Testimony before the

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Subcommittee on International Trade, Customs, and Global Competitiveness

Hearing on

"The Strategic Benefits of a Multilateral Approach to Trade Policy in the Asia-Pacific Region"

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Chairman Carper, Ranking Member Cornyn, distinguished Members of the Subcommittee. Thank you for the opportunity to appear before you today to share my thoughts on the strategic benefits of a multilateral approach to trade policy in the Indo-Pacific region.

As this Subcommittee knows well, the Indo-Pacific region is home to some of the world's largest, dynamic, and fastest-growing economies in the world, as well as the most innovative companies. According to the Asian Development Bank, the region's share of global GDP will exceed 50 percent by 2050. The region accounts for over one-third of global goods trade, up from 25 percent a decade ago. Moreover, Asia is home to a large and growing middle class, which is projected to account for over two-thirds of the world's total middle class population by the end of this decade. In short, the region offers the United States enormous economic opportunities that will drive global economic growth – and American prosperity -- for years to come. Without strong economic engagement in the region, however, the United States risks not only foregoing these opportunities, but becoming increasingly marginalized as the region forges a new future without us.

While addressing the China challenge has understandably become an important rallying point in Washington to focus U.S. efforts regarding Asia, a comprehensive U.S. policy towards China will only succeed if accompanied by a broader Asia strategy. And, an Asia strategy has the best chance of success with a robust trade pillar.

THE REGIONAL TRADE LANDSCAPE

The trade landscape in the Indo-Pacific region has shifted significantly over the past four years. The U.S.-China trade dispute, the COVID pandemic and its associated economic impacts, supply chain disruptions, logistics challenges, and growing export and import restrictions have had dramatic impacts on trade in the region. Nevertheless, regional trade remains strong halfway into 2021, with the WTO predicting an eight percent growth in global goods trade this year, with much of it fueled by the region.

The other important regional development, and the one on which I would like to focus today, is the ongoing efforts among the Indo-Pacific economies to strike trade agreements among themselves. This makes the Indo-Pacific not only the center of global trade, but a hub of activity for trade negotiations. By not being a part of these deals, the United States loses its seat at the table to help write the rules to govern trade for the years ahead, and loses is competitiveness in these growing markets while parties to these agreements gain preferential market access.

At the forefront of this movement are two multi-party regional agreements, -- the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, or CPTPP, and the Regional Comprehensive Economic Partnership, or RCEP. The CPTPP entered into force approximately 2-1/2 years ago after Japan rallied other countries to proceed with the agreement despite U.S. withdrawal. RCEP was signed in November 2020, and is expected to become effective in early 2022.

But, that's not the whole story. Beyond these two deals, countries across the region have also moved ahead with numerous bilateral trade agreements, including with some partners outside the Indo-Pacific. Just last week Australia and the United Kingdom announced the conclusion of a free trade agreement (FTA) "in principle." Over the past couple of years, the Indonesia-Australia Comprehensive Economic Partnership Agreement and the EU-Vietnam FTA came into force; China concluded FTA negotiations with Cambodia; New Zealand and China updated and expanded coverage of their existing agreement; and South Korea and Indonesia are now working in their respective capitals to bring their recently concluded FTA into force.

There are multiple factors driving this stepped-up activity. They include the desire of regional partners to grow their economies, strengthen supply chain resiliency, create jobs, attract foreign direct investment, promote innovation, and diversify their trading partners. Regardless of their political systems or level of development, nearly all countries in the region see economic growth and innovation as a critical measure of societal success, and have witnessed first-hand the lifting out of poverty of millions of citizens in the short span of one or two generations – most made possible by expanding trade and investment opportunities across the region and the world. In short, our regional partners see trade expansion as a path worth pursuing.

Yet, even with all of this activity, our partners would still like to see the United States return to the negotiating scene to help craft agreements that shape the rules of the road on trade and investment for the coming years, and keep the United States fully engaged in the economic fabric of this dynamic region. While these countries strongly welcome recent U.S. engagement on security, climate change, and health, they note the conspicuous absence of trade initiatives, a significant gap in their eyes. Without an active trade agenda for the region, our partners view U.S. regional engagement as incomplete and unresponsive to one of the key levers that will promote and sustain U.S. integration and influence in the region.

CPTPP

In particular, the CPTPP members have made it clear that they would welcome the United States back to this pivotal regional agreement. These countries have not stood still since the United States announced its withdrawal from TPP in January 2017. While the U.S. exit initially threw the agreement into disarray, the eleven remaining countries regrouped under the leadership of Japan and signed the CPTPP just 14 months later.   Surprisingly and importantly, they kept the overwhelming majority of the agreement intact, suspending only 22 of the thousands of provisions from the original TPP.

Despite this impressive success in resuscitating what looked like a moribund agreement, the CPTPP countries have not achieved comparable success so far in attracting new members. A number of economies have expressed varying degrees of interest in joining, including Indonesia, the Philippines, South Korea, Taiwan, and Thailand but none have made the leap to submitting a formal application. However, this changed earlier this month when the CPTPP partners launched the formal accession process for the United Kingdom. Given its high-standard trade agreements already in place with a number of CPTPP members, UK accession is expected to go smoothly, which could help pave the way for others to follow.

China has also expressed its interest, with Xi Jinping publicly stating last November that China will "favorably" consider joining the CPTPP.   It's unclear what China's true intentions and motivations may be. But, statements like this are not made lightly and must be taken seriously. Chinese officials are now taking a deep dive into the specifics of the agreement's provisions, while they consult with certain CPTPP members to further their understanding of what the rules would mean in practical terms for Beijing and take the temperature on possible support for a Chinese bid to join.

Indeed, China would have difficulties in adhering to certain CPTPP rules, particularly with respect to obligations on state-owned enterprises, digital trade, labor standards, and intellectual property protection.   But, that's not necessarily a reason to dismiss the prospect of Chinese accession. Let's keep in mind that China is the number one trading partner for most countries in the region, with trade and investment flows growing steadily, and supply chains strengthening in some key sectors.

While China is Japan's top trading partner, Japanese officials, in their capacity as Chair of the CPTPP this year, have sent signals that China's accession would have to be on the same terms and at the same high standards as for any other country. Other CPTPP members may be more flexible, believing that this would be an opportunity for further market-opening and reform by Beijing, while increasing their access to the large and growing Chinese market. What is key for Wasington to keep in mind is that these discussions are happening in real time in capitals all over the region.   The longer we are on the sidelines of these conversations, the less influence the United States will be able to exert in this process and in the region more broadly.

RCEP

The United States should also pay close attention to developments surrounding RCEP.   Each of the fifteen RCEP members is now seeking domestic approval of the pact, which is expected to go into effect in early 2022.   Four countries -- China, Japan, Singapore, and Thailand -- have already ratified the agreement and others are expected to follow in the months ahead.

RCEP is a low-standard agreement when compared to CPTPP. Rules on labor, environment, and state-owned enterprise are noticeably absent.   The text is full of exceptions, long transition periods, weak enforcement mechanisms, and product exclusions for tariff reductions, leading some to dismiss its economic significance. But doing so would be a mistake. With common rules of origin and harmonized paperwork for customs purposes, this agreement will result in more economic integration among its members, as well as the further strengthening of regional supply chains. Moreover, with its Ministerial meetings, Committee structure, and the establishment of a Secretariat, RCEP will become a forum for its members to set rules on emerging issues and strengthen preferential market access commitments.

While joining RCEP is not a realistic nor desirable prospect for the United States, it is an important milestone that should be factored into U.S. thinking as we shape our trade strategy in the region and consider the timing of new initiatives. America's key trading partners and allies in the region take the RCEP seriously – so should we.

IMPORTANT TAKEAWAYS FROM PAST REGIONAL NEGOTIATIONS

As the Administration and Congress consider how the United States can most effectively re-engage on trade in the Indo-Pacific, I commend the Subcommittee's interest in seeking a deeper understanding of what lessons can be learned from our past work on trade agreements and how they can inform our next steps.

TPP

In light of my first-hand experience as a senior U.S. negotiator in the TPP negotiations, I would like to share the following observations of this multi-party negotiation which I believe are relevant to this exercise.

First, it's important to recognize that the United States was successful in defining the topics and shaping the rules that comprised the final TPP agreement. There is every indication that while the slate is not as clean as it was previously, we could still play a similar role in future negotiations. In such areas as e-commerce, state-owned enterprises, intellectual property protection and industrial and agricultural standards, the detailed TPP provisions, and now CPTPP provisions, were largely based on U.S. proposals. In fact, throughout the negotiation the U.S. objective was largely to bring other countries' trade regimes more in line with U.S. standards and norms. The U.S. success in this endeavor was evidenced by how few laws and regulations Washington would have needed to change to become part of the agreement, especially when compared to the other members.

Second, multi-party deals like the TPP by definition generate bigger bang for the buck as more countries agree to a common set of ambitious rules while providing access to their individual markets. The economic gains of a single negotiation can be multiplied by the number of parties to the agreement, and are then augmented by the additional benefits that flow from the outcome of constructing a regional framework. Furthermore, these benefits can grow as new, qualified members join the grouping.

Third, with the recent and urgent focus on supply chain resiliency, agreements like TPP should be viewed as "trusted" supply chain agreements. By bringing together like-minded countries committed to high-standard rules and eliminating barriers among them, such agreements encourage the development of resilient supply chains between the parties. They can provide a strong foundation for more detailed supply chain arrangements around specific strategic and essential products of concern.

Fourth, a multi-country agreement like TPP provides some important sources of negotiating leverage that are distinct from bilateral initiatives. During the course of the TPP negotiations, U.S. negotiators were able to capitalize on other countries' concessions to gain support from third-country members for U.S. negotiating requests. For example, once Japan joined the talks and offered new and valuable agricultural market access to the group, others were more amenable to moving in areas of importance to the United States, including intellectual property protection and state-owned enterprises. We also found that building a coalition of TPP members in support of a particular U.S. proposal sometimes made it easier for the outlier country to gain traction at home if it could show that it was responding to requests from a group of countries, and not just U.S. pressure.

One final thought to share on such multi-country agreements: Negotiating a comprehensive agreement with a diverse group of countries is unquestionably more complex and usually takes more time than a bilateral negotiation. This is borne out by looking at the multi-year time frames for the TPP, RCEP and WTO negotiations. As talks proceed, sometimes initial negotiating objectives can be overtaken by changing public sentiment about the deal itself, or concerning specific chapters or provisions. Such was the case with TPP. Looking ahead, we should consider building in a mid-term review – perhaps at the two -year mark of negotiations -- to take a step back and reassess U.S. negotiating objectives and make necessary adjustments that align more closely with possible shifts in stakeholder and Congressional views. Certain trading partners may view this as an unhelpful ploy by Washington to move the goalposts in the negotiations. However, a mid-term review, with Congressional and stakeholder input, could help build needed domestic support and ensure that the negotiated outcomes are in line with public sentiment.

USMCA

There are also important takeaways from the USMCA negotiations that should be considered carefully as Washington develops its trade strategy for the Indo-Pacific region. First and foremost, the USMCA clearly demonstrated to skeptics in the United States and abroad that trade agreements can garner strong bipartisan Congressional support if they are able to successfully address and balance the priorities and concerns of different stakeholders and Congressional members. It also underscored how critical consultation and cooperation between the executive and legislative branches are in bringing negotiated deals into force. This collaboration should be a model for future negotiations, even if it builds extra time into the process.

One of the best kept secrets of USMCA was how this agreement borrowed heavily from the TPP, keeping its provisions alive and relevant in such areas as digital trade, intellectual property protection, and agricultural standards (SPS). Moreover, USMCA incorporated new features, including enforceable currency provisions, stronger enforcement tools for labor and the environment, and stricter rules of origin to ensure that the economic benefits of the agreement are directed to its members and not to outsiders. These new provisions paved the way for many earlier Congressional opponents of trade agreements to rally behind the deal.

A word of caution, however. Before concluding that the USMCA should be the model or the floor for future trade agreements, particularly in the Indo-Pacific region, we should be mindful that the United States had unique negotiating leverage with Canada and Mexico. Both neighbors are highly dependent on the U.S. market with approximately 75 percent of their exports destined for the United States. This contrasts with the Indo-Pacific where the United States is just one of several major trading partners and where China is and will continue to be the largest trading partner for the overwhelming majority of countries in the region. Second, President Trump's threat to withdraw from the original NAFTA agreement resulted in unprecedented flexibility among American stakeholders who feared the commercial fallout that would transpire from uprooting 25 year-old trilateral supply chains that had developed under NAFTA – a flexibility that may not be repeated in negotiations of new trade agreements. Finally, Mexican political developments allowed the United States to play the negotiating clock skillfully with Mexico, and then use that factor to build pressure on Canada.

WHERE DOES THIS LEAVE US?

Each negotiation tends to have its own set of shared objectives, unique challenges, and sources of leverage. What works for one country or region may not be easily transferrable to another. Thus, while it's important to develop a template, it's equally critical to build in flexibilities.

The TPP and the USMCA negotiations offer valuable lessons and insights that are important to keep in mind as the United States shapes its trade strategy for the Indo-Pacific region. Both are comprehensive trade agreements that cover dozens of topics, updating provisions of earlier agreements and including new features.

In shaping its worker-centered trade policy, the Biden Administration has indicated that it will conduct a detailed review of our existing FTAs, consult widely, and develop a new template that responds to the concerns and priorities of U.S. workers, and the U.S. middle class more generally.

This internal work will take time – it is a painstaking but necessary process to develop concrete proposals, consult with a wide array of stakeholders, many new to the trade arena, and build domestic support. But time is not on our side in the Indo-Pacific region if we want to play a leading and impactful role in shaping the new rules, standards, and norms for regional trade and investment. As each month passes, most regional economies are concluding new trade agreements, strengthening their economic ties with China, and integrating further among themselves. Meanwhile, China's efforts to fill the vacuum that we've created are moving ahead full steam

CONCLUSION: PURSUE NARROWER, SECTORAL TRADE AGREEMENTS IN THE INDO-PACIFIC

This leads me to a concluding recommendation. Just because the United States may not currently be ready to enter into a comprehensive trade agreement with Indo-Pacific partners, this should not mean that our entire rule-making trade agenda for the region be placed on hold. Rather, we should pursue narrower deals in sectors that deliver concrete benefits to U.S. workers and firms, while positioning the United States at the forefront of writing the rules that will govern trade for the years to come.

A digital trade agreement with like-minded regional partners would be an excellent candidate for such a focused approach. Such an agreement would help promote digital inclusiveness, provide small and medium-sized enterprises the digital tools they need to participate and flourish in the international marketplace, and reverse the emerging trend of digital protectionism. It could provide a forum to promote shared democratic values of openness, transparency and fairness. Moreover, such an initiative would put the United States squarely back at the regional negotiating table and could serve as a building block for a broader agreement, such as a revised and updated TPP, down the road. Finally, the rules of the road for digital technologies are still being written, and absent U.S. participation,t hese rules may work against our interests. Indeed, we are already seeing this -- a case in point being the broad exception provided in the RCEP E-Commerce chapter where data obligations can essentially be ignored if a party decides for itself to do so. To prevent such provisions from becoming the regional norm and spreading to other agreements, U.S. leadership is critical.

Needless to say, there are other subjects that could also be a useful focus for regional sectoral agreements, and I urge the Subcommittee to give this more thought.   But what's clear and was so well stated in a recent op-ed by the Chairman and Ranking Member, the first and most important step is to "get our seat back at the table" in this critical region. Our future economic growth, competitiveness, and influence depend on it.