in the United States.

This is especially true, given the fact that a recent NAFTA Extraordinary Challenge Committee (ECC) ruled against the U.S. with respect to these duties on Canadian softwood lumber products. We believe it is improper and unwise for the United States to ignore this international commitment by leaving in place the antidumping and countervailing duties on Canadian softwood lumber ultimately paid by consumers.

We also strongly urge Congress to impress upon USTR to cease its efforts to negotiate a Canadian-imposed export tariff on these products. Such a tariff would still increase the price of lumber in the United States, but it would also transfer U.S. Consumer dollars directly to provincial governments in Canada. Consumers for

World Trade vehemently opposes such a scheme to make U.S. consumers "pay off" Canadian producers.

Renew the Generalized System of Preferences

CWT urges Congress to quickly pass a long-term renewal of the Generalized System of Preferences (GSP) that is set to expire by the end of 2006. This program offers tariff-free entry on certain products from a host of least developed economies and it benefits consumers in the form of lower prices.

Trade Remedies Injure and Exclude Consumers

U.S. trade remedy law, and the underlying provisions of the General Agreement on Tariffs and Trade, significantly impact American consumers. And yet consumers—both retail and industrial consumers—have no standing in these cases and are often unable to defend themselves when trade cases are brought. This is quintessentially unfair when one considers that an increasing number of trade cases are being brought against consumer products, such as shrimp, furniture, and lumber.

Indeed, U.S. dumping law provides more standing for foreigners than for American consumers. This lack of official standing means that consumers cannot effectively defend themselves against the imposition of taxes, and that is inherently unfair. The lack of standing means that consumers are not guaranteed time at hearings, are excluded from seeing the trade data upon which the cases are brought, and therefore cannot mount anything like an effective rebuttal to the claims of domestic producers. It is important to understand that retail and industrial consumers are also Americans, and their views should be balanced against those of domestic producers. Indeed some industrial consumers are also domestic producers so the national interest ought to include the consideration of their views. Nevertheless, the International Trade Commission and the U.S. Department of Commerce, under existing trade law, have no obligation to even consider the impact of a trade remedy on competing U.S. interests such as retail and wholesale consumers. In this way, the United States has made a decision that the interests of retail and wholesale consumers is not important. And that's not only wrong, it is often unwise.

U.S. consumers matter to the economy. They vote and they have views on trade cases. U.S. industrial and wholesale consumers are often badly hurt by trade remedy cases that drive up the costs of their inputs. As such, trade cases often reduce jobs in one sector in the name of saving jobs in another. Maybe that is wise policy in some cases, but without a requirement to hear the views of consumers, neither the Commerce Department or the U.S. International Trade Commission really knows.

For this reason, we urge Congress to pass legislation that would allow consumers—both end users and consuming industries—to have standing in trade remedy cases. In addition, we hope that Congress will urge USTR to pursue this change as part of Doha round of trade negotiations.

The U.S. Trade Policy Making and Advisory Process Excludes Consumers

At present, the United States has no consumer representatives on any of its trade advisory committees. This is not for want of consumer groups appealing for a seat at the trade policy table. Indeed, within the last year, Consumers for World trade was denied advisor status as part of the Industry Trade Advisory Committee on Consumer Goods (ITAC 4) because the organization was not deemed to be "a U.S. entity that trades internationally and is engaged in the manufacture of a product or the provision of a service."

It is disturbing that the interests and concerns of 296 million American consumers should be dismissed so cavalierly. For this reason, we urge Congress to support making seats available to consumer groups on the Consumer Goods ITAC. If, in the judgment of the Administration that only an act of Congress would allow such participation, then we urge Congress to pass such legislation. It makes sense for the Congress and the Administration to have the broadest possible participation in the trade policy advisory process. There is no good reason to exclude American consumers from that process.

On behalf of CWT, I thank you once again for the privilege of providing you written comments regarding our priorities for the Congressional 2006 trade agenda. If you have any questions about CWT or its views, please feel free to contact me at (202) 293–2944 ext. 201.

Sincerely,

Robin Lanier
Executive Director

Statement of Retail Industry Leaders Association, Arlington, Virginia

The Retail Industry Leaders Association (RILA) welcomes the opportunity to submit written comments for the record of this hearing on President Bush's Trade Agenda. RILA strongly supports that agenda and appreciates the Committee's efforts to help move it forward.

RILA and the Retail Sector

Retail is the second largest sector in the U.S. economy, employing 12 percent of the nation's workforce with $3.8 trillion in annual sales. RILA is a trade association of the largest and fastest growing companies in the retail industry. Its member companies include more than 400 retailers, product manufacturers, and service suppliers, which together account for more than $1.4 trillion in annual sales. RILA members operate more than 100,000 stores, manufacturing facilities and distribution centers, have facilities in all 50 states, and provide millions of jobs domestically and worldwide. Our members pay billions of dollars in federal, state and local taxes and collect and remit billions more in sales taxes. They are also leading corporate citizens with some of the nation's most far-reaching community outreach and corporate social responsibility initiatives.

The retail sector, along with the suppliers and customers that it serves, is an essential part of the U.S. economy. Retailers meet the needs of U.S. consumers, and in doing so are essential drivers of the U.S. economy. They also serve the global market for consumer goods and bring U.S. products to the foreign markets where they operate. Retailers provide quality jobs at all employment levels with good benefits. The industry also creates opportunities for entry-level employment, part-time work, jobs for non-skilled workers, and management training for front-line workers.

Virtually all of RILA's members, both retailers and suppliers, rely on international trade to conduct their businesses. Our members depend on imports of both finished consumer products and production inputs for merchandise that will eventually be sold at retail stores. Many RILA members are also working to expand retail outlets and operations in countries that are open to U.S. investment and expand market access for American products.

WTO Negotiations

A liberalized, rules-based trading system is essential to U.S. economic success and serves other important U.S. policy objectives as well. Multilateral trade agreements help sustain an open trading regime for goods and services, ensuring that the United States succeeds in the many areas where it has a comparative advantage. Participating in the WTO enables us to marry liberalization of the U.S. trade regime—beneficial in its own right—to increased access around the world for U.S. producers, farmers and service suppliers. And there are many more benefits which participation in the WTO can yet deliver—notably including further opening of the retail and distribution sectors in key emerging markets around the world.

RILA strongly supports the Committee's and the Administration's commitment to ambitious results from the current WTO negotiating round to advance the Doha Development Agenda. RILA's specific *market access* objectives for the round include: (1) significant reduction, on a worldwide basis, of tariffs, quotas, other border measures, and non-tariff barriers to trade in agricultural and non-agricultural products (particularly footwear, clothing, and food products); and (2) broad and deep further liberalization of services trade, with a particular focus on distribution/transportation/delivery services and retail direct investment. Specifically, we want to see a further reduction in barriers to owning and operating retail establishments in WTO Member countries.

In the *trade rules* area, RILA priorities include (1) conclusion of an ambitious trade facilitation agreement, to update the various existing WTO disciplines in this critical area; (2) improvement of WTO disciplines on the use of trade defense instruments, and (3) expansion of intellectual property disciplines to promote better protection of retail brand names in the markets of all WTO Members.

The United States should do its utmost to achieve an ambitious Doha Round outcome, this year, as the surest path toward advancing efficient resource allocation, consumer welfare, market access for U.S. products, sustainable development, and general economic prosperity.

RILA also supports rapid conclusion of accession agreements with major economies presently outside the WTO system, particularly Vietnam and Russia, and prompt enactment of U.S. legislation extending "Normal Trade Relations" status to products of these countries on a permanent basis. RILA strongly opposes the inclusion of safeguard provisions in these accession agreements, such as a textile safeguard comparable to what was included in China's accession agreement.

Free Trade Agreements

RILA's members benefit from, and energetically support, the bilateral and regional elements of the U.S. trade negotiating agenda as well. We welcome the conclusion of FTA negotiations with Oman and Peru, and urge the most rapid possible submission and passage of implementing legislation. We would also like to see FTAs in the pipeline, particularly with larger trading partners like Korea and Thailand, concluded and implemented during the effective period of the current Trade Promotion Authority procedures. Finally, we believe the existing FTA template could be improved by providing greater U.S. market access, through less-restrictive origin rules and other techniques, in the textile and apparel sector.

Preference Programs—GSP

RILA supports a timely, long-term renewal of the Generalized System of Preferences (GSP) program which is presently due to expire at the end of 2006. The GSP program promotes economic development by boosting the export trade of developing countries, contributing to political stability and thereby furthering U.S. foreign policy goals. The GSP program also advances sound economic policies in areas such as intellectual property protection and worker rights; boosts the competitiveness of American industries that use the program to import raw materials and production inputs, and benefits consumers who see reduced prices on imported consumer goods and on products made in the United States using GSP-eligible inputs. This important program should be renewed prior to its expiration at the end of this year. All too often in the past the program was allowed to lapse which led to increased costs and price instability. This had a significant negative impact on small and medium sized U.S. businesses that rely on the GSP program. We also urge the longest possible period of reauthorization; the program is most effective when importers and retailers know its duty-free benefits will be available when the need to import arises. Finally**,** larger beneficiaries should remain eligible to participate subject to the existing mechanism for graduation on a product-specific basis.

Compliance With WTO Dispute Settlement Decisions

RILA congratulates the Committee for the leadership it has shown in revising U.S. measures that have been found, in dispute settlement cases, to violate WTO obligations. We were particularly pleased by the recent passage of legislation repealing the WTO-inconsistent Continued Dumping and Subsidy Offset Act. The United States benefits from being, and being seen as, a rule-abiding WTO Member.

Conclusion

RILA congratulates the Committee for its attention to and oversight of the U.S. trade agenda. Negotiated trade liberalization and ongoing autonomous reform of our own trade regime are essential elements of America's economic success story. RILA stands ready to work with the Committee in pressing forward an ambitious pro-trade agenda. If you have any questions on this statement or require any assistance, please contact Lori Denham, Senior Vice President—Policy and Planning or Jonathan Gold, Vice President—Global Supply Chain Policy.

Statement of the Chamber of Commerce of the United States of America

On behalf of the Chamber of Commerce of the United States of America (U.S. Chamber), we are pleased to present the House Committee on Ways and Means with this testimony regarding President George W. Bush's international trade agenda for 2006. International trade plays a vital part in the expansion of economic opportunities for American workers, farmers, and businesses. As the world's largest business federation—representing more than three million businesses and organizations of every size, sector, and region—the U.S. Chamber views efforts to expand trade opportunities as a national priority.

As such, the U.S. Chamber has helped lead the business community's effort to make the case for initiatives to expand trade, including global trade negotiating rounds under the purview of the World Trade Organization (WTO) and its predecessor, the General Agreement on Tariffs and Trade, as well as bilateral and regional free trade agreements. We do so because U.S. businesses have the expertise and resources to compete globally—if they are allowed to do so on equal terms with our competitors.

Trade, Growth, and Prosperity

America's international trade in goods and services accounts for nearly a fifth of our country's GDP. As such, it is difficult to exaggerate the importance of the Congressional vote in 2002 to renew Presidential Trade Promotion Authority (TPA). As we predicted, this action by Congress helped reinvigorate the international trade agenda and has given a much-needed shot in the arm to American businesses, workers, and consumers. The leadership demonstrated by the many members of the House Committee on Ways and Means was critical to this progress.

The evidence is overwhelming that trade is a powerful tool to strengthen the U.S. economy. As the Office of the U.S. Trade Representative has pointed out, the combined effects of the North American Free Trade Agreement (NAFTA) and the Uruguay Round trade agreement that created the WTO have increased U.S. national income by $40 billion to $60 billion a year. In addition, the lower prices for imported goods generated by these two agreements mean that the average American family of four has gained between $1,000 and $1,300 in spending power—an impressive tax cut, indeed. It is also widely recognized that jobs in the export sector pay a premium of approximately 15% on average.

When TPA lapsed in 1994, the international trade agenda lost momentum. The Uruguay Round was implemented, but no new round of global trade negotiations was launched as the 1990s wore on. Moreover, the United States was compelled to sit on the sidelines while other countries and trade blocs negotiated numerous preferential trade agreements that put American companies at a competitive disadvantage. As we pointed out during our 2001–2002 advocacy campaign for approval of TPA, the United States was party to just three of the roughly 150 free trade agreements in force between nations at that time.

The passage of TPA allowed the United States to demonstrate once again the leadership in the international arena that has seen trade emerge as a primary engine of growth and development since 1945. Four years ago, the promise of TPA renewal fueled the launch of the Doha Development Agenda—the global trade negotiations currently being conducted under the aegis of the World Trade Organization.

The Doha Development Agenda

The Doha Development Agenda (DDA) represents a unique opportunity to unlock the world's economic potential and inject new vibrancy in the global trading system by reducing barriers to trade and investment throughout the world. The round was launched on the premise that both developed and developing nations alike share in the economic gains resulting from global trade liberalization, particularly by addressing unfinished business in the agricultural sector.

With TPA due to expire on June 30, 2007, time is short for the WTO's 149 member countries to secure an agreement. It is clear that the United States must lead—and the United States is prepared to do so. In this vein, the U.S. Chamber applauded the Bush Administration's October 2005 announcement that it is willing to make a 70% cut in the level of "domestic support" to farmers allowed by the WTO in return for commensurate gains in market access overseas.

Ambition is the key to the DDA's success. As one of the most open economies in the world, the United States must be ambitious in its approach to liberalization of trade in manufactured goods, services, and agricultural products if we are to convince our more reluctant trading partners to share our goals. Of course, we cannot lead alone. The European Union and the G20, in particular, need to demonstrate that they, too, are committed to the success of the DDA and willing to make the concessions necessary for a balanced result that can win the support of all WTO member countries.

The U.S. Chamber and its member companies are working with the Administration, Congress, and their counterparts around the world to ensure that the negotiations advance. On October 25, 2005, the U.S. Chamber, in partnership with other leading U.S. business organizations and a broad range of companies and agricultural groups, launched the American Business Coalition for Doha (ABC Doha) to ensure that the U.S. private sector is coordinated, mobilized, and focused on achieving success in the DDA. The recommendations that follow represent our priorities for the DDA, and we will be working actively with our trading partners around the world in the weeks and months ahead to build support for the objectives set out below.

Trade in Agricultural Products: In 2001, the WTO member countries committed to making "substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support." We are encouraged that last fall's proposals set forth by the United States and the G20 seem to have re-energized negotiations with respect to agricultural reforms. We hope these advances will stem what we had per-

ceived before the 6th WTO ministerial conference in Hong Kong last December to be an emerging lack of ambition on the part of some key parties to the negotiations.

In a World Bank paper, Kym Anderson concludes that 92% of developing countries' gains in agricultural trade will come from reductions in market access barriers. The paper finds that such tariff reductions will not only improve the trade climate between developed and developing nations, but more importantly will yield significant gains in trade among and between developing countries. This outcome mirrors what we have witnessed in improved market access provisions in the areas of manufactured goods and services—the most robust gains are seen in trade among and between developing nations.

In this vein, the EU agricultural market access offer issued a month before the Hong Kong ministerial was disappointing. As an example, the EU is basically offering U.S. poultry producers the opportunity to sell every EU citizen one additional chicken nugget a year. The EU is the largest trading power in the world, but European leaders need to recognize that with great power comes great responsibility.

The United States is uniquely positioned to press for success based on the highest levels of ambition. Bold positions can help break what appears to be a stalemate between developed and developing countries over who should make the first move. We cannot fail to deliver steep reductions in both trade-distorting domestic supports and tariff rates. In the end, success will only be achieved through mutual recognition that comprehensive trade liberalization is an opportunity that will yield enormous benefits to farmers and consumers worldwide.

Trade in Manufactured Goods: Manufactured goods represent 75% of global merchandise trade, and the manufacturing sector is a strong driver of U.S. economic growth and employment. In 2001, the WTO member countries made a commitment "to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries." While some progress has been made toward this goal, much work remains to be done in the non-agricultural market access (NAMA) negotiations.

In order to deliver on its development promises, the DDA must provide genuine new market access by substantially reducing or eliminating tariffs among, at minimum, the developed and developing countries through a formula that focuses on making meaningful reductions in tariffs across all product segments, particularly peak and high tariffs. A final agreement must also allow for a voluntary sectoral approach to tariff elimination. Above all, achieving a "level playing field" requires an approach that recognizes the current differences among countries' tariffs, and mandates reductions in tariffs that will reduce and eliminate those differences, so as to avoid an outcome where countries with high average tariffs are only required to make relatively small reductions.

While tariff elimination is a critical component of the round, non-tariff barriers are increasingly becoming as important, if not more important, as tariffs in constraining global trade. The DDA should focus on removing these hindrances to international trade, using both horizontal and sectoral approaches. In addition, the WTO should strengthen, or create where necessary, problem-solving mechanisms specifically focused on addressing and removing non-tariff barriers.

In order to ensure that the NAMA negotiations lead to substantially increased opportunities for trade, growth, and development for all countries, flexibilities should be built into the process that can provide some room for less developed and small economies to take part without shouldering the same burden as their more developed counterparts.

Finally, we recognize that the NAMA negotiations are impacted by progress in the broader negotiating environment. It is important that negotiations on agriculture, services, and NAMA move forward on parallel tracks to ensure that success in the broader round is achieved.

Trade in Services: The services sector is the backbone of the economy in developed and developing countries alike. In total, it represents about two-thirds of world GDP, or $35 trillion in 2004. Further liberalization of this critical sector will allow WTO member countries to attract greater foreign direct investment and take full advantage of the growth and employment that this vital sector provides.

In 2001, the services liberalization work that had been conducted under the GATS (General Agreement on Trade in Services) was incorporated into the DDA mandate. WTO members endorsed the existing negotiating modalities and set a schedule for successive market access requests and offers. Progress has been unsatisfactory to date: few offers and even fewer revised offers have been tabled, despite the fact that the May 2005 deadline is long passed. The request/offer process is clearly not delivering sufficient progress, and there is an urgent need to realign priorities and to raise the profile of the services negotiations among trade ministers. While new

methods that hold promise are being explored to revitalize the process, the objective of achieving substantial new liberalization commitments by the spring of 2006 should guide U.S. efforts.

In mode one (cross border supply of services), the U.S. should seek full market access and most-favored nation (MFN) treatment for all cross border services trade. This level of ambition should apply for mode two (consumption of services abroad) as well. In mode three (commercial presence), the U.S. should seek the abolition or, at the very least, substantial easing in equity limits for services investments and allow for the incorporation of services businesses in whatever legal form makes the most business sense. In mode four (temporary movement of professionals), countries should commit to screen temporary workers, ensure they will leave when their visas expire, and generally commit to containing illegal migration in return for their professionals' access to host countries.

Trade Facilitation: The Doha Declaration recognizes the case for "further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area." Trade facilitation initiatives provide significant opportunities to achieve real, nuts-and-bolts improvements for businesses of all sizes. Progress in such areas as port efficiency, customs procedures and requirements, the overall regulatory environment, and automation and e-business usage are important for all companies but are especially valuable to smaller and medium-sized enterprises.

Major world regions are already embracing trade facilitation. In 2002, the 21 member economies of the Asia-Pacific Economic Cooperation (APEC) forum launched a Trade Facilitation Action Plan that included a commitment to reduce trade-related transaction costs by five percent within six years. In November 2004, the APEC leaders were proud to announce that they had reached their goal three years ahead of schedule. And in the Western Hemisphere, the countries negotiating the Free Trade Area of the Americas committed in 1999 to implement a package of nine customs-related "business facilitation" measures that covered much of the same ground as the APEC action plan. In November 2005, a group of over 100 of the Western Hemisphere's leading business organizations released a declaration favoring an ambitious stance in the trade facilitation negotiating group of the DDA.

These efforts have served to raise the profile of trade facilitation as an opportunity for the DDA, but much more can be done. Trade facilitation can bring great benefits if adopted unilaterally, but a global rules-based approach also offers the advantages of certainty, stability, and enhanced commonality to customs measures and port administration. This is the promise of the DDA's trade facilitation negotiations.

Free Trade Agreements

While the DDA offers the remarkably broad opportunity to lower barriers to trade globally, the free trade agreements the United States has negotiated represent a more ambitious and comprehensive way to open markets one country or region at a time. By leveraging both the breadth of the DDA and the depth of FTAs, U.S. business can attain important new market opportunities in the years ahead.

As noted above, the United States is an extraordinarily open economy. Consider how U.S. tariffs compare with those of countries where FTA negotiations have recently been concluded, are underway, or were recently proposed. According to the World Bank, the United States has a weighted average tariff rate of less than 2%. By contrast, the weighted average tariff of Panama is 7%, Thailand 8%, Peru 9%, Colombia and Korea 10%, and Oman 14%.

We made this point repeatedly in 2004–2005 during our advocacy campaign for Congressional approval of the U.S.–Dominican Republic–Central America Free Trade Agreement (DR–CAFTA). The United States eliminated tariffs on nearly all imports from Central America and the Caribbean in 1983 through the Caribbean Basin Initiative. In 2003, 77% of Central American and Dominican industrial products (including 99% of non-apparel industrial products) and 99.5% of agricultural products entered the United States duty-free. On the other hand, U.S. consumer, industrial, and agricultural exports to these countries faced average tariffs in the 7–11% range. As we often pointed out during the DR–CAFTA campaign, this was like going into a basketball game 11 points down from the tip off.

An academic observer may regard the resulting 5–12% price disadvantage that follows from these lopsided tariffs as insignificant. However, business men and women face narrower margins than these every day, very often with the success or failure of their firm on the line. Best of all, a free trade agreement can fix this imbalance once and for all.

The way free trade agreements level the playing field for U.S. workers, farmers, and business is borne out in the results attained by America's FTAs. For example,

the U.S.–Chile Free Trade Agreement was implemented on January 1, 2004, and immediately began to pay dividends for American businesses and farmers. U.S. exports to Chile surged by 33% in 2004, and by a blistering 85% in 2005. In fact, U.S. exports to Chile have risen nearly two-and-a-half fold in the agreement's first two years of implementation, reaching $6.7 billion in 2005.

Other recent FTAs have borne similar fruits. Trade with Jordan has risen fourfold since the U.S.–Jordan Free Trade Agreement was signed in 2000, fostering the creation of tens of thousands of jobs in a country that is a close ally of the United States. The U.S. trade surplus with Singapore nearly quadrupled over the first two years of implementation of the U.S.–Singapore Free Trade Agreement (2004–2005), reaching $5.5 billion last year. And over the 12 years since implementation of the North American Free Trade Agreement (NAFTA), by far the largest and most important of these agreements, U.S. exports to Canada and Mexico have surged by $189 billion (to a total of $331 billion in 2005), sustaining literally millions of new jobs and businesses.

One of the most compelling rationales for these FTAs is the benefit they afford America's smaller companies. The following table reveals how America's small and medium-sized companies are leading the charge into foreign markets, accounting for more than three-quarters of exporting firms to these three selected markets (one a market where an FTA was recently approved, the second where FTA negotiations were recently concluded, and the third where an FTA has just been proposed). As a corollary, it suggests how smaller businesses stand to gain disproportionately from the market-opening measures of a free trade agreement:

Market	No. of U.S. companies exporting to the market	No. of U.S. SMEs exporting to the market	No. of U.S. SMEs as a percentage of exporters
DR–CAFTA countries	15,625	13,557	87%
Peru	5,080	4,010	79%
Korea	17,330	15,233	88%

Source: U.S. Department of Commerce, 2003 data (latest available).

Beyond the highly successful track record of America's FTAs as measured in terms of new commerce, the U.S. Chamber and its members also support free trade agreements because they promote the rule of law in emerging markets around the globe. This is accomplished through the creation of a more transparent rules-based business environment. For example, FTAs include provisions to guarantee transparency in government procurement, with competitive bidding for contracts and extensive information made available on the Internet—not just to well-connected insiders.

FTAs also create a level playing field in the regulatory environment for services, including telecoms, insurance, and express shipments. In addition, recent FTAs have strengthened legal protections for intellectual property rights in the region, as well as the actual enforcement of these rights.

Following are observations on three of the FTAs that have been in the headlines lately:

Peru: Negotiations for the Peru Trade Promotion Agreement (PTPA) were concluded in December 2005. U.S. trade with Peru has doubled over the past three years, reaching $7.4 billion in 2005. The text of the PTPA reveals an agreement that is both ambitious and comprehensive. Eighty percent of U.S. consumer and industrial products and more than two-thirds of current U.S. farm exports will enter Peru duty-free immediately upon implementation of the agreement.

U.S. investors in Peru also regard PTPA as a helping hand for a close ally in the Andes. As described above, PTPA will lend support for the rule of law, investor protections, internationally recognized workers' rights, and transparency and accountability in business and government. The agreement's strong intellectual property and related enforcement provisions against trafficking in counterfeit or pirated products will help combat organized crime. PTPA will clearly promote economic growth in Peru, lending strength to its economy and providing its citizens with long-term alternatives to narcotics trafficking or illegal migration.

The U.S. Chamber is serving as Secretariat of the U.S.–Peru Trade Coalition, a broad-based group of U.S. companies, farmers, and business organizations advocating for PTPA's approval. Negotiations for a similar agreement with Colombia are being held this very week, and both the coalition and the Chamber are hopeful these talks will produce a trade agreement of similar quality.

Korea: The U.S. Chamber also strongly supports the announcement earlier this month by the U.S. and Korean governments of their intent to launch negotiations for a U.S.–Korea FTA. Such an agreement would be the most commercially significant FTA the United States has entered into with a single country. In 2005, Korea was the seventh-largest U.S. trading partner, its seventh-largest export market, and its sixth-largest agricultural market overseas. Moreover, a U.S.–Korea FTA will strengthen the important political relationship and alliance between the United States and Korea, further contributing to security and stability in the Asia-Pacific region.

The Chamber-administered U.S.–Korea Business Council is serving as Secretariat of the U.S.–Korea FTA Business Coalition. This coalition already embraces over 100 leading U.S. companies and business associations that strongly support the conclusion and passage of a U.S.–Korea FTA to advance the interests of the U.S. business community and promote further bilateral trade and investment.

Oman: On January 19, 2006, the United States and Oman signed a free trade agreement. With bilateral trade surpassing $1.1 billion in 2005, the FTA is of particular interest to U.S. exporters of telecommunications equipment, oil and gas equipment, medical equipment, and electrical and manufacturing equipment. As noted above, Oman has a weighted average tariff of 14%, presenting U.S. exporters with relatively high barriers to market access; the FTA will eliminate all tariffs on industrial and consumer products immediately upon entry into force.

From a regional standpoint, the U.S.–Oman FTA is an important strategic step in the overall U.S. foreign policy in the Middle East. The Bush Administration has announced its intention to create a Middle East Free Trade Area by 2013. The United States already has FTAs with Bahrain, Israel, Jordan, and Morocco and is in negotiations with the United Arab Emirates. Congressional approval of this FTA is a crucial step in attaining the MEFTA goal. Passage of this comprehensive agreement will set a high standard for future FTAs with Gulf Cooperation Council member countries and other countries in the region.

China: Challenge and Opportunity

Beyond the Doha Development Agenda and the various free trade agreements coming up for Congressional consideration or under negotiation, we would like to comment on U.S.–China trade. The Sino-American commercial relationship is the subject of a number of recent legislative proposals in Congress.

The U.S. Chamber and our members applaud the many recent cases in which Chinese authorities have worked closely with the U.S. business community to implement the commitments China made upon accession to the WTO, as well as to resolve disputes that have arisen during the implementation process. Partly for these reasons, China is now the fastest-growing trading partner of the United States. Rapidly expanding bilateral economic and commercial ties underscore the market opportunities that China offers to U.S. exporters and investors, which support the creation of high value-added jobs at home.

However, as underscored by last week's trade deficit figures, China can and must do more to open its market and instill the rule of law. The U.S. business community and others that vigorously advocated China's WTO membership premised their support on expectations that China is evolving into a more open and transparent market based on the rule of law. China's unsuccessful efforts to consistently enforce its laws protecting intellectual property (IP) and to combat IP theft represent the most visible examples of these expectations remaining unfulfilled.

Similarly, China has continued its reliance on state guidance and industrial policies—capitalization requirements, mandated national technology standards, procurement preferences and subsidies—in key sectors. Not only is this a breach of China's market access commitments and the spirit of openness China embraced when joining the WTO, but it also gives credibility to China's critics who doubt China's commitment to create a business environment that values equally the economic contributions of domestic and foreign companies.

China needs to implement its WTO obligations fully and consistently in order to advance on the path toward a clear and transparent rule-based regulatory environment that values equally the contributions of U.S. as well as Chinese businesses. Some key policy issues in the area of IP, industrial policy, transparency, and currency are outlined below:

Intellectual Property: China needs to reduce the depth and breadth of IP infringement and realize a marked reduction in the export of pirated and counterfeit products. This can be accomplished through such efforts as the routine implementation of effective civil, administrative, and criminal penalties and increased market access for the purchase of foreign IP-based products to facilitate the sale of legitimate products.

Industrial Policy: China must refrain from using discriminatory government procurement policies, national standards, competition law, and IP regulations to erect barriers to fair competition and unfairly reduce the value of foreign-held IP. China should reaffirm its commitment to non-discriminatory, merit-based, and technology neutral government procurement. China should also accelerate its efforts to join the Government Procurement Agreement (GPA) and, prior to accession to the agreement, adhere to the principle of national treatment in government procurement. It is also essential that China respect the rights of patent holders, including the right to derive reasonable compensation (e.g., royalties or one-time payments) from IP and refrain from utilizing compulsory patent licensing to resolve patent-infringement issues, even for mandatory national standards.

Transparency: China must do much more to ensure that it develops and implements laws and regulations in a manner consistent with international practices and WTO commitments. China has made important progress in improving the transparency of its rulemaking and other regulatory activities since its WTO accession in 2001, but transparency remains a key concern of U.S. Chamber member companies.

Currency: China should move as quickly as possible to a fully convertible exchange rate. China's status as a large, developing economy that is not yet fully market-based poses special challenges to world trade and financial systems. The U.S. Chamber supports the Administration's engagement of the Chinese government in discussions on such matters as currency levels, trade flows, investment regimes, and compliance with international agreements.

The U.S. Chamber would like to underscore that for all the examples of China's challenges in realizing full WTO compliance, none of these trumps the value of engaging the world's most populous nation in the rules-based trading system. While we share the concerns of many members of Congress over the U.S.–China trade deficit, rising competition from Chinese imports, and China's currency regime, it is important that we do all we can to resist protectionist sentiments to address trade challenges. We understand the motivation behind legislative proposals to repeal China's "permanent normal trade relations" status or add significant tariffs to Chinese imports, but such actions would retard, not advance, U.S. interests.

For all those who care about the future of our economy, jobs for Americans, stability and peace in the world, the protection of global health, and the advancement of environmental quality and human rights, we must continue to encourage China to become an active and committed member of the world trading system. We are pleased with the Administration's efforts to take a broad-based review of the U.S.–China commercial relationship through the top-to-bottom review. The U.S. Chamber encourages efforts to hold China accountable through appropriate means such as the U.S.–China Joint Commission on Commerce and Trade and other bilateral forums. When dialogue is ineffective, the Chamber supports the use of U.S. trade laws and the dispute settlement process within the WTO. Constructive engagement with China remains the most promising path to progress and is vastly superior to approaches that seek to punish and isolate this emerging global power.

Conclusion

Trade expansion is an essential ingredient in any recipe for economic success in the 21st century. If U.S. companies, workers, and consumers are to thrive amidst rising competition, new trade agreements such as the DDA and the various free trade agreements cited above will be critical. In the end, U.S. business is quite capable of competing and winning against anyone in the world when markets are open and the playing field is level.

The U.S. Chamber appreciates the leadership of the House Committee on Ways and Means in advancing the U.S. international trade agenda. We stand ready to work with you on these and other challenges in the year ahead. Thank you.

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