

# ADMINISTRATION'S TRADE AGENDA FOR 2006

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HEARING  
BEFORE THE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE  
ONE HUNDRED NINTH CONGRESS  
SECOND SESSION

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FEBRUARY 16, 2006  
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## ADMINISTRATION'S TRADE AGENDA FOR 2006

THURSDAY, FEBRUARY 16, 2006

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

The hearing was convened, pursuant to notice, at 10:45 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Thomas, Smith, Bunning, Crapo, Baucus, Bingaman, Lincoln, Wyden, and Schumer.

### **OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. Welcome, everybody, and particularly Ambassador Portman.

Today's hearing is on the administration's trade agenda for the coming year. Traditionally, this committee's first trade hearing of the year is reserved for a person in Ambassador Portman's position as U.S. Trade Representative, because that is the spokesman to come up here and brief the committee on any of the administration's trade priorities.

This is also an opportunity for the trade representative to hear from committee members regarding the priorities that we would like to see advanced by the administration, and obviously one that is anticipated by the whole process that we call trade promotion authority.

I think it is important that we start every year this way, but I particularly want to thank Ambassador Portman and his staff for their efforts to rearrange a busy schedule right at this time, permitting his appearance before the committee. Thank you very much.

The timing of this year's hearing could not be better, as well. Last June, our Finance Committee held a hearing on U.S.-China economic relations. At that hearing, I announced that I would refrain from endorsing any new legislation with respect to China pending the outcome of Ambassador Portman's top-to-bottom review of the administration's trade policies towards China, and China's response.

The result of that review was released Tuesday, and I look forward to reviewing those results with Ambassador Portman during today's hearing.

More and more, bills are being introduced, as everyone knows, that address our trade relations with China. The top-to-bottom re-

view will be an important resource for me as I intensify my efforts to develop legislation over the next few weeks.

I have grown increasingly frustrated with the lack of progress on China's currency issue, so that is one area that obviously I would be looking into. Other areas needing attention include compliance efforts, trade enforcement, and trade enhancement so that more Americans benefit from our trading relationships.

The key point is that China must live up to its commitments and to its responsibilities as a major beneficiary of the global trading system, and of course act like the 5,000-year-old society, and mature society, that it is.

I look forward to working with the Ranking Member, Senator Baucus, in this effort. We may sometimes take different approaches to similar issues, but in the end I believe that we can develop a bill that will enjoy broad bipartisan support to advance these very important goals.

Separately, we have reached a critical juncture in the Doha Round trade negotiations in the WTO. Realistically, the negotiations must be completed by the end of this year if Congress is going to implement a Doha trade agreement prior to the termination of trade promotion authority in July of next year.

Ambassador Portman took a very bold step to reinvigorate the negotiations last October by tabling an ambitious offer on agriculture, and I still think you did the right thing, Mr. Portman, at that time, even though I know you took some criticism from some interests in the United States.

But the United States is a leader, has been for 50 years, in this area. We have benefitted from the results of other rounds, and we will benefit from this one. I think the world is expecting the United States to lead, but if they are expecting us to give more than we receive, obviously that is not the real world. Taking a step ahead, as you have done, I think, has been very beneficial.

Unfortunately, though, from your standpoint, our country's standpoint, and what we in Congress hope to accomplish by approving a World Trade Organization agreement maybe early next year, that offer that you put forth has not been matched in ambition by our negotiating partners.

So I would like to be very clear on this point of the U.S. moving forward and our administration, through Ambassador Portman, doing that, in a sense, because Congress delegates some authority to do that.

Congress, which in the end, then, has final approval, will not accept any agreement that fails to provide meaningful market access for our U.S. agricultural products in developed and developing countries alike.

For my part, I would be embarrassed to bring anything before this committee or to put this committee in place to consider those things if we did not have something that was meaningful in market access.

In addition, we expect significant progress in harmonizing domestic supports for agriculture. Then we have our manufacturers and service providers that we have to look out for. They must also see substantial market access liberalization. The shared benefits of trade come from open markets, not from protected markets.

I also commend you again, Ambassador Portman, on the strong stance that you have taken with respect to implementing the Dominican Republic CAFTA, particularly with respect to meat and poultry inspection, the equivalency thereof. This issue is very important to farmers in Iowa, and across our country.

The fact is, recognition of the equivalency of our inspection system for meat and poultry was discussed in parallel with the CAFTA negotiations, and Congress anticipated that such equivalency would be recognized as part of the CAFTA implementation process.

I was glad, however, to see El Salvador, as one country, follow through on that issue recently, and I hope that other CAFTA countries will do so, and do so quickly. Only then will we be able to share fully in the benefits of free and open trade among these five or six nations.

The administration continues to make good use of trade promotion authority. I use the implementation of the U.S.-Oman Free Trade Agreement as an example, part of an ongoing effort by the administration to establish a Middle East free trade area.

The trade agreement with Oman is a significant building block towards achieving these important goals. In addition, the President notified Congress of his intention to enter into a free trade agreement with Peru.

I have already expressed to Ambassador Portman my view that our trade agreement with Peru—and if there is anybody from Peru here listening—that this agreement should not be held up.

I mean, I want them to know, as well as you, Mr. Portman, that this agreement should not be held up, waiting for other Andean countries. On the other hand, I could say at the same time, the other Andean countries ought to move along.

So with respect to Colombia, I want to underscore that an agreement will not pass the Senate unless the final package is at least as good as the CAFTA agreement in regard to agriculture.

In sum, Mr. Ambassador—and I am going to defer to Senator Baucus now—I cannot go through everything that you could possibly discuss with us, and you probably do not have time to discuss everything that ought to be discussed.

But here is the point. This is a very important year for advancing both trade liberalization and trade compliance. We have many important issues before you that, in a sense, is before us—because I hope you look at yourself as acting as an agent for Congress in these negotiations—that we have to be considering.

So, we thank you for coming in for this part that is not just a hearing, but is a very important part of the consultation process. Senator Baucus?

**OPENING STATEMENT OF HON. MAX BAUCUS,  
A U.S. SENATOR FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman.

Ambassador Portman, welcome. You have been Trade Representative now for, what, about a year?

Ambassador PORTMAN. Eight, 9 months.

Senator BAUCUS. Close to a year.

Ambassador PORTMAN. Nine and a half months. It seems like 9½ years, sometimes, sir.

Senator BAUCUS. Well, that is my point. After Doha and CAFTA, it sort of adds new meaning to baptism by fire.

Ambassador PORTMAN. Yes.

Senator BAUCUS. Well, congratulations.

Ambassador PORTMAN. Thank you.

Senator BAUCUS. I know I speak for all members of this panel, I think the Congress, and probably most people in the country, by thanking you for your hard work that you are dedicating to this job. You have worked very hard, and I think you are doing a very good job.

But, clearly, as the old saying goes, no good deed goes unpunished. There is always more to do. I would just like to go over a couple of points in that regard.

First, clearly, 2006 has many opportunities. There are challenges, but there are also opportunities. I took a trip to China and India not too long ago, last month, and it was clear to me on that trip that we need to work even harder to rise to the challenge and take advantage of the opportunities that these other countries, especially China and India, are presenting to us. And I think to do so we are going to have to work even more aggressively as Americans, and together, better to enhance American competitiveness. We want to make sure our kids and our grandkids live as good a life, basically, as Americans do today.

I compliment you on the part that you are playing to help make that happen, because trade clearly is an integral part of competitiveness. I am going to be looking at the items in your trade agenda, basically through that prism, that is, the degree to which they do or do not enhance American competitiveness.

For starters, a more competitive America requires us to focus, I think, more resources on trade enforcement. I recognize your hard work, but my honest view is, I do not think you have sufficient resources, with all of your responsibilities.

I congratulate you on your successes, say, with EC and the WTO biotech case; and China, kraft linerboard; Ukraine, cracking down on illegal optical media disk manufacturers. I mean, you have some successes there, and I congratulate you for that.

But, as you also know, there is a very real sense in the Congress that our trading partners generally do not play by the rules. There is a sense that we do not do enough in America to make sure that they play by the rules, and we cannot encourage our farmers, our ranchers, and our businessmen in our country to embrace international trade unless they have the confidence that the U.S. Government is behind them, and making sure that they are with them in enforcing our trade laws.

That is why, this afternoon, Senator Hatch, Senator Stabenow, and I will introduce the Trade Competitiveness Act of 2006. It is a bill which includes a new Senate-confirmed Chief Trade Enforcement Officer, with new reporting requirements, additional funds, geared toward helping you in your efforts to enforce commitments that other countries have made and should be living up to.

It is my thought that the tools provided for in this bill will help you. It will help make the USTR even more responsible to Congress-

sional concerns about enforcement, because after all, trade is, under article 1 of the constitution, a legislative responsibility. I am looking forward to working with you on that bill.

But there are many initiatives that we can take together to promote U.S. competitiveness. The Doha Round, I think, offers a real opportunity for our farmers, ranchers, manufacturers, and innovators.

But our trading partners must realize they must give in order to get. We have already offered our trading partners quite a lot, especially on agriculture, and I believe it is high time that they follow suit.

From the standpoint of U.S. competitiveness, a deal that does not include substantial reductions in their agricultural tariffs, especially of the EU, India, and others, I think, would be a bad deal.

A deal that does not include meaningful reductions in industrial tariffs in Brazil, India, and other developing-world countries would be a bad deal. A deal that does not offer U.S. service providers enhanced market access around the world would be a bad deal. At the end of the day, clearly, no deal is better than a bad deal.

On our free trade agreements, I congratulate you for beginning negotiations with Korea. As you know, I have long urged the administration to focus on Korea and other commercially significant partners in Asia.

If you have lingering questions about whether to begin similar negotiations with Malaysia, our tenth largest trading partner, I say to you: go for it!

But to truly enhance the competitiveness of the U.S. economy, these negotiations must address the real barriers facing U.S. exporters, like Korea's continued ban on imports of bone-in beef. It has non-tariff barriers that limit foreign penetration into its auto market to just 2 percent, and selective harassment of U.S. investors.

Our trade relationship with China is obviously key to American competitiveness. I appreciate the release of your top-to-bottom review Tuesday and your commitment to put more money and personnel behind this initiative.

I think it is a solid initiative, a solid review. I personally—and I think I can speak for others—will monitor implementation of your China strategy very closely.

In the run-up to the upcoming visit of President Hu, I hope that we can resolve some major bilateral irritants. First among them, from my perspective, is China's continued ban on U.S. beef.

I would also encourage you to redouble your efforts with Japan to overcome their recent technical set-back—I regard it as a technical set-back. It is more a Customs issue than it is a health issue—and resume imports of safe, high-quality U.S. beef.

This year also offers us the chance to integrate more countries into the world trading system. I am pleased to hear that WTO accession talks with Vietnam and Ukraine are under completion. The Senate has already granted Ukraine PNTR, and I hope that we can do the same for Vietnam by the August recess.

Perhaps Russia, too, will soon be ready. They are not there yet. Until Russia addresses its abysmal record of protecting and enforcing intellectual property rights and deals with other concerns of

U.S. exporters, there will be little enthusiasm in the Congress to grant Russia PNTR.

Finally, I hope that 2006 is the year that we finally realize a durable resolution to the dispute involving subsidized Canadian lumber, a problem that continues to undermine the competitiveness of an important industry in my State, and many other States.

The recent change in government in Canada may provide a unique opportunity to achieve that goal. As we all know, everything is an opportunity, however it appears on the surface. I would just urge you to find that silver lining, that opportunity, and that change of government in Canada.

You have a lot on your plate. You built a great team with Ambassadors Bhatia, Schwab, and Allgeier, among others, and you have already proven yourself more than worthy to handle the challenges that you face. I wish you good luck.

Ambassador PORTMAN. Thank you.

The CHAIRMAN. All right. Thank you, Senator Baucus.

Now, Ambassador Portman, your statement. If you have a longer statement you want to put in the record, it will just automatically be placed in the record.

Proceed.

**STATEMENT OF AMBASSADOR ROB PORTMAN,  
U.S. TRADE REPRESENTATIVE, WASHINGTON, DC**

Ambassador PORTMAN. Thank you, Mr. Chairman.

I think, instead of a statement this morning, if I could, I would like to just go through a presentation that you should each have in front of you. If you do not, please let me know.

[The presentation appears in the appendix on p. 45.]

It may be a little more informal that way, and an opportunity for me to take some questions even as we go through it. I know some of you have other commitments, hearings, and votes, and so on, and I appreciate the fact that so many of you are here.

Senator Baucus talked about a lot on our plate. He is right, there is a lot on our plate. The Chairman and Senator Baucus both said that 2006 is an important year. It is an incredibly important year, and we have lots of opportunities. I look forward to working very closely with the committee on that.

Some of you I have worked with on specific issues over the last 9 months. I try to stay in close touch with the committee, and I will continue to make my best effort to do that.

But, obviously, any time there is an interest on behalf of individual members to speak with me or to meet with me, I am more than open to that.

With regard to the agenda, I thought it might be helpful to start with, on page 2, just looking at some of the recent milestones. I am not going to spend a lot of time on this; Senator Baucus has mentioned a couple of our accomplishments on the enforcement side.

But just to say, working together, we have achieved a lot in the last year. The Chairman talked about reinvigorating the Doha Round. I believe we did that. I think some of that reinvigoration has dissipated, frankly, because, as he said, other parties did not match our offer with equal ambition.

But we have made some progress there, including ending export subsidies by 2013 at the Hong Kong meeting. This was an important accomplishment for our farmers and ranchers.

With regard to FTAs, we have closed two agreements recently. Oman and Peru were both talked about. I look forward to working with you on those two. They are good agreements. Of course, we have passed two, which include seven countries, Bahrain and the CAFTA-DR.

With India, we have launched a new trade policy forum. We are meeting again this week at the deputy level, and then I am going to India in early March to continue the discussions on a bilateral basis with India. It has been very, very productive, actually, and we are deepening that relationship.

Many of you were involved with our textile agreement with China. Our Saudi Arabia WTO accession, it took us 9 years to get through that. It is the right thing to do to get them into the WTO. The free trade agreement with Morocco is now implemented.

There are a number of agreements, from the Russia meat agreement to the EU enlargement agreement, we were able to finish this year. That is one of my big goals, to try to get some of these agreements off the table and completed. Some of these, again, took a number of years.

The beef market was talked about earlier by Senator Baucus. We've had some successes in the last, even, couple of months, as you know, with regard to Hong Kong, Thailand, Taiwan, and the Philippines. With respect to Korea, for the boneless product, as Senator Baucus said, we still have more work to do there.

With regard to Japan, of course, we do have some serious concerns right now, but I am hopeful that we can get back on track. I think it is more of a technical set-back, in a sense, and more of a Customs issue. It is certainly not a safety issue.

I have provided each of you this morning with our Top-to-Bottom Review. I am not expecting that you have read it yet, since it just came out this week, but I do believe this is an objective, yet hard-hitting, analysis of where we have been and where we ought to go in terms of China trade policy.

It is something I wanted to do, and committed to you all that I would make my best effort to do. I hope you will find it helpful. It does have some specific recommendations, but frankly it was not so much an exercise to come up with a lot of action items as it was a review, a top-to-bottom review, of where we are and where we are going.

[The top-to-bottom review appears in the appendix on p. 73.]

I welcome your input and your ideas, and I know this committee, as Chairman Grassley has said, will be spending some time looking at our China trade policy, which is so incredibly important.

In terms of disputes, on the next page of the presentation, Mr. Baucus walked through some of these. I will not spend any time going through them individually. But we have had a number of successes, and I have grouped them in terms of China, agriculture, and then other cases.

I want to mention one that Senator Baucus mentioned as a success, which is kraft linerboard. We were prepared to file a WTO case against China on this issue. There are 14 States that send

kraft linerboard to China, including States represented around the table this morning. It is a very important product for us. It is the corrugated paper inside of cardboard boxes.

We spent several months working with the Chinese on our concerns about their antidumping order. We told them that we were prepared to take it to the WTO. We then told them we had the case ready to file, and overnight, after several months of fruitless discussion, they revoked the order.

This was great news for the American industry because we got the result we wanted, and an immediate result as compared to the year, year and a half we would have spent at the WTO, then an appeal, and then implementing the remedy, most likely retaliation. So this is much more satisfactory.

I just use it as an example of where you can use the WTO process, sometimes very effectively, as leverage, and we will continue to do that. Incidentally, it would have been only the second case ever filed in the WTO against China. The U.S. also filed the first one.

Agriculture. We've had a number of successes. We continue to work hard on implementing some of these successes, including the biotech case which was mentioned. This is significant, by the way, not just for the European market, which is very important, but also to be sure that science is the basis used in resolving these problems in other important markets around the world.

On the next page, I talk a little bit about what underlies all of this, and that is something I believe every member here today in this committee largely supports, which is a proactive trade policy. It is good for us. It keeps the United States' economy more productive and competitive.

We are already the most open large economy in the world. It is in our interests to knock down barriers to trade. This is true in manufacturing, where we continue to be the world's largest exporter of manufactured products and where, incidentally, reducing trade barriers will spur the creation of more and higher-paying jobs in manufacturing. The number I have here is 13 to 18 percent, on average, higher wages in jobs related to exports.

It is certainly true on agriculture: 27 percent of farm income, 1 in every 3 acres, is planted for export, critical to the farm economy, as Chairman Grassley noted.

And then, services. We had another record year in terms of surpluses in services, \$56 billion versus \$48 billion the year before. We have a definite comparative advantage for the United States in services.

So it is in our interests to get proactive out there with a trade agenda. As Chairman Grassley said, 2006 is going to be an important year for trade liberalization and trade compliance. It should be, because trade is so important to our economy.

Here is the agenda, on the next page, divided into three areas: global trade talks, first; second, bilateral and regional trade talks; and, third, enforcing trade laws.

On the global front, next page, I think Chairman Grassley has summarized well where we are with regard to Doha. I would simply remind you all of the dates again. By the end of this year we need to have finished up so that we can send you an agreement



early next year, prior to the expiration of trade promotion authority.

There are three major negotiating areas: manufacturing, services, and agriculture. With regard to manufacturing, you will see on the next page, trade in manufactured goods is very important to us. Sixty-two percent of our total goods and services exports are represented by manufactured goods. Incidentally, this is an increase of 82 percent in our exports since 1995, the end of the last round.

The timing of April 30 is on here because that is when, as we agreed in Hong Kong, we would have the modalities, meaning a framework, as to how we are going to deal with reducing industrial tariffs.

We have been pushing hard, as you know, for reducing tariffs in the most aggressive way possible in manufacturing. On the next page, you will see why. The United States has relatively low tariffs here. Our average tariff in manufacturing is about 3 percent.

If you looked at the global average, you will see it is roughly 30 percent. In the non-OECD countries, meaning many of the emerging markets where we have a great interest, it is higher than that.

We are focused not just on reducing tariffs, by the way, but also non-tariff barriers. It is very important for us to see work in the sectoral areas. We think that is the most effective way, process-wise, to get some of these improvements. You take one sector and you find like-minded countries and really reduce those barriers dramatically.

We have done so in other areas like telecommunications. We think, in NAMA, or manufactured goods, it is a great opportunity for us. So that is the U.S. proposal. We have it out there, and we are aggressively promoting that.

Second is services, moving to the next page. I said earlier this is a comparative advantage for us. It clearly is. In Hong Kong, we were able to make some progress in a framework that we think will provide a more successful way to reduce barriers to services.

This one is a little harder because it is not a matter of quantitative reductions of tariffs; it is regulations, it is caps, it is cross-border restrictions. It is things like telecommunications, financial services, express delivery, energy services, and so on.

We are working now on what is called a plurilateral process. This means countries that have an interest, working together in a particular sector trying to reduce barriers.

By the end of the month I will be able to tell you better what kind of progress we are making, but the United States, again, is taking a strong lead here because we believe this is strongly in our interests, given that we have such a competitive services industry.

We also believe, frankly, it is incredibly important to the benefits from Doha, because services is such a big part of the economies of so many countries, including the developing world, where they will be able to modernize their economies by opening more to the services trade.

The next page shows you how open our service regime is compared to other countries'. Again, this is one reason it is in our interest to be aggressive on this front.

It is estimated by some that you could see an increase of as much as \$6,800 for a family of four annually by full liberalization of services. These are pretty amazing numbers. Again, this is because we do have a comparative advantage, but also an increasing dependence on the service sector.

Third is agriculture, as you see on the next page. I have spent some time, again, with many of you, including the Chairman and Ranking Member, who have a strong interest and background in agriculture, working through these issues. These are very tough issues, in part because of the political sensitivity around the world on agriculture. But they have to be at the core of Doha, for three reasons.

The first reason is, it is a development round. For developing countries, agriculture clearly is critical. Seventy percent of the people who live in these countries live in rural areas. More than half of them are involved in agriculture. It is where they see their comparative advantage, to be able to export their agricultural products.

Second, it is an area where there are huge barriers. The largest barriers in trade are in agriculture, including a 62-percent average tariff in agriculture. It is where most of the trade-distorting subsidies are. So, it is an area that calls out for reform and liberalization.

Finally, for us, it is critical because we have an offensive interest. We have the most productive farmers in the world and some of the best farmland in the world. We need to have a more level playing field.

The agriculture discussion breaks down into basically three pillars: first is reducing tariffs and increasing market access; second is export subsidies; and third is reducing trade-distorting domestic support.

With regard to the first one—market access—we have been disappointed that other countries have not been willing to come forward and work with us on reducing tariffs more.

With regard to the second—export subsidies—we have had some good success recently. In Hong Kong, we agreed to not just eliminate, but to set a date-certain for the elimination of all agricultural subsidies. We will talk in a second about why that is so important to our farmers, including beef, fruits and vegetables, wheat, and so on.

Finally, it is reducing trade-distorting agricultural support. Here, as the Chairman said, we put an ambitious proposal on the table to reduce our own trade-distorting support in this country, but made it conditional upon new market access and the elimination of export competition.

If you look at the next page, you will see why all three of these pillars are important to us. First, on market access, the average tariff in the United States is about 12 percent. The global average is around 62 percent.

Second, down at the bottom left, you will see the export subsidies. About 89 percent of these export subsidies are European Union subsidies. Again, the good news is, we have now agreed to eliminate these and by a date-certain, and to make substantial progress even before that date-certain.

The third area is domestic support. I have shown this slide before to this committee. Other members of the committee have also shown similar slides about the fact that the United States does not have the most domestic support.

In fact, the Europeans currently use about 3 times more than we do. They have the ability to use 4.5 times more, and Japan about 3 times more, as a percentage of their production.

That is why it is in our interests, as the Chairman said, to harmonize support, which is part of the Doha mandate, so that those who have more support would reduce more and have that ratio become more equal.

The final slide I want to show you on agriculture is the one about why we are on the spot on trade-distorting support, and that is on the next page. The black line shows where, after the Uruguay Round, the European Union is permitted to be, the black bar is where they are.

The gray is Japan. Again, the gray line is where they are permitted to be under the previous agreement, and the gray bar is where they are in terms of their actual spending.

The white is us. As you can see, what has happened since the end of the Uruguay Round is that the Europeans and the Japanese have reduced their trade-distorting support fairly significantly. They still have significantly more support than we do.

But with the United States, we have increased and then sort of leveled off. We increased a little bit with the last farm bill. So, we are under pressure globally to address this issue, and I think we have done so very responsibly.

We have stepped up to the plate and done the right thing for U.S. farmers and ranchers by linking it to market access and export competition. We have also done the right thing in terms of moving this round forward and taking a responsible position.

I wanted to mention—on the next page—WTO accessions, when we are talking about the multilateral front, because we are going to have to deal with some of these issues. The Chairman and Ranking Member mentioned this. I think, Mr. Baucus, you mentioned the fact that the Ukraine PNTR vote has already occurred, and you mentioned there might be a vote on Vietnam.

Russia and Kazakhstan are two others. We need to work through their WTO accession talks on a bilateral basis. Then all four of these are going to come forward to you for a vote under the Jackson-Vanik legislation on permanent normal trade relations.

The next one is GSP. Just a reminder slide here, that GSP also expires at the end of this year. I view this as an opportunity for us to review this program and, I think, to be able to improve it.

The second part of our agenda is the continued outreach on a regional and bilateral basis. On the next page is a chart that I had put together yesterday that I thought you might find interesting. We have talked a lot about whether these FTA relationships make sense for us from a trade perspective. They do. I think this chart shows it rather well.

If you look at this chart, on the left it shows that our FTA partners account for about 54 percent of U.S. exports. On the right, it shows they only account for about 15 percent of the world GDP.

The reason they do not account for more of the world GDP is because we do not have free trade agreements with the EU, China, Japan, and India, as you will see on the right there, the largest economies.

But where we have a free trade agreement, we do quite well. What I think ought to be our fundamental responsibility at USTR is expanding opportunities for America's farmers and workers.

You see the next page puts it in another graph form. As you can see, exports are increasing, about 10 percent this year, based on the 2005 figures, but exports to our FTA partners are increasing by 20 percent. So we have done a good job at opening up these markets through FTAs. It is an effective way to do so.

Our free trade agreements are the gold standard. They are comprehensive. They require a lot, as we saw in the debate over the Central American Free Trade Agreement, and as we are seeing now as we try to work through agreements with Panama, Colombia, and other countries such as Thailand.

We are quite difficult sometimes to deal with because we require real trade openings, not just in terms of tariffs, but also in terms of so-called non-tariff barriers, including sanitary and phytosanitary issues in agriculture.

FTA negotiations. Where are we? On the next page, you will see a kind of summary. Oman is on the Hill. My understanding, Mr. Chairman, is you have agreed to hold a hearing on Oman the first week of March, and I thank you very much for that. It is a great agreement, as you said. We need to move forward with that, following Bahrain as part of our overall MEFTA effort.

Peru has also come up for your review. It is currently in the 90-day Congressional review process. We would love your input on it. It is a very strong agreement in terms of market opening. It's very good for agriculture, but also good for services and the manufacturing side. I hope you will take a careful look at that agreement.

The Chairman has told us today what his intentions are with regard to Peru, as compared to its Andean neighbors, and I do not disagree with anything the Chairman said.

In 2006, we do hope to move forward with Colombia. Also, we hope to move forward with Thailand, Panama, the United Arab Emirates, and we are continuing to work with Ecuador and other Andean trade partners. I hope we can make progress there as well and bring those agreements together as much as possible.

One of the new agreements I wanted to mention is Korea. Many of you have been involved in encouraging me to move forward on that. Senator Baucus talked about that. I finally followed his advice, and we made a big announcement here on the Hill.

I think it is the first time we have ever announced a free trade agreement, Mr. Chairman, on Capitol Hill. We did not announce the conclusion, all we announced was the launch.

But I want to be sure that, even with the launch, that Congress is part of it, that we are seeking your input, that, as we work through our negotiations, we are working very closely with this committee and staff, and that we end up with an agreement, as both Senator Baucus and Chairman Grassley have said, that the Congress can embrace.

With Korea—next page—it was quite impressive. We had members from both sides of the Capitol and both sides of the aisle present, talking about the benefits of deepening our economic ties with Korea. There was strong support for launching these free trade talks with our seventh-biggest trading partner, the tenth-biggest economy in the world. This will be the largest free trade agreement, if we are successful—and I believe we will be—since the agreement with Mexico and Canada 15 years ago.

We have some other agreements we are looking at. Senator Baucus just encouraged me on Malaysia. I will tell you, we have made great progress with Malaysia. One thing we are doing a little differently is, before we even launch these free trade talks, we are having some of the more difficult discussions with our trading partners about some of the issues that we have. With regard to Malaysia, we have worked through a number of those issues, including some tough ones on financial services and some other market access issues.

We did this with Korea. The announcement of Korea on the string quota with regard to boneless beef, and so on, came prior to the launch. We hope to have the same result with Malaysia and hope to be able to deliver some good news to you on a Malaysia launch soon.

The third area—next page—is enforcing trade laws and strengthening trade agreements. We talked a little about this at the outset. I just want to go through this quickly, because I agree entirely with what Senator Baucus said about the fact that we need to be absolutely certain we are enforcing our trade laws and our international rights, and being sure that we are complying with our free trade agreements and other agreements that we enter into.

Right now, the reason the CAFTA countries have not been fully implemented is that, frankly, USTR is being a stickler on being sure that commitments that were made to you are kept, and we will ensure that happens. I do hope, by the end of this month, incidentally, that we will have two of the six CAFTA countries on board.

I hope that, shortly after that, we will have an additional two or three countries. When Costa Rica ratifies the agreement, which I believe will happen, we will be able to have all six countries on board and have that agreement fully implemented.

The first one of our tools we use in strengthening our trade agreements and enforcing our laws is bilateral consultations. We have had a lot of success here. With the EU, most recently, we were able to work with them to get an agreement on compensation for tariffs that were raised as the 10 new members came into the EU under EU enlargement. That was through bilateral consultations. The beef market openings have come through bilateral consultations.

Second is WTO. The Doha Round itself will help. Remember, it is universal, covering all sectors, and that is positive. We are also able, in the Doha Round, to negotiate new rules and new disciplines that can be helpful to us.

WTO accessions. We talked about the accessions, particularly of Russia, Ukraine, Vietnam, and Kazakhstan. Again, we will use that as an opportunity to get extra new commitments and gain ad-

ditional tools. A good example of that would be the China textile safeguards. We never would have had that tool if not for the access negotiation we had when China acceded to the WTO.

Enforcing existing agreements. The TRIPS agreement, the government procurement agreement, the SPS agreement, and the WTO would all be examples of that.

Third is FTA negotiations. I talked about that a moment ago. We use our FTA negotiations very directly to get new commitments and to put new rules in place.

Antidumping and countervailing duties. In the Bush administration, the U.S. has imposed 104 new antidumping orders. By the way, 28 of those have been against China, making it, by far, the top country in terms of antidumping orders.

At the same time, we have also had 20 new countervailing duty orders. It is an important part, again, of our overall agenda. It is not administered by USTR, it is administered by the Department of Commerce.

WTO enforcement cases. You will see on the next page, we talk about some of the highlights of our WTO enforcement measures. The WTO case on Airbus and Boeing is ongoing. We can talk about that if you have questions.

It has been called the largest WTO case ever filed. It is a very important WTO case because it goes to the issue of subsidies. The WTO has a definition of subsidies, and we want to be sure that definition is complied with.

EC Biotech. We talked about that earlier. Our initial assessment is very positive on that case, and we are going to be following compliance carefully, as I said.

Kraft linerboard, we talked about this. The Mexico telecommunications case was a positive result this last year, the same with Japan and apples. The Mexico case with regard to the beverage tax is the high fructose corn syrup case. We have won at the panel stage. It is under appeal, but we do expect Mexico to eliminate that tax.

We talked about the EU GI case. The Korean semiconductors case is one that some members of this committee have been very involved with. The appellate body reversed the panel finding, showing that our subsidy determination on the Korean DRAMS was proper under WTO rules.

Priority enforcement outside traditional dispute settlement is illustrated on the next page. China textiles is a good example of that. In the top-to-bottom review, we recognized, as you will read, that our relationship has now moved into a new phase with China. We think it is a phase where China needs to take on new commitments and responsibilities, and we will be aggressive in pursuing the appropriate enforcement measures.

Most recently, we sent a transparency request to China under article 63.3 of the WTO with regard to intellectual property. We are pursuing that and following up on that.

The JCCT is an opportunity every year, with China, to work through our trade issues. We have a meeting coming up in April, and we will continue to push the Chinese to live up to their full commitments and have an aggressive agenda at this April JCCT meeting.

Intellectual property. I wanted to focus on the STOP initiative for just a second. This is one where we worked closely with the committee to be sure that we have international outreach with all of our key trading partners to improve—not just legislation, but also enforcement.

I think it has been a successful initiative. There is more work to be done there, particularly working with APEC in Asia. With the EU-U.S. summit, I think we can do more on a multilateral basis.

Special 301. A brief update there. In Special 301 reports, as you know, the USTR ranks countries in three categories. First is priority foreign countries, where we have the most troubling results, and there we have sanctions. Second is a priority watch list, also a very serious designation. Third is the watch list.

The Ukraine example is a good one. The 301 status that we gave Ukraine was extremely helpful in order for us to move Ukraine forward. They had been designated a priority foreign country. Because of that, we were able to curb illegal CD production.

Senator Baucus mentioned this in his comments. We have now been in a position to be able to terminate the tariff sanctions that had been imposed against Ukraine. We also conducted an out-of-cycle review in 2005 to monitor our progress, and based on that we have moved Ukraine now to priority watch list and we have restored their GSP benefits.

In Pakistan, we were able to shut down a number of illegal CD plants after designating them as a priority watch list country.

Finally, on FTAs, our implementation of the FTAs often means rewriting legislation, including SPS legislation, intellectual property legislation, and so on. We are being sure we are following through on that.

That is one reason Morocco was not able to implement as soon as some of us would have liked, but now Morocco is on board with good legislation, thanks to us following up on the FTA.

The next page summarizes, again, what the Chairman and Ranking Member said at the beginning: 2006 offers a lot of opportunities and challenges. We hope to conclude these global trade talks. It is extremely important to realize this once-in-a-generation opportunity.

Second, we will continue to pursue high-standard bilateral and regional agreements to provide new market access for U.S. goods and services. Finally, we will vigorously enforce our trade laws and our agreements to ensure a more level playing field.

Thank you, Mr. Chairman. I look forward to questions on the 2006 agenda, or other topics.

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

The CHAIRMAN. All right. We will take our 5-minute rounds now: Grassley, Baucus, Crapo, Bingaman, Lincoln, Wyden, Schumer, Thomas, and Smith are the order that we have it. Now, some of those folks have temporarily stepped out, so if they come back they will be recognized in the order I just gave.

Before I ask a question, because I want to ask most of my questions on China, in regard to your reference to our working on GSP, you probably cannot comment on this, but I want to make a point for myself.

That is, I am not anxious to go to work on that for quite a while, because I want to know that the countries that have benefitted from that, they have market access, and I would like to see some reciprocity and showing of appreciation from countries, particularly more developed countries. I am not talking about the poorest countries of the world.

But I want to make sure that they have some appreciation of what we have, and market access is very important for us. So, I see that somewhat intertwined with our negotiations in Doha, just so you know how I see it.

Ambassador PORTMAN. Thank you.

The CHAIRMAN. You got a letter from Senator Baucus and me outlining our concerns with respect to China's compliance record. We had five areas of particular concern: intellectual property rights, agriculture, services, industrial policies, and procurement.

I think you gave us some update, but let us have it kind of compiled right here in answer to this question, an update for our committee on the steps China has taken in each of these areas to comply with the rules and norms of international trade that are expected of a mature economy like China.

Ambassador PORTMAN. Well, Mr. Chairman, I think you will find, if you look at the top-to-bottom review—and I know you are reviewing that now—that your letter is quite consistent with what we found. We have focused on some of those specific areas in the JCCT last year, and we intend to do that again this year.

I can report to you that there has been some limited progress made in terms of intellectual property rights enforcement, but it has not been adequate. There is still rampant intellectual property piracy.

This is why, in the top-to-bottom review, as you see, we make it clear that we need to see more progress, and we will continue to pursue our rights that we believe we have under the WTO to demand that.

With regard to some of the market-opening commitments that China made when they entered the WTO, there has been progress made, and we need to acknowledge that. Yet, still, we believe that in certain areas they have not even fulfilled their WTO commitments.

One thing the top-to-bottom review makes clear is that we believe we have entered a new phase now that the 4 years of WTO membership is over, because most of those commitments phased in by the end of last year, by December of 2005.

Beyond that, though, I will tell you, we also believe that, as a major trading partner and a very successful trading partner, that China has responsibilities that go beyond those WTO commitments to be sure their market is, indeed, open, and that it should remain open to our services and products as we have opened our market to theirs.

So there has been some success. There have been some reductions in tariffs, obviously, with the WTO accession, but we need to see a lot more. With regard to some of the tougher issues, including some of the regulations and some of what I would call industrial policy—and we talk about this in the report—we are seeing some disturbing signs of China policies that are discriminatory as to U.S.



exports of services and goods. It is one of the recommendations of the China top-to-bottom review that we be more proactive in getting better information, so that we can respond to some of these issues that are not directly related to tariffs, but do relate to China's industrial policy, regulatory reform, and other issues. So, there we have some concerns.

As you know, we recommend that there be some new dialogues on issues like direct sales, standards, subsidies, environmental protection, and labor. We also now have an agreement with China to enter into a new dialogue on steel, which is a very specific undertaking and very important.

So it is a mixed record, Mr. Chairman. The bottom line is that we believe that the trade relationship needs to be more balanced. We believe it needs to be more equitable. We believe it needs to be more durable in order to be sustainable, in both political and economic terms here on the Hill and with regard to our trade policy. We believe that we need to make some changes, and that is what the top-to-bottom review addresses.

The CHAIRMAN. My time is up, so I am going to go to Senator Baucus. I had a couple of other China questions, but maybe Senator Baucus will cover some of my areas.

Senator BAUCUS. Thank you, Mr. Chairman.

I want to thank you. This last discussion prompted a concern of mine, namely, does the United States have a China policy? What is the China policy of the U.S. Government? I understand you have your top-to-bottom review, and I commend you. You are an extremely important agency, USTR, with our other departments in the U.S. Government.

The United States has other "non-trade" interests. You know it has been a perennial problem facing many of us, that administrations—this and past—just do not spend a sufficient amount of time focusing on our economic agenda, I think at great peril. They are, rather, too short-sighted, in my judgment, focusing on the issue du jour, the issue of the week, of the month, and they are not strategic.

Administrations have not been strategic. They have not been thinking longer-term, what is our China policy overall and how are the different components integrated or not? How do we work this all out together? How do we accomplish our economic objectives in the context of other objectives that, clearly, this country must have?

So what is our China policy? I get the sense that we really do not have a China policy. I commend you on your top-to-bottom review with respect to trade with China, trade barriers with China, but I do not sense we have a China policy, and I sense that other agencies and other countries take advantage of the United States because they do not really know what our "China policy" is, and so it is divide and conquer, play this agency off against another, play this interest off against another, so that China can continue to undervalue its R&D, for example. What is our China policy?

Ambassador PORTMAN. Well, first, you should know, Senator Baucus, that this top-to-bottom review went through an extensive inter-agency process. Your point is well taken. USTR plays a role here with regard to trade, and particularly with regard to negotia-

tion and enforcement, but there are a number of other agencies involved.

One reason this report was not issued more quickly is we took our time. I think you will find it is a thorough, comprehensive, and, I think, objective report. But it also takes into account the interests of other departments and agencies, including the State Department, the Treasury Department, Commerce, Agriculture, and the National Security Council, and it is focused. But I think you will see that this is a strategy with regard to trade that is proactive and that will result in us having a better balance in our trade relationship.

It focuses on enforcement. Again, it focuses on making sure China is committed to the commitments it has undertaken in the WTO, but then it asks China to go even beyond those commitments. We believe that further market access, as well as greater transparency and better application of rule of law, are important, as China is a mature trading partner.

It talks about China being more constructively involved in the international trading system. That is now a U.S. policy. That means that China needs to bear more responsibility that is commensurate with its economic heft and the benefits it is getting from global trade. China needs to be more constructive in things like the Doha Round. In the report, we talk about more proactive U.S. policymaking, better informed by better information.

As I said earlier, I do not think we have adequate information currently that is forward-looking. We have committed to undertake, within our operation, to have the resources to be able to do that, thanks to the additional resources you provided us in this last fiscal year budget.

We also talk about strengthening and deepening the U.S. economic and trade relationships in the Asia-Pacific region, something you have advocated for quite some time. This is now official U.S. policy.

A direct example would, of course, be our recent decision with regard to Korea, but it is broader than that. It is about deepening economic relationships, even in addition to free trade agreements we might or might not want.

Senator BAUCUS. I appreciate that. You are working very hard. I also think it is very important to show up in Asia, as we are with Thailand FTAs, and potentially Malaysia.

Ambassador PORTMAN. Vietnam accession.

Senator BAUCUS. And Vietnam accession, and Korea, et cetera. One thing is clear to me, China is showing up in Asia and these other countries. In all the trade agreements that they are conducting in other Asian countries, they are protecting themselves for the future, a little buffer.

They do not know what is going to happen in the future, so they want to develop all the relationships they can with these countries. I think we have been late in coming to the game, but finally we are starting to come. Eighty percent is showing up, just being there, to let Asian countries know that we are there, let Asian countries know that we want to be with them.

I was surprised at the degree to which, when I was in India a few weeks ago, Indians asked, where is America? Where is Amer-

ica? You are not here. I went to the subway in Delhi, for example. A fancy, new subway. You could even use cell phones in the Delhi subway.

Sixty percent was financed by Japan, with Korean subway cars. Where is America? We were not there. They kept asking, where is America? I found it in Bangalore, India. It certainly needs infrastructure, ports, highways, and airports, and so forth. They kept asking, where is America? I just think that the more you can be aggressive in showing up in India too—what I am trying to do is help you by asking you that question, what is our China policy, frankly.

I think part of the answer is, if we have a China policy that focuses more on resources, more on economics, the more we could have the resources to get the job done. Hopefully with this bill I am talking about, a trade enforcement official will help with a China policy that focuses more on economics.

I would feel more comfortable if I sensed that we sort of had a more strategic vision or a more strategic plan with respect to China rather than just ad hoc reactions, and I would just encourage you to do what you can to help make that happen.

Ambassador PORTMAN. Thank you.

Senator BAUCUS. Thank you.

Ambassador PORTMAN. Mr. Baucus, let me mention one thing with regard to India. We currently do about \$30 billion of trade with India. With China, I think it is close to, or maybe this year in excess of, \$300 billion. Not that those two economies are exactly comparable, but the point is, there is a gap here, even as compared to China. There is enormous opportunity.

Senator BAUCUS. Frankly, one thought I have is to take advantage of President Hu's visit, coming here. I remember a few years ago when Korea was just a terrible actor when it came to non-tariff trade barriers with respect to beef. They had all these shelf-life restrictions, which basically meant that no foreign beef was coming into Korea.

Well, the President of Korea was due to come to the United States, and I organized a letter. A lot of Senators sent a letter to the President of Korea and said, hey, you had better open up or indicate how you are opening up, because otherwise if you do not, there are going to be a lot of Senators on the floor of the U.S. Senate giving Korea a hard time because Korea is not opening up its market to American beef. And guess what happened? Prior to the Korean president's visit, they opened up.

I do not think the President of China wants to be embarrassed, with a lot of Senators standing on the floor talking about some issues with respect to China. I do not know. Maybe there is a more effective way to handle this. But I think I will stop. I am over my time here.

But the big point is this. No country, altruistically, gives up a trade barrier. They never do it. A country will only give up a trade barrier if there is leverage. They do not on their own. There has to be leverage. We have just got to figure out ways, effectively, to get that leverage.

Ambassador PORTMAN. Great.

Senator BAUCUS. I do not know who is next. Senator Bingaman is next.

Senator BINGAMAN. Am I next?

Senator SMITH. I have just been handed the gavel.

Senator BAUCUS. Oh, you have the list.

Senator SMITH. I do not know why I got the gavel, but I have been asked to. So the next, that is present, is Senator Bingaman.

Senator BINGAMAN. Thank you very much. Thank you for being here, and thanks for all your effort.

Let me change the subject from China for just a minute and talk about this Peruvian agreement that you have. Before the negotiations were completed on that agreement, I had the chance to meet with President Toledo.

Because we had just finished the discussion and the debate and the passage on CAFTA here, I raised the issue with him about labor rights. I said, look, one of our big problems in getting the votes to pass CAFTA was that we did not have strong labor provisions in there and we did not have ILO monitoring in there.

Those are things that unions in this country complained bitterly about, and of course even in some of those countries there was substantial concern that this sort of opens these countries up to exploitation by U.S. firms.

So I said, why do we not put those strong labor provisions in the agreement? His response, I thought, was interesting. He said, I have no problem with that. He said, we favor those. He said, ILO has an office in Lima. We are strongly in favor of that. Our problem is, your administration will not support it. That was a bit of a shock to me.

I thought the reason we did not include these provisions in these agreements was because these countries objected. At least in his case, he was saying they have no problem with it, that our administration objected.

What is our position here? I was concerned, frankly, when I saw that, once again, in the case of Peru, we are being presented with an agreement that does not have strong labor provisions in it. It is just essentially CAFTA provisions.

So, we have the same objections being raised, or we can anticipate that the same objections will be raised with regard to this agreement, the labor provisions, lack of labor provisions in this agreement that were raised in the case of CAFTA. I thought we were going to try to fix that.

Ambassador PORTMAN. It is a fair question. I do not think we are in the same situation. I also have met with President Toledo, and I am sure he told you what he told me, which is that they have very strong labor rights in place and that they, in fact, have ratified all of the core labor standards, and they have a good record as compared to some of the CAFTA countries.

So under trade promotion authority, as you know, I am required to say that other countries will enforce their own laws. The question is, what are their laws? I think in Peru, based not just on what President Toledo has told you and told me, but what our investigation has found is, that they do have good laws in place. What we need to seek in an agreement is a commitment that they will enforce those laws.

Senator BINGAMAN. I thought, though, there is no restriction on your ability to say, let us go ahead and put those obligations into the agreement. I mean, as I say, he seemed to say that is fine, let us put them in.

Ambassador PORTMAN. You mean the core labor standards?

Senator BINGAMAN. Yes, the core labor standards. He said, let us include them in the agreement. Let us include a provision that says the ILO will monitor this. He said that would be a terrific thing to do. He said that the reason we do not do it is your administration will not support it.

Ambassador PORTMAN. First under TPA, and I actually went back, partly because of your concern, partly because of, frankly, your friend and my former colleague Charlie Rangel raising the issue with me about whether we should change our standards, and looked at that TPA debate.

As you know, there was an amendment offered specifically to provide a different route, including putting ILO core labor standards in. It was defeated. Congress made the decision that it would be to enforce your own laws.

Then the question is, what are the laws? Are the laws laws that you can support? With the CAFTA countries, there were some concerns on enforcement, as you know.

At that time, we did put in some special provisions that you worked with us on, including the ILO provisions, which came in late in the process, but do provide for that monitoring that you wanted. We can improve these agreements. I think every agreement has been an improvement from the previous one in terms of our objective here, which is enhancing labor rights.

But I think, with regard to Peru, I do not see it being the same concerns that we were raised in CAFTA, given their—

Senator BINGAMAN. But is it your position that you do not have the authority to agree to inclusion of those labor standards as part of an agreement because of something that was in TPA or just that you are not required to?

Ambassador PORTMAN. It is certainly not required. The instruction in TPA is that countries are going to be required to enforce their own laws. The question that has been raised continually, as you know, in this debate, is whether, when we put into a trade agreement that other countries must follow certain requirements—in this case, the eight core labor standards—whether that is something that the United States would be able to commit to.

In that case, there is some question. I think we have ratified two of the eight conventions here. We do have laws in place, I think, that cover some of the other conventions. But in these trade agreements, as you know, the general rule is, it is reciprocal. Therefore, if we ask Peru to do it, we would be asked to do it as well.

I think you, as well as every other member of this committee, would want to be sure we are not writing labor law in our international trade agreements. I hear that quite a bit with regard to a lot of issues, including labor.

So it is one of the practical concerns that people have on both sides of the aisle that we not use the international treaties, or in this case free trade agreements, or Doha, for that matter, to write domestic law.

Given the way that labor law has been pursued here in this Congress, we have chosen not to ratify those eight core labor standards. It has been a very sensitive issue and you all worked through it, and you are free to change those laws any time.

But members would not like to see that done in a trade agreement. I think that, Senator Bingaman, is probably the major concern that I have heard expressed by members, some on both sides of the aisle, and mostly Republicans.

Senator BINGAMAN. My time is up. I will have some additional questions in the next round. Thank you.

Senator SMITH. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Ambassador, welcome. Thank you for our good working relationship. I am going to have a number of questions for you this morning. I think we are going to have a second round.

But I want to start by saying that I am still not satisfied that enough is being done to protect this country from the theft of intellectual property.

For example, just yesterday I had constituents come in and say that intellectual pirates show up at officially sanctioned U.S. trade shows and display products that are knock-offs of U.S. goods.

So let me kind of drive home what I am talking about. We can have these shows with thousands of vendors, thousands and thousands of people, and yet our government actually does nothing, as far as I can tell, to try to screen out the intellectual pirates.

Isn't there something that can be done by USTR and Commerce to deal with this? As you know, I have been offering suggestions to you all and Secretary Snow, to publish a "good guys" list so people could vote with their feet.

But this is a disgrace, that the pirates show up at trade shows, sanctioned by our government, and basically right under our government's nose, rip off our consumers and our companies. Is there not something that can be done about this?

Ambassador PORTMAN. I would hope so. I would be eager to get that information from your constituents. Were these international trade shows or were they trade shows here in the United States?

Senator WYDEN. Well, I will just give you the newspaper clippings. Here is one from the *Seattle Post Intelligencer* talking about companies actually at a show that had 20,000 attendees.

They were essentially trying to get agreements at the shows themselves for these people not to display knock-offs. This seems to go on in all these shows. If you are going to get tough, why not make it tough for the pirates to get a visa to come to the shows?

Would that not be something we could do? If you are a pirate, you are somebody who has a proven track record of intellectual piracy, let us not give them a visa to come to one of these shows and rip off our citizens.

Ambassador PORTMAN. So these are trade shows in the United States where you have foreign companies coming to showcase their wares and some of those are pirated?

Senator WYDEN. Yes. Yes. Right.

Ambassador PORTMAN. We will look into that. I do think you have been on top of this issue and promoting more aggressive ac-

tion on it; certainly through the confirmation process, I heard from you on that.

I think, if you look at, again, our IP cases, you can see we are very aggressive on enforcement on this. We will keep up what we are doing with regard to accessions. Right now, intellectual property is the top issue, with Russia, for instance.

With our FTAs, it is a huge issue for us, and currently is with some of our negotiations, including with Korea, Thailand, Panama, and Colombia. So, we spend a lot of time and effort on it, and we are happy to continue to work with you on some of these specific concerns, including this one.

Senator WYDEN. Again, you will have trouble explaining that to a lot of our constituents in the Pacific Northwest, in a trade-sensitive area, when they have to run around at these government-sanctioned trade shows and persuade people to remove this stolen property from the floors.

I want to ask you about another question that you and I have talked about. That is, as a free trade Democrat, as somebody who voted for CAFTA, it becomes increasingly hard to explain to workers the benefits of these free trade agreements.

I want to ask you about whether you think, from now on, when companies get tariff reductions—and this could be accomplished without any legislation; this could be done voluntarily. When companies get tariff reductions as a result of a free trade agreement, do you think that it would be sensible to expand the winner's circle, for companies to share a portion of those tariff reductions with the workers to try to drive home the benefits of free trade?

Understand, I am not proposing any legislation. This is not a mandate. This is something that companies can do on a voluntary basis. If you are going to be negotiating a lot of these agreements, there are going to be tariff reductions, do you think companies should do that voluntarily?

Ambassador PORTMAN. Well, I assume they do. I mean, the whole idea is that they will be more profitable because they can access the 95 percent of consumers who live outside of our borders, where there is a huge market opportunity in all the sectors we talked about, agriculture, services, manufacturing, and that makes U.S. companies more profitable.

It also makes them more productive, by the way, and more competitive, based on all the analysis that has been done. It raises productivity and real wages, so those benefits should be passed along to their workers. It should also be passed along to our economy in general through higher tax receipts, and it is.

Trade is clearly beneficial to our economy. Without it going the other way, raising more barriers to trade or putting in place higher tariffs, it would be quite detrimental to our economy.

Other countries would retaliate and do the same to us, and it would not permit us to have the tremendous benefits we get from exports. It also would not allow U.S. consumers to get the lower cost and more choices that they get through trade.

Senator WYDEN. My time is up. I would only wrap up by saying this. You all—and I say this as somebody who votes for these agreements and has the welts on my back to show for it—say you understand that workers do not feel they gain from these agree-

ments, they do not accept the general arguments about how free trade lifts all the boats.

But when it comes to following through on some specific ideas, and I just gave you one that did not even involve any legislation, would not be a requirement, but something that on a voluntary basis companies could do to make a more direct link between trade policy and worker security, you all have not followed through.

I would like to continue this discussion with you because I will tell you, if you keep turning out these agreements cookie-cutter style, like CAFTA, one after another, I do not think the free trade consensus is going to be easily preserved. You saw how close the last vote was. I talked to you about these issues the last time. I have just mentioned a variety of ideas, some of which could be done without any legislation at all.

If we just sort of blithely walk around and talk about how free trade is good and everybody ought to recognize it, I do not think workers are going to have any increased sense of confidence about how these agreements are good for them.

I am going to, on a second round, ask some more about this.

Ambassador PORTMAN. Just quickly. I would be happy to consider your latest idea on the voluntary measures. My only point was, it is happening. I could not agree with you more about the need—and you and I have talked about this—for U.S. corporations that are involved in global trade to communicate clearly to their workers—for that matter to their shareholders and their customers—as to the direct benefits that they receive from international trade.

In your State and in my former district in Ohio, there are very clear examples of this. Without the opportunity for trade, there would not be the same opportunities for employment and good jobs, as I said, jobs that pay, on average, higher than typical jobs, 13 to 18 percent higher.

That needs to be communicated and communicated clearly by those companies who do have a strong interest in being sure that the United States continues to be engaged in global markets.

The alternative for them is to lose the opportunity to access those 95 percent of potential consumers outside of our shores, and they cannot be as profitable. They need to communicate that. So, I could not agree with you more.

The question is, what is the mechanism? And you and I have talked before about your creative legislative ideas, of sort of tying a trade bonus into the tax policy. That is a little more complicated, probably, than is able to be done, but there may be other ways to do that, as you say, on a voluntary basis. It certainly should be done.

Senator WYDEN. My time is up. I will have some more questions on the next round.

Senator SMITH. All right. Thanks, Senator Wyden.

Ambassador Portman, thank you for being here. It is great to visit with you.

Ambassador PORTMAN. Chairman Smith, thank you.

Senator SMITH. I appreciated you coming to speak with Senator Feinstein and me.



To Senator Wyden's points, I just simply say, amen. He and I, with five other of our colleagues, recently went on a mission to China, Thailand, Vietnam, and Cambodia.

As I think I shared with you the other day, I came away with a couple of very strong impressions, one of which is that China is enormous, it is growing, it is a super power, if not on the earth, certainly in that region.

There was, though, also, a palpable sense of fear on the part of the lesser-developed countries, specifically Vietnam and Cambodia, and to some degree Thailand, about China's influence and dominance in the region and their sense of insecurity militarily. They appreciate America's presence in Asia, and they want to have more opportunities to compete with China for the American market.

It just seemed to me so obvious that it is in our interest to allow them to compete with China, both for our consumers and also for, frankly, the spread of our values of democracy and human rights. There are some people very anxious for us to reach out to them.

I really appreciate the approach you took in Hong Kong in terms of a policy that will lower duties, eliminate duties to least-developed countries. In the spirit of that, as Senator Feinstein and I discussed with you, we have introduced our Trade Act, which would do the same thing.

And while I know you are not in a place where you can endorse our bill, would you agree that that bill is in the spirit of what you are trying to do anyway? Can you speak to that whole issue of least-developed countries?

Ambassador PORTMAN. Absolutely. Let me start by thanking you and Senator Feinstein for taking a leadership role on this issue.

In effect, as I see it, it is permitting countries, in addition to the AGOA partners that we have that are least-developed countries, to get some of the same trade benefits that would be in excess even of GSP treatment.

As you know, under the Doha Development Round, that is one of the issues that we have discussed. In Hong Kong, we made significant progress to try to address the concerns of some of these least-developed countries, the poorest of the poor. It is 49 countries, as identified.

We agreed to have 97 percent of tariff lines covered for all LDCs at a duty-free level, should the Doha Round come together. It has a second benefit, frankly. That is, it gives the developing world—particularly, again, these poorest developing countries—more of a stake in the success or failure of the round.

Your legislation is entirely consistent with the direction that we are going. You have done a lot of spade work on this. You have, as I understand it, about 20 co-sponsors, and I appreciate your work on it. It is a relatively small amount of trade.

There are some sensitive areas. Textiles is one that you and I talked about. The 97 percent, we think, handles that sensitivity, because there are some world-class exporters among these least-developed countries in the area of textiles.

But we think your efforts are very constructive and entirely consistent with the direction that we will go in, if we can bring this Doha Round to a successful conclusion.

Senator SMITH. Ambassador, yesterday we had a hearing in the Commerce Committee on the Canadian softwood lumber issue. Your deputy, Susan, was there and did a wonderful job representing you and your shop. I came away from that hearing, frankly, with a solution to this issue.

Ambassador PORTMAN. I cannot wait to hear it.

Senator SMITH. We keep continuing to try to urge the Canadians back to the negotiating table to work out a new quota arrangement. Canada maintains, and NAFTA agrees with Canada, that they do not subsidize stumpage.

WTO has almost always consistently held the opposite. Our producers insist that there is a very real, non-market stumpage rate that is applicable in Canada.

Currently, Canadian mills are allowed to come into America and buy logs from us. It seems to me the easy answer is for American millers to be able to go to Canada and buy logs at their price. That settles it.

If it is a free market, if there is no subsidy, let us truly make it equal. Allow American mills to buy Canadian logs at the price that it is sold to Canadian mills, just like they are allowed to compete in a free market and buy American logs. It is settled. They get the \$5 billion back and we take a major headache away from your office.

What do you think?

Ambassador PORTMAN. I think it is an intriguing idea. As you and I have talked, I believe that the issue has become so litigious and so complicated, partly because of the over 20 lawsuits that are currently pending, as you know, that sometimes we cannot see the forest for the trees, to use a lumber analogy.

So, this kind of thinking is very helpful. I do not know that this is something that would be embraced by all sides, including our friends in Canada.

Senator SMITH. Well, it would certainly prove whether or not there is a subsidy.

Ambassador PORTMAN. Yes. And as you know, we strongly believe there is a subsidy, and we believe that has been upheld, including by the WTO, as you said.

I also think we should maybe take a step back and have a more rational approach to this ongoing dispute. As you know, I have spoken with the new Trade Minister, David Emerson, about this issue and found him to be very willing to engage, which is positive.

So I feel we have an opportunity now, a window of opportunity after the election, to be able to work on some of these more creative ideas to get us out of the endless cycle of litigation that we have found ourselves in. So, I am actually relatively hopeful.

I also will tell you that I believe that Ambassador Frank McKenna did a good job at the end of his tenure in trying to work with us on some of these lumber issues, and I think we actually made some progress, quietly. I hope we can build on that progress now with the new administration.

Senator SMITH. My time is up.

Ambassador PORTMAN. I will need your continued input on this, as well as others around the table who are interested and experienced in this ongoing lumber dispute.

Senator SMITH. Thank you, Ambassador. Someone has taken the gavel, so I assume Senator Baucus is in charge.

Senator BAUCUS. I would rather give it back to you. We are very ecumenical here.

Senator Schumer is next on the list, but I have to leave. I am not going to take any time here. I just want to follow up on the point made by the Senator from Oregon on lumber. That is so important, Mr. Ambassador. I am not going to speak at length on it, but I just want you to know how important it is to me, personally.

Second, on beef. I do not know what we are going to tell our producers back home, that Japan is still not opening up, and Korea has not. It is a real problem. They know they should.

I have a huge history with Japan on beef. In my judgment, Japan is being stubborn, being bureaucratic, being protectionist. This is not a health issue, this is a technical Customs issue. The sooner Japan opens up, the more easily we will be able to address some other issues that need to be addressed. So I just urge you to work very strongly.

Ambassador PORTMAN. Thank you.

Senator SCHUMER. Thank you. I want to thank you, Ambassador, for being here.

My first question relates to something that has been in the news lately, which is the Dubai Port acquisition. As you know, Dubai Ports World, which is a government-controlled United Arab Emirates shipping company, took over P&O Ports. That is one of the largest port operators in charge of security in my Port of New York, and others.

Now, CFIUS, which you are on—I presume you sit on that one—are charged with investigating these take-overs, and somehow, very strangely, issued, at least according to the company, issued an approval before the merger actually occurred, which I have not known them to do very often in the past.

Many of us are very concerned with this. Even if the head of the company, even if the government of Dubai is at the moment friendly to the United States, the UAE has been a center of terrorism in the world. The money for the hijackers of 9/11 that so decimated my city was laundered through the UAE. So a lot of us, bipartisan, are very concerned.

In fact, we have just sent a letter to all of you on CFIUS to do a full 45-day investigation. Why did CFIUS forego the additional 45-day investigation in such a complicated and security-sensitive situation?

In other words, CFIUS often deals with international economic issues. Sometimes I wonder that homeland security is not their number one priority, but rather economics, diplomacy, or something else sort of pushes it aside.

So, the first question is, why was the 45-day investigation foregone on something that would seem one of the most sensitive issues around? How much did they look at the innards of this company and what would protect it? I mean, do you have knowledge, for instance, of how they check? Do they do background checks on new employees, how thorough are they, how extensive are they, et cetera?

Ambassador PORTMAN. Senator Schumer, I appreciate your raising that today, and I hope to be in a better position to answer your questions after I look into this more. I honestly do not have the answer to your questions. There are 12 agencies represented on CFIUS. The U.S. Trade Representative's office is one of them. As you know, it is chaired by the Secretary of the Treasury.

Senator SCHUMER. Yes.

Ambassador PORTMAN. My understanding is that Treasury may be testifying soon on a quarterly update on CFIUS. In fact, my understanding is that that may occur as soon as today. That is probably the more appropriate place to get the answers to those questions. I just do not know.

Senator SCHUMER. Well, let me ask you. So would you be troubled if the review was not as thorough as it often is?

Ambassador PORTMAN. I would want to be sure the review was thorough. I agree with you entirely that one of the responsibilities of CFIUS is to look at the national security question. No responsibility of government is more important than national security. So based on what you just told me, I am going to look at the 45-day period issue.

Senator SCHUMER. I would like to ask unanimous consent—I do not know who the chairman is right here—Mr. Chairman, that I be allowed to submit to the Ambassador these questions in writing, and that maybe he be given a week to check it out and get back to me. Is that all right?

Senator BUNNING. You have unanimous consent to do that.

[The questions appear in the appendix.]

Senator SCHUMER. Thank you, Mr. Chairman.

The second question is on an issue that the Chairman and I have been very interested in together, which is China currency and the manipulation of the Chinese yuan by the Chinese government, which now, more or less, everyone accepts as real. We have different views as to how to change it.

I was truly troubled by your report. It was called "A Top-to-Bottom Review of U.S.-China Trade Relations." I was just amazed that one of the 800-pound gorillas in the room, China currency manipulation, was not in the report.

Now, I know it is not your responsibility to negotiate currency policy, but to not even mention it in a report that is supposedly a "top-to-bottom review," I think the yuan is the top, the bottom, and the middle.

It affects every import. We can talk about textiles in China or we can talk about financial services in China. Everything is affected by currency, obviously, because trade must occur in currency.

So can you tell me how not mentioning the currency issue, even if you would want to say that this is not our responsibility, how that made sense? Now, maybe on page 22 or somewhere it is—

Ambassador PORTMAN. No, no. I appreciate it. I knew it was mentioned somewhere and I just was trying to find it.

Senator SCHUMER. Well, if you have to spend a few minutes digging through it to find where it is mentioned, it makes my point.

Ambassador PORTMAN. It is on page 9 of the report (*see* p. 81).

Senator SCHUMER. I hear it is in a footnote, according to my staff.

Ambassador PORTMAN. This is a top-to-bottom review.

Senator SCHUMER. But not an addendum. Thank you.

Ambassador PORTMAN. Not an addendum, at least. This is a top-to-bottom review of trade policy. You are right, currency policy is very distinctly not within the ambit of the USTR. I am reminded constantly in the inter-agency process, which is appropriate, that Treasury take the lead and that they speak for us on currency policy.

But notwithstanding that, I did think it was important to be mentioned in the report, and it is. It is mentioned, by the way, in a way that you probably have not seen before in a U.S. Government publication, because it says "China's exchange rate mechanism also affects China's trade and plays an important role in the adjustment of global imbalances."

I know that may seem nuanced to you, but certainly with regard to previous statements from the U.S. Trade Representative's office, this is a first. It reflects my strong view that it does play a role in trade, and it is a view that you have—

Senator SCHUMER. We should do something about it.

Ambassador PORTMAN. Of course we should.

Senator SCHUMER. All right.

Ambassador PORTMAN. The trade deficit is a combination of a lot of factors. We have talked about this before. Macroeconomic factors, according to every economist I talk to, are the number one factor impacting the deficit, with trade policy being one, and currency policy being another. I think it is something that ought to be dealt with, as you have said. We can differ on how we deal with it, but it is an issue.

Senator SCHUMER. All right. I have a question in writing about Saudi Arabia's participation in the Israeli boycott.

Ambassador PORTMAN. I would love to answer that for you. We have an ongoing discussion with Saudi Arabia about that. When they joined the WTO, they did not make any exceptions for any countries, including Israel, and they have a responsibility to treat Israel as any other member of the WTO.

Senator SCHUMER. Because they have said publicly they are going to continue the boycott. That would violate WTO rules, in our Nation's eyes. Is that correct?

Ambassador PORTMAN. It would, also, in Israel's eyes. In other words, as a WTO member, they would have a right there.

Senator SCHUMER. Thank you, Mr. Chairman.

Senator BUNNING. Thank you, Senator Schumer.

I get the chance to ask some questions now.

Ambassador PORTMAN. Mr. Chairman.

Senator BUNNING. I apologize, Mr. Ambassador. I was previously engaged with Chairman Bernanke in the Banking Committee, and so was Senator Schumer.

Ambassador PORTMAN. Much more important.

Senator BUNNING. Just to get China in perspective, Senator Smith led a delegation of six U.S. Senators on a trade mission. Five of them were on the Trade Subcommittee here on the Finance Committee.

I want you to know that China's Minister of Trade would not meet with us, refused to meet with us. We received number six in line in the Chinese bureaucracy. I suspect, if they will not meet with six Senators, they do not understand how the process in the United States works, to the point of the executive branch suggesting and the Congressional branch enacting.

They think that President Bush can just snap his fingers and get something done. As we found out on the floor of the Senate just yesterday, that is not the case. So I bring that to your attention because of the Chinese's recalcitrant stance on their currency and their constant violations of WTO rules.

I understand the United States and Vietnam are getting close to wrapping up their bilateral negotiations in connection with Vietnam's bid to join the WTO.

One of the remaining outstanding issues is concerning a product that is very important to my State, bourbon and other distilled spirits. Vietnam currently maintains an excise tax system that discriminates against imported spirits. This is clearly illegal under WTO. Its tariffs are also extremely high by international standards, ranging from 65 percent to 100 percent.

In contrast, the spirits tariffs imposed by the United States, the EU, Japan, are zero for nearly all spirit categories. China's current tariffs are only 10 percent.

Can you give me some assurance that these matters will be addressed before Vietnam joins the WTO?

Ambassador PORTMAN. Thank you, Senator. As you know, we are not done with our accession discussions yet with Vietnam. It is a two-stage process. It is a bilateral discussion where you can negotiate on issues like the market issues you are talking about now, and a multilateral process.

You will have a say here because it is a Jackson-Vanik country, and therefore there will be a vote on PNTR, permanent normal trade relations. So, you will have the opportunity to judge us on this, but we are trying very hard to reduce those tariffs on spirits and beer.

We have not yet finished up the part of the negotiation where this would be discussed, which is the agriculture negotiations. But we will continue, and now we will redouble our efforts based on your strong interest, to aggressively represent the interests of the Kentucky bourbon makers, and others, who, as you say, have a legitimate reason to be very concerned about these tariffs.

The Vietnam agreement, I think, has moved forward in the last month. Senator, we had a visit over there about 3 weeks ago in Hanoi. We saw movement in a number of the areas where we had concerns, including financial services and intellectual property. But on agriculture, we still do have some outstanding issues, and this is one of them.

Senator BUNNING. On another question, we visited Hanoi too and we actually got to see the trade person, so it was a plus.

Ambassador PORTMAN. Good.

Senator BUNNING. I have been hearing some disturbing reports from some American companies about corruption in the tax and court system in Peru. I will need to feel comfortable that the government in that country is willing to treat American companies

that invest there fairly before I will be able to support a free trade agreement with Peru.

Are you comfortable with the transparencies of the government in Peru, and do you think that American investment there is safe?

Ambassador PORTMAN. That is a good question, given the record of expropriations. As you may know, we have at least three outstanding cases we are still working through with them. They, of course, precede this administration, the Toledo administration.

I do believe that transparency and increased focus on due process and corruption has occurred, and I believe there are improvements. But to be honest with you, those particular expropriation cases continue to be a concern of ours, and we continue to work with Peru on that.

I think you will see this is a very strong agreement, because it will help with regard to the rule of law and transparency, and I hope that we will also be able to report to you that we have made the right kind of progress on these specific cases.

Senator BUNNING. My time has expired.

Senator Bingaman, would you like another round?

Senator BINGAMAN. Yes. Thank you very much, Mr. Chairman. Let me just ask questions on a couple of other issues.

On this China currency issue that Senator Schumer raised and others have talked about also—and I understand that is not your responsibility—but the U.S.-China Economic and Security Review Commission came out with a report in November, as they are required to each year.

They talked about this problem of currency manipulation by China and said that to prevent or reduce the negative impacts of these trends, the United States needs to establish and implement policies that provide course corrections.

I just wanted to ask—in case you have any expertise on this—what are the available course corrections or steps we could take? The Treasury Department is authorized to designate a country as a currency manipulator and essentially report that to the IMF. If the IMF agrees, then we are in a position to go to the WTO. Is that the procedure, as you understand it?

Ambassador PORTMAN. Senator Bingaman, it is not, as I understand it, a procedure that has been followed in the past. You say I may not have the expertise. I do not have the expertise to tell you whether it is a procedure that would be likely to be successful from a legal point of view.

My understanding is that it would be an area of first impression and that the legal options are not at all clear. That is my understanding. I am happy to get back to you in more detail.

Senator BINGAMAN. I would appreciate it if maybe you could tell me what the legal options are. It seems clear to me that if we are worried about trade-distorting subsidies, there is nothing that compares to the currency manipulation that is going on, as between ourselves and China, I mean, as far as impact on our trade balance.

I would be anxious to know what our legal options are. Maybe we can persuade the Secretary of the Treasury to hire a good lawyer and go at them. I think we need to do something. I think what

we have been doing has clearly not worked and we are being played for a sucker in this circumstance, I believe, very strongly.

Let me mention two others, if I have time. But back in 2003, Mexico closed its border to the importation of live cattle from the United States. I have ranchers in New Mexico who would like to sell live cattle into Mexico.

About every week, we buy about 20,000 live cattle from Mexico, and that has been going on for a very long period now, but we are barred from sending any to them. I have spoken to Secretary Johans about this. I have spoken to Secretary Mayorga in Mexico City about this.

I was assured by Secretary Mayorga that this was something the Mexicans were going to fix. I think he told me in early January that, within a couple of weeks, they would open their border to imports of live cattle from the United States again. That has not happened.

Why can we not just give them a date and say, all right, on the 1st of March if your border is not open to our exports to you, then our border is no longer open to your exports to us in this field? Is there something wrong with us using a little bit of leverage to get this issue fixed?

Again, I feel very much as though we are being played for a sucker here, just week after week, month after month, year after year. Our ranchers are being denied the right to sell to them. They are selling to us in very large quantities.

Ambassador PORTMAN. Senator Bingaman, my understanding is this is, in part, a breeding stock issue. Correct? This is breeding stock from the United States.

Senator BINGAMAN. As I say, I think we are denied the right to sell them any live cattle right now. As I understand it from the ranchers in my State, they have cattle they want to sell, they have customers in northern Mexico for that cattle, but the government of Mexico continues to prohibit the sale.

Ambassador PORTMAN. I will follow up on this. I have raised it with both the Trade Minister and the Agriculture Minister. My recollection is that it is in regard to breeding stock. That may be the same issue, or it may be more of a subset of what you are talking about. I will go back and review what the response was then.

We do have the opportunity, as you may know, to have a bilateral with Mexico and Canada annually as part of our NAFTA agreement. That meeting is coming up in March in Mexico. I will commit to you today that, regardless of what I find out in the interim, that in March that issue will be on the agenda.

In terms of their response, you suggest that at a date-certain that we stop our imports. What is the remedy in a trade dispute like this?

I would assume that there are ranchers in New Mexico, Texas, Arizona, and elsewhere who would not want us to put a ban in place on Mexican cattle because they get an advantage from that. So I do not know what the remedy is that would be appropriate, but I agree with you that we do need to use leverage where we have it.

Senator BINGAMAN. Well, I would appreciate any action you can take on it and any report you can get back to me.



Ambassador PORTMAN. I will.

Senator BINGAMAN. I would appreciate that. Thank you.

Senator BUNNING. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Let me ask you about trade in the Middle East, Mr. Ambassador, and particularly with an approach to produce more prosperity and advance the cause of peace, which the administration does have great concern about.

We are essentially going the bilateral route. We are going to have bilateral agreements with, hopefully, lots of countries. Is there more that we could do in terms of an alternative, perhaps a Middle or Near-East free trade agreement that would have these countries and Israel trading together as opposed to the kind of hub-and-spoke, kind of bilateral approach? Is that something you have given some thought to?

Ambassador PORTMAN. I have given that some thought, in the context of that region of the world not only having relatively little trade with us as compared to what the potential is—I think there are 350 million people in the area—but also between themselves. That is in part because of relatively high barriers between those countries.

So if you want to get at what you are talking about, and I think you are right, that more economic prosperity can lead to other changes in that part of the world that are positive, including more political freedom that comes from economic freedom, you have to encourage trade between the countries. So this MEFTA concept, the Middle East Free Trade Area that you have supported, is in part about us and increasing our bilateral relationships.

As you know, we have a relationship now with Jordan that has been quite successful. We believe 40,000 new jobs have been created in Jordan because of the free trade agreement alone. We have a successful relationship with Israel, Morocco, now Bahrain, soon Oman, we hope, but we also encourage trade between these countries. So that is part of our strategy with regard to the region, and our vision is to knock down the barriers.

How we do it is, as you say, on sort of an incremental basis. We have TIFAs, which are Trade and Investment Framework Agreements, with, I believe, nine countries now in the Middle East.

We continue to promote these TIFAs as a stepping stone to a free trade agreement, but also as a way to liberalize their economies in specific areas to open up trade generally, not just to us, but to everybody. So, that is part of our strategy. WTO accessions are also part of our strategy, the reason we pushed hard to get Saudi Arabia completed.

Last year it was one of my priorities. Saudi WTO accession had been outstanding for 9 years. It was not without controversy, as you know, and it continues to have some controversy, as Senator Schumer just raised. But I think it was very important to get Saudi Arabia not only under the rules-based WTO system, but also to open up their economy more, which we were able to achieve through our bilateral WTO accession agreement, for the very reasons that you state.

So I think it should be part of our strategy. I am happy to look at that issue of a broader regional agreement. I do not know that

there is a regional entity that would be appropriate, for example a regional Customs union, that would be appropriate to engage with in that regard, but I will look into that.

Senator WYDEN. I would like to continue those discussions. I think that is constructive because I think, particularly given the WTO and the fact that the WTO, at least, has tried to put a focus on making sure that there are not any boycotts of Israel, this would be an opportunity to look at that.

The second area I wanted to ask you about on this round is steps that could be taken to make the World Trade Organization more open and more transparent. This goes to something else that you and I have talked about, which is that it is very hard for workers to see what goes on in these proceedings.

Every once in a while the newspaper publishes a picture of the World Trade Organization, and usually at the start of it there is, in six different languages, "Secret," "Closed," "Do Not Enter Here," this kind of thing. If I had my way, we would probably talk about a global C-SPAN or something like that in order to get some exposure for these kinds of discussions.

Is there more that can be done to make the World Trade Organization an open and transparent organization?

Ambassador PORTMAN. There probably is. The United States has taken the lead in that, as you know, both with regard to the meetings and with regard to the negotiations, but also with regard to dispute settlement.

I am new in this role, and therefore relationship, with the WTO from the U.S. point of view, but I can tell you, in the meeting in Hong Kong it was different, I am told, as compared to previous meetings, in that many of the non-governmental organizations, NGOs, were in the convention center rather than outside.

I think, although it creates some interesting situations, including sort of mini-protests within the building sometimes as you are going to a press conference, which happened to my colleague—

Senator WYDEN. That happens at my press conferences.

Ambassador PORTMAN. It happens at yours, too. I think it is positive. I think it is why you saw, when we were both at the WTO meeting in Seattle, where there were demonstrations in the streets and disrupting the meeting, or Cancun, where there was less activity outside and more genuine dialogue inside.

So I think there have been some improvements made. I need to get up to speed on the latest proposals to make it even more open. I think it is in the interests of the WTO and in those of us who believe in the power of trade to, in fact, lift people out of poverty, to make sure people know what is going on inside these rooms.

Senator WYDEN. Mr. Chairman, my time is up. I have one additional question. I would be happy to wait until after you are done, though, if that is your pleasure.

Senator BUNNING. Thank you very much.

I have two questions, Rob. U.S. States, like Kentucky, Ohio, Indiana, are increasingly speaking out against our bilateral trade agreements and our participation in WTO. Clearly, more outreach to the States is needed. Does the USTR plan to address this issue? If so, how?

Ambassador PORTMAN. You are right. Not only that, Senator Bunning, but often the States—and your friend Ernie Fletcher would be a good example of that—are more focused on export promotion and on the economics of trade than we are here in Washington.

In other words, they are on the front lines; Governors going on trade missions; Governors looking for foreign investments; Governors looking for export opportunities; and I think there is an opportunity to work with them much more closely.

I will be honest with you. I have not done that adequately in this job yet. I would like to do more of it. Part of our plan at USTR, for what it is worth, is to do more outreach with the Governors and with the States.

Senator BUNNING. That is what I am asking. How are you going to do it?

Ambassador PORTMAN. Well, there are a couple of ideas we have. One is the National Governors Association, which gets together periodically. We are going to try to get on their agenda and to talk to them about our trade policy and get them more actively involved.

My goal, frankly, is to explain what we are doing so that they can be more supportive of what we are doing, because they should be, because it is strongly in their interests to knock down barriers to trade and to help with regard to foreign investment. So, that is one idea.

The other idea is to go out to the States themselves and spend more time with the legislatures in the States. We have a lot on our plate and we have limited resources, but I think it is a priority.

So, if you have any ideas on this, I would love to hear them, but I think it is a very important aspect of what we ought to be doing in the U.S. Government. It goes beyond some of the more specific things I outlined about the multilateral, bilateral, or enforcement side, which is generally reaching out more to the American people. Reaching out through the Governors is, I think, a very constructive and potentially fruitful avenue.

Senator BUNNING. My last question is parochial. I have had numerous complaints from our lumber producers in my State about problems they are having with the Europeans regarding the exporting of wood pallets to the EU.

Can you tell me what the USTR is doing about this problem?

Ambassador PORTMAN. That is a very good question. It is an issue that I have raised with the EU. My understanding is, and I am looking back here to my capable staff to give me confirmation of this, that just recently—in fact, I think within the last week—we had a decision made by the EU which was favorable to your pallet exporters. It has to do with the issue of bark, as I recall. There was an agreement to extend any prohibition until January 1, 2009.

So, we persuaded the EU to delay implementation of their debarking requirement for wood packing materials until January 1, 2009, and to conduct a review of the issue to determine if debarking is scientifically justified. We do not think it is scientifically justified.

So, we have had a recess success on that that some of your exporters may not even be familiar with, and we are happy to get that information to you.

Senator BUNNING. Including some of the Senators, and the one that represents Kentucky.

Ambassador PORTMAN. Yes. We will get that information to you.

Senator BUNNING. All right.

Senator Lincoln, you are on.

Senator LINCOLN. Good. Well, I thank you. I thank the Chairman for holding this opportunity today.

Ambassador Portman, we are delighted you are here. You were kind enough to visit with us in the Agriculture Committee last week. I just want you to know how much I, and I know other members, really do appreciate your willingness to stay in close contact with us on the Hill.

It means an awful lot to us because we continually hear from our constituents, and being able to say that we have actually been able to talk to you means a tremendous amount.

We certainly face a lot of challenges in the global marketplace, and I, for one, am glad to be able to say that communication and consultation between USTR and Congress is now as important as ever, and I think you have elevated that and reinforced it, and I am grateful to you for that.

As one who really does support free trade, and I think I have a good record in that when it is good for Arkansas workers and producers, I have to admit that it is getting harder and harder to sell back home.

That is something that we want to make sure that we are working with you on, to come up with agreements that not only make sense to us here inside the Beltway, but make sense to people back home.

There is hardly a day that goes by when a farmer does not call my office or call my home, because many of them know me personally. Drought, coupled with record prices, input costs, whether it is gas prices, natural gas, fertilizer costs, they have made this past crop year one of the most expensive in the recent memory for Arkansas producers and for other producers across the Nation. There really seems no end in sight.

Earlier this week, I think the *Wall Street Journal* reported that USDA estimates net farm incomes will decline by about 23 percent. I really do think that the average American out there is appreciative of the fact that we produce the safest, most abundant, and most affordable food supply. I think they also recognize that government has a role to play in partnering with our producers to help them achieve that.

Yet, quite frankly, the administration seems so unwilling to provide the necessary support in helping our farmers get back on their feet. Instead, farmers are reading about a new budget proposal that seeks to cut almost \$9 billion from agriculture alone over 10 years.

It is one of the smallest parts of the budget, and yet they are being asked to give a tremendous amount in terms of shouldering the burden of deficit reduction and dealing with the enormous debts we have.

It seeks to impose further payment limitations, which you and I have had multiple conversations over in terms of how important they are to the capital-intensive crops that we grow.

Breaking those contracts with producers that we signed in the 2000 farm bill is devastating. These farmers do not know many of the things that they are going to be faced with, whether it is gas prices, whether it is drought, whether it is hurricanes.

They deal with so many variables that they have no control over, at least we can maintain a contract for the 5 or 6 years that the farm bill is in place so that they at least have something that is constant. A contract they have negotiated with their government should be something that they can depend on.

They do not know which of these trade agreements we are going to negotiate and pass in the 5-year period that they have under that farm bill, but they do know that they have a contract with their government and their government appreciates the fact that less than one-half of 1 percent of the overall budget goes to assuring the American people that we are going to provide that safe and abundant food supply.

So, I would just encourage you, Mr. Ambassador, to help weigh in with us in terms of what agricultural producers do. You have done a tremendous job, and I am grateful to you for continually taking the beatings and the fights that have to occur.

Agriculture is not an easy issue when it comes to the trade negotiations, and I know that, and yet I do think it is something that is very, very important to the American people.

I also know that you face many challenges as the WTO process continues. The proposal by our administration to cut the amber box spending by 60 percent in return for equally ambitious tariff and support reductions for our trading partners has been on the table for quite some time.

I guess my initial question would be, what, in your opinion, changes between now and April 30 that is going to compel the EU, among others, to come to the table with more ambitious proposals, and are we going to continue to put those ambitious proposals out, just hoping that others will grab hold of those coattails and come along with us?

Ambassador PORTMAN. It is a fair question, given the fact that we missed a couple of deadlines, including last July, and now in Hong Kong. But I am more optimistic than I was, Senator Lincoln, the last time we talked about this specific issue because of the meeting we had in Switzerland last month where we agreed to come together on services, manufacturing tariffs, and, as I talked about earlier, agriculture. I think that gives the European Union the opportunity, and others who are interested in manufacturing and services, to be more forthcoming on agriculture. In other words, a balanced package needs to come together that is clearly in the interests of moving the WTO forward.

More importantly, it is in the interests of having this round make a difference in terms of global economic growth and development. Finally, with regard to us, it is necessary for us to be able to sustain the proposal that you talked about.

We need to see the market access come together, and we also need to see the export competition piece come together, which we

did make some progress on in Hong Kong, as you know, with the elimination of export subsidies.

Senator LINCOLN. My concern is the leverage, though. I do not understand the leverage that you have.

Senator BUNNING. The Senator's time has expired.

Senator LINCOLN. I missed the first round. Can I get my first round back?

Senator BUNNING. Oh. I just got my first round in.

Senator LINCOLN. All right.

Senator BUNNING. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Chairman, I would ask, first, unanimous consent that an important statement by Governor Granholm of Michigan about automobiles be placed in the record.

Senator BUNNING. Without objection.

Senator WYDEN. Thank you, Mr. Chairman.

[The letter appears in the appendix on p. 143.]

Senator WYDEN. The last issue I want to talk to you about, Ambassador Portman, is the matter of the Trade Advisory Committees. I am still troubled by the fact that after this Government Accountability Office report that said that consumer and public health perspectives are not being included in the committee report—in fact, their specific finding was there has been limited or no participation in the committee system; you and I have been talking about this—and apparently nothing has changed. There are not any representatives representing the consumer and public health perspective on the committee.

As one example, Sean Brown of the Generic Pharmaceutical Association was told in September that he would be appointed. His security clearance is done and his information has been at the USTR office since mid-December, and he has called several times, and nothing has happened. I gather, in the most recent instance, he was told not to call back any more.

So what is the story on this? I guess I know a slow walk when I see it, and it sure looks like, after the Government Accountability Office finding, not much has changed.

Ambassador PORTMAN. Well, I think a lot has changed. I am going to find out about the specific call that you mentioned and the fact that we have not moved quickly enough on the representative from the generic industry.

When you and I talked about this during the nomination process, you got my attention, and we moved immediately. We have now, for the first time, as I think you know, a member on this Trade Advisory group from the generic side, at least the first time in recent memory, and we have a second person coming who I assume is the person you are talking about.

Senator WYDEN. Can I just be clear on that? Is that person actually sitting at the table now?

Ambassador PORTMAN. That is what I have been told. I will confirm that.

Senator WYDEN. Could we? Because I think that is an important matter. We were told, and perhaps—you have a staff person there. Could you inform the Ambassador on that point? Is the representative of that group sitting there now?

Ambassador PORTMAN. Yes. I will find out about it. What I have been told, is we have one person already on, and then another person who is going to be coming on on the generic side.

Then with regard to public health, being responsive to your concerns, you and I focused more on the generic issue initially because I think that was an obvious gap in terms of the advice that I was able to get.

But then on public health, we have also moved. My understanding is, we now have a *Federal Register* notice out advertising for the public health position or positions, so we are moving forward with both of those. But I will double-check, and if you would like to have this gentleman give me a call this afternoon, I would be happy to talk with him.

Senator WYDEN. I will. I appreciate that. As I say, you always respond to my concerns. I am going to have him call you, number one.

Ambassador PORTMAN. Have him call me, personally.

Senator WYDEN. But let us be clear on this. As far as I can tell, there are not any representatives of the consumer and public health perspective on these committees.

Ambassador PORTMAN. That is correct. We have advertised for the public health position.

Senator WYDEN. Can we put a deadline on that?

Ambassador PORTMAN. As soon as possible.

Senator WYDEN. Let us put a deadline on it. Let us get it done. Let us figure out—and I appreciate, Ambassador, your handling of Mr. Brown. Let us get that resolved, and then let us get some consumer and health folks on this advisory committee.

There is no case for having these kinds of deliberations. I will just say it again, if you are a free trade Democrat, you cannot go out to these groups and say, you are going to be shut out and it is a fair process.

Ambassador PORTMAN. I agree.

Senator WYDEN. It just does not wash. So, I look forward to working with you on it.

Ambassador PORTMAN. All right.

Senator WYDEN. Thank you.

Senator BUNNING. Now, Senator Lincoln, do you have some more questions?

Senator LINCOLN. Yes, sir, I do. Thank you very much.

Ambassador PORTMAN. You have given me time to think, now, about the leverage.

Senator LINCOLN. Well, I will just make a point on that. That is that I have to think that it makes it more difficult for the U.S. to gain leverage in these talks when we are encouraging the EU, if in fact they are seeing this administration reduce the supports unilaterally, which is what is happening in these budgets.

We fight them, and we fight them, and we fight them, but how in the world are they going to come to the table and be willing to do the same thing that we are apparently willing to do unilaterally without them, or at least the President is willing to ask for?

So, I just have concerns on that. I just think there is more, in a holistic view, that the administration is going to have to take a

look at if, in fact, we want to move forward in the trading world in that respect.

I would like to switch gears just a little bit. I have two last questions. I do not want to keep anyone too late.

USTR recently released its top-to-bottom review of our trade policies with China. As you all know, the steel pipe producers filed a section 421 import relief last fall, received an affirmative determination from the ITC, and yet the administration, once again, denied relief to our domestic producers.

It is very consistent with what the administration has been doing. In fact, in each instance where the ITC has issued an affirmative section 421 determination, the President has denied that relief.

So I just have to ask, what role do you see our trade safeguards playing in our ability to address trade issues with China when our producers put their faith in these agreements, knowing that there are remedies that are possibly available to them in instances of unfair trade, but we are unwilling to enforce them?

I mean, we have 70 antidumping proceedings pending against China, more than any other country right now. I am certainly pleased that we are vigorously pursuing these orders, but I have to express my frustration. We have had many discussions about ways to expedite this process. I have offered my suggestions and my ideas, and I get absolutely very, very little in return on that.

I still want to look for those ways to achieve it, but right now it has just been a one-way conversation for me. I would really, really like to ask you to consider the context of reviewing our trade policies and remedies, particularly in regard to China, but in those circumstances it is important.

My last question. I will just ask it, then you can answer that as well. The disciplines on our food aid programs. I do not know, but you all probably discussed that in my absence here. I just understood that, in the Hong Kong text, the emergency food aid would be placed in a safe box while in-kind and monetarization food aid will be disciplined.

I hope that you can elaborate a little bit on the implications of that text for the integrity of our existing programs, because I think that is going to be very important, not just for the hunger that exists worldwide, but also for our agricultural producers, too. Thank you for being here.

Ambassador PORTMAN. Thank you, Senator Lincoln. Just, quickly, within the time. First, on the antidumping cases, as you know, that is administered by Department of Commerce, not USTR, but I do have a strong interest in that because it does relate to enforcement of our laws and making sure that imports are traded fairly.

China is the top country where we have actually brought orders, in other words, where there is an order against a Chinese importer. There are 28 cases that have now been brought in the Bush administration, making China the top target of our antidumping laws. We continue to be aggressive in that regard.

Senator LINCOLN. We have talked a lot about Mexico and rice, and yet we are still seeing that our producers have not gotten the remedy.



Ambassador PORTMAN. And with regard to Mexico and rice, I talked about that earlier, but that is one of our successes.

Senator LINCOLN. And they still have not complied?

Ambassador PORTMAN. We are working on the compliance on that every day, and it is very important that we do. But that was an example where the WTO works, where we can actually get a good result. We believe Mexico will comply.

On 421, you are right. Of the four cases that the President has looked at, he does not believe that it was appropriate to move forward. I have been involved, as you know, in the last one quite a bit, which was the steel pipe case.

If you look at what he was faced with, he did accept the ITC's finding that there was market disruption. But then the question is, will the 421 safeguard be an effective way to deal with that disruption, and is it in the overall economic interest of the United States?

What he found there, and I was part of this process and made the recommendation, is that there were more than 50 countries, based on the ITC documentation, that supplied the U.S. market, and that they were ready and willing to step in and to replace those curtailed Chinese imports.

So, it was not possible to make the argument that the domestic producers in your State, Pennsylvania, or elsewhere would receive the benefit; rather, there would be other importers. In that case, the data just was not there.

Now, there are three other 421 cases that have come before us: the Pedestal-1, wire hangers, and pipe fittings. In each case, again, the analysis has not been there to show that 421 would have been the right remedy. It does not mean that 421 does not work. It does not mean that we should not continue to look at 421 cases very seriously, and we will. This office will. So, I would just encourage your Arkansas constituents, even though I know it must be frustrating for them, that when the facts merit moving forward on those 421 safeguards, we will.

Look at the China textile safeguards. It is a similar safeguard. We were very aggressive because there we had the economic data to support a decision and we could really help our manufacturers. In the end, we were able to come together with this comprehensive agreement which helps our manufacturers. In general, it has been very well-received.

With regard to food aid, this did come up in the Agriculture Committee executive session last week with you. You and I talked about it a little bit there, and also in response to Senator Crapo's question. The United States is adamant that we are not going to accept cash only in food aid.

With regard to the policy here, we agreed in 2004 that we would deal with the issue of commercial displacement, which is a trade issue. That is a perfectly reasonable solution to the concerns that have been raised globally about food aid.

I believe that the United States not only has the correct position in terms of the policy here, but I believe there are more and more countries and non-governmental organizations that are supportive of where the United States is on this.

A lot of countries are very dependent on our food aid. We are the largest food aid provider in the world, and we want to continue to

be generous. So we are going to stick to our position. We believe it is the right position.

We believe that the safe box for certain emergencies is absolutely appropriate, but we also believe that for the rest of food aid, the criteria ought to be commercial displacement. That does not mean, based on any analysis that we have seen or done ourselves, that it ought to be cash only.

Senator LINCOLN. Thank you.

Senator BUNNING. Your time has expired.

I would like to remind members that any questions for the record should be submitted by tomorrow, Friday, at 6 p.m.

Ambassador Portman, please submit your responses to the committee within a week.

With that, I would like to thank Ambassador Portman for his testimony and thank the members who appeared at the hearing today.

The hearing is adjourned.

[Whereupon, at 12:54 p.m., the hearing was concluded.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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### **Opening Remarks Senator Blanche L. Lincoln**

Thank you, Mr. Chairman. I'm pleased to be here this morning to hear from Ambassador Portman. He was kind enough to visit with the Agriculture Committee last week, and I appreciate his willingness to keep in close contact with those of us on the Hill.

With the challenges we face in the global marketplace, communication and consultation between USTR and Congress are as important as ever.

As one who supports free trade when it is good for Arkansas workers and producers, I have to admit that it is getting harder and harder to sell back home in the heartland.

There is hardly a day that goes by when a farmer doesn't contact my office. Drought, coupled with record gas prices, made this past crop year one of the most expensive in recent memory for Arkansas farmers and producers across this great nation. And there is no end in sight.

Earlier this week, the *Wall Street Journal* reported that USDA estimates net farm income will decline by 23 percent.

Yet—quite unfortunately—this Administration seems unwilling to provide the necessary support to help farmers get back on their feet. Instead, farmers read about a new budget proposal which seeks to cut almost \$9 billion from agriculture alone over the next 10 years, a budget proposal that seeks to impose further payment limitations, breaking the contract with producers we signed in the 2002 farm bill.

All of this while farmers face the added uncertainty of ongoing global trade negotiations where the U.S. has offered an ambitious proposal to lower our domestic farm support, yet our trading partners have been unwilling to do the same.

Frankly, I think this strategy is misguided, and I know well what the consequences will be. For America, it will mean greater dependency on imported food. I'll spare the committee from drawing the analogy between imported food and imported oil, but it suffices to say that such a scenario would be devastating. For Arkansas, the costs are far greater. For my state, 25 percent of our economy relies on production agriculture.

Ambassador Portman, we have talked about these issues many times, and I appreciate your support of agriculture during the WTO negotiations thus far. It is my hope that as we approach the upcoming April deadline, this support does not falter.

You know well how passionate I am about agriculture. Though I have an unblemished record in support of free trade, I can assure you that my devotion to agriculture runs much deeper.

Rural America needs to know that this Administration will not trade away the farm—and our nation's ability to produce the safest, most abundant, and most affordable food supply in the world—for absolutely nothing in return.

With that, I thank the Chairman for his strong leadership and for holding this hearing today.



# 2006 Trade Agenda

**Senate Finance Committee Hearing  
Presentation of United States Trade Representative  
Ambassador Rob Portman**

**February 16, 2006**

## Recent Milestones

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

# 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**

**GLOBAL TRADE TALKS:  
WTO Doha Development Round Update**

- **Progress in Hong Kong**
- **Timing: Final Agreement End of 2006 - TPA expires July 1, 2007**

50

**Three Core Negotiating Areas:**

- **Manufactured Goods (NAMA)**
- **Services**
- **Agriculture**

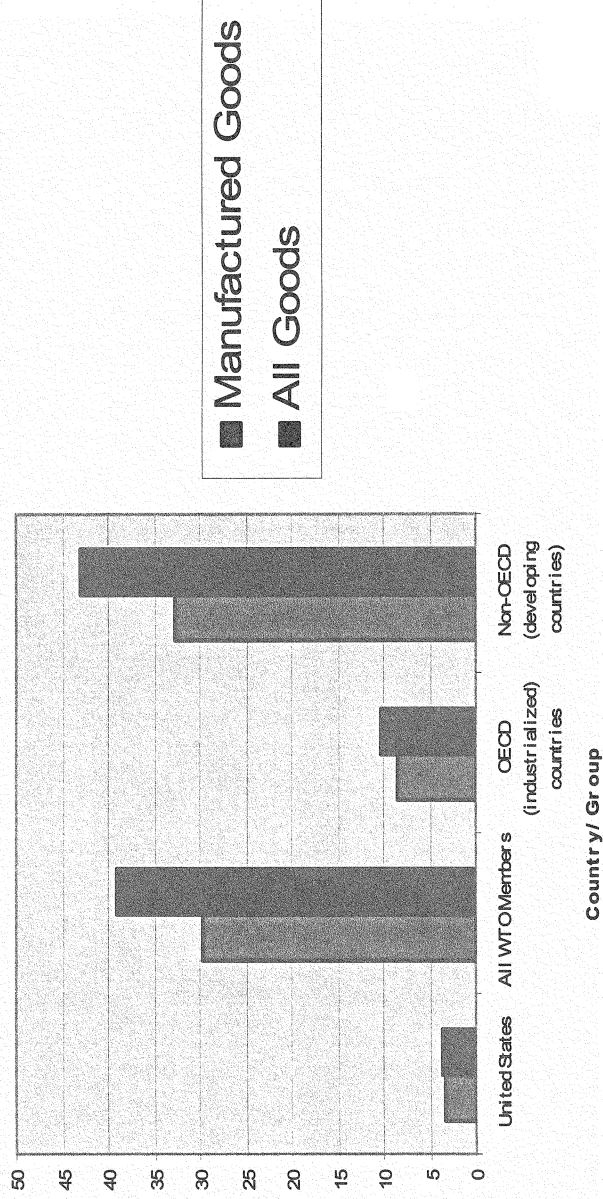
## Doha: Manufactured Goods (NAMA)

- 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)

# What Is At Stake: Manufactured Goods

## Tariffs: US average 3%; WTO average 30%

2004 Average Bound Tariffs (as compiled by WTO Secretariat)



## **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:**

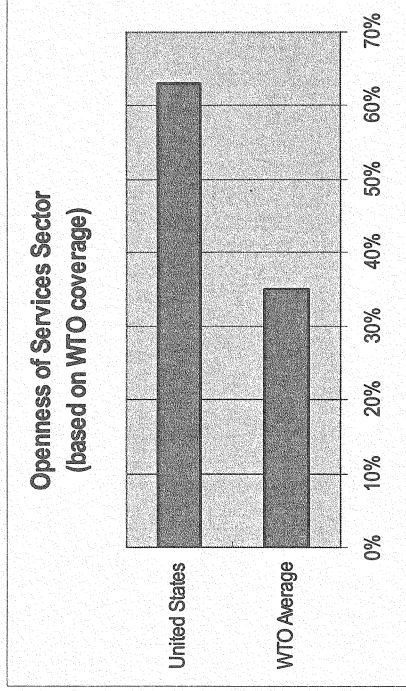
- **WTO members agreed to give a jump start to services market access negotiations early this year by working together in sectors of common interest to develop plurilateral requests**

### **BOTTOM LINE:**

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

## Services Benefits to U.S. Incomes

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

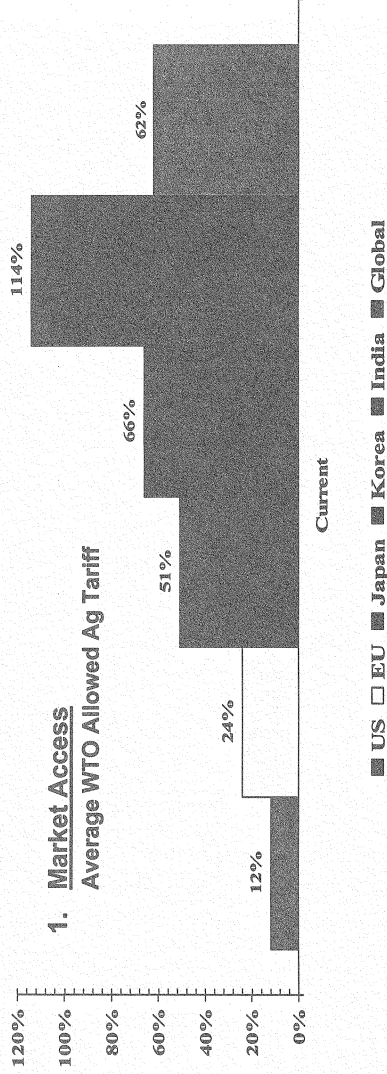


- Services liberalization could account for fully 72% of the economic gain from the Doha Round

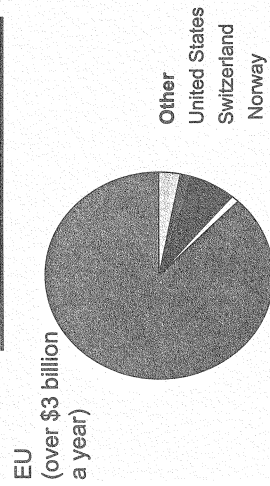
# Doha Agriculture Agenda

- **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**

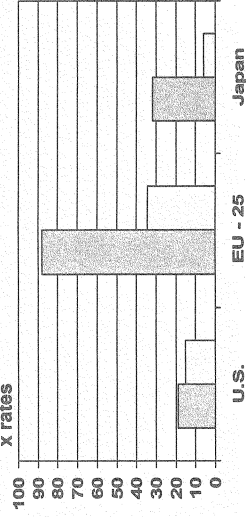
# All Three Pillars are Important to U.S.



### 2. Direct Export Subsidies



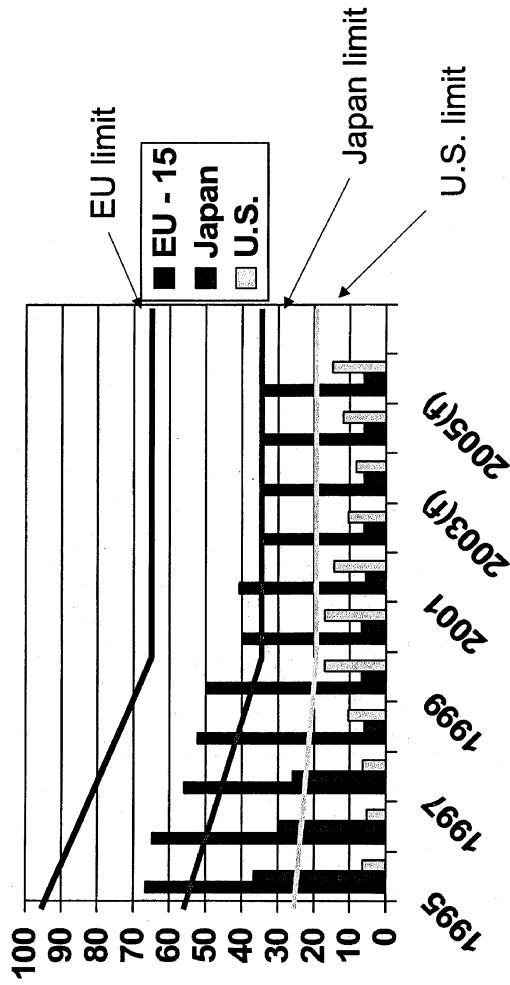
### 3. Domestic Support – Amber Box: WTO allowed (gold) and Projected (yellow) 2005 Aggregate Measurement of Support (AMS) Levels. Billion \$ at current x rates





# 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

# 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

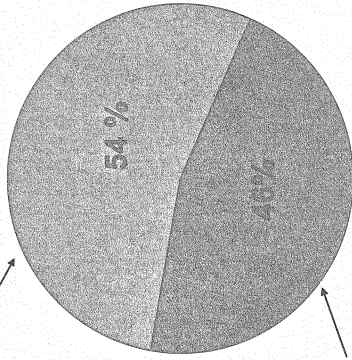
# Generalized System of Preferences (GSP)

- 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

# 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.

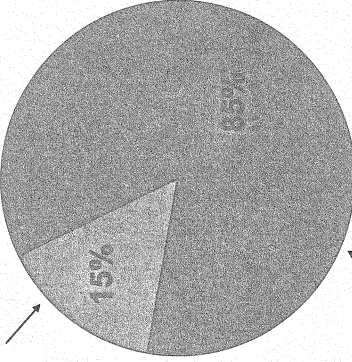
FTA Partners (31 Countries) = 54% (\$485 billion) (Implemented, Negotiated, in Negotiation, Potential)      FTA Partners = 15% (\$7.3 trillion)



Non-FTAs = 46% (\$419 billion)

Note: 4 largest economies account for nearly 60% of Global GDP excluding U.S.

EU25:	26%
China:	17%
Japan:	8%
India:	8%



Non-FTAs = 85% (\$39.7 trillion)

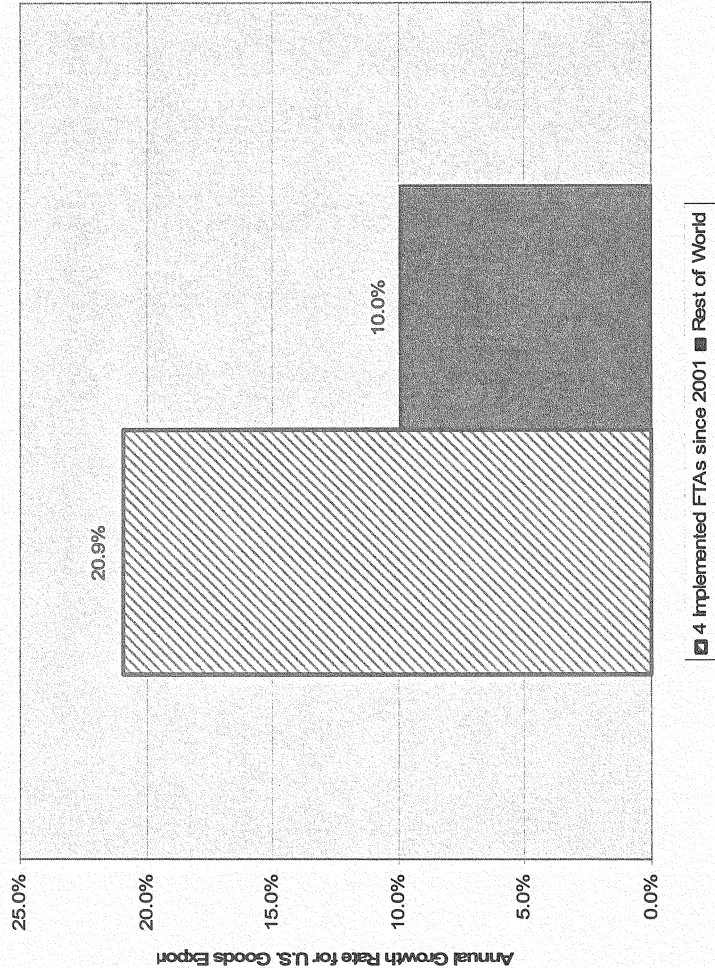
2005 Total U.S. Goods Export Market: \$904 Billion

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

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

# U.S. FTAS = EXPANDED EXPORTS

Exports to FTA Partners Grow Faster



# FTA Negotiations

## Completed

**Oman** (*signed*)

**Peru** (*Notified*

*Congress of Intent to  
sign*)

## 2006 Completion

**Panama**

**Thailand**

**Colombia**

**UAE**

## New

**Korea** (*Launched Feb. 2*)

## Continuing

**SACU**

**FTAA**

**Ecuador**

# 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 10<sup>th</sup> 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**

# **Enforcing Trade Laws & Strengthening Trade Agreements**

## **➤ Bilateral Consultations**

## **➤ WTO**

- Doha Round
- Accessions
- Enforcing Existing Agreements

## **➤ FTA Negotiations**

## **➤ Antidumping and Countervailing Duties**

## **➤ WTO Dispute Cases**



# 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

## **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**

## **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**

**ANNEX**



**Senate Finance 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

# 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**

# 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

# 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



U.S.-China Trade Relations:  
Entering a New Phase  
of Greater Accountability and Enforcement

**Top-to-Bottom Review**



February 2006

United States Trade Representative

**EXECUTIVE SUMMARY**

Thirty years ago, China was a nation mostly closed to international commerce. Today, it is the world's third largest trading power. China's emergence over this period as a major international player has not only redefined the global trading system, but also has far-reaching economic and political impact on China, the United States, East Asia and the world.

China's integration into the global economy and progressive embrace of market principles have been encouraged by more than 25 years of U.S. political and economic engagement, pursued on a largely bipartisan basis across administrations. These developments have helped broaden and deepen relationships between the United States and China at all levels, to the benefit of both countries. But they have also caused some friction.

The trade relationship between our two countries has become increasingly central to the economies of both our countries. China's economy has been growing at roughly ten percent a year for more than two decades, and its growth has been closely tied to the open trade and investment regimes of the major economies of the world. Exports account for 40 percent of China's gross domestic product (GDP), and China has depended on the growth of its export sector to spur modernization of its economy and support improved standards of living. The World Bank estimates that during the past two decades (1980s and 1990s), nearly 400 million people in China have been lifted out of poverty. According to Chinese data, the United States market has directly accounted for 22 percent of China's phenomenal export growth over the last twenty years.

The United States has also derived certain benefits from the trade relationship. American consumers now have access to a wider variety of less costly goods, and low-cost consumer and industrial goods from China have helped spur U.S. economic growth while keeping a check on inflation. Together, the United States and China have accounted for roughly half of the economic growth globally in the past four years.

American manufacturers, service providers, and farmers continue to eye China's increasingly fast growing middle class and new businesses as potential consumers of U.S. products, ranging from capital equipment to financial services to high-quality and efficiently produced brand name and specialty consumer products, services, agricultural products, and technology. Indeed, since 2001, U.S. exports to China have grown five times faster than they have to the rest of the world, and China has gone from being the 9<sup>th</sup> to the 4<sup>th</sup> biggest export market for the United States. America's exports to China increased by an impressive 20% in 2005, building on 22% growth in 2004 and making China our fastest growing export market among our major trading partners. Market forces continue to drive broader and deeper economic ties between our two countries.

That said, the enormous scope and scale of the changes that have occurred in China's trading posture and in our bilateral trade relationship pose continual challenges. In particular, there is concern that the U.S.-China trade relationship lacks balance in opportunity, as well as equity and durability, with China's focus on export growth and developing domestic industries not being matched by a comparable focus on fulfilling market opening commitments and on the protection of intellectual property and internationally recognized labor rights. Specific U.S. concerns

include: continued Chinese barriers to some U.S. exports; failure to protect intellectual property rights; failure to protect labor rights and enforce labor laws and standards; unreported and extensive government subsidies and preferences for its own industries; environmental concerns; spotty compliance with some international trade rules; and a large and growing imbalance in our bilateral trade flows, resulting in a trade deficit of almost \$202 billion in 2005. Chinese barriers to U.S. exports that contribute to this deficit and appear inconsistent with China's multilateral and bilateral commitments have a corrosive effect on political support for the bilateral trade relationship. Absent tangible evidence that China is acting responsibly with respect to these issues, popular support for a twenty-five-year-old trade policy of constructive economic engagement with China could be in danger, with potentially damaging consequences for both countries.

China's emergence has also created opportunities and challenges for the Asia Pacific region. China has become both the largest single goods export market and the largest single supplier of imports for developing countries in Asia, helping to spur broader regional growth. At the same time, China has emerged as a tough competitor for third countries that traditionally have been major suppliers to the United States. Indeed, while our trade deficit has widened with China, it has narrowed with other Asian trading partners. China's share of U.S. imports has grown from 5.8 percent to 14.6 percent over the past 11 years, while the share of the U.S. global trade deficit represented by the Asia Pacific Rim as a whole (including China) has actually fallen from 57% in 1999 to 43% in 2005. Moreover, China is competing with these Asian neighbors not only for sales to the United States, but also for foreign direct investment.<sup>1</sup>

China's ascendancy as a major international trading partner brings with it certain responsibilities for the maintenance of the multilateral, global trading system. As the size of its market and trade flows have increased, China's constructive participation is increasingly critical to the international regimes governing trade practices – regimes that foster free and open markets, a level playing field, and transparent regulations.

Given the importance of our trade relationship with China and the challenges that confront us in that relationship, it is an appropriate time to review U.S. trade policies toward China. To that end, the United States Trade Representative (USTR) has led an interagency “top-to-bottom” review of our China trade policy, drawing upon input received from Congressional hearings; Government Accountability Office (GAO) reports; discussions with industry associations; and written submissions and oral testimony on China's compliance with its World Trade Organization (WTO) obligations, provided pursuant to notice in the Federal Register.

This review focused on:

- (i) Identifying the core principles and key objectives of our trade policy with China;

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<sup>1</sup> This is not to say that the growth of U.S. imports from China is a zero-sum proposition for the Asian region. To a large extent, these statistics reflect China's growing role as final assembler of components and products manufactured in other economies in Asia. Though U.S. trading partners such as Malaysia, Indonesia and the Philippines have seen their relative shares of direct U.S. imports decrease, they have seen rapid growth in exports of components to China that are re-exported as finished goods to the United States and other destinations.

- (ii) Assessing the current status and establishing priority goals for each key objective; and
- (iii) Identifying specific action items that will help us achieve our priority goals.

This report summarizes the results of the review. It concludes that the United States is entering an important new phase in our trade relationship with China. For the past 20 years, U.S. trade policy was focused principally on encouraging market-based reforms in China and bringing China into the international trading system. Now, as we near the end of China's transition period as a new WTO member, the report recommends that U.S. trade resources and priorities should be readjusted to meet new challenges.

Specifically, in addition to strengthening our current focus on China's WTO compliance and adherence to international norms, this report urges that more focus be put on ensuring that: (1) the bilateral trade relationship offers more balanced opportunities and is equitable and durable; (2) U.S. trade policymaking is more proactive and informed by more comprehensive information regarding China's economic trends and developments and stronger coordination within the Executive branch and between the Executive and Congressional branches; (3) China participates more fully in the global trading system as a responsible trading partner; and (4) the United States remains an active and influential economic and trading power in the Asia Pacific region.

Based on the results of the review, the Administration will take a series of actions to help ensure that we are best positioned to meet our key China trade objectives. The list below includes initial steps we will be taking. Additional action items will be developed and implemented in consultation with Congress and other stakeholders to ensure meaningful progress in achieving these key objectives.

- *Expanding USTR trade enforcement capacity to better ensure China's compliance with trade obligations*, including through establishment of a China Enforcement Task Force at USTR, to be headed by a Chief Counsel for China Trade Enforcement;
- *Expanding USTR capability to obtain and apply comprehensive, forward-looking information regarding China's trade regime and practices to U.S. trade policy formulation and implementation*, by: (1) adding personnel to USTR's China office to coordinate collection and integration of information on current and potential China trade issues from other U.S. government agencies and other sources; and (2) establishing an Advisory Committee for Trade Policy and Negotiation (ACTPN) China Task Force to provide strategic advice and recommendations related to U.S.-China trade policy;
- *Expanding U.S. trade policy and negotiating capacity in Beijing and other resources in China* to more effectively pursue top priority issues, especially the protection of intellectual property rights;
- *Increasing coordination with other trading partners* on China trade issues of common interest, such as enforcement of intellectual property rights;

- *Deepening and strengthening trade relations with other Asian economies, and within the Asia-Pacific Economic Cooperation (APEC) forum, to maintain and enhance U.S. commercial relationships in the region;*
- *Increasing the focus on regulatory reform in China, including through initiating a high-level dialogue on steel with China under the U.S.-China Joint Commission on Commerce and Trade (JCCT), deepening and expanding the State Department's high-level dialogue with China's economic planners regarding structural reform, launching an initiative to evaluate, assess and engage on China's subsidies issues, expanding initiatives led by the U.S. Department of Agriculture (USDA) to improve China's transparency and compliance with its sanitary and phytosanitary (SPS) obligations under the WTO, and focusing intensive interagency efforts to address China's development of standards and of an anti-monopoly law;*
- *Increasing effectiveness of high-level meetings with China's leaders, including through holding annual, elevated meetings of the JCCT prior to presidential-level meetings where possible and conducting mid-year reviews of goals and progress under the JCCT at the Vice Minister/Deputy level;*
- *Strengthening and expanding US-China dialogue on numerous other specific issues of significance to the global trading system and on bilateral trade issues that pose potential problems for the relationship, including, e.g., China's participation in global institutions; market access and standards issues related to telecommunications, financial services, healthcare and direct sales; subsidies and structural issues, especially in the steel industry; standards; labor; environmental protection; and transparency and the rule of law;*
- *Strengthening U.S. government interagency coordination, including through monthly review, by the Trade Policy Review Group and Trade Policy Staff Committee, of strategies and progress made in achieving the key objectives identified in this report; and*
- *Strengthening the Executive-Congressional partnership on China trade, through initiation by USTR of a program of regular briefings for Congressional members and staff, to update them on progress in pursuing the objectives outlined in this report and to ensure that the Administration's China trade policy is informed by Congressional priorities.*

## REVIEW OF U.S. TRADE PRINCIPLES AND OBJECTIVES

### *Overall Trade Policy*

U.S. trade policy towards China must be viewed against the backdrop of our international trade policy more broadly. Since World War II, the United States has consistently focused on two core principles in trade policy: (1) promoting an increasingly open, rules-based international trade system, and (2) capturing the economic benefits of more open global markets for the American people.

This policy has produced tremendous results:

- Since the creation of the General Agreement on Tariffs and Trade (GATT) system in 1948, the average tariff rate of industrialized countries has been reduced from 40% to 4%. During roughly that same period, world exports of goods grew from \$50 billion to \$9 trillion, and U.S. real GDP per capita, expressed in 2000 dollars, grew from less than \$12,000 to nearly \$38,000.
- Since 1994, freer trade has contributed to a 81% rise in U.S. goods and service exports to nearly \$1.3 trillion per year. This, in turn, has contributed to a 42% increase in U.S. real GDP; an increase of more than 25% in real per capita incomes and an expansion of U.S. private sector productivity by more than one-third.
- As a result of the North American Free Trade Agreement (NAFTA) and Uruguay Round liberalization, average annual income for an American family of four is estimated to have risen by \$1,300 to \$2,000.
- According to Department of Commerce data for 2001, manufacturing exports alone supported 7.4 million jobs in the United States, and USDA estimated that agriculture exports supported over 900,000 jobs in 2005. The average wage of goods export-supported jobs is estimated to be 13% to 18% higher than the average wage for the overall economy.
- Evidence shows that U.S. firms engaged in international trade or investment are more productive and more innovative than their purely domestic counterparts, and that these firms offer higher wages and benefits.

In short, U.S. trade policy seeks to enhance domestic prosperity and raise real labor compensation through expanded exports and job creation in areas where the U.S. is most competitive. And by lowering import barriers, U.S. trade policy seeks to expand domestic purchasing power and choice through increased access to fairly traded imported products. It also creates incentives for U.S. firms to become more productive and more innovative.

At the same time, U.S. trade policy seeks to serve broader U.S. interests by: promoting global growth, poverty reduction and prosperity abroad; supporting sustainable economic development;

and strengthening freedom and stability in our trading partners. Trade liberalization has been shown to be a win-win undertaking, increasing global output and income as producers specialize to sell in global markets and workers and consumers benefit from fair and open competition. The economic success of countries such as Korea, Singapore, Malaysia, Brazil, Chile, India and China are testimony to the benefits of trade liberalization.

The degree of benefits that countries draw, however, depends, in part, on how willing they are to lower their own barriers and open their markets further. A study by World Bank economists, for example, has found that developing countries that lowered their trade barriers more in the 1990s had economies that on average grew almost three times faster than other developing countries.

#### *China Trade Policy*

Although generally consistent with U.S. trade policy, U.S. trade policy towards China has had some distinct features and has evolved over the past few decades. Indeed, in some senses, the United States is entering a third stage of its economic relationship with China, since China decided in the late 1970s to reform its economic system and move towards integration with the world economy.

Phase 1 (1986-2001) -- The first stage consisted of a 15-year period when China was working to join the GATT and then its successor, the WTO. United States trade policy towards China during this period was principally focused on negotiating foundational trade agreements with China necessary to bring China into the rules-based world trading system. Bilateral trade (goods exports plus imports) between the United States and China grew substantially during this period - from \$8 billion to \$121 billion -- and China ascended from the United States' 18<sup>th</sup> to our 4<sup>th</sup> largest trading partner.

By the end of this stage, U.S. trade policy had achieved its key objectives with the accession of China to the WTO in late 2001. At that time, China agreed, as a new WTO member, to implement a set of sweeping reforms that required it to lower trade barriers in virtually every sector of its economy, provide national treatment and improved market access for goods and services imported from the United States and other WTO members, and protect intellectual property rights. China also agreed to special rules regarding subsidies and the operation of state-owned enterprises, in light of the state's large role in China's economy. In accepting China as a fellow WTO member, the United States also secured a number of concessions from China that help protect U.S. interests during China's WTO implementation stage.

Throughout this 1986-2001 timeframe, China's compliance with international trade obligations was not a dominant focus of our bilateral trade relationship, as China was not yet a party to the GATT or a member of the WTO. However, the United States stimulated Chinese action to address non-compliance with bilateral intellectual property rights (IPR) agreements on a number of occasions by moving to implement sanctions. At times, our bilateral trade relationship during this period was also impacted by political developments in our relationship. For example, U.S. trade was restricted to a certain extent following the Tiananmen Square incident in 1989, and the U.S. Congress conducted yearly debates about maintaining Normal Trade Relations with China.

Phase 2 (2001-2005) -- The second phase of U.S. trade policy toward China began in December 2001, when China joined the WTO, and ended four years later when most of China's phased-in WTO obligations had come into effect. During this period, the bilateral relationship – political and economic – deepened on all levels, and our ability to work through problems using dialogue and international institutions gradually increased as the relationship continued to mature.

During the four years since China's WTO accession, the principal focus of U.S. trade policy towards China has been to monitor China's integration into the global trading system and ensure compliance with its accession obligations. The U. S. assessment of China's performance was largely based on how well China implemented its WTO obligations, which detailed specific commitments related to scheduled reductions in tariff rates, expansions in market access for services, protection of IPR, improvements in transparency, and elimination of non-tariff barriers. The U.S. assessment was informed by input from Congress, the business community, and other interested stakeholders. During this period, bilateral trade continued to grow substantially – from \$121 billion to \$285 billion – and China ascended still further to its current position as the 3<sup>rd</sup> largest U.S. trading partner.

U.S. trade policy towards China during this period achieved some notable successes in promoting economic reforms in China and ensuring that those reforms serve to benefit the United States. For instance:

- China's entry into the WTO and implementation of market access commitments translated into substantially reduced tariffs for U.S. products. China lowered tariffs on goods of greatest importance to U.S. industry from a base average of 25% in 1997 to 7% today.
- Since China's accession to the WTO, U.S. exports to China have risen five times faster than to the rest of world, and China has risen from our 9th to 4th largest export market. Supported by U.S. government efforts, U.S. producers and service providers have been able to penetrate the Chinese market in a number of sectors. For example:
  - The United States ensured, in 2004 and 2005, that China implemented its WTO obligations to eliminate import monopolies and allow foreign enterprises to establish distribution networks in China, making it possible for U.S. firms to more freely distribute their products in China.
  - With the successful resolution of disputes regarding access to China's insurance, express delivery, and auto finance markets, and phased-in WTO market openings in legal services and banking, U.S. service exports to China grew by 20% in 2004, compared to global U.S. service export growth of 11%. China is now our 10th largest services export market, and we enjoyed a bilateral surplus in services of \$1.6 billion in 2004..
  - With the assistance of commercial advocacy by the Administration, U.S. aircraft sales to China in 2005 were \$4.4 billion, making China the second largest market for U.S. aircraft.



- The United States – through high-level diplomacy – successfully addressed China’s efforts to limit access to its soybean and cotton markets, and as a result, one-third of U.S. soybean and cotton exports – \$2.3 billion and \$1.4 billion, respectively – went to China during 2005. China is today our largest export market for both of these commodities.
- The United States – through a challenge at the WTO – obtained the reversal of tax rules that discriminated against imported semiconductors, and – through high-level diplomacy and the threat of WTO dispute settlement – obtained the indefinite postponement of discriminatory wireless encryption rules. United States semiconductor exports to China were \$3.4 billion in 2005. Most recently, to avoid facing a WTO suit about to be filed by the United States, China’s Ministry of Commerce rescinded an order on January 9, 2006 that had unfairly imposed antidumping duties on Kraft linerboard exported from the United States.

However, despite these successes in opening China’s markets for U.S. goods and services, many challenges persist. As noted above, on a number of occasions, access to the Chinese market was obtained only after the United States used or threatened to use trade remedies available in the WTO or under U.S. law. As noted below, important gaps remain in China’s implementation of its WTO commitments. Moreover, while engaging constructively in a number of dialogues during this phase, China generally declined to go beyond its WTO accession commitments or to play a role in strengthening the global trading system commensurate with its economic heft and the economic benefits it receives.

Phase 3 (2006 forward) -- Now that the deadline for phase-in of most of China’s WTO obligations has passed – and China has developed an initial track record as a new WTO member – we are entering a third stage in our bilateral trading relationship. At this point, the easiest obligations for China to meet have largely been fulfilled, and the hardest obligations are those that are still outstanding, precisely because their full implementation has proven especially difficult. Successfully addressing these remaining implementation issues will require serious attention and deliberate action by both governments.

Moreover, for the United States, a critical aspect of this more complex relationship is the impact of China’s much larger role in the world trading system on U.S. trade and global balances. The scale and rate of growth of the Chinese expansion are unprecedented in the history of global trade, as is the entry into the global economy of a country as large as China. China has benefited from its access to the open global trading system and the rapid growth of the world economy. But in order to sustain that growth, both economically and politically, China must play its part in addressing the global imbalances that have arisen during the past four years of rapid global growth.<sup>2</sup> While our trade imbalance with China may, to some extent, reflect China’s size and its

<sup>2</sup> China’s exchange rate mechanism also affects China’s trade and plays an important role in the adjustment of global imbalances. The Administration has insisted that China swiftly carry out the commitments made in the announcement of its new exchange rate mechanism on July 21, 2005 and the Joint Economic Committee (JEC) statement of October 17, 2005 to move to a market-based, flexible exchange rate regime. But to date, China’s actions have been insufficient. On delivering his last Report to Congress on International Economics and Exchange

relatively recent emergence into the global economy, a large and growing trade deficit with China remains a significant concern.<sup>3</sup>

Thus, in addition to the two core principles of United States trade policy that have served us well since World War II – *i.e.*, promoting an increasingly open, rules-based international trade system, and capturing the economic benefits of this system for the American people – a third core principle with respect to China must now be added: the pursuit of a trade relationship that is more equitable and durable, with more balanced opportunities that generate corresponding growth in U.S. export-supported employment.<sup>4</sup>

As we enter the third phase of our relationship, U.S-China trade policy challenges will move beyond monitoring compliance with a discrete set of obligations to actively cooperating in an increasingly complex and dynamic relationship. To accomplish this successfully, our two governments will need to strengthen our ability to engage in proactive anticipation and resolution of bilateral trade challenges. To this end, the United States will need to marshal and focus the resources necessary to monitor and address upcoming challenges in the relationship, and the United States and China will need to strengthen existing bilateral mechanisms to spot, address and head-off difficulties.

More broadly, we also believe that China has now clearly ascended to the ranks of global trading powers who – like the United States, European Union and Japan – must assume responsibility not only to fulfill commitments, but also go beyond them to ensure the continued health of the global trading system.

In view of these circumstances and the three core principles of U.S. trade policy towards China identified above, the United States will be working to achieve the following six objectives:

1. Participation. Integrate China more fully as a responsible stakeholder into the global rules-based system of international trade and secure its support for efforts to further open world markets.
2. Implementation and Compliance. Monitor China's adherence to international and bilateral trade obligations and secure full implementation and compliance.

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Rate Policies, Secretary Snow declared that China's "progress to date is limited and far too slow to be sufficient. The actual operation of the new system is highly constricted. As a result, the distortions and risks created by China's rigid exchange rate still persist." Treasury's next foreign exchange report is scheduled to be released in April.

<sup>3</sup> We recognize that the imbalance is not solely a function of trade policy. The relative growth of imports and exports -- and thus the trade imbalance -- are affected by macroeconomic factors outside of trade. In particular, economists note that differences between the U.S. and our trading partners in national economic growth rates and patterns of saving, investment and consumption are primary reasons U.S. imports exceed exports. Nevertheless, United States and Chinese trade policies can positively affect the trade imbalance to the extent it arises from closed markets or unfair trade practices.

<sup>4</sup> United States trade policy since World War II has favored the creation of more productive, higher paying jobs related to exports, rather than protecting existing jobs in sectors where the United States is less competitive. United States access to the rapidly growing Chinese market helps us expand exports of some of America's most successful products and sustain the high paying jobs in the goods and services sectors involved in their production and delivery.

3. Enforcement of U.S. Trade Laws. Ensure that U.S. trade remedies and other import laws are enforced fully and transparently, so that Chinese imports are fairly traded, and U.S. and Chinese products are able to compete in the U.S. market on a level playing field.
4. Further Market Access and Reform. Beyond what is granted under China's current commitments, secure further access to the Chinese market and greater economic reforms in China to ensure that U.S. companies and workers can compete on a level playing field.
5. Export Promotion. Pursue effective U.S. export promotion efforts with special attention to areas of particular U.S. export growth potential in China.
6. Proactive Identification and Resolution of Trade Problems. Identify mid- and long-term challenges that the trade relationship may encounter, and seek proactively to address those challenges.

In addition, U.S. trade policy towards China must inform and be informed by our trade policy towards East Asia as a whole, especially with other key partners in the region.

## KEY CHINA TRADE OBJECTIVES AND PRIORITY GOALS

Below is an assessment of the current status of the six key trade objectives for China, a summary of outstanding issues and opportunities, and a list of practical, short-to medium term priority goals. The priority goals are based on an assessment of their relative importance to U.S. economic interests, their appropriateness within the context of China's multilateral and bilateral obligations, and – where they exceed the scope of China's current obligations – China's potential amenability to negotiate “win-win” resolutions. The interagency group stressed that it was important to understand the obstacles and challenges we and the Chinese face in pursuing these goals, so that we can develop the most effective strategies for achieving them.

### *Objective 1. Participation*

Current Status. The watershed event in integrating China into the global rules-based system of international trade was its accession to the WTO in 2001, based upon the bipartisan policy endorsed by Congress in the 1990s. China is also a member of a number of regional or sectoral trade-enhancing institutions, including Asia Pacific Economic Cooperation (APEC), World Intellectual Property Organization (WIPO), Codex Alimentarius Commission (Codex), and the International Plant Protection Convention (IPPC).

Outstanding Issues and Opportunities. Although China is becoming an increasingly active member within those organizations, it still plays a modest role relative to its economic and political heft. China also remains outside of several key trade arrangements, including the WTO Government Procurement Agreement (GPA), WIPO Internet Treaties, and the World Organization for Animal Health (OIE). In addition, it has participated on only a limited basis in a number of important organizations that enhance trade by developing international standards, including the IPPC, Codex, the International Organization for Standardization (ISO), the International Telecommunications Union (ITU), the International Electrotechnical Commission (IEC) and the Institute of Electrical and Electronics Engineers (IEEE).

Priority Goals. The interagency group identified the following priority goals to help ensure more constructive participation by China in the global rules-based system of international trade:

- Secure more active and constructive participation of China within the WTO's Doha Development Agenda (DDA) negotiations, which offer the world a once-in-a-generation opportunity to break down barriers to greater international trade and prosperity.
- Have China join the WTO Government Procurement Agreement (GPA), accede to the WIPO Internet Treaties and join OIE.
- Secure more active and constructive participation by China in international standard-setting organizations including the IPPC, Codex, ISO, ITU, IEC and IEEE.

Obstacles and Challenges. Obstacles to accomplishing these priority goals include, with respect to GPA, Chinese government concerns about limitations on their ability to favor domestic industries following accession to the GPA, as well as concerns about insuring compliance by local government offices with GPA rules; with respect to DDA, China's standing with certain developing countries who do not favor further opening and its own reluctance to open further; and with respect to OIE, Taiwan's membership in the organization.

*Objective 2. Implementation and Compliance*

Current Status. China's most comprehensive trade commitments were made in the context of its accession to the WTO, though it has important bilateral commitments to the United States as well, principally made in the context of the JCCT. USTR issues comprehensive annual assessments of China's compliance with and implementation of its WTO commitments, based on discussions with industry associations, and written submissions and oral testimony provided pursuant to notice in the Federal Register. This report has been informed by the results of those assessments.<sup>5</sup>

Outstanding Issues and Opportunities. IPR enforcement is one of China's greatest shortcomings. The United States took several aggressive steps in 2005 in an effort to obtain meaningful progress in this area. First, the United States conducted an out-of-cycle review under the Special 301 provisions of U.S. trade law. At the conclusion of this review in April 2005, the Administration elevated China to the Special 301 "Priority Watch" list and set forth a comprehensive strategy for addressing China's ineffective IPR enforcement regime, which included the possible use of WTO mechanisms, as appropriate. The United States immediately began to pursue this strategy during the run up to the July 2005 JCCT meeting, and China subsequently agreed to take a series of specific actions designed to increase criminal prosecutions of IPR violators, improve enforcement at the Chinese border, counter piracy of movies, audio visual products and software, address Internet-related piracy, and assist small and medium sized U.S. companies experiencing China-related IPR problems.

Because a lack of transparency on IPR infringement levels and enforcement activities in China has hampered the United States' ability to assess the effectiveness of China's efforts to improve IPR enforcement, the United States also submitted the first ever information request to China under Article 63.3 of the TRIPS Agreement in October 2005. The United States' request, made in conjunction with similar requests by Japan and Switzerland following outreach to these countries by the United States, seeks detailed information from China on its IPR enforcement efforts over the last four years.

Other key areas where limitations in China's implementation and compliance efforts continue to cause trade friction include: (1) services sectors in which Chinese regulators continue to frustrate the efforts of foreign suppliers to achieve their full market potential in China through the use of an opaque regulatory process, overly burdensome licensing and operating requirements, and other means; (2) industrial policies that appear to limit market access by non-

<sup>5</sup> The most recent assessment, issued in December 2005, can be found on the USTR Web page at [www.ustr.gov/assets/Document\\_Library/Reports\\_Publications/2005/asset\\_upload\\_file293\\_8580.pdf](http://www.ustr.gov/assets/Document_Library/Reports_Publications/2005/asset_upload_file293_8580.pdf).

Chinese origin goods or bring substantial government resources to bear to support increased Chinese production and exports; (3) China's failure to fully implement its WTO subsidy obligations, particularly with respect to (i) prohibited subsidies and (ii) providing notification of its subsidies to the WTO, as required by WTO rules and as it committed to do at the 2005 JCCT; (4) promulgation of standards and other technical regulations that appear to favor locally-produced products, and discriminatory enforcement of standards against non-Chinese products; (5) selective intervention in the agriculture market by Chinese regulators; (6) administration of China's antidumping laws in ways that appear inconsistent with WTO requirements; and (7) inadequate regulatory transparency and uneven application of laws.

Priority Goals. Although, as reported above, China has made significant progress in meeting its international trade commitments, it continues to fall short in a number of areas. Ensuring full compliance and implementation is critically important, both to preserving domestic U.S. support for our policy of constructive engagement and to ensuring that China itself reaps the benefits of its integration into the global trading system. Consistent with the list of outstanding issues noted above, the interagency community identified the following as priority areas for U.S. government efforts to secure improved Chinese implementation and compliance:

- Greatly enhanced IPR protection.
- Elimination of market access barriers for services (especially telecom, distribution, and construction) that may be inconsistent with China's WTO obligations.
- Elimination of subsidies, industrial policies and preferences for state-owned enterprises, including state-owned banks, that may be inconsistent with China's WTO obligations.
- Ensuring that standards, technical regulations, and conformity assessment procedures are promulgated and implemented in accordance with WTO requirements.
- Elimination of sanitary and phytosanitary barriers and export subsidies for agricultural products that may be inconsistent with WTO requirements.
- Ensuring that China's administration of antidumping laws is consistent with WTO requirements.
- Ensuring that China complies with WTO requirements regarding transparency and uniform application of laws.

Obstacles and Challenges. Many of the shortfalls in China's implementation and compliance efforts stem from China's incomplete transition from a state-planned to a market economy. Not all Chinese officials or government departments have fully embraced the key WTO principles of market access, non-discrimination, and national treatment, nor has the Chinese government fully institutionalized market mechanisms and made its trade regime predictable and transparent.

While China has made some important progress, it continues to use an amalgam of administrative measures and traditional industrial policy instruments such as preferential tax

rates to promote or protect favored sectors and industries, and these tools at times collide with China's WTO obligations. These are important trade issues, in part because the industries most affected by the protectionist instincts of some Chinese officials and by shortcomings in China's IPR protection are often those where the United States is most competitive.

The particular obstacles and challenges impeding full implementation and compliance by China vary from obligation to obligation, but they include: lack of consensus within China's government and competing Chinese government priorities, including differences in views among China's national, regional and local government officials; systemic rule of law problems in China; and inadequate Chinese capacity to achieve compliance with certain obligations.

The challenge for the United States in monitoring – and seeking to secure – implementation and compliance is enhanced by: difficulty in obtaining data needed to support potential U.S. trade actions; challenges in collecting data from, and achieving consensus among, multilateral/U.S. stakeholders; lack of transparency in China's use of subsidies, including the failure of China to notify its subsidies to the WTO; difficulty in determining precise causes for China's non-compliance, so that appropriate and effective responses can be undertaken; difficulty in measuring progress in Chinese compliance for specific obligations; the need for rapid responses to the common Chinese pattern of delay, partial implementation, and creation of new barriers; and complications in dealing with overlapping Chinese agency jurisdictions.

### *Objective 3. Enforcement of U.S. Trade Laws*

Current Status. The Department of Commerce's Import Administration in 2004 created a new 78 position China/Non-Market Economy (NME) Unit to oversee the investigation of NME cases and enforce U.S. trade laws against injurious, unfairly-priced imports. This restructuring successfully concentrated China/NME experts in one office, leading to better and more consistent determinations. Commerce currently has approximately 70 antidumping proceedings pending against Chinese merchandise, more than for goods from any other country. In addition, Commerce recently adopted a new policy that increases the effectiveness of antidumping orders by preventing Chinese suppliers from switching exporters to evade antidumping duties.

The United States has also worked to block counterfeit and pirated goods at the U.S. border. Since 2000, annual seizures of counterfeit and pirated goods at U.S. land borders and seaports are up 125%. The number of U.S. International Trade Commission proceedings instituted to enforce intellectual property rights and to prevent imports of infringing goods from China and other countries is up more than 80% over the last five years, when compared to the previous five years.

Further, the United States has increased U.S. enforcement of a prohibition on importing goods made with forced or bonded labor, including prison labor.

Outstanding Issues and Opportunities. The volume of counterfeit goods from China seized at the U.S. border continues to rise. Commerce will be working aggressively with Customs and Border Protection to track down Chinese shippers that have evaded duties. In addition, USDA is

increasing monitoring of China's agricultural trade compliance, particularly in the area of sanitary and phytosanitary (SPS) requirements.

Priority Goals. Interagency agreed priorities in this area include:

- Ensuring full and transparent enforcement of U.S. trade remedy laws and agreements (e.g., antidumping, Sections 201 and 421 of the Trade Act of 1974, as amended, Section 337 of the Tariff Act of 1930, as amended, and the U.S.-China MOU on Textiles).
- Ensuring China's compliance with U.S. rules for ensuring food safety, and for preventing U.S. importation of invasive species (via agricultural imports, in wood packing materials, etc.) through: (a) completion of thorough risk analysis of China's market access requests for animal and plant products, (b) increased surveillance of China's food safety system, and (c) enhanced port inspection of imported Chinese agricultural products.
- Seizing, at U.S. borders, counterfeit products and products made with forced or bonded labor.

Obstacles and Challenges. Challenges in achieving these priority goals include rapid increases in uneconomic Chinese production capacity and output in numerous industries – particularly when facilitated by Chinese government intervention or inaction – resulting in problems with overcapacity and subsidized products; rapidly increasing volume of exports of counterfeit products from China; an inadequately developed regulatory system in China to monitor and control pests and diseases to ensure overall food safety; and lack of sufficient USDA/APHIS staff in China to effectively work with China's government on capacity building.

#### *Objective 4. Further Market Access and Reform*

Current Status. Although China launched a program of domestic economic reform and openness to the outside world in 1979, in many sectors China has yet to embrace a significant opening of its domestic markets to international competition. By seeking to enhance our access to China's markets, U.S. trade policy has encouraged China's domestic economic reform process and sought more balanced opportunities in our bilateral trade relationship. More broadly, the United States is urging China to look beyond the scope of its current commitments and play a role in strengthening the international trading system commensurate with its commercial heft and the level of benefit it has obtained from that system.

There has been some progress and opening beyond what was negotiated as part of China's WTO accession. For instance:

- China has taken steps to improve regulation and liberalization of the financial sector and opened several cities ahead of schedule for foreign banks' domestic currency business.



- Maritime authorities signed a far-reaching bilateral maritime agreement in 2003 that helped open markets for American shipping by allowing U.S. carriers to open full branches in China and operate without restrictions.
- The United States and China signed a landmark aviation agreement in 2004 that greatly expands opportunities for U.S. air services over the next six years. The agreement provides for a major expansion of both passenger and cargo air services between the two countries over this time period (*e.g.*, overall weekly flights permitted between the two countries will increase on phased basis from 54 to 249).
- In 2004 and 2005, China expanded its cotton import tariff-rate quota to more than double its WTO commitment.

Moreover, dialogue in this area continues. The State Department and China's economic planning authorities (the National Development and Reform Commission (NDRC)) launched in 2003 the U.S.-China Economic Development and Reform Dialogue to discuss structural issues, such as using market approaches to achieve energy security and improving the investment climate. Treasury's U.S.-China Joint Economic Committee (JEC) dialogue, begun in 1980, has emphasized in recent years the need for China introduce greater exchange rate flexibility and take steps to reform its financial system and open it up for greater foreign investment. Both the JEC and the State-NDRC Dialogue have also encouraged China to stimulate domestic consumption (rather than exports and investment) as a source of growth. Similarly, the Department of Commerce has organized a variety of programs with Chinese regulators and legislators aimed at deepening China's reforms in areas of key economic interest to the United States, including in logistics; standards and conformity assessment; healthcare; and chemicals notification. In addition, the Department of Labor has initiated cooperative programs with the Chinese Ministry of Labor and Social Security that address the issues of coal mine safety and labor rule of law.

However, as discussed in greater detail below, there are a number of areas in which Chinese policies effectively preclude U.S. companies from meaningfully accessing China's markets.

Outstanding Issues and Opportunities. In many areas, China has taken the position that further market opening can only be made in the context of the ongoing Doha Round of multilateral trade negotiations, and then, in Doha negotiations, has maintained that recently acceded WTO members like China should have limited or no additional obligations. There are still important areas of the Chinese economy where non-market forces play a significant role, and where government decision-making is not well-anchored in market principles. These problems are exacerbated by persistent transparency and rule of law issues, which continue to constrain Chinese economic reform and limit opportunities for U.S. goods and service providers to participate more fully in the Chinese market.

Priority Goals. As noted above, while China has made certain limited efforts to reform and open its domestic markets beyond the scope of its WTO commitments, much more remains to be done. The following are priority areas:

- Promoting reliance on market forces to allocate resources rather than on administratively implemented outcomes (e.g., in the steel and auto sectors).
- Fostering a rules-based competitive environment in China for foreign and domestic interests alike, including through application of non-discriminatory competition laws and policies (e.g., a sound anti-monopoly law; reliance on voluntary, industry-led standards; elimination of barriers created by provincial and local governments; and elimination of government control of business interests).
- Expanding market access in IPR-intensive sectors, such as the audiovisual and publishing sectors.
- Addressing limitations on market access and regulatory barriers in the telecommunications and other services sectors.
- Achieving greater market access and expanded scope of business in financial services.
- Ensuring independence of regulators (especially in the postal and telecom sectors).
- Reducing tariff and non-tariff barriers for manufactured and agriculture goods of competitive interest to U.S. firms.
- Promoting reform of the healthcare system to promote patient choice, support innovation, and ensure quality, based on the principles of transparency, objectivity and sound science.

Obstacles and Challenges. Obstacles to further progress vary by issue, but they fall into the following broad categories: competing priorities and lack of consensus within China's government in support of further reform and opening (including a belief by some Chinese officials that industrial planning and government intervention in the market are key to China's economic success); significant socio-economic demands; inadequate capacity to carry out reforms; fears of foreign economic dominance; and inefficiencies in the State sector (e.g., overcapacity and underemployment).

#### *Objective 5. Export Promotion*

Current Status. The U.S. government has devoted significant resources to promoting U.S. exports to China, which has helped increase U.S. exports to China by 156% over the past five years. The foreign services of the Departments of Commerce and Agriculture have their largest overseas presences in China (the Commerce Department's Foreign Commercial Service (FCS) stations 22 American officers and 85 local hires at five posts in China; the Foreign Agricultural Service (FAS) and Animal and Plant Health Inspection Service (APHIS) combined station 12 American officers and 32 local hires in three cities in China).

The Foreign Commercial Service's China posts reported 544 export successes in FY2005, totaling \$12.3 billion, while U.S. food and agriculture exports to China have risen dramatically over the past five years, to reach \$6.2 billion in 2004. Each service runs China-specific initiatives. For example, in 2005, the Commerce Department announced two new China initiatives to assist U.S. exporters: The China Business Information Center (CBIC), a one-stop shop for U.S. companies to explore opportunities and address challenges to doing business in China; and the American Trading Centers, which expand the Foreign Commercial Service's on-the-ground export promotion capabilities to 14 additional major Chinese markets. The State Department officers in the large and growing Economic Sections at the Embassy and consulates also provide critical market information to U.S. businesses and support the operations of FCS and FAS as part of an integrated Mission-wide strategy

Outstanding Issues and Opportunities. In many cases, market access is still limited by a variety of factors to major coastal population centers. As China continues to improve its infrastructure, export promotion efforts can substantially increase U.S. exports to large inland cities in China.

Moreover, many potential U.S. exporters, particularly small and medium-sized enterprises (SMEs), are unfamiliar with the China market and export opportunities that may exist there. While U.S. SME exports to China are in line with U.S. SME exports to the rest of the world (at about 30 percent of total exports), further outreach to SMEs still promises to lead to substantially increased U.S. exports to China.

Priority Goals.

- Increasing exports to areas other than major coastal population centers.
- Promoting familiarity of U.S. exporters, particularly SMEs, with the Chinese market and export opportunities.
- Maximizing U.S. high-tech exports to China while ensuring that security concerns are appropriately addressed.
- Focusing export promotion efforts on goods and services sectors in which U.S. businesses are competitive and where there is actual or potential Chinese demand.
- Ensuring that U.S. government efforts to achieve Chinese compliance with WTO and bilateral obligations and further market access and reform are guided in part by U.S. export potential in particular product and service sectors.

Obstacles and Challenges. Obstacles to achieving our export promotion priorities include insufficient knowledge of the Chinese market among U.S. firms and the expense of entering the market, especially for SMEs; China's desire, in services sectors, to allow only the biggest and best to enter the market; lack of effective IPR protection in China; challenges in arranging end-use visits in China to facilitate trade in sensitive high-technology items; and, in agriculture particularly, continuing Chinese government desire to manage trade flows in sensitive products.

*Objective 6. Proactive Identification and Resolution of Trade Problems*

Current Status. The United States and China have pursued a robust dialogue on economic and trade issues throughout the three phases of our bilateral trade relationship. Key bilateral dialogues include:

- The U.S.-China Joint Commission on Commerce and Trade (JCCT), established in 1983 by the Chinese Minister of Foreign Economic Relations and Trade and the U.S. Secretary of Commerce, and since the end of 2003, led by Vice Premier Wu Yi on the Chinese side, and by the Secretary of Commerce and United States Trade Representative on the U.S. side;
- The U.S.-China Joint Economic Committee (JEC), established in 1980 by the Chinese Minister of Finance and the U.S. Secretary of the Treasury, with expanded participation in 2004 and 2005 to include leaders of the People's Bank of China (the central bank), the National Development and Reform Commission (NDRC) and heads of the key U.S. and Chinese financial regulators;
- The Joint Liaison Group (JLG), established by the U.S. State Department's Legal Advisor and China's Foreign Ministry in 1997;
- The U.S.-China Economic Development and Reform Dialogue (State-NDRC Dialogue), established by China's National Development and Reform Commission (NDRC) and the U.S. Department of State in 2003; and
- The Joint Committee on Cooperation in Agriculture (JCCA), established by the Chinese Ministry of Agriculture and the U.S. Department of Agriculture in 2003.

Each of these fora deals with issues related to U.S. trade with China. In addition, the State Department has established, at our Embassy in Beijing, one of the largest Economic Sections of any of our overseas missions, and includes a trade policy unit dedicated to assessing China's policy and regulatory issues that impact market access for U.S. goods and services. Economic sections in each of our four consulates, for instance, support the Ambassador's continuous efforts to strengthen China's intellectual property rights enforcement through regular contact with China's central and provincial governments. At the same time, U.S. and Foreign Commercial Service and Foreign Agricultural Service officers also posted at the Embassy and consulates collect and disseminate information on local regulations and practices that impact U.S. commercial interests.

In sum, hundreds of working-level exchanges on trade-related matters are held each year between U.S. and Chinese officials representing numerous ministries and departments. On the U.S. side alone, over twenty Executive branch departments and agencies play a role in the

bilateral trade relationship with China.<sup>6</sup> These channels, together with bilateral meetings involving the President and other senior U.S. officials, have generally been used to achieve the successes in our bilateral trade relationship noted above.

Outstanding Issues and Opportunities. U.S. officials have generally devoted resources to resolving the numerous problems brought to our attention by industry, members of Congress, and other interested parties. U.S. policy formulation could benefit from the dedication of resources to analyzing long term-trends and anticipating and addressing early on trade problems that may arise. Moreover, as noted above, China trade issues involve numerous U.S. government departments and agencies. Therefore, as the U.S.-China trade relationship continues to expand rapidly and becomes increasingly complex, the U.S. government will need to increase its information collection and analysis capabilities related to U.S.-China trade and strengthen interagency coordination, in order to identify challenges early and proactively engage to address them before they become major problems.

Priority Goals. In order to ensure proactive identification and resolution of bilateral trade problems, the interagency group concluded that our formulation and implementation of trade policy towards China should include the following elements:

- *Coordinated U.S. government interagency focus on specific priority trade goals.* This can help ensure that the Chinese government receives clear and consistent messages from U.S. government officials, and that the diverse capabilities and resources of the U.S. government are coordinated and focused on the most important issues.
- *Effective monitoring and measuring of China's compliance with specific obligations.* As noted above, developing objective and well-founded metrics has been a difficult challenge in assessing and responding to shortfalls in China's WTO implementation, particularly in areas such as IPR protection, subsidies and SPS matters.
- *Enhanced capability to obtain and analyze comprehensive, forward-looking information regarding China's trade regime and practices.* An accurate and detailed understanding of the causes for China's non-compliance or unwillingness or inability to fully address specific trade concerns is necessary so that we can develop appropriate and effective responses to specific problems. Moreover, effective gathering of complete and compelling data needed to support specific negotiations and dispute resolution activities is especially important as we move into the third phase of our bilateral trade relationship with China and focus more on issues that have been relatively difficult to resolve through simple dialogue.

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<sup>6</sup> For example, member agencies of the Trade Policy Staff Committee (TPSC) and the Trade Policy Review Group (TPRG) include the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, Health and Human Services, Homeland Security, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The U.S. International Trade Commission (USITC) is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed. The Office of the U.S. Trade Representative chairs the TPSC and the TPRG.

- *More formalized input from relevant stakeholders to help identify and address prospective problems.* Outreach is important to ensure that we are apprised of all relevant issues and options for dealing with them, and that support for implementation of solutions will be provided as needed. Relevant stakeholders include:
  - Congress;
  - The private sector;
  - All levels of the Chinese government; and
  - Other trading partners.
  
- *Development of a full range of options for addressing concerns.* The most effective approach or combination of approaches for dealing with a particular issue depends very much on the nature of the specific problem being addressed and the obstacles that must be overcome. Possible options, which should be implemented without prejudice to the rights of U.S. industry to seek relief under U.S. trade remedy laws, include:
  - Collaborative (“win-win”) initiatives, including capacity building;
  - High-level and working-level exchanges;
  - Public and private sector initiatives;
  - Bilateral and multilateral initiatives; and
  - Recourse to remedies available under the WTO or U.S. law.

Obstacles and Challenges. Although, as noted above, the United States seeks proactively to identify and resolve trade issues with China before they become irritants, this is difficult to do with any sizable trading partner. It is particularly difficult in the case of China because: domestic economic developments, trends and government decision-making in China are not always transparent; the magnitude and pace of China’s economic development and export expansion are unprecedented in the history of the international trading system; and important actors in the Chinese government (including central, provincial and local authorities) and Chinese industries are not wholly committed to fundamental norms of international trade. Such norms include opening markets and reducing trade barriers for foreign goods and services, protecting intellectual property rights; and upholding transparency and the rule of law.

## KEY ACTION ITEMS

As discussed above, the purpose of this top-to-bottom review has been to identify the core principles and key objectives of our trade policy with China, assess the current status and establish priority goals for each key objective, and identify specific action items that will help us achieve our priority goals. .

Based on the results of the review, the Administration will take a series of actions to help ensure that we are best positioned to meet our six key China trade objectives. The list below includes initial steps we will be taking. Additional action items will be developed and implemented in consultation with Congress and other stakeholders to ensure meaningful progress in achieving these key objectives.

### *1. Expand Enforcement Capacity*

- USTR will establish an internal China Enforcement Task Force, to be headed by a Chief Counsel for China Trade Enforcement. This Task Force will include staff from the USTR Office of the General Counsel and China Office, and will focus on the preparation and handling of potential WTO cases with China. It will work closely with industry, other U.S. government agencies and other relevant stakeholders to collect information, but it will be charged specifically with pursuing meritorious cases in pursuit of U.S. rights negotiated under trade agreements.
- Under the Secretary of State's new initiative on transformational diplomacy ("The Global Repositioning Initiative"), the State Department will be adding at least seven new mid-level and senior officers in the Embassy and two smaller consulates in China to report on economic developments relating to U.S. interests, including monitoring of China's compliance with its trade obligations. The State Department is also exploring the establishment of single-officer "American presence posts" in the interior.
- The U.S. Patent and Trademark Office will fund the hiring of two additional American citizens and local staff to place additional IPR Attachés or dedicated IPR Foreign Service Nationals in Beijing and Guangzhou. The State Department will also fund an additional IPR Foreign Service National position in Beijing.
- The Commerce Department will expand the IPR SME Advisory Program, which provides U.S. companies with a free, one-hour consultation with an experienced IPR attorney on protecting and enforcing IPR in China.
- The Commerce Department will expand the mechanism launched in 2004 that enables the U.S. government to pass, to China's government for action, vetted cases of IPR infringement involving U.S. rights holders who have been unable to effectively enforce their IPR in China. This mechanism improves the ability of U.S. companies to protect and enforce their IPR in China and highlights systematic problems in the protection and enforcement of IPR to the Chinese government.

- U.S. Customs and Border Protection is beginning technical exchanges with Chinese authorities on risk assessment, risk management tools, and regulatory issues to improve China's enforcement of IPR at its own borders. In addition, we will step-up law enforcement cooperation between U.S. customs, immigration, and criminal law enforcement authorities and their Chinese counterparts to reduce China's exports of IPR infringing goods and address transnational IPR cases.
  - Relevant U.S. government agencies will conduct seminars that bring together U.S. government experts on IPR and legislative drafting with the National People's Congress (initial sessions were convened in 2004 and 2005), with a goal of improving the legislative framework for the protection and enforcement of IPR.
2. *Expand USTR capability to obtain and apply comprehensive, forward-looking information regarding China's trade regime and practices to U.S. trade policy formulation and implementation*
- USTR will add personnel to its China Office to coordinate collection and integration of information on current and potential China trade issues from other U.S. government agencies and other sources and to support the China Enforcement Task Force.
  - USTR shall create an ACTPN<sup>7</sup> China Task Force to consider strategic issues related to U.S.-China trade relations and provide forward-looking, strategic advice on matters related to trade policy with China. The Task Force will consist of ACTPN members and their staff liaisons, and the Chair and Vice Chair of the Task Force shall be appointed by the USTR.<sup>8</sup>
3. *Expand U.S. Trade Policy and Negotiating Capacity in Beijing*
- USTR will work with the State Department on the posting of a senior trade official at the U.S. Embassy in Beijing to support the pursuit of U.S. trade policy interests in China. This individual will work closely with Embassy staff from other agencies and with the

<sup>7</sup> The Advisory Committee for Trade Policy and Negotiations (ACTPN) is appointed by the President and is the preeminent advisory committee providing overall policy advice on trade matters to (USTR). Established by Congress under the Trade Act of 1974, the ACTPN is comprised of senior leaders from industry, agriculture, services, small business, and other key sectors of the economy broadly affected by trade. It provides information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with U.S. trade policy. The ACTPN considers trade policy issues in the context of the overall national interest. ACTPN members obtain security clearances and have access to sensitive and confidential documents and information.

<sup>8</sup> Membership on the Task Force shall be open to all ACTPN members. ACTPN members of the Task Force may designate staff liaisons with China expertise, subject to approval of USTR, to obtain security clearance and assist with the work of the Task Force. The Task Force will report to the USTR through the ACTPN.



U.S. business community resident in China to help prepare for and conduct trade negotiations and dialogues, and to help support other U.S. government trade policy initiatives in China.

*4. Increase Coordination with Other Trading Partners*

- The United States will work more closely with other trading partners on China trade issues of common interest, such as enforcement of intellectual property rights and China's implementation of its WTO obligations.

*5. Deepen and Strengthen Regional Engagement*

- The United States will pursue increased trade liberalization and expanded trade relations with other Asian economies and within APEC. Negotiations to conclude a free trade agreement with the Republic of Korea, announced on February 2, 2006, are one important element of this effort. This increased engagement will help to maintain and enhance U.S. commercial relationships with these economies, even as China also strengthens its commercial relationships with them. At the same time, it should help spur further market access and reform in China's trade regime, as well as increase momentum for multilateral trade liberalization within the WTO.

*6. Increase Focus on Regulatory Reform in China*

- The Administration will step-up efforts to promote regulatory reform in China, in place of subsidies and administrative measures and policies that distort resource allocation and trade flows, including: (1) deepening and expanding the State Department's high-level dialogue with China's economic planners regarding structural reform; (2) broadening and intensifying assessment of subsidies in China and continuing pressure on the Chinese government to comply with its subsidy-related obligations under the WTO, including making a full WTO subsidies notification (expected early 2006); (3) expanding USDA-led initiatives to improve China's transparency and compliance with its SPS obligations under the WTO; and (4) giving intensive attention to China's development of standards and of an anti-monopoly law.

*7. Increase Effectiveness of High-Level Meetings with China's Leaders*

- USTR and the Department of Commerce will continue to hold annual, elevated meetings of the JCCT prior to presidential-level meetings, where possible, and conduct periodic reviews of goals and progress under the JCCT at the Vice Minister/Deputy level.

8. *Strengthen and Expand Bilateral Dialogues on Numerous Current and Potential Problem Areas*

- Dialogue on Participation in Global Institutions:
  - *Doha Initiative:* USTR will pursue a DDA initiative with China's government, to seek enhanced participation by China in the Round and increased liberalization of its trade regime.
  - *WTO Government Procurement Agreement (GPA) Accession:* USTR, the Department of Commerce, and the Department of State will pursue initiatives to encourage China's accession to the GPA, including providing training on GPA and other procurement issues, and conducting GPA accession technical consultations that China agreed to at the July 2005 JCCT meeting.
  - *World Intellectual Property Organization (WIPO) Internet Treaties Accession:* The Patent and Trademark Office is coordinating a program to assist China in bringing its copyright law and regulations into compliance with WIPO Internet Treaties standards so it can accede to the Treaties in 2006.
  - *Increasing Chinese Participation in Agricultural Standard-Setting Bodies.* U.S. government agencies will carry out initiatives to bring China into the OIE and increase its participation in IPPC and Codex.
- Dialogue on Services
  - *Conduct Enhanced Dialogue on Telecommunications.* As agreed at the July 2005 JCCT, China and the United States have recently launched a new telecommunications dialogue under the JCCT Information Industries Working Group to address WTO implementation and compliance concerns and market reform issues.
  - *Promote Regulatory Reform for Direct Selling Industry.* Work with the private sector to increase China's understanding of the direct selling industry and other countries' regulatory approaches, to facilitate easing of current restrictions.
  - *Facilitate Government Liberalization of the Distribution Sector.* Commerce will convene a logistics forum with NDRC that will invite Chinese officials to the United States to further explore logistics and infrastructure development in China.
  - *Convene U.S.-China Informatization Policy Roundtable,* for U.S. and Chinese government and industry representatives to discuss government policies affecting the information technology, e-commerce, and telecommunications industries.
  - *Healthcare Reform.* Bring together U.S. government and U.S. industry experts on healthcare services with Chinese counterparts at the Ministry of Commerce

(MOFCOM) and the Ministry of Health (MOH), following U.S.-China Healthcare Forum that was launched by the Commerce Department in 2005.

- *Post Financial Attaché in Beijing and Launch Financial Regulators Dialogue.* These initiatives aim to promote the modernization and opening of China's financial sector to broaden opportunities for U.S. financial services providers and enhance financial system stability.
- Dialogue on Subsidies and Structural Issues
  - *Continued Engagement on Subsidies.* In addition to pressing for the long overdue, comprehensive WTO subsidy notification from China, USTR and Commerce will address continue to address subsidies issues – an area of concern to many U.S. producers – both at the WTO and through the JCCT's Structural Issues Working Group in 2006.
  - *Launch Steel Dialogue.* As agreed by China in late December 2005, the United States and China will hold a steel dialogue under the JCCT to discuss non-market forces and overcapacity in China's steel sector.
- Dialogue on Standards
  - *Launch Standards and Conformity Assessment Program in Beijing.* Commerce and the U.S. Trade Development Agency will help launch a public-private initiative to provide standards and conformity assessment training for Chinese regulators and businesses.
  - *Technical Exchanges and Roundtables with AQSIQ.* Commerce, in its fourth year of standards cooperation with AQSIQ (China's inspection and quarantine agency), will convene roundtable meetings on RoHS (restriction of hazardous substances), energy efficiency, and other topics to be agreed.
- Labor Dialogue
  - We will strengthen U.S.-China dialogue on labor issues, including the promotion of respect for internationally recognized labor rights and enhancement of enforcement of labor laws and standards.
- Dialogue on Environmental Protection
  - We will support the recently launched U.S.- China Joint Committee on Environmental Cooperation established by a Memorandum of Understanding concluded between the U.S. Environmental Protection Agency and the Chinese State Environmental Protection Administration.
- Dialogue on China's Administration of Antidumping Laws

- We will focus on systemic issues involving transparency and injury determinations, leveraging the favorable resolution in January 2006 of the dispute regarding antidumping duties improperly imposed on Kraft linerboard.
- Dialogue on Transparency and Uniform Application of Laws
  - We will organize technical exchanges and high-level discussion to encourage adoption of a Federal Register-type system, as well as support activities of the State Department legal attaché in China and rule of law programs that address broader issues in the legal system, and expand judicial training.

9. *Strengthen U.S. Government Interagency Coordination*

- The Deputies-level Trade Policy Review Group (TPRG) and staff-level Trade Policy Staff Committee (TPSC) will conduct monthly reviews of the strategies and progress made in achieving the key objectives identified in this report. These reviews will help ensure coordination of China trade policy formulation and implementation and appropriate focus among agencies on key U.S. trade objectives with China. *Ad hoc* interagency working groups to drive particular China trade policy initiatives will also be established, as appropriate.
- The Trade Promotion Coordinating Committee (TPCC) will intensify its efforts to direct U.S. export promotion initiatives for China and ensure that they are optimally effective. The TPCC will coordinate these activities with the TPSC to ensure that China trade and export promotion policies are complementary.

10. *Strengthen the Executive-Congressional Partnership on China Trade*

- USTR will initiate a program of regular briefings for Congressional members and staff, to update them on progress in pursuing the objectives outlined in this report and to ensure that the Administration's China trade policy is informed by Congressional priorities.

**QUESTIONS FOR THE RECORD**

**United States Senate  
Committee on Finance**

**Hearing on  
“Administration’s Trade Agenda in 2006”  
February 16, 2006**

**QUESTIONS FROM SENATOR GRASSLEY**

**Question 1**

Several of the initiatives identified in your report on the top-to-bottom review, such as an expanded capability for data collection and an increased focus on regulatory reform in China, appear to lend themselves to the placement of additional personnel in China.

Can you comment on the types of resources needed to optimize these initiatives?

**Answer:** In the top-to-bottom review report, we identified several initial steps we will be taking to ensure that we are best positioned to meet our key China trade objectives and to pursue important initiatives.

We are taking two initial steps to provide needed resources in support of the data collection and regulatory reform initiatives that you have referenced. First, USTR has begun working with the State Department on the posting of a senior trade official at the U.S. Embassy in Beijing to support the pursuit of U.S. trade policy interests in China. This individual will work closely with Embassy staff from other agencies and with the U.S. business community resident in China to help prepare for and conduct trade negotiations and dialogues, and to help support other U.S. government trade policy initiatives in China. Second, USTR will be adding personnel to its China office to coordinate the collection and integration of information on current and potential China trade issues from other U.S. government agencies and other sources.

As we move forward, we will work closely with Congressional members and staff, not only to update them on progress in pursuing the initiatives outlined in the report but also to ensure that the Administration’s China trade policy is informed by Congressional priorities. As part of that ongoing interactive process, we will review and discuss the types of additional resources that may be needed to ensure that meaningful progress is being made.

**Question 2**

China is our 10<sup>th</sup> largest export market for services, and in 2004 we ran a \$1.6 billion dollar surplus with China in services trade.

Still, U.S. service providers confront barriers to their exports in a number of service sectors, such as banking, insurance, express delivery, financing, and direct selling.

What steps are being taken to dismantle barriers to our services exports to China?

How receptive are the Chinese to addressing these problems?

**Answer:** Overall, the United States continued to enjoy a substantial surplus in trade in services with China in 2005, and the market for U.S. service providers in China remains promising. However, in some sectors, the commitments that China made in its WTO accession agreement to increase market access and remove restrictions have not been fully realized. Chinese regulatory authorities continue to frustrate efforts of U.S. providers of insurance, telecommunications, construction and engineering and other services to achieve their full market potential in China through the use of an opaque regulatory process, overly burdensome licensing and operating requirements, and other means. In addition, China issued the regulations implementing its commitment to open its market for sales away from a fixed location, also known as “direct selling”, in September 2005, which was several months late; and these regulations contain several problematic provisions that the United States has urged China to reconsider. In 2005, China did follow through on commitments made at the April 2004 and July 2005 meetings of the U.S.-China Joint Commission on Commerce and Trade (JCCT) by resuming a dialogue on insurance issues. China has also moved forward with a promised dialogue on telecommunications issues, with the first meeting taking place in January 2006. Together with the Commerce Department, we are also addressing many of these issues in connection with the next JCCT meeting, scheduled for April 2006.

**Question 3**

It seems to me that USTR is caught in a Catch-22 situation.

On the one hand, USTR is criticized for not bringing a WTO case against violations of intellectual property rights in China, and on the other hand affected businesses appear unwilling to supply the necessary information to bring a case out of fear of retribution.

Is this a real constraint on your ability to enforce China’s WTO commitments?

If so, how can we address the problem?

**Answer:** Enforcement of trade obligations is foreseen under the WTO, and sometimes we find it necessary to bring a case. We bring cases when the interests of the United States are being undermined. U.S. industry is often actively supportive. Sometimes, there are business concerns,

including fear of retaliation, in which case we normally consult with industry on the optimal strategy. We would consider retaliation by any trading partner against U.S. companies to be inappropriate and unacceptable.

In fact, I am pleased that many industries and companies are working with us to prepare information for a possible IPR dispute with China and that cooperation is going well. China has not significantly reduced counterfeiting and piracy, as it committed to do. This may leave no other option than to take a case to the WTO.

#### **Question 4**

Your report on the top-to-bottom review points out that U.S. firms engaged in international trade or investment are more productive, more innovative, and offer higher wages and benefits, than their purely domestic counterparts.

With that in mind, does the Administration have a comprehensive strategy for helping small and medium sized enterprises take advantage of export opportunities in China?

**Answer:** I appreciate your question about the Administration's strategy for helping small and medium sized enterprises (SMEs) take advantage of export opportunities in China. An important element of my top-to-bottom review of our China trade policy was export promotion, and in that report I identified as a priority goal helping U.S. exporters, particularly SMEs, become more familiar with the Chinese market and export opportunities. My colleagues at the Department of Commerce, whose statutory mission is export promotion, have worked hard to create new tools for SMEs to enter the China market, including by establishing the China Business Information Center.

USTR also works hard to increase export opportunities for SMEs and to remove trade barriers they may face in the China market. For example, one outcome of the U.S.-China Joint Commission on Commerce and Trade meeting held on July 11, 2005 was China's agreement to appoint an Intellectual Property Rights Ombudsman at the Chinese Embassy in Washington. This ombudsman is now in place and serves as the point of contact for U.S. companies, particularly SMEs, to help them secure and enforce their intellectual property rights in China and to assist them with IPR problems they are encountering in China.

#### **Question 5**

What are the Administration's goals and priorities for the upcoming meeting of the U.S.-China Joint Commission on Commerce and Trade in April?

**Answer:** The JCCT has been a useful vehicle for resolving a range of trade issues with China. Last year, for example, China suspended the drafting of its software procurement regulations after the United States expressed WTO concerns. In 2004, China suspended its proposed mandatory encryption standard for wireless computer networks, and accelerated U.S. companies'

ability to import, export, distribute and sell their products without going through Chinese state trading companies and middlemen.

This year much is at stake. Our bilateral trade imbalance with China has increased, and China's IPR enforcement has not significantly improved. Secretary Gutierrez and I are working hard for another successful JCCT meeting by directly communicating our key concerns to senior Chinese leaders. Our objective is to ensure that China again undertakes strong commitments across a range of areas, including specific aspects of intellectual property rights protection and enforcement, greater market access for U.S. goods and services, removal of key barriers that impede trade with the United States, and steps to ensure transparency and the rule of law.

USTR and Commerce teams are holding detailed meetings with Chinese officials this week, and my Deputy, Karan Bhatia, will travel to Beijing in late March, together with Commerce Undersecretary Frank Lavin, to undertake further preparations for the JCCT meeting coming up in April.

#### **Question 6**

Iowa is home to a large number of world-class service providers. For this reason, I have a strong interest in the state of services negotiations at the WTO.

I'm pleased that work is underway to advance the services negotiations through plurilateral requests, and I encourage you to make every effort to ensure that the plurilateral requests are of the highest quality and contain substantial benefits for U.S. service providers.

I am, however, concerned that as requests are jointly agreed to with other countries, there will be pressure to reduce the level of ambition in the requests to the lowest common denominator.

Do you see this as a potential problem?

**Answer:** We do not see a problem with collective requests gravitating toward the lowest common denominator. Instead, we have seen each request as providing sufficient scope for each Member to pursue their individual interests to the fullest. The requests reflect all major interests of the United States and are fully consistent with our bilateral requests.

To further reinforce the complementary nature of the collective and bilateral requests, the United States will be communicating a refined version of its initial bilateral request, emphasizing specific U.S. priorities, to each Member (excluding least developed countries).

#### **Question 7**

Last April, Senator Baucus and I wrote to Ambassador Allgeier to express our concerns about the pace of our bilateral negotiations on Russia's accession to the World Trade Organization.



We raised a number of important issues, including the absence of a comprehensive and sustained effort to enforce intellectual property rights, sanitary and phytosanitary barriers to U.S. exports of agricultural products including pork, and domestic industrial gas pricing in Russia.

Please update the committee on the status of the negotiations with Russia over these issues and any other issues that remain outstanding.

When do you anticipate that these negotiations will be concluded?

**Answer:** The United States strongly supports Russia's WTO membership, but we have made clear that this support depends on Russia's compliance with WTO rules and achieving a good commercial agreement with meaningful market access.

In addition to obtaining commitments on tariff cuts and access for U.S. service providers, we are making progress on nontariff issues. Remaining issues in our bilateral discussions include market access for aircraft and agricultural equipment, financial services, operations of state-controlled enterprises, and elimination of barriers to information technology goods. We have also focused on resolving specific sanitary and phytosanitary issues that impede access for U.S. products, such as meat, poultry, and biotech products.

Achieving improved protection of intellectual property through changes in laws and improved enforcement of existing laws is a key objective in our bilateral relations with Russia as well as in the negotiations on Russia's accession to the WTO. Concerning natural gas pricing in Russia, this issue has come up in particular because of the concerns of the U.S. nitrogen fertilizer industry about the impact on fertilizer imports of below-cost natural gas pricing in Russia. We have been consulting and working very closely with the U.S. fertilizer industry throughout the Russian WTO accession process and will continue to do so.

We and other WTO members share a strong interest in addressing the intellectual property rights situation in Russia and other issues such as gas pricing. We are working together to assure that Russia undertakes meaningful commitments that are included in Russia's protocol of accession.

As for timing, we had hoped to conclude this bilateral part of the negotiations for the terms of WTO accession with Russia last year. We are working hard to conclude this part of our work on the accession. Upon conclusion of the bilateral, we will concentrate fully on the multilateral aspects of the negotiations and on Russia's compliance with WTO rules and other requirements.

#### **Question 8**

Ever since the failure of the WTO Ministerial in Cancun, I've been concerned with the possible negative impacts of preferential trade programs on multilateral trade negotiations. The Hong Kong Ministerial did little to allay my concerns on this issue.

It appears to me that preference programs such as the Generalized System of Preferences (GSP) provide developing countries with disincentives to reduce their barriers to U.S. exports.

Certain countries that are major beneficiaries of GSP – such as Brazil and India – are often highly critical of U.S. trade policies, yet at the same time they benefit from our generous GSP program. These countries are also very competitive in certain sectors.

What is your opinion? Are preference programs impeding efforts to reach a final deal in the Doha Round negotiations?

**Answer:** Preference programs, such as the Generalized System of Preferences (GSP), can be an important tool for expanding trade and to assist in achieving more broad-based U.S. objectives. The mechanisms built into the GSP statute help to effectively target those efforts while also giving us the flexibility to ensure that benefits do not apply in situations where there is a particular competitiveness. At the same time, there is wide-spread recognition -- including by a number of key developing country trading partners -- that the overall economic significance of preference programs for beneficiary countries is quite limited when compared to the economic opportunities that will be presented through an ambitious outcome in the Doha multilateral market access WTO negotiations for agriculture and industrial goods.

**QUESTIONS FROM SENATOR BAUCUS****Question 1**

Since 2003, many foreign markets have continued to ban the importation of U.S. beef products. As you know, China remains closed to all U.S. beef products other than bovine embryos and semen. In December, Japan resumed imports of boneless beef from cattle under 20 months. However, one month later, Japan again suspended imports after its inspectors found a backbone in a Japan-bound shipment of veal -- a technical violation of the U.S.-Japan beef import protocol but with no health risk. Korea, prior to the launch of FTA negotiations in February, resumed imports of *boneless* beef under 30 months. Yet Korea continues to ban bone-in beef, a key component of potential U.S. beef sales to Korea.

How do you plan to proceed to open each of these three markets to U.S. beef imports?

**Answer:** USDA, USTR, and other government agencies have worked tirelessly over the past two years to open markets after the discovery of a BSE-infected cow in 2003. That work has started to pay off. Through bilateral technical discussions and negotiations with a number of countries, we have recovered beef markets accounting for \$2.5 billion of historical exports.

The reopening of Japan's market to U.S. beef is a top priority of the Administration. I am working closely with Secretary Johanns to achieve this goal. In my most recent discussion with Japanese Agriculture Minister Nakagawa, I again underscored the importance of restoring our beef exports to Japan expeditiously.

On February 17, USDA provided Japan with a long and detailed report on the events surrounding the incident that led Japan to again close its beef market on January 20. This report underscores the safety of U.S. beef and outlines the aggressive steps USDA is taking to prevent similar incidents. It is our hope that the concerns of Japanese officials and consumers will be allayed after a careful review of this report, and that these measures will lead to a quick reopening of Japan's beef market to U.S. imports.

Regarding Korea, on January 13, we reached agreement with Korea on an initial import protocol, an important step in fully reopening Korea's market to U.S. beef. We anticipate that trade will resume around the end of March for boneless beef from cattle thirty months and younger.

I have made it clear to my Korean counterparts that while we appreciate this step, we are extremely disappointed that bone-in and other beef products such as offals were not covered by the initial import protocol. I will continue to work with Secretary Johanns to urge Korea to fully open its market expeditiously.

As for China, we have continually sought to reopen China's market to U.S. on beef. This will be a central focus of the visit of USDA Under Secretary J.B. Penn to China in early March. In

addition, I will again raise this issue in the upcoming Joint Committee on Commerce and Trade session in April.

Export markets are vital to the economic success of American ranchers. This Administration will continue to push for access to beef markets around the world.

**Question 2**

The lumber industry is critical to Montana's manufacturing base. That industry has long suffered from imports of subsidized Canadian lumber.

While I support the lumber industry's Constitutional challenge, the endless litigation in this case has helped no one. It is time for both the United States and Canada to roll up their sleeves, return to the table, and negotiate a lasting solution.

With a newly elected government in Canada, it is my hope that we can finally bring about productive negotiations. I understand that the Canadian Prime Minister Harper has appointed the former CEO of Canfor, a major Canadian forest products company, as Canada's chief trade negotiator.

What steps are you taking to jump-start these talks?

Will you personally be involved in seeking a negotiated resolution?

**Answer:** I spoke to Minister Emerson the day after he was appointed Trade Minister. During our conversation, I reaffirmed that the United States continues to believe that the litigation track will not resolve this dispute, and that the only way to resolve it is through a negotiated solution. I told him that we look forward to working with him and the new Canadian government, and we are willing to sit down and begin discussions at any time. For his part, Minister Emerson has indicated that resolving the softwood lumber issue will be his top priority once the new government gets situated. I intend to remain personally involved in the issue going forward.

**Question 3**

I was disappointed to see that the President's budget slashes \$2.6 million from USTR. I am concerned that you do not have adequate resources.

How will USTR be able to close the Doha round, complete WTO accession negotiations, monitor our existing free trade agreements with 15 countries, monitor the WTO compliance of 148 countries, complete seven ongoing free trade agreements, launch new ones, as well as enforce the agreements we have in place, with fewer resources?

**Answer:** The President's FY 2007 for USTR budget request balances two important Administration priorities: 1) limiting the growth of Federal spending while 2) targeting our

resources to ensure we maximize opportunities to open new markets for American workers, farmers, manufacturers and service providers and to secure the benefits negotiated under our existing trade agreements. The Administration is committed to fiscal restraint – and doing more with less. I am confident that the President’s budget request for USTR will provide needed resources for USTR to vigorously pursue its ambitious agenda.

#### **Question 4**

I understand that WTO negotiators have set a new April 30 deadline to reach agreement on how to cut agricultural and industrial tariffs in the Doha Development Round. Throughout this negotiation, we have seen these deadlines come and go. Assuming that the European Union continues to block progress in providing meaningful access to its market for Montana, U.S., and world farmers and ranchers, I don’t see how you get this deal done on time.

What is Plan B? What happens if by the time Trade Promotion Authority expires before we are able to conclude the Doha Round? What is the alternative?

**Answer:** Our trading partners understand that the 2007 expiration of TPA currently creates a de facto deadline for the Doha negotiations to be completed by the end of 2006. At the same time, it is not the press of the calendar that is a roadblock to progress, but a matter of simple political will.

Our message to our trading partners has been straight forward: that they should go with the “sure thing;” TPA is in place now, and our partners should work with us to move the negotiations forward. In that context, we are pressing ahead with Plan A -- our ongoing full commitment and effort toward achieving completion of the negotiations, with ambitious results, within the time frame that currently exists.

#### **Question 5**

Trade is obviously a central component of competitiveness. It provides opportunities for our farmers, ranchers, manufacturers, and service providers. But, in order to succeed, they must be able to compete on a level playing field. That is why trade enforcement is so significant.

What are the most important trade-related obstacles to enhancing U.S. competitiveness?

What are you going to do in the next weeks and months to address these problems?

**Answer:** The United States enjoys a strong competitive position in the world economy. It is judged to be one of the most competitive economies in the world by rating organizations. Trade barriers and distortions, however, restrict the full exercise and development of U.S. competitiveness in the market place, denying economic benefits to ourselves as well as our trade partners. In fact, one recent study done at the Institute for International Economics has found

that the removal of all remaining trade barriers and distortions would raise U.S. annual incomes by one half trillion dollars

The scope of our current bilateral, regional, and multilateral trade negotiations illustrates how widespread are remaining barriers to market access for U.S. goods and services, how extensive are trade distortions such as government subsidy practices, and how important is our continued focus on improving trade rules such as in the area of the protection of intellectual property rights. We negotiate market opening/distortion reducing new agreements on as comprehensive a basis as possible to lead our efforts to expand the scope of U.S. competitiveness and the benefits that flow therefrom in the global market place.

Such negotiating efforts are and must be backed up by strong efforts to enforce existing commitments. Enforcement is important to ensure a level playing field, which is why I have been using the many tools available to secure the full and fair benefits of trade for our businesses, farmers and workers. Enforcement involves WTO and FTA dispute settlement, informal and formal bilateral dialogues, Section 301, Special 301, the WTO and FTA oversight structures and all of the various other tools of persuasion that we can bring to bear to ensure that our trading partners abide by their obligations.

For the coming year:

*First*, enforcement has been and will remain a top priority for the Administration. To that end, I have undertaken a comprehensive review within USTR of potential disputes. There will likely be a significant uptick over the coming year in the number of cases we will bring, including with respect to China.

*Second*, USTR will shortly be issuing its National Trade Estimate Report on Foreign Trade Barriers, which provides an inventory of the most important foreign barriers affecting U.S. exports of goods and services, foreign direct investment by U.S. persons, and protection of intellectual property rights.

*Third*, as part of the organizational changes I have directed in the recent top-to-bottom review, the Chief Counsel for China Trade Enforcement will be a key player in the General Counsel's Office, overseeing USTR's China Enforcement Task Force, in consultation with our China office.

*Fourth*, as I also instructed in the top to bottom review, USTR will be seeking to expand the data collection capabilities of our China office. I have instructed the General Counsel's office to work closely with the China office to utilize this additional capacity in support of new cases.

#### **Question 6**

Among its many objectives and actions, the USTR "Top to Bottom Review" of China policy targets broad reforms in China. For example, getting China to establish independent regulatory bodies, establish more market based reforms, and foster a rules-based competitive environment.

These are worthy goals. But what is our leverage to get China to act on these issues?

What metrics will we use to measure progress?

**Answer:** It is important that China not adopt laws, regulations, provisions or policies that can be used to thwart the full and fair participation of U.S. companies in China's market. I will work to ensure that China issues and implements measures that secure competitive markets for U.S. interests, consistent with China's WTO obligations and sound, internationally accepted competition principles such as those that the United States has had in place for more than 100 years.

The report on the top-to-bottom review of our China trade policy is the product of an extensive interagency process. It lays out a number of areas in which the Administration will step up efforts to promote regulatory reform in China, to reduce subsidies and administrative measures that distort resource allocation and trade flows. China's WTO commitments provide some leverage. For example, China has WTO commitments on subsidies, and we will be looking carefully at China's activities to support its domestic industries in ways that may contravene these rules. China also committed not to influence the commercial decisions of state-owned enterprises, and to ensure that enterprises from other WTO Members can compete with Chinese state-owned enterprises on non-discriminatory terms. The WTO agreements contain other commitments that require China to ensure a competitive, non-discriminatory marketplace, and we will hold China to its obligations.

We are also working, along with our trading partners, to ensure that China makes significant additional market access and regulatory reform commitments in the WTO Doha Round. For example, we are seeking additional services commitments from China in the areas of financial, telecommunications, and audiovisual services.

In addition to China's WTO commitments, the Administration will continue to use the U.S.-China Joint Commission on Commerce and Trade to press specific market reform objectives, deepen and expand the State Department's high-level dialogue with China's economic planners regarding structural reform, expand USDA-led initiatives to improve China's transparency and compliance with its SPS obligations under WTO rules, and give intensive attention to China's development of standards and anti-monopoly laws. Treasury's U.S.-China Joint Economic Committee dialogue will also take additional steps to reform China's financial system and open it up for greater foreign investment.

China must understand that any attempt to use its reform process to establish rules or take actions that discriminate against foreign firms or that, intentionally or not, favor domestic firms, is unacceptable to us and will almost certainly injure China's own economic development as much as the interests of U.S. firms.

We will continue to review and evaluate China's progress in implementing its WTO commitments and in complying with its WTO obligations in the annual USTR reports to the Congress, which we issue on December 11 of each year.

**Question 7**

In global trade talks, we must advocate for all of the sectors where we have a comparative advantage. This includes the services sector, which accounts for 80 percent of the U.S. economy and employs 90 million Americans.

I am concerned that services is taking back seat in the Doha Round. We are significantly behind in the services negotiations, and I am beginning to question how we will make enough progress between now and December to yield a positive result for our services industry.

How do you plan to achieve meaningful access to the services markets of key WTO members has part of the Doha Round?

**Answer:** We plan to use the time available to us to the maximum extent possible. The plurilateral process is already injecting a renewed sense of vigor and structure to the negotiations, and we plan to aggressively pursue bilateral negotiations throughout the year. While it is true there has not been much progress on paper in the services negotiations, there should be little doubt at this point among our trading partners regarding our expectations for a successful package, which we have consistently repeated over the past several years. Consequently, it should be feasible for the major markets of interest to come forward with meaningful offers by the deadline of July 2006.

**Question 8**

There have been reports in the press that an interim WTO dispute resolution panel report has ruled against the European Union in a case concerning sales of our agricultural products containing genetically modified organisms, or GMOs. This is great news for U.S. agriculture.

However, the EU has in the past been reluctant to comply with WTO decisions, particularly in the agricultural sector. What is USTR going to do to ensure that the EU abides by this decision and allows us to sell our corn, soybeans and other GMO crops into that market without restriction?

**Answer:** As you know, in the EC-Biotech 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 avail itself of all available tools to encourage the EC to comply.



**Question 9**

I look forward to welcoming Russia into the international trade community. I hope that the administration will soon be able to conclude its accession talks with Russia. However, we are not there yet.

What is the Administration doing to urge Russia to correct its shortcomings in:

- (a) intellectual property rights protection,
- (b) access to the financial services market, and
- (c) noncommercial, domestic industrial gas pricing policies that distort fertilizer trade?

Keeping these shortcomings in mind, can you assure me that talks will continue until you get the best deal possible for American businesses?

**Answer:** The United States strongly supports Russia's WTO membership, but we have made clear that this support depends on Russia's compliance with WTO rules and on achieving a good commercial agreement with meaningful market access.

There are two tracks to the negotiations: bilateral market access negotiations that establish specific commitments to provide for improved access for our exports to Russia's market for goods and services, and a multilateral track based on a thorough review of Russia's trade regime to ensure compliance with WTO rules and other requirements.

As part of the bilateral negotiations, we are seeking better access to Russia's financial services market both in terms of cross border services and for commercial establishment for securities, banking, and insurance services providers.

Achieving improved protection of intellectual property through changes in laws and improved enforcement of existing laws is a key objective in our bilateral relations with Russia as well as in the negotiations on Russia's accession to the WTO. We and other WTO members share a strong interest in addressing the intellectual property rights situation in Russia.

Multilaterally, we are working with other WTO Members to ensure that Russia adopts WTO rules in its trade and broader economic regime. In this part of the negotiations, we have noted that current domestic prices to industry for natural gas do not appear to cover the costs associated with recovery, including investment to assure future supplies. This issue has come up in particular because of the concerns of the U.S. nitrogen fertilizer industry about the impact on fertilizer imports of below-cost natural gas pricing in Russia. We have been consulting and working very closely with the US fertilizer industry throughout the Russian WTO accession process and will continue to do so.

**Question 10**

At Hong Kong WTO Ministerial, WTO members agreed to duty-free and quota-free access for products from Least Developed Countries. I understand that negotiators also agreed to reserve three percent of their tariff lines for sensitive products, which would be exempt from this commitment.

At the time, you and the Secretary of Agriculture, Mike Johanns, have stated that sugar would be one of the sensitive products that would be excluded from tariff elimination. Can you confirm that this is the administration's intention?

**Answer:** The commitment made at Hong Kong regarding duty-free, quota-free access for products from LDC's will be implemented coincident with implementation of the overall results of the Doha Development Agenda. We have not yet identified the specific products for implementing duty-free, quota-free access. The Administration will conduct a process of public comment and work with Congress on U.S. implementation of the commitment regarding duty-free, quota-free access for products from LDC's.

**Question 11**

It has been about one year since China's high court made it easier to prosecute IPR theft in China. It has also been about a year since the Chinese promised to use only legal software in all central government offices.

Please explain the impact of the High Court's decision on IPR prosecutions.

Please identify the impact on the U.S. software industry of China's decision to use only legal software in its government offices. Please also describe China's progress toward using only legal software in its state-owned industries.

**Answer:** With regard to IPR prosecutions, some U.S. companies report that Chinese authorities have been working harder to penalize violators. 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. We expect much more from China, and the solutions need to be top-down, politically driven and consistent.

China agreed at the JCCT 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, the Chinese 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 funds needed to ensure that governments at all levels use only licensed software and to take verifiable steps to make sure this is happening.

**Question 12**

One of the most daunting obstacles to a successful U.S.-Korea FTA is the network of non-tariff barriers limiting U.S. auto sales to Korea.

What is your strategy to ensure that U.S. automakers can compete on a level playing field in Korea?

How does this strategy improve upon previous efforts to open that market, such as through the U.S.-Korea auto agreements concluded in the 1990s?

**Answer:** We continue to consult closely with the U.S. auto industry, its workers, and other interested stakeholders on developing a strategy to increase access to the Korean market for U.S. auto manufacturers. We also will continue to consult closely with Congress as we further develop our strategy.

Increased market access to the Korean market for U.S. auto suppliers is a key priority for the Administration. On autos specifically, we have established an internal U.S. Government working group to focus on how to most effectively address the range of tariff and nontariff barriers in the Korean market.

**Question 13**

High tariffs persist in countries with which we are not negotiating free trade agreements. For example, in China, the bound tariff on roasted coffee is 15 percent. India's tariff is 105 percent. But to take advantage of those opportunities – and keep jobs here in America – we have to eliminate the high tariffs that our companies and workers are facing.

How is USTR working to eliminate these tariffs, both through WTO negotiations and through bilateral negotiations?

**Answer:** The United States has submitted aggressive tariff proposals in the WTO negotiations that would ultimately eliminate tariffs on all goods. In addition, as a first step toward that objective, the United States has proposed substantial reductions across the board and tariff

elimination for specific sectors. In bilateral Free Trade Agreement negotiations, the United States insists on very high standards from our trading partners including tariff elimination for U.S. export priorities. This strategy has paid off in recent FTA negotiations with the CAFTA-DR countries, Peru, and Australia where tariffs on all U.S. priority products were eliminated.

#### **Question 14**

In your testimony before the House Ways and Means Committee February 15, 2006, you noted that the eligibility requirements for TAA are overly restrictive. I agree with your assessment. I have warned that the administration's grudging commitment to Trade Adjustment Assistance could erode support for international trade in the Congress and with American workers.

Ambassador Portman, what will you and your colleagues at USTR do to strengthen support for the Trade Adjustment Assistance program and insure that all workers hurt by trade receive the assistance they need? How are you working with the President, the Department of Labor, and the Department of Agriculture to improve our TAA programs?

**Answer:** I agree that we need to ensure that workers adversely affected by trade are provided needed support. In fact, TAA has been expanded under this Administration in the Trade Act of 2002. Additionally, the President instituted the American Competitiveness Initiative (ACI), which recognizes that the bedrock of America's competitiveness is a well-educated and skilled workforce. The ACI will increase research and development and promote new levels of educational achievement and economic productivity. Appropriations to support TAA training services for trade-impacted workers have been consistent under this Administration. Resources to support TRA (Trade Readjustment Allowances ) (i.e., the temporary wage replacement) are on the mandatory side of the budget and expand to meet all needs of America's trade-impacted workers.

There has been some talk of the TAA program not performing well or meeting the needs of workers adversely affected by foreign trade. The numbers show that the performance of the TAA program has actually been consistent or improved. In 2005, TAA certified workers who found a new job rose to 70 percent, from 63 percent in 2004 and 62 percent in 2003. Workers who found a job with at least the same pay level rose from 73 percent in 2003 to 74 percent in 2004 to 76 percent in 2005. In 2005, the Department of Labor issued 1,545 certifications for TAA, covering an estimated 117,904 workers. Around 60 percent of all TAA applicants were certified as eligible to participate in the training programs and receive benefits. Over 99,000 workers participated in a TAA training program, with 70 percent re-entering employment.

These numbers have remained fairly consistent or have decreased over the last few years. 1,733 certifications were issued in 2004 by the Department of Labor, covering 147,956 workers. 1,885 certifications were issued in 2003, covering 197,264 workers. It is, of course, our hope that the numbers have declined because more jobs have been created and the economy has grown. For workers who were not certified as TAA eligible, there is an appeals process to reconsider the petition. Workers can take their case to the Court of International Trade. For workers who do appeal the certification decision, many appeals are granted. Regarding TAA for farmers, last

year, the Department of Agriculture provided over \$18 million to farmers who were negatively impacted by trade, an increase of \$3 million from 2004.

The TAA program is important and perhaps there are ways we could improve the performance of the program and be more responsive to the needs of the participants. I intend to discuss these issues with the Secretary of Labor and the Secretary of Agriculture, who administer the TAA programs, and put our minds together to see if there are ways we can make improvements in the way these very important programs are administered.

**Question 15**

The Trade Act of 2002 established as a principal negotiating objective 'eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture.' (Section 2102(b)(10)(A)(ix)). Can you please elaborate on the status of talks in the WTO related to special rules for perishable and cyclical agriculture in the WTO?

**Answer:** We have tabled a proposal in the WTO Rules negotiations addressing this issue that highlights areas where the existing WTO rules governing antidumping and countervailing duty proceedings do not fully take into account the special characteristics of perishable, cyclical and/or seasonal agricultural products, such as with respect to the definition of the "domestic industry." We are looking to follow up with a more detailed proposal in the Rules negotiations shortly and are working closely with other agencies, including USDA, to ensure that our proposal takes into account the interests of U.S. exporters of these products, as well as those seeking import relief.

**Question 16**

Last year, the USTR secured from Bahrain a commitment to end the Arab boycott against Israel in all of its forms. As part of the US-Bahrain FTA implementing legislation, Congress included a requirement that the USTR report annually on the progress Bahrain and other Arab countries are making in terms of ending the boycott which undermines American goals in the Middle East.

Do you expect Bahrain to serve as a template for future FTAs with other Arab and Muslim countries?

Will the USTR secure similar commitments from these countries to end the boycott and follow WTO rules as a condition of concluding FTAs with the U.S.?

**Answer:** The United States has made clear its opposition to the Arab League boycott of Israel in all of its forms. The Administration continues to work for the removal of the boycott and strongly supports the political process that will encourage the parties to resolve their differences. None of the current Arab League countries that are also Members of the World Trade Organization (WTO) invoked the non-application provisions of the WTO Agreement with respect to any other Member. Thus, all those countries have all WTO rights and obligations with respect to all Members, including Israel.

**QUESTIONS FROM SENATOR ROCKEFELLER****Question 1**

Mr. Ambassador, I would like to turn to a topic that I'm sure will not surprise you -- and that is the state of negotiations at the WTO on trade remedy rules and the Administration's approach to those negotiations.

Honestly, I cannot understand the Administration's approach to this issue. I am convinced that many Members -- on both sides of the aisle -- would not only oppose a Doha agreement if it weakens our antidumping and anti-subsidy laws, but would work actively against it. There is no question in my mind that a bad deal on Rules could endanger approval of any final Doha agreement, and yet the Administration appears almost passive as these talks veer further and further off course.

The Administration has talked about the need to push other countries to be more "transparent" in their application of trade remedy measures. That is no doubt a good idea, but it does absolutely nothing to redress the current imbalance in the talks or to push back against the many, many proposals to gut our laws. The Administration has also talked about the need to address "circumvention" of AD/CVD measures, but my understanding is that our proposal in this area would do little more than codify existing U.S. practice -- not strengthen current rules. Other than a few modest subsidy proposals, the U.S. has failed to put forward any real agenda to strengthen trade remedy disciplines.

My question, then, Mr. Ambassador, is: Where is our affirmative agenda in the Rules talks?

If the other side is pushing for a multitude of extremely damaging proposals to weaken the laws - and if we are just passively proposing to maintain the status quo -- what is the theory about how we are going to achieve a balanced result that fully preserves existing laws?

From the outside, I have to say it almost looks as though we are trying to lose this negotiation. I certainly hope that is not the case, but I can tell you that if the plan is to come back here and say, "We did our best but had to give on something to get the Round done," that is not going to fly.

Given the advanced stage of the talks and where we are now, I believe that this situation can legitimately be labeled a crisis and is something that, in my judgment, you need to focus on personally and directly.

I would appreciate your thoughts on the topic.

**Answer:** I am committed to working with Congress to ensure that the Trade Promotion Authority mandate to preserve the ability of the United States to enforce rigorously its trade laws is fulfilled. In the WTO Rules talks, we have insisted upon strict adherence to the negotiating mandate that the United States insisted upon and obtained at Doha, which requires that the basic concepts, principles and effectiveness of the Antidumping and Subsidies Agreements, and their

instruments and objectives, must be preserved. When other Members have raised proposals with the potential to undermine our trade laws, we have been able to aggressively attack the technical merits of the proposals, most of which have received little support from other WTO Members.

We have also countered those proposals with our own proposals on key U.S. priorities such as strengthening subsidies disciplines, stronger rules against circumvention and abuse of antidumping “new shipper” reviews, and improving transparency and due process. For example, in January 2006, the United States submitted a proposal to expand considerably the types of subsidies that should be prohibited outright under the WTO Subsidies Agreement. This is the most aggressive and far-reaching subsidy proposal made in the Rules negotiations to date, reinforcing the United States’ leadership role in pursuing strong subsidies disciplines in the WTO. The strengthened disciplines in our proposal target the most egregious and trade-distorting practices of our trading partners, and would greatly enhance the United States’ ability to address, and potentially deter, subsidy-related unfair trade practices confronting U.S. industries.

The U.S. proposals for strong WTO rules against circumvention of trade remedy orders advance a major U.S. priority since the Uruguay Round, during which negotiators were unable to agree on specific WTO disciplines despite expressly agreeing as to the desirability of uniform rules. Our proposals to strengthen transparency and due process in trade remedy proceedings, which are designed to ensure that U.S. exporters are treated fairly in foreign proceedings, and that other WTO Members will be held accountable for complying with the rules, have put some critics of U.S. practices on the defensive due to the major problems with their own practices.

Given the increasing number of WTO Members using the trade remedy rules, including many developing countries, we have found a number of additional allies joining us in insisting that the effectiveness of the rules must be preserved. We have been able to work with many of the newer antidumping users on issues of common interest. For example, despite differences on other issues, we recently co-sponsored a proposal with Brazil to improve due process in antidumping and countervailing duty proceedings. In addition, on some issues we have found it more advantageous to work with other WTO Members sponsoring a proposal rather than presenting a proposal directly by the United States on the issue.

## **Question 2**

Specifically, what additional papers will be filed in the Rules area? On what topics? If the Administration is not intending to seek clarification on all issues where the Administration has publicly stated that panels or the Appellate Body have created obligations, please explain why that is not happening and how the Administration plans to meet the negotiating objective contained in the Trade Act of 2002 that our domestic laws not be weakened.

**Answer:** As noted in response to Question 1, as part of our strategy to defend our trade laws, we have recently tabled a number of aggressive proposals in the WTO negotiations on issues such as strengthening subsidies disciplines, stronger rules against circumvention and abuse of antidumping “new shipper” reviews, and improving transparency and due process in trade

remedy proceedings. We are working to follow up on these proposals, in many cases with specific textual drafting proposals. For example, after tabling an aggressive proposal in January 2006 to expand the category of subsidies prohibited by the WTO Subsidies Agreement, we are now working on following up with a specific textual proposal.

We have also tabled proposals in the Rules negotiations to address U.S. concerns arising out of dispute settlement reports by WTO panels and the Appellate Body on issues such as injury causation, zeroing, distribution of antidumping and countervailing duties, use of "facts available" by antidumping authorities, determination of the "all-others" rate in antidumping investigations, and the treatment of direct and indirect taxes under the Subsidies Agreement. We are carefully examining all of these issues to determine where further U.S. proposals are necessary. For example, we recently tabled a proposal to ensure that the injury causation standard in AD/CVD investigations remains workable for investigating authorities to address a problem from past WTO dispute settlement reports, and we are working on following up with a more detailed proposal.

We will continue to consult with Congress as we move forward on these issues.

### **Question 3**

As a sovereign, we have the right to opt not to conform to adverse WTO decisions. While the Administration and Congress generally agree that conforming to international obligations is the correct course, Congress has expressed grave concerns over the pattern of obligations being created that were never agreed to, particularly in the Rules area. Where retaliation occurs, it is obviously important that the retaliation not exceed what has been authorized. Please review whether any members of Congress have raised concerns about excessive retaliation with USTR and if so what steps the USTR has taken to determine whether excessive retaliation has occurred and what steps USTR has taken to see that retaliation is not excessive. To the extent that correspondence has occurred with other governments on this issue, please supply copies of the correspondence for the record.

**Answer:** I certainly agree that retaliation should not exceed the amount authorized by the WTO. Indeed, my staff fought successfully to limit the levels of retaliation authorized in these disputes, and we intend to follow through to ensure compliance with those limits.

Last year, Senators Byrd and DeWine expressed concern that the amount of retaliation imposed in connection with the dispute over the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) exceeded the amount authorized by WTO arbitrators, and I replied that I share those concerns. USTR has been monitoring the situation closely and has expressed our concerns in meetings with the relevant governments. We will continue this work and, given the recent passage of legislation that repeals the CDSOA, we hope to reach a mutually satisfactory solution concerning this issue with our trading partners.



## QUESTIONS FROM SENATOR THOMAS

**Question 1**

Nearly 90 million Americans are employed in the service sector, an area in which we are very competitive. Given the importance of this sector, what is being done to reduce barriers to trade in services?

**Answer:** We are aggressively pursuing the elimination of services barriers in every forum available to us. In the WTO/GATS process, we have made ambitious bilateral requests to all but the least developed countries covering all major sectors of interest. We are now in the process of joining in making collective requests that reinforce our bilateral requests. In addition, we will soon be communicating refined bilateral requests to each country that will identify the specific gaps between our expectations and the level of commitments contained in their market access offer. In making these market access requests, we have been abundantly clear that an ambitious outcome on services is essential to achieving a successful conclusion to the entire Doha Round.

On a bilateral and regional basis, the United States has likewise pursued an ambitious agenda to achieve broad-based liberalization across all sectors of interest.

**Question 2**

Services are widely viewed as lagging behind the other main negotiating areas of the Doha Round. Is that perception accurate? And if so, why?

**Answer:** Progress on services has been hampered by linkage with other negotiating areas, in particular agriculture, as some major trading partners have explicitly withheld active participation in services until they see sufficient progress in the agriculture negotiations. At the present time, however, there seems to be broad recognition that Members must come forward and participate more fully in the services negotiations in order to conclude the negotiations by the close of 2006.

**Question 3**

Given the proposed 60% cut in Amber Box support, do you foresee fundamental changes in the dairy and sugar programs? If not, how will you implement this cut?

**Answer:** As you know, the U.S. proposal envisions significant reductions both in "Amber Box" (more trade-distorting) support and in barriers to market access by WTO Members. Under the U.S. proposal, the U.S. maximum amount of "Amber Box" support would be decreased over a five-year period from \$19.1 billion to \$7.6 billion. In addition, product-specific caps would be based on the level of support provided in the 1999-2001 base period.

This proposal deals only with the overall and product-specific caps, leaving the United States discretion as to how this support is provided across specific commodities, as long as these caps are met. There are a number of different approaches the United States could take to allocate trade-distorting domestic support under a lower Amber Box cap. We believe these approaches should be worked out in consultations with the Congress in the development of farm legislation.

**Question 4**

The U.S. has proposed that only 1 percent of tariff lines (14-17 lines) be eligible for designation as sensitive products; moreover, it has proposed TRQ increases of 7.5% of consumption and 45% tariff cuts for such products. The list of U.S. sensitive products compiled by the ITC contained over 400 tariff lines – both in agriculture and industrial goods. How will you be able to address the concerns of our sensitive product industries?

**Answer:** The United States is pursuing a very ambitious market access package in the negotiations, with deep tariff cuts in the general formula and substantial improvement in tariff-rate quotas for products designated as “sensitive.” If an agreement on the basic modalities is reached, the United States will evaluate the parameters for tariff cuts and for tariff-rate quota expansion and determine which are the most appropriate products to be assigned “sensitive product” treatment.

**Question 5**

At the Hong Kong Ministerial Conference of the World Trade Organization (WTO) a Decision on Measures in Favour of Least-Developed Countries was agreed upon that requires developed-country Members to provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008. You are to be commended for demanding an exception from that commitment for sensitive products equivalent to 3% of the tariff lines for products originating from LDCs.

Both you and the Secretary of Agriculture, Mike Johanns, have stated that sugar would be one of the sensitive products that would be excluded from tariff elimination. Can you confirm that this is the Administration’s intention?

**Answer:** The commitment made at Hong Kong regarding duty-free and quota-free access for products from LDC’s will be implemented coincident with implementation of the overall results of the Doha Development Agenda. We have not yet identified the specific products for implementing duty-free and quota-free access. The Administration will conduct a process of public comment and work with Congress on U.S. implementation of the commitment regarding duty-free and quota-free access for products from LDC’s.

**Question 6**

Is it realistic to believe that the WTO will meet its deadline to wrap up the Doha Round this year?

**Answer:** Since the beginning of the year, we have redoubled our efforts toward pushing ourselves and others toward the challenge of completing the Doha negotiations by the end of 2006, with ambitious results. I believe that our efforts have resulted in a clear understanding by our trading partners as to the elements that are necessary in the upcoming months to achieve that outcome. At this stage, the press of the calendar is not the central problem; rather, it is the need of our partners to find some simple political will.

**Question 7**

Our trade deficit hit a record last year. What can be done to reverse that trend today?

**Answer:** The U.S. deficit on the current account -- the broadest measure of trade -- will likely be in the vicinity of \$800 billion, when full year data are available for 2005.

Reversing the trend toward larger U.S. and global imbalances, in the context of sustained economic growth, will best be achieved by U.S. and foreign government actions to address what are widely understood to be the three main causes of these imbalances.

First, improved growth performance abroad would greatly help reduce these imbalances. In the past 8 years, the U.S. economy has grown nearly twice as fast as Europe and seven times faster than Japan. While the improvement in growth performance has been positive for our economy, weakened growth in such major U.S. trade partners has contributed to U.S. import expansion exceeding export growth and in increased U.S. trade deficits.

Second, rates of domestic saving in China, Japan and other countries, well in excess of domestic investment needs, have likewise contributed to U.S. trade deficits and foreign surpluses. Greater stimulation of domestic demand abroad would help reduce excess saving and encourage greater foreign country imports, from the United States in particular.

Third, personal and total U.S. domestic saving rates have fallen considerably in recent years and are currently insufficient, without the inflow of foreign capital, to finance current rates of investment in the U.S. economy. Gradually increasing U.S. saving rates through encouragement of personal saving and reductions in the federal budget deficit would allow the United States to finance more of domestic investment internally, while moderating the rate of our import growth relative to exports.

An aggressive market-opening trade policy can also play a particularly positive role during a period of adjustment and reduction of global trade imbalances. Such a trade policy creates opportunities for U.S. deficit reduction through rapid export growth and, by encouraging growth

in global trade, also helps assure that trade balance adjustments are achieved in the context of healthy and growing U.S. and global economies.

#### **Question 8**

Is it time to take aggressive action against China to hold them accountable for failing to meet their trade obligations and commitments?

**Answer:** Last year, I commissioned a top-to-bottom review of our China trade policy, and the results of that review were released in early February in a report entitled “U.S.-China Trade Relations: Entering a New Phase of greater Accountability and Enforcement.” As we explain in that report, now that the deadline for the phase-in of most of China’s WTO obligations has passed – and China has developed an initial track record as a new WTO member – we are entering a new stage in our bilateral trading relationship. At this point, the easiest obligations for China to meet have largely been fulfilled, and the hardest obligations are those that are still outstanding, precisely because their full implementation has proven especially difficult. Successfully addressing these remaining implementation issues will require serious attention and deliberate action by both governments. The report identifies a number of specific actions that the Administration will take to help ensure that we are best positioned to achieve our key China objectives, including securing China’s full implementation of and compliance with its international and bilateral trade obligations.

#### **Question 9**

In 2002, Japan adopted the Foreign Average Pricing (FAP) scheme which sets reimbursement rates based on prices paid for medical technology products in the U.S., France, Germany, and the United Kingdom (U.K). Unfortunately, such a structure fails to take into account much of the R&D costs associated with innovation and fails to take into account the burdensome regulatory and administrative costs incurred as a result of doing business in Japan.

Despite substantial efforts to address the problem, Japan continues to use the FAP. More troubling, I’m learning that this pricing scheme is now being considered in China and Brazil. Are you concerned about the possible proliferation of this pricing mechanism, and what resources does USTR have available to deal with this growing problem?

**Answer:** I share your concerns. We believe that such pricing schemes are unfair and undermine the economic incentives for the efficient development and diffusion of innovative health technologies. In the case of Japan, it is important that its policies take into account the high cost of doing business in the medical devices sector in Japan. We therefore continue to urge Japan to implement reimbursement pricing policies that reward U.S. companies for developing innovative medical technologies. USTR’s Pharmaceutical Policy office also is working with our regional offices as well as our interagency team, which includes officials from health, trade and economic policy agencies, to develop a strategy for addressing this issue.

**QUESTIONS FROM SENATOR KERRY**

**Question 1**

Please explain where our negotiations stand with Vietnam regarding their accession to the World Trade Organization. What do you believe is a realistic time table for conclusion of the negotiations? Does the Administration anticipate Congressional action on this issue in 2006?

**Answer:** I am encouraged by the progress made in January when our teams met in Hanoi. We have only a few key issues to resolve before we can conclude our bilateral market access negotiations. In addition, we still have a number of issues to address in the multilateral negotiations. For example, since over 40 percent of Vietnam's economy is still controlled by the State, we are working with our WTO partners to obtain assurances from Vietnam that it will play by the rules and not prop up state-owned companies.

We are hopeful that we will be able to conclude these negotiations this year. With Vietnam chairing APEC this year, Vietnam has even more incentive to try to complete these negotiations as quickly as possible.

Regarding Congressional action, the Administration supports terminating application of the Jackson-Vanik amendment and granting permanent normal trade relations status to Vietnam.

We intend to work closely with you to determine the best timing for this action.

**QUESTIONS FROM SENATOR SCHUMER****Question 1**

It appears to me that CFIUS approval of the DP Ports World takeover was fast-tracked and not given the thorough look it deserved. According to several reports, CFIUS completed only the minimum 30-day staff review and not the 45-day investigation required when the purchaser is owned or controlled by a foreign government.

Can you please shed some light on the steps CFIUS took to evaluate this takeover and if any of the committee members raised objections or concerns? Why did CFIUS forgo the additional 45-day investigation in such a complex and security sensitive situation? Do you feel the CFIUS process was thorough enough to appropriately evaluate and mitigate potential security holes?

**Answer:** All members of the Committee on Foreign Investment in the United States (CFIUS) understand that their top priority is to protect our national security, including homeland security.

In the case of the proposed acquisition of The Peninsular and Oriental Steam Navigation Company (P&O) by Dubai Ports World (DPW), the Committee's evaluation of the proposed transaction began prior to the initiation of the 30-day review period. Because DPW and P&O believed that the proposed transaction could raise national security issues that should appropriately be reviewed by the U.S. Government, they contacted CFIUS on October 17, 2005 and voluntarily told the Committee of their intention to file a notification with CFIUS for a national security review. They also held a complete briefing for DHS and other CFIUS members with security, defense, or law enforcement responsibilities on October 31.

On November 2, well before DPW and P&O filed with Treasury, CFIUS requested an intelligence assessment of the foreign acquirer. A little more than 30 days later – still well before the companies formally filed with CFIUS – the intelligence community provided CFIUS with a threat assessment regarding whether the foreign acquirer – DPW – has the intention or capability to threaten U.S. national security. On December 6, the companies held another pre-filing briefing for all CFIUS agencies.

On December 16, the companies officially filed their formal notice with CFIUS, requesting a review. The 30-day formal review began on December 17. Each of the 12 CFIUS members (departments and agencies) conducted its own internal analysis. For this case, the Departments of Transportation and Energy were also brought in to the CFIUS review to widen the scope and to add to the expertise of those agencies reviewing the transaction. In addition, during the 30-day review period, DHS, which is the CFIUS agency with specific expertise on port security, negotiated an assurances letter with the companies. DHS also consulted with all other CFIUS members before the assurances letter was finalized on January 6.

On January 17, roughly 90 days after the parties to the transaction first approached CFIUS about the transaction and roughly 75 days after a thorough investigation of the transaction had begun,

all CFIUS members agreed that this particular transaction should be allowed to proceed, pending any other regulatory hurdles before the companies.

In sum, the Committee conducted a careful and thorough review of this transaction to ensure that port security would not be compromised, and gained an assurances agreement regarding port terminal security. There are a number of safeguards that are in place in the agreement, and the Committee is confident that the transaction will not harm the security of these U.S. ports.

### **Question 2**

Recent amendments to Exon-Florio require CFIUS conduct a 45-day investigation if the purchaser is owned or controlled by a foreign government. However, CFIUS routinely does not go forward with the additional 45-day investigation unless there are national security concerns raised by the CFIUS board members. Do you think this practice, as some argue, effectively “writes out” that statute? I realize this question may be more appropriate in a banking committee inquiry. However, as I sit on that committee as well, feel it is still appropriate to ask.

**Answer:** No. The Byrd Amendment, 50 USC App. § 2170(b), clearly intends to leave the Executive Branch with the flexibility to exercise its discretion. To interpret the Byrd Amendment to require automatically an investigation of any transaction that could result in foreign government control, fails to give any meaning to the additional qualifying phrase “that could affect the national security of the United States . . . .”

Thus, CFIUS has consistently interpreted the Byrd Amendment to require an investigation whenever CFIUS determines, upon completing its review of a transaction that could result in foreign government control, that any concerns about potential harm to the national security have not been resolved. This interpretation has the practical effect of obviating investigations where there are no open issues, and not burdening the President with a request for a decision where there are no issues for him to decide.

Moreover, the Executive Branch has been open about its interpretation with no Congressional objection over the past 13 years. CFIUS has consistently and openly followed this interpretation since 1992. In its four intensive examinations of CFIUS’s implementation of Exon-Florio, GAO has never criticized this approach. In its 1995 report, GAO described CFIUS’s interpretation of the Byrd amendment and how it was applied in several cases, without questioning the interpretation.

### **Question 3**

In September, you announced U.S. support for Saudi Arabia’s accession to the World Trade Organization, based in part on Saudi Arabia’s commitment to abide by the rules of the WTO. At the time, your office indicated that Saudi Arabia is, and I quote, “legally obligated to provide most-favored-nation treatment to all WTO Members, including Israel.” This means they have to drop the Israeli boycott.

During negotiations, the Saudi Foreign Minister went so far as to personally assure Secretary Rice that Saudi Arabia would follow all WTO rules, which includes provisions against boycotting other WTO members. However, soon after becoming a full WTO Member in December, Saudi officials stated their intention to maintain the primary boycott of Israel. I'd like to know what is your understanding of Saudi Arabia's commitment to end the boycott against Israel, which is clearly against WTO rules.

**Answer:** During its WTO accession negotiations Saudi Arabia specifically reconfirmed a 1996 decision by members of the Gulf Cooperation Council (GCC) to end all aspects of the secondary and tertiary boycotts of Israel; this commitment is confirmed in Saudi Arabia's Working Party report. Moreover, at the time of its accession, Saudi Arabia did not invoke the non-application provisions of the WTO agreement with respect to any Member and therefore has taken on all WTO rights and obligations with respect to all Members, including Israel. This understanding has been reaffirmed several times in subsequent discussions with U.S. government officials. A senior USTR official plans to visit Saudi Arabia in March and will follow up on Saudi compliance with its WTO obligations.



**QUESTIONS FROM SENATOR CRAPO****Question 1**

The Hong Kong Ministerial text included language pertaining to the establishment of a "safe box" for bona fide food aid. Can you please explain how you interpret this text? What is a food aid "safe box?" How would a food aid "safe box" system operate?

**Answer:** The precise disciplines for food aid, including the provisions for a "safe box," are still subject to ongoing negotiations. The U.S. position is that food aid that is directed toward emergency situations should qualify for the "safe box" and be permitted without restriction. Other food aid shipments would be subject to disciplines designed to ensure that food aid does not cause commercial displacement.

**Question 2**

I appreciate that this Administration is working hard to negotiate strong, comprehensive free trade agreements and focusing on major markets in Asia. Thailand and Korea are already important trading partners, and our free trade negotiations will create even greater opportunities on both sides of the Pacific.

However, I am concerned about efforts by some to exclude pickup trucks from these agreements. The 42-year-old U.S. tariff on trucks has long outlived its original purpose. It has been eliminated in every other free trade agreement the United States has negotiated. It should be eliminated as part of other trade negotiations.

Continuation of this tariff will hurt consumers, since the tariff can add thousands of dollars to the price of a new truck. Will USTR work to eliminate the U.S. tariff on light trucks as part of the U.S. – Thailand and U.S. – Korea free trade agreement negotiations?

**Answer:** Regarding the Thailand FTA negotiations, we have had only preliminary discussions on automotive issues. We have provided an offer to Thailand that is comprehensive in its scope, but also are seeking a way to ensure that we address the sensitivities on both sides. We are consulting closely with our automotive industry, the United Auto Workers and other stakeholders as we refine our offer and would appreciate the opportunity to consult further with you and other Members of Congress on this issue.

Regarding Korea, we are currently in the 90-day period between notifying Congress and beginning actual FTA negotiations. We have made it clear to the Korean Government that our FTAs are comprehensive. In the meantime, we are working closely with the U.S. automotive industry, its workers, and other interested stakeholders to develop an offer that addresses their sensitivities, as well as, their concerns regarding access to the Korean market. We also would look forward to consulting further with you and other Members of Congress on this issue.

**Question 3**

The medical technology industry is very unique, with rapid innovation meaning constant product turnover and improvements in healthcare. Given widely divergent markets and regulatory systems around the world, it is impossible to appropriately compare price from one market to the next as a reliable benchmark for price setting in another. Would USTR develop a policy statement opposing the use of foreign reference pricing as an appropriate means to regulate medical technology pricing in overseas markets?

**Answer:** I share your concerns on this issue and with the problems of trying to appropriately set prices for medical technology products in one market based on other widely divergent markets with different regulatory systems. We believe that such pricing schemes are unfair and undermine the economic incentives for the efficient development of innovative health technologies. We have been working with our interagency team, which includes officials from our health, trade and economic policy agencies, to develop a strategy for addressing this issue.

**Question 4**

At the Hong Kong Ministerial Conference of the World Trade Organization (WTO) a Decision on Measures in Favour of Least-Developed Countries was agreed upon that requires developed-country Members to provide duty-free and quota-free market access on a lasting basis for all products originating from least developed countries by 2008. I commend you for demanding an exception from that commitment for sensitive products equivalent to three percent of the tariff lines for products originating from LDCs.

I understand that both you and the Secretary of Agriculture, Mike Johanns, have stated that sugar would be one of the sensitive products that would be excluded from tariff elimination. Can you confirm that this is the Administration's intention?

**Answer:** The commitment made at Hong Kong regarding duty-free and quota-free access for products from LDC's will be implemented coincident with implementation of the overall results of the Doha Development Agenda. We have not yet identified the specific products for implementing duty-free and quota-free access. The Administration will conduct a process of public comment and work with Congress on U.S. implementation of the commitment regarding duty-free and quota-free access for products from LDC's.

**Question 5**

In 2008, the Mexican sugar industry will be able to ship sugar into the U.S. without restraint. Such imports plus additional supplies coming from countries with free trade agreements with the U.S. or with WTO commitments threaten to seriously disrupt the U.S. market and render the sugar program costly if not inoperable. What is USTR doing to address this issue?

**Answer:** The NAFTA agreement was implemented in 1994 and called for a gradual 14 year transition period to fully open the U.S. and Mexican markets to all agricultural goods. Since 1993, U.S. agricultural exports to Mexico have increased by more than \$5.7 billion, larger than the growth to any other country in the world, and accounting for more than 28 percent of total agricultural export growth. Over this period, the U.S. tariff on Mexican sugar has been progressively reduced and stands at just 3.2 cents a pound today. USTR is committed to full implementation of the NAFTA, including U.S. obligations with regard to sugar. U.S. trade law includes provisions to address market disruptions, should they occur.

#### **Question 6**

As the WTO negotiations continue, I urge you to pursue ambitious market-opening objectives for the financial services sector and the capital markets sector. We need commitments from key emerging market countries that would give U.S. securities firms comparable access to those markets as foreign firms have to the U.S. market. These commitments should include the right to establish wholly-owned operations abroad, supply services cross-border to sophisticated investors, and be regulated in a transparent and non-discriminatory manner.

A WTO agreement that embodies these commitments would yield benefits for both the United States and emerging-market countries. Will USTR pursue ambitious market-opening objectives for the financial services sector and capital markets in ongoing WTO negotiations?

**Answer:** Yes, the United States is pursuing precisely the types of objectives for financial services that you raise. The initial bilateral requests submitted by the United States in 2002 to all but the least developed countries clearly addressed establishment rights and the ability to supply cross-border services to sophisticated consumers, as well as transparency and nondiscrimination. We have consistently reinforced these priorities through bilateral meetings and public statements, and in joining the current plurilateral process, the United States has also succeeded in promoting our objectives. As we move toward the home stretch in these negotiations, we are redoubling our efforts to make clear to key markets, including the major emerging markets, the precise nature of commitments on financial services that we need to see in order to reach a satisfactory outcome for the services negotiations.

#### **Question 7**

In the United States, all lumber producers must pay market value for their raw materials in the form of logs and timber. Canadian provinces, however, subsidize their lumber industry through noncompetitive, long-term timber-supply arrangements with prices for the timber far below market value. These practices give Canadian lumber producers an unfair competitive advantage. Subsidized and dumped imports distort the lumber market causing great harm to the American lumber industry, its workers, and forest landowners. A negotiated solution must be found.

What steps are you taking to ensure that the United States can negotiate from a position of strength with Canada to bring about a permanent solution?

Will you use all tools available to fully offset subsidized and dumped Canadian lumber imports until a solution to this dispute has been negotiated? What tools are you contemplating?

**Answer:** We will continue to enforce our trade remedy laws to ensure that U.S. industry can compete fairly with its Canadian counterparts, and we will continue to mount strong legal defenses against Canadian challenges to the application of those laws. All other available legal tools continue to remain on the table, and we will use them as appropriate. However, after six years of non-stop litigation, including two dozen cases in the WTO, the NAFTA, and U.S. courts, I believe that it has become clear to stakeholders on both sides of the border that continued litigation is in no one's interest, and that a negotiated solution is needed to bring stability and predictability to the marketplace.

**QUESTIONS FROM SENATOR KYL****Question 1**

Will your intellectual property protection efforts with China extend to trade secrets – which unlike patents and copyrights, are not disclosed to the public – or just patents and trademarks? What steps can you take to encourage China to set up a neutral forum for hearing intellectual property cases?

**Answer:** Yes. We are discussing a wide range of intellectual property issues with China, including enforcement, copyright, trademark, patent and trade secret concerns.

We, and the U.S. Patent and Trademark Office, have been discussing with China different measures to increase the efficiency and fairness of the judicial process in China, including establishing specialized courts for intellectual property. We understand that this is a subject China is actively considering.

**Question 2**

I have long been concerned about European drug price controls and other market barriers, which in my view cause Americans to bear a disproportionate share of the burden of new drug research. Germany has a reference pricing system that puts patented products in the same basket as older generic drugs for the purpose of establishing a reimbursement price. This penalizes the innovation. Will you raise this issue with Germany? Will you make it a priority to raise the issue of drug price controls with developed countries?

**Answer:** I share your concerns on this issue. While many developed countries face challenges of aging populations and rising health care costs, we have very different approaches to navigating the tradeoff between providing for affordable health care today and supporting the innovation that assures improved health care is available tomorrow. As a result, Americans are bearing a disproportionate share of the burden of new drug research.

We are seeking to address this issue. For the past year, we have been working closely with our interagency team, which includes officials from our health, trade and economic policy agencies, to establish a dialogue with Germany on pharmaceutical issues. We have held numerous meetings with officials at all levels of government to discuss both specific concerns about elements of the German system and broader policy issues, such as regulatory and policy changes that will be needed to accommodate to the age of personalized medicine that is rapidly approaching. Just in the past month, Commerce Secretary Gutierrez, Deputy USTR Schwab, and Deputy Health and Human Services Secretary Azar have traveled to Germany to meet with officials to discuss these issues. We intend to continue these discussions, which both sides have found useful, as well as to establish similar dialogues with other developed countries.

**Question 3**

The United States is beginning discussions with Thailand on a free trade agreement. I have heard concerns that Thailand is a location where many counterfeit drugs are produced that are then sold worldwide, often through Internet pharmacies. Will you raise drug counterfeiting problems in the Thailand FTA discussions?

**Answer:** While we are aware that some counterfeit drugs are sold in Thailand and that Thailand has some generic manufacturing capacity, we do not have information indicating that Thailand is a major production center for counterfeit drugs. However, the intellectual property chapter of the FTA contains many provisions that seek to eliminate the production of counterfeit goods, including counterfeit drugs. This is accomplished, in part, by enforcement provisions that ensure effective criminal procedures and deterrent criminal penalties for willful trademark counterfeiting and importation or exportation of counterfeit goods. Additionally if, for example, drugs are determined to be counterfeit, the FTA generally requires automatic destruction of those goods. Effective civil judicial proceedings and strong civil damages for counterfeit drug cases are also required under the FTA, as additional measures to deter counterfeiting.

**Question 4**

Is the Administration willing to begin negotiations with the government of Taiwan over a free trade agreement? Are free trade agreements considered strictly on their economic/trade merits or are they considered as one element of our broader foreign policy? If the former, then shouldn't we reevaluate our approach and integrate our trade policy with the other elements of our international strategy? If the latter, then why is USTR not starting FTA negotiations with Taiwan, one of our most important strategic allies?

**Answer:** I appreciate your question about U.S. trade relations with Taiwan, specifically, whether the United States is willing to begin negotiations of a free trade agreement with Taiwan.

As you know, the United States has a strong and vibrant economic relationship with Taiwan. Our current priority in the U.S.-Taiwan economic relationship is to ensure that Taiwan lives up to the obligations it assumed upon entry to the World Trade Organization (WTO), along with its bilateral trade commitments. In a variety of sectors that are critical for the United States, particularly intellectual property rights, agriculture, pharmaceutical policy, and telecommunications services, Taiwan's implementation of current obligations is not yet complete.

One of the tools that we use to ensure that Taiwan lives up to its trade obligations is the U.S.-Taiwan Trade and Investment Framework Agreement (TIFA). In November 2004, the United States and Taiwan conducted a TIFA meeting which both sides considered productive and beneficial to our trade relations. We are planning another TIFA meeting in the first half of 2006. As the United States and Taiwan continue to discuss trade issues, including the timing for the next TIFA meeting, you can be sure I will keep in mind your interest in U.S.-Taiwan trade and

economic ties. The Administration will continue to focus on bilateral consultations like the TIFA process until concerns in priority sectors are fully addressed. Our discussions will also explore ways to mutually improve our bilateral economic and trade relationship. An FTA is obviously something to consider, but ensuring Taiwan complies with its existing obligations is the top priority.

**QUESTIONS FROM SENATOR LINCOLN****Question 1**

Ambassador Portman, to follow-up on my earlier remarks, I know you face many challenges as the WTO process continues. Our proposal to cut amber box spending by 60 percent in turn for equally ambitious tariff and support reductions by our trading partners has been on the table for quite some time. My question is this: What, in your opinion, changes between now and April 30<sup>th</sup> that will compel the EU, among others, to come to the table with more ambitious proposals? Further, I question whether the Administration's willingness to drastically cut farm spending as outlined in subsequent budget proposals – without similar commitments from our trading partners – makes it more difficult for the U.S. to gain leverage in these talks? In other words, why should our trading partners make offers to reduce their support, if we are so willing to reduce ours unilaterally?

**Answer:** The United States is continuing to work with other WTO Members to achieve a substantial reform result in the negotiations. Because of this work and because the deadlines to conclude the negotiations are now imminent, we expect the EU and others to improve their offers. The United States will then work to improve these offers in the remaining part of the year and then evaluate the overall package and determine whether it is in U.S. interests to conclude the agreement. In the negotiations, we have made it clear that the United States will undertake binding international obligations to reduce trade-distorting domestic support only if we see meaningful improvements in market access. By making a proposal that demonstrates the level of ambition to which we aspire, we have been able to exert maximum pressure on the EU and other resistant countries to submit improved market access proposals.

**Question 2**

On another note, I understand that we have recently begun FTA talks with Korea. While I am pleased that we are pursuing agreements with countries that represent a more valuable market for our producers and workers, I am sure you understand my concern that rice not be taken off the table as the negotiations continue. Unfortunately, talks have only recently begun, yet South Korean trade ministers seem to be standing firm on this issue. Can you share any insight into your discussions with Korea on their rice sensitivities and the need for expanded access in any agreement that is reached?

**Answer:** We are currently in the 90 day period between notification to Congress and the beginning of actual FTA negotiations with Korea.

We have made it clear to the Korean government that our FTAs are comprehensive, meaning they cover all sectors, including agriculture. Obviously, rice will be a particularly sensitive issue for Korea.



At the launch of this process, Trade Minister Kim confirmed Korea's view that the resulting agreement will have to be highly liberalizing and comprehensive in order to benefit Korea's consumers. He acknowledged Korea's domestic sensitivities, including agriculture, but also made clear that Korea "stands ready to make these tough decisions" in sectors that would be most directly affected.

We also understand that the Korean government has a 10-year program underway to reform its agriculture sector. This demonstrates that the Korean government is facing the challenges presented by liberalization in this sector.

### **Question 3**

To switch gears a little, I understand that USTR recently released its "top-to-bottom" review of our trade policies with China. One of the action items mentioned is to initiate a high level dialogue on steel trade issues between our countries, and I have to say I have been hearing often from steel producers in my state. As you know, steel pipe producers filed for Sec 421 import relief last fall and received an affirmative determination from the ITC, yet the Administration once again denied this relief to our domestic producers. In fact, in each instance where the ITC has issued an affirmative Sec 421 determination, the President has denied relief. So I must ask, what role do you see our trade safeguards playing in our ability to address trade issues with China? Our producers put their faith in these agreements knowing that there are remedies available in instances of unfair trade, but if we are unwilling to enforce them, does this not call into question the rest of our trade laws and safeguards?

**Answer:** To date, the President has decided four cases (pedestal actuators, wire hangers, pipe fittings and standard pipe). In each of those cases, the President accepted as fact the ITC's finding that the domestic industry had suffered market disruption. However, as he is required to do, he also considered how import restrictions would affect a broad set of U.S. interests. Even though he has not yet imposed relief under Section 421, the President remains fully committed to exercising the important authority granted under Section 421 when the circumstances of a particular case warrant it.

In determining not to impose import restrictions in the recent steel pipe case, the President explained that, based on the ITC analysis, import relief was unlikely to provide a meaningful benefit to domestic producers. The facts in this case indicated that imposition of China-specific import relief would likely be ineffective because of the extent to which imports from third countries would replace curtailed Chinese imports. A large number of third countries – the ITC documented more than 50 or them – supplies the U.S. market with standard pipe, many of them at low prices. Although antidumping duties currently apply to imports from eight of those countries, there are many other countries currently supplying standard pipe to the U.S. market that could fill the void created by curtailed Chinese imports. At the same time, the President explained that the ITC analysis demonstrated that import relief would cost U.S. consumers as much as five times more than the increased income that could be realized by domestic producers.

The Administration has certainly not shied away from using other trade remedies against China, such as our antidumping laws and textiles safeguards. The Administration imposed global safeguards on a broad array of steel imports in 2002, including imports from China. In addition, since the end of 2001, when China joined the WTO, the Department of Commerce has put in place 18 different antidumping orders covering Chinese imports – more than against any other country. The Administration also invoked the China-specific textile safeguard on 19 different categories of products, and recently negotiated a broad agreement with China restricting 34 categories of textiles and apparel products through the end of 2008.

The Administration will not hesitate to act when China attempts to use its own trade remedy laws in a manner that violates agreed international rules. In January of this year, the Administration was poised to bring a WTO case challenging China's imposition of antidumping duties against U.S. exports of kraft linerboard. In response to the threat of imminent WTO litigation, China rescinded those duties in their entirety.

#### **Question 4**

Along these same lines, the China report acknowledges that Commerce currently has approximately 70 antidumping proceedings pending against Chinese merchandise, more goods than from any other country. I am pleased that we are vigorously pursuing these orders, but I have often expressed my frustration that it can take years to get duties in place. We have had many discussions about ways to expedite the process, and I am still intent on finding ways to achieve this end. Was this considered in the context of our review of trade policies with China?

**Answer:** In the report, we focused on China-specific antidumping matters. We explained that the Department of Commerce created a new 78 position China/Non-Market Economy (NME) Unit in 2004 to oversee the investigation of NME cases and enforce U.S. trade laws against injurious, unfairly-priced imports and that this restructuring had successfully concentrated China/NME experts in one office, leading to better and more consistent determinations. The report also noted that Commerce had recently adopted a new policy that increases the effectiveness of antidumping orders by preventing Chinese suppliers from switching exporters to evade antidumping duties. The report went on to identify the agreed interagency priority of ensuring full and transparent enforcement of U.S. trade remedy laws and agreements against Chinese imports. In this context, we did not attempt to address possible improvements in Commerce's antidumping regime that would be broadly applicable to imports from all countries.

#### **Question 5**

In regard to the WTO negotiations, one of the issues on the table is further disciplines on our food aid programs. As I understand it, the Hong Kong text says that emergency food aid will be placed in a safebox, while "in-kind" and "monetization" food aid will be "disciplined." Can you elaborate on the implications of this text for the integrity of our existing programs?

**Answer:** The United States has argued strongly that WTO rules should not impose unreasonable restrictions on the provision of food aid. In Hong Kong, WTO Members agreed that there should be a “safe box” to ensure that any agreement placing disciplines on food aid do not result in any unintended impediments to dealing with emergency situations. The specific provisions for the “safe box” will be determined in subsequent negotiations, where the United States will work hard to ensure that no unnecessary restrictions, such as the EU’s proposal that all food aid be given only in the form of cash, are placed on emergency food aid activity. In addition, the Members have agreed to establish disciplines that will ensure other food aid activity does not result in commercial displacement. The United States agrees that these other food aid activities, including “monetization” programs, should be conducted under reasonable rules designed to avoid commercial displacement, but will continue to work hard to ensure governments have the necessary flexibility to provide needed aid without undue obstacles.

**QUESTIONS FROM SENATOR BINGAMAN****Question 1**

How is USTR planning to implement the agreement to provide assistance to CAFTA partners, including the \$30 million budgeted for Guatemala, El Salvador, and the Dominican Republic, for small farmers and rural development? Can I have a report on these plans in the near future?

**Answer:**

In a first for any free trade agreement, the U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) includes a Committee on Trade Capacity Building (the Committee), in recognition of the importance of such assistance in promoting economic growth, reducing poverty, and adjusting to liberalized trade. This Committee coordinates trade capacity building (TCB) activities and ensures that they continue to be designed according to the needs identified by CAFTA-DR member countries in their "National Trade Capacity Building Strategies." The Committee will build on work done during the negotiations to enhance partnerships with non-governmental organizations, the private sector representatives, the Inter-American Development Bank, the World Bank, Organization of American States, and the Central American Bank for Economic Integration.

USTR and the U.S. Agency for International Development (USAID) co-chair the U.S. delegation to this Committee. Representatives from the U.S. Overseas Private Investment Corporation, the U.S. Trade and Development Agency, the Millennium Challenge Corporation (MCC), the Department of Agriculture, Department of Commerce, and the Department of State, among others, are part of the U.S. team supporting these efforts. Work is ongoing in the region but we are looking to hold a Committee meeting as soon as it is convenient for the six countries so to ensure this works stays on track.

The assistance available to CAFTA-DR countries covers a wide range of programs, in areas such as intellectual property rights, food safety and customs, U.S. government assistance includes programs in rural diversification, helping small and medium enterprises, improving investment policies, and enhancing transportation infrastructure.

In response to the needs identified by the Central American countries, U.S. Government assistance for these countries has increased from approximately \$77 million in 2003 to over \$388 million in 2005. The MCC compacts with Nicaragua and Honduras include a significant trade component.

The Administration promised: 1) to give high priority to Dominican Republic, El Salvador and Guatemala when those countries become eligible for MCC assistance and 2) support additional spending on rural development assistance of \$10 million for each of the three countries per year beginning in FY07 for a total of 5 years or until the country signs a MCC compact, whichever comes first.

This builds upon the MCC's five-year, \$215 million compact with Honduras and the five-year, \$175 million compact with Nicaragua. I am pleased to say the MCC Board selected El Salvador as eligible to negotiate an MCC compact. Guatemala and the Dominican Republic do not meet MCC requirements yet.

In the meantime, we are working closely with State and USAID to follow through on the Administration's commitment to provide \$10 million per year to fund rural development in each of the three countries, with the understanding that the \$10 million per year would no longer be available to a country once it enters into a compact with the MCC. The specific uses for MCC funding in El Salvador and the use of the \$10 million for rural development in the Dominican Republic, Guatemala, and El Salvador (if that country has not entered into a compact with the MCC) are being developed cooperatively with each country by the MCC and USAID, respectively.

El Salvador's MCC proposal is under development. Conversations with the Government of El Salvador indicate that the proposal will focus on the country's Northern Zone and include construction of a North Transnational Highway and an Interconnection System and Development of Territories with Productive Potential. We anticipate that the proposal will increase productivity and jobs in key Northern Zone communities; improve transportation networks to provide market access and lower production/marketing costs of products; and provide basic services such as safe running water, sanitation and electricity.

Inter American Development Bank's trade-related loan pipeline of projects under consideration through 2009 is \$1.6 billion. The World Bank's facilities include over \$1.14 billion in already-approved loans to bolster investments and reforms in support of the CAFTA-DR. Loans include: infrastructure development, customs modernization, reductions in costs of doing business, rural development and strengthening governance and institutions.

We would be pleased to keep you informed on the progress of the Committee for Trade Capacity Building and the implementation of assistance programs in the CAFTA-DR countries.

## **Question 2**

It is my understanding that GSP and ATPA both expire this year. What will USTR ask Congress to do with regard to renewal of these trade preferences?

**Answer:** The President included a request for a five-year reauthorization of the GSP program in his FY 2007 budget. As you know, the GSP program provides preferential duty-free treatment for about 5,000 products from nearly 140 designated beneficiary developing countries and territories. Total GSP trade in 2005 was \$26.7 billion, an 18 percent increase over 2004. I believe the GSP program has been successful in accomplishing the goals set out by Congress, and I look forward to working with the Senate Finance Committee on its reauthorization.

The President did not include reauthorization of the ATPA in his FY 2007 budget. We are currently negotiating a free trade agreement with three of the beneficiary countries of the ATPA

program. These talks hold the prospect for these countries of greater access to the U.S. market on a more permanent basis, while securing reciprocal access for U.S. exports to the Andean markets.

**Question 3**

With regard to the Doha negotiations, what does USTR plan to do if modalities are not reached by the April 30 deadline? What is the drop-dead date for a new WTO agreement?

**Answer:** Our trading partners appear to recognize that the 2007 expiration of TPA currently creates a de facto deadline for the Doha negotiations to be completed by the end of 2006. At Hong Kong, we agreed to an ambitious work plan for this year, including important benchmarks to take the agriculture and NAMA negotiations into a new and final phase. I believe that our efforts since the beginning of the year have resulted in a clear understanding by our trading partners as to the elements that will have to come together over the course of this year in order to achieve the necessary ambitious outcome. However, at this stage, the press of the calendar is not the central problem; rather, it is the need of our partners to find some simple political will.

**Question 4**

During the hearing, you responded to a question from Senator Schumer about Saudi Arabia's accession to the WTO and concerns about their treatment of Israel. Could you please provide for me details as to the actions you are taking in regards to this, as well as other concerns that have been raised about other Middle Eastern countries and their treatment of Israel?

**Answer:** We have seen isolated press reports quoting unnamed Saudi officials saying that WTO membership does not mean an end to the boycott of Israel. We have raised these reports with senior Saudi officials who have reiterated their country's WTO commitments. In February, a team of anti-boycott experts from the Departments of State and Commerce visited Saudi Arabia to discuss issues regarding the secondary and tertiary boycotts. The team received assurances of the Saudi government's commitment to eliminate these boycotts completely. In March, a senior USTR official plans to visit Saudi Arabia and will again seek assurances that Saudi Arabia understands and remains committed to its WTO obligations.

SUBMITTED BY SENATOR WYDEN



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
OFFICE OF THE GOVERNOR  
LANSING

JOHN D. CHERRY, JR.  
LT. GOVERNOR

February 13, 2006

The Honorable Rob Portman  
United States Trade Representative  
600 17th Street, N.W.  
Washington, DC 20508

Dear Ambassador Portman:

In the President's State of the Union Address, I had hoped to hear how the administration planned to enforce fair trade policies and lead America in competing for our manufacturing jobs. While the President did promise to "level the playing field," he offered no specific action aimed at tearing down these impediments. It is time for this administration to stand up for the manufacturing sector and stand against unfair trade practices. If the President is truly interested in making good on his promise to level the playing field for the U.S. auto manufacturers, the Administration must start by standing up for the U.S. automotive sector as it negotiates a free trade agreement with Korea. I urge this administration to use this new opportunity to seek specific and aggressive results in a market that has repeatedly and unfairly blocked the U.S. automotive sector from access to Korean consumers.

A U.S. Free Trade Agreement with Korea would be the most economically significant free trade pact since the North American Free Trade Agreement. In 2004, the United States' two-way trade in goods with Korea was \$72 billion. Korea currently stands as the United States' seventh-largest trading partner. However, while exports to Korea reached \$26 billion in 2004, market access has not been equivalent within American manufacturing sector. While Korea has roughly 5 percent of the U.S. auto market, the United States', European Union's and Japan's combined market share is only 2 percent of the Korean auto market.

The current U.S. - Korea auto trade statistics are drastically lopsided in favor of Korea because of Korean trade barriers which obstruct foreign auto competitors from penetrating their market. Auto manufacturers have tried conventional agreements and have been consistently disappointed with the outcomes. For instance, our auto industry has argued for many years that Korea uses non tariff barriers to discourage imports. Korea has an automotive tax structure which discriminates against foreign autos. Restructuring this system was a condition of

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February 13, 2006

the 1998 Memorandum of Understanding (MOU) between the U.S. and Korea, but the Korean Government has made no obvious effort to modify its system.

The top priority of the President's trade agenda should be to open markets for the sale of American goods where our industries have historically been shut out. I urge this administration to use the Korean Free Trade Agreement negotiations as an opportunity to eliminate Korea's unfair trading practices and other non tariff barriers to ensure that American auto manufacturers have a fair opportunity to sell their products in Korea. No free trade agreement should be signed unless it fulfills the President's promise to "level the playing field" and ensures truly open and immediate access to Korean consumers for our auto manufacturers.

I thank you in advance for your support of U.S. auto manufacturing interests.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Granholm", written in a cursive style.

Jennifer M. Granholm  
Governor



COMMUNICATIONS

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**SENATE FINANCE COMMITTEE  
HEARING ON  
PRESIDENT BUSH'S TRADE AGENDA FOR 2006**

**February 16, 2006**

**TESTIMONY  
SUBMITTED FOR THE RECORD  
BY  
THE ADVANCED MEDICAL TECHNOLOGY ASSOCIATION (AdvaMed)**

AdvaMed represents over 1,300 of the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. Our members are devoted to the development of new technologies that allow patients to lead longer, healthier, and more productive lives. Together, our members manufacture nearly 90 percent of the \$86 billion in life-enhancing health care technology products purchased annually in the United States, and nearly 50 percent of the \$220 billion in medical technology products purchased globally. Exports in medical devices and diagnostics totaled \$24.3 billion in 2004, but imports have increased to \$25.2 billion - indicating the first negative trade balance in medical devices in over 15 years. The medical technology industry directly employs about 350,000 workers in the U.S.

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

### **Global Challenges**

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

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

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

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

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

In some cases, governments seek to reduce prices of medical technologies in their country by comparing and referencing prices in other countries. By fixing ceiling prices based on the prices found in other countries, governments are imposing price controls on medical technologies that do not appropriately account for different market conditions and contract terms. Our industry is witnessing a spread of these reference pricing schemes.

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

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

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

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

After the U.S., Japan is the largest global market for medical technologies at \$25 billion. Yet the situation facing the medical technology industry in Japan is getting more difficult every year. Japan's system for approving use of new medical technologies is the slowest and most costly in the developed world. Although Japan is one of the wealthiest countries in the world – the second largest economy in the world – its spending on health care is among the lowest of major developed countries. On a *per capita* basis, Japan's spending of 7.8% of GDP is lower than 17 other Organization of Economic Cooperation and Development (OECD) member countries.

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

Even after creating a new agency in 2004 to process applications for medical technology products, Japan has a backlog of over 300 applications filed before April 2004. When new applications are included, the backlog is reportedly much longer. A problem for this new agency is the number of staff reviewing applications for approval of medical technology products – about 40 officials, compared to over 700 in the U.S. Due to the long approval process, the medical technologies patients receive in Japan are often several generations behind the products in the U.S., Europe, and even developing countries like China, India and Thailand. Lengthy approvals also translate to higher costs for the U.S. medical technology industry, which must maintain out-of-date product lines just for Japan.

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

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

Before 2002, Japan adjusted prices according to a process it called "reasonable-zone" or "R-zone." In brief, MHLW surveys its hospitals for prices paid to distributors, and allows for a reasonable margin (or "zone") for discounts off of the government's reimbursement rate. While there are some difficulties with this system – as identified in bilateral Market-Oriented, Sector Specific (MOSS) negotiations between the U.S. and Japanese governments – our industry recognizes that it is at least based on factors in the Japanese market.

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

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

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

#### **Regulatory and Reimbursement Obstacles Impede Market Access in Asia-Pacific**

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

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

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

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

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

Korea is another important market for U.S. medical technology exporters. Last year, U.S. manufacturers exported more than \$500 million worth of medical technology products to Korea, an increase of 24 percent over the previous year. However, access to this market remains marred by antiquated product-testing requirements; inappropriate requirements to re-register products following a change in manufacturing location; and pricing and reimbursement policies that discriminate against foreign manufacturers. Korea was not a party to the Uruguay Round zero-

for-zero tariff agreement on medical technology, and maintains import tariffs on a range of medical technology products. AdvaMed recommends the fastest possible elimination of tariffs and non-tariff measures applied to medical technology products by Korea. AdvaMed is also concerned that Korea's current reimbursement policies create incentives to re-use medical devices designated for a single-use in multiple procedures within several different patients, with the attendant risks of cross contamination and degradation of product quality. AdvaMed looks forward to working with Congress and the Administration through the U.S.-Korea Free Trade Agreement negotiations to address these issues.

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

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

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

Despite opposition from Congress and the Administration, in 2005, the European Commission approved a directive to up-classify all shoulder, hip and knee joint implants from Class IIB to Class III. This directive, which is guided by 1980s data and application of the precautionary principle, will affect thousands of devices, many of which are made by U.S. manufacturers, and is expected to cost the average orthopedic company approximately 500,000€ in fees alone for related Notified Body reviews. Industry now is focused on fair and transparent implementation of the directive, so as to minimize disruption of this important market.

In addition, the industry looks forward to the implementation of the medical device annex of the US-EU Mutual Recognition Agreement (MRA). Bringing healthcare products to the market faster is an important priority consistent with the protection of public health and the reduction of regulatory costs and redundancy. We ask Congress to push for the full implementation of the medical device annex of the MRA. Moreover, the EU continues efforts towards over-regulation of industry through the implementation of burdensome regulatory measures such as the Medical Device Directive revision, the REACH chemicals initiative, the WEEE/ROHS, and a possible ban on the use of DEHP in medical devices.

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

### **Product Reimbursement in Brazil**

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

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

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

The Doha Development Agenda offers an important opportunity for the United States to ensure global access to medical technology by securing global commitments on lowering tariff and nontariff barriers for the medical technology sector while expanding upon the access to medicines goal at the heart of the Doha declaration. We encourage the U.S. government to build upon the zero-for-zero tariff agreement on medical technology achieved in the Uruguay round by expanding the product coverage and adding countries throughout Latin America and Asia as well. AdvaMed has proposed a sectoral initiative that would achieve this objective to the Administration. Moreover, elimination of nontariff barriers such as burdensome import licensing regulations and non-transparent government procurement policies will help developing countries ensure patient access to lifesaving medical technologies.

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

We commend the WTO's recent efforts to ensure global access to medicines and medical products. While all economies seek to provide high quality, cost effective healthcare products and services to their citizens, they should also ensure timely access to state-of-the-art, life-saving equipment and implement compliance procedures that are efficient and effective. To further expand patient access to safe and effective medical devices and ensure cost effective regulatory compliance, USTR should seek to ensure that economies around the world make their policies and practices conform to the relevant and appropriate international trading rules established by the World Trade Organization (WTO).

Toward that end, member economies should agree to make their medical device regulatory regimes conform to these guiding principles:

- Acceptance of International Standards;

- Transparency and National Treatment;
- Use of Harmonized Quality or Good Manufacturing Practice Inspections;
- Recognition of Others Product Approvals (or the Data Used for Those Approvals);
- Development of Harmonized Auditing and Vigilance Reporting Rules;
- Use of Non-Governmental Accredited Expert Third Parties Bodies for Inspections and Approvals, where possible.

Similarly, many economies require purchases of medical technologies to take place through centralized and/or government-administered insurance reimbursement systems. To ensure timely patient access to advanced medical technologies supplied by foreign as well as domestic sources, member economies should agree to adopt these guiding principles regarding the reimbursement of medical technologies:

- Establish clear and transparent rules for decision-making;
- Develop reasonable time frames for decision-making;
- Data requirements should be sensitive to the medical innovation process;
- Reimbursement rates should be based on conditions in each country;
- Ensure balanced opportunity for the primary suppliers and developers of technology to participate in decision-making, e.g., national treatment;
- Establish meaningful appeals processes.

The medical technology industry is committed to working with Congress and the Administration on upcoming trade policies and agreements to ensure patients throughout the world have access to medical products.

#### **Conclusion**

AdvaMed appreciates the shared commitment by the President and the Congress to expand international trade opportunities and encourage global trade liberalization. We look to the President and his Administration to aggressively combat barriers to trade throughout the globe, especially in Japan. AdvaMed is fully prepared to work with the President, USTR Ambassador Portman, the Department of Commerce, and the Congress to monitor, enforce and advance multilateral, regional and bilateral trade agreements, particularly with our key trading partners.



STATEMENT OF  
MR. CHRISTOPHER D. LISCHESKI, PRESIDENT AND CEO  
BUMBLE BEE FOODS, LLC

ON

PRESIDENT BUSH'S TRADE AGENDA

BEFORE THE  
SENATE COMMITTEE ON FINANCE

MARCH 2, 2006

Thank you for the opportunity to comment on President Bush's trade agenda for 2006 and how it will affect our company as well as our industry. I hope you find our comments helpful as Congress debates important free trade agreements negotiated by the United States Trade Representative (USTR) with countries around the world, and specifically the U.S.-Thailand Free Trade Agreement (FTA).

Bumble Bee® Seafoods was founded in 1899 when a handful of dedicated canners in Astoria, Oregon banded together as Columbia River Packers Association to fish for and process salmon. Over the next 100 years Bumble Bee became a leader in canned tuna and salmon. In 2004 Bumble Bee Seafoods entered into a reverse merger with Connors Bros., a Canadian company that is the world's largest producer of canned sardines and herring products. Last year our company acquired Castleberry/Snow's and the assets of Sara Lee shelf-stable meat business. Today Bumble Bee Foods (our new name) is the largest shelf stable protein company in North America with brands such as Bumble Bee, Clover Leaf, Castleberry's, Snow's, Orleans, Beach Cliff, Sara Lee, Sweet Sue, Bryan and Brunswick. Although we are a publicly traded company on the Toronto stock exchange, we are a U.S.-based company with our headquarters and operations center located in San Diego, California and the vast majority of our production facilities located in the U.S. We own and operate the last canned tuna production facilities in the U.S. in Santa Fe Springs, California and in Mayaguez, Puerto Rico, the last canned shrimp production facility in Violet, Louisiana, one of the last canned clam facilities in Cape May, New Jersey, the last canned sardine production facility in Prospect Harbor, Maine and a major canned and pouched chicken, stews and chili's facility in Augusta, Georgia.

As you can see, Bumble Bee Foods has invested heavily in U.S. production facilities. We employ thousands of workers in the U.S. and we market our products in more than 20 countries worldwide. Today Bumble Bee is the leading brand of canned seafood in the U.S. and the second largest brand of canned tuna with our tuna market share at 27% (we are the leader in the albacore sub-segment with a 46% share.) Despite a leadership position, our profit margins leave little room for product innovation or consumer marketing as we work continuously to drive higher production efficiencies and lower operating costs in an effort to remain competitive with low cost imports from Southeast Asian producers such as Thailand.

Although the duties and tariffs on most of the products that we produce (e.g. sardines) have been eliminated or are already subject to phased-out reductions, the existing duty on imported canned tuna is



critical to our continued operations in the U.S. Free trade agreements, especially with low cost production countries that produce canned tuna, significantly impact our company and our overall industry. This is why we are extremely concerned about the U.S.-Thailand FTA. We believe the outcome of the FTA negotiations with Thailand will, more than any other single event on the foreseeable horizon determine the future of the tuna industry in the United States. Our views are based on the simple fact that Thailand has the world's largest tuna processing industry and even under the existing duty structure, Thailand is the single largest exporter of processed tuna to the United States. Unlike previous free trade agreements that involved countries with small or non-existent tuna industries, the FTA with Thailand could result in the elimination of the U.S. tuna processing industry if it does not retain longstanding fair trade policies that attempt to level the playing field between our two industries.

Consider the following. Next to Canada, Thailand is the single largest exporter of fishery products to the U.S. For canned and pouched tuna products, in 2004 Thailand accounted for 45% of all imports into the U.S. (source-U.S. Department of Commerce, Bureau of the Census). In 2005, Thailand continued to increase its exports of canned/pouched tuna to the U.S. and established an all time record in terms of value (at \$261,293,556) and volume (source-National Marine Fisheries Service Fisheries Statistics and Economics Division).

<u>Year</u>	<u>Imports (Kgs)</u>
2001	64,036,692
2002	72,439,102
2003	95,987,532
2004	90,946,648
2005	97,050,371

Source: Fisheries Statistics & Economics Division of the National Marine Fisheries Service (NMFS) Online Foreign Trade Database ([www.st.nmfs.gov/st1/trade/index.html](http://www.st.nmfs.gov/st1/trade/index.html))

Since 1996, imports of canned and pouched tuna from Thailand have nearly doubled while U.S. production has decreased. Under the current duty structure, Thailand has been dominant among all other exporting countries and very competitive with the U.S. industry. Bumble Bee does not believe that significant changes should be made to existing U.S. duties as this will only allow Thailand to expand its dominant position as the leading exporter to the U.S. at the expense of the U.S. tuna industry and related U.S. employment.

Because we operate around the world we are familiar with the cost structures of various countries. For obvious reasons, our analysts have performed detailed unit cost estimates for virtually every major tuna processing facility and country. We know, for example, that for lightmeat Thailand has the lowest production cost per unit of any major tuna processing country. Even when the current U.S. duty is applied, Thailand's total cost of processed lightmeat delivered to the U.S. is lower than all other importers and competitive with U.S. processing facilities. Already we have seen Chicken of the Sea, a Thai owned company with a facility in American Samoa, move production and jobs from American Samoa to Thailand, presumably because it is cheaper to process light meat in Thailand than in the U.S.



The current duty narrows the margin between the U.S. and Thailand's production costs to a level that allows U.S. plants to remain reasonably competitive. This situation is similar for albacore, but because the U.S. duty is based on value (ad valorem), it is even more important for the higher value albacore products. Thailand's cost of processed albacore delivered to the U.S. is significantly below U.S. production costs. When the duty is applied, however, those costs increase to a level on par with U.S. producers. Without the duty, U.S. processors could not compete with imported albacore from Thailand.

The single largest reason for the disparity in cost models is the average labor rate. For U.S. companies, the average hourly labor rate ranges from approximately \$3.75 in American Samoa and \$6.50 in Puerto Rico to approximately \$11.00 in California. Thailand, on the other hand, pays approximately \$0.50 cents per hour. Bumble Bee has done everything possible in terms of plant modernization and innovation to close this gap. For example, we have switched to processing loins, as opposed to whole fish, in our Puerto Rico and California plants as a way of reducing labor costs. Even with all of these cost improvements, if duties are eliminated or substantially reduced, none of the U.S. facilities, including those operated by StarKist in American Samoa, would remain economically viable.

The USTR has already recognized what has long been the position of the U.S. International Trade Commission and that is that canned tuna is an "import sensitive product". To their credit the USTR has pushed for the long phase-out periods of U.S. duties on imported canned tuna in recent FTA's. While we wish that the duties would remain in place we understand that this is an unrealistic expectation of a free trade agreement. **At a minimum, we seek the longest phase-out periods possible (greater than 10 years) for canned tuna in upcoming FTA's.**

Duty free canned tuna from Thailand would also have a devastating impact on the U.S. tuna fleet, the last U.S. distant water fishing fleet. Today our fleet sells its tuna catch almost exclusively to plants in American Samoa. If those plants are closed or significantly reduced in size, U.S. fishermen will be forced to sell their fish to Southeast Asian processors where they are competing against foreign fleets that are heavily subsidized by their respective governments. This is the reason why Bumble Bee enthusiastically supports a strong "Rule of Origin" for any canned tuna that is subject to a tariff reduction. As you may be aware, we supported a strong origin rule adopted in the Andean Trade Preference Act. The origin rule has not been an impediment to Ecuador and other Andean countries increasing exports of tuna products to the U.S. In the Thailand FTA, if the import duties are significantly reduced and more specifically, if it does not contain a strong Rule of Origin, it will probably result in the sale of the U.S. fleet and the U.S. would lose its stature and ability to participate in multi-national fishery conservation efforts such as those carried out under the highly successful South Pacific Tuna Treaty or the Multilateral High-Level Conference on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific. The U.S. has been active in pursuing conservation and management of the Pacific tuna stock through these organizations. Without a U.S. tuna fleet our country will lose its seat at the table and consequently its ability to promote conservation efforts.

From a U.S. tuna company perspective, a U.S. vessel owner's perspective and a national perspective, there would be no benefits resulting from a FTA with Thailand that eliminated duties on canned tuna and did not contain a strong origin rule. The U.S. represents the single largest processed tuna market in the world and clearly Thailand has had no difficulty, given the price structure discussed above, in selling its



products in our market and expanding its market share. Even in the absence of an FTA Thailand will continue to increase exports to the U.S. as it has done in the past.

Unfortunately for U.S. tuna producers there will be no benefits from an FTA with Thailand, only costs under a free trade situation. Today the U.S. tuna processing facilities owned by Bumble Bee (Puerto Rico and California), StarKist (American Samoa) and Chicken of the Sea (American Samoa) employ more than 6,000 workers. When the direct and indirect employment of fishermen, vessel owners and vendors is included, the U.S. tuna industry supports close to 10,000 U.S. jobs. In addition, the direct capital investment of our industry in plants and facilities exceeds \$300 million. All of this investment and all of the jobs associated with our industry will be destroyed if processed tuna is granted duty free status under an FTA with Thailand.

Today our industry is a fraction of what it was some 25 years ago because of increased competition from low cost imports and declining prices (in real terms) of our products. Between 1979 and 1989 five tuna processors representing 40% of the industry workforce shut down. Since 1990, another six U.S. processors have closed. Because processed tuna is a global commodity in extremely competitive markets, those of us left in the industry have been forced to do everything we can to remain competitive. We have reduced the cost of production through automation, increased yields by using new technology, shifted to processing loins to reduce labor costs and invested in foreign sources of material. There is very little else we can do to reduce costs. And with respect to prices, no company is in a position to raise prices in a market accessible to low cost imports. In fact, with the advent of canned tuna imports from low wage rate countries, retail pricing of canned tuna adjusted for inflation, has dropped 53% between 1980 and 2000 (source: Federal Trade Commission data) and retail prices of canned tuna in the U.S. are the lowest among all developed nations of the world. These facts reinforce the global competitive nature of the processed tuna industry. For these and other reasons, we know that even under a comprehensive FTA with Thailand, consumers will not see an appreciable reduction in price.

The first U.S. tuna processor opened in 1903 and for more than 100 years the U.S. tuna industry has supplied America with a wholesome, inexpensive source of protein. Today processed tuna remains a favorite of consumers as it is found in 96% of all households (Source: A.C. Nielsen Homescan data). However, the FTA with Thailand could change all this. Our industry has already suffered from low cost foreign imports and we will continue to face intense competition from low wage producers. The current duty structure, coupled by aggressive cost reduction initiatives, has allowed our company to remain economically viable. We know that if duty free status is provided to tuna products from Thailand and if there is not a strong rule of origin, it will be a matter of months before we, along with others in the industry, will take steps to dismantle our plants and cease operations in the U.S. and the U.S. tuna fleet won't be far behind.

Thank you for the opportunity to provide our comments on the President's trade agenda for 2006 and we would be happy to provide you with any additional information you may require.



**WRITTEN STATEMENT OF THE COALITION FOR GSP  
TO THE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE  
IN SUPPORT OF  
CONGRESSIONAL RENEWAL OF THE U.S. GENERALIZED SYSTEM OF  
PREFERENCES PROGRAM**

**February 16, 2006  
"THE ADMINISTRATION'S TRADE AGENDA"**

Submitted by:

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## **I. Introduction**

This written statement is submitted by the Coalition for GSP (the Coalition) in response to the request of the Committee on Finance (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 before 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**

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Members

**Companies**

\*Albaugh, Inc. (Ankeny, IA)  
Binney & Smith (Easton, PA)  
Cost Plus/World Markets (Oakland, CA)  
\*Frittala 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)



March 1, 2006

The Honorable Charles Grassley  
Chairman  
U.S. Senate Committee on Finance  
219 Dirksen Bldg.  
Washington, DC 20510

Re: Hearing on President Bush's Trade Agenda (February 15, 2006)

Dear Chairman Grassley:

In conjunction with the hearing by the Senate Finance Committee on President Bush's trade agenda, the National Retail Federation (NRF) is pleased to provide the following views on trade priority issues for the U.S. retail industry. NRF Members recently met to identify those issues, which include China trade, Vietnam trade, and the WTO Doha Round trade negotiations.

The **National Retail Federation (NRF)** is the world's largest retail trade association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.4 million U.S. retail establishments, more than 23 million employees - about one in five American workers - and 2004 sales of \$4.1 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations. [www.nrf.com](http://www.nrf.com).

#### China

The political environment on trade issues with China has become increasingly challenging, fueled by the mounting U.S.-China trade deficit; piracy of intellectual property, pegging of the Chinese currency against the US dollar at allegedly artificially low exchange rates, and efforts by U.S. manufacturers to meet Chinese competition through anti-dumping, safeguards, and other protectionist actions to limit Chinese imports.

The importance for the U.S. retail industry of maintaining a constructive trade relationship with China cannot be overstated. Eighty percent of Chinese exports to the United States are consumer products, and seven of the top ten U.S. importers of

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Chinese goods are retailers. China is an essential source of a wide range of products sold in the United States at retail, and is the dominant supplier of such basic consumer goods such as footwear, apparel, toys, furniture, consumer electronics, and housewares. Accordingly, any restrictions on Chinese goods will have serious adverse consequences on U.S. retail companies, American consumers, who would face fewer product choices and higher prices, and on the entire U.S. economy.

Many Members of Congress have expressed concern about the U.S. trade deficit, particularly with China, and are considering limitations on imports from China as a means to address it. However, history demonstrates that trade restrictions are an ineffective and often counterproductive means to address the trade deficit and other complex issues. With respect to China, this point is underscored by the fact that the increase in imports from China has come at the expense of imports from other, mainly Asian countries. While imports from China have increased, there has been no correlating increase in the overall U.S. trade deficit attributable to China, and China's share of the overall U.S. trade deficit has remained fairly constant over the past 15 years.<sup>1</sup>

Trade restrictions have also proven to be a failure at protecting jobs or improve the competitiveness of U.S. industries struggling against import competition. Instead, such protectionism only ends up risking millions of American jobs in retail, manufacturing, agriculture, and ancillary industries that depend on trade with China, while imposing huge costs on American consumers and the U.S. economy.

Turning to the currency issue, there are certainly compelling economic reasons why the Chinese should move toward more flexible exchange rates. However, many economists, including former Federal Reserve Chairman, Alan Greenspan, confirm that legislation aimed at addressing alleged currency manipulation by China by taxing imports from China is also likely to be ineffective and counterproductive. Furthermore, it is evident that those who contend Chinese currency practices are driving the bilateral trade deficient and U.S. job losses are off the mark. A recent study by the U.S. Department of Commerce concludes that even a significant decline of the U.S. dollar against the Chinese yuan will have little or no impact on the overall U.S. trade deficit because trade will merely shift to other Asian countries.<sup>2</sup>

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<sup>1</sup> The China Effect: Assessing the Impact on the US Economy of Trade and Investment with China, The China Business Forum (January 2006), p. 9.

<sup>2</sup> The Trade and Economic Impacts of U.S. Currency Valuation: A Global Modeling Analysis, U.S. Department of Commerce, International Trade Administration (January 2005).

While some still engage in the pointless argument whether the United States should even have a relationship with China, the reality is that the United States and China do have an important political and economic relationship, and that fact not going to change. Therefore, the appropriate question for policy makers is what should that relationship look like? While we acknowledge that there are critical problems that need to be addressed, we are concerned that some Members of Congress and the public are too focused on the negative aspects of the U.S.-China trade relationship and overly simplistic, counterproductive ways of trying to address them, while ignoring some important points that should be considered in any assessment of the bilateral relationship and appropriate policy options. These considerations include the following:

- China is one of the fastest growing markets for U.S. exports.
- Considering both job gains and losses, imports from China have a net positive impact on U.S. employment that approaches one million American jobs.<sup>3</sup>
- The U.S. sector with the biggest employment link to imports from China is business services, mainly in legal, advertising, computer programming, management consulting and other high-paying professions.<sup>4</sup>
- Trade with China enhances U.S. productivity, particularly in manufacturing, increases U.S. gross domestic product, and keeps U.S. prices, inflation, and interest rates lower than they would otherwise be, thereby contributing about \$1000 per U.S. household per year in real disposable income.<sup>5</sup>

With these considerations in mind, policy makers must take a considered approach the U.S.-China trade relationship, and resist the temptation to resort to politically expedient, but ultimately unwise and self-destructive options for managing that relationship.

### **Vietnam**

The National Retail Federation and the U.S. retail industry strongly support the process to include Vietnam as a member of the World Trade Organization on

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<sup>3</sup> Impact of Imports from China on U.S. Employment, National Retail Federation and The Trade Partnership (Nov. 2005) p. 9.

<sup>4</sup> *Id.*, p. 10.

<sup>5</sup> The China Effect: Assessing the Impact on the US Economy of Trade and Investment with China, pp. 15-23.

commercially viable terms. To that end, we vehemently oppose the inclusion of a special textile and apparel safeguard mechanism in the bilateral agreement between the U.S. and Vietnam, and the terms of accession, which would allow the continuation of quotas on textile and apparel imports from Vietnam. We contend that there is no economic or political rationale or benefit to be gained by continuing to restrain imports from Vietnam for the following reasons:

- All major exporting countries, with the exception of China, are no longer subject to quota.
- By the time PNTR legislation comes into effect, there will be, at most, only two years left under the China textile agreement and safeguard mechanism, which expire the end of 2008, at which point China will also be quota free.
- According to the latest figures (Jan. – Nov. 2005), Vietnam only ranked 8<sup>th</sup> by value (12<sup>th</sup> by volume) among textile and apparel exporters to the U.S. market, and accounted for only 3.2 percent of U.S. textile and apparel imports by value (1.9 percent by volume) – in contrast, China is the number 1 exporter by volume and value to the U.S. market, and accounts for 25 percent of all textile and apparel imports into the U.S. by value (33 percent by volume).
- As we have already seen in the case of China, restraining imports from Vietnam will have no impact on the overall level of imports into the United States, and will merely result in the shifting of trade to other Asian suppliers.
- The political dynamic on Capitol Hill with respect to legislation granting Vietnam permanent normal trade relations (PNTR) status will likely be very different than for previous trade votes, including China PNTR – Congress has shown strong bipartisan support on every vote over the past decade to continue the process of economic normalization with Vietnam.
- The votes of few if any Members of Congress are likely to be swayed by whether Vietnam is subject to a textile safeguard – those few Members of Congress who are likely to feel most passionately about the issue are unlikely to vote for PNTR regardless of whether the mechanism is a part of the trade agreement with Vietnam.
- The Vietnamese feel very strongly about the issue because they see removal of textile and apparel quotas as a key benefit of WTO membership, and a major selling point necessary to build their domestic consensus in support of accession.

- If the U.S. Government tables or insists upon a textile and apparel safeguard, we will inevitably have to give important things that we want from the Vietnamese on market access, intellectual property, services, and government procurement – to the detriment of U.S. manufacturers, service industries, and farmers.

### **The WTO Doha Round of Multilateral Trade Negotiations**

The success of the Doha Development Agenda round of multilateral trade negotiations at the World Trade Organization is critically important to the retail industry. National Retail Federation (NRF) has worked closely with its sister organization in the European Union, EuroCommerce, to forge the following common set of views and objectives on issues in the Doha round affecting the U.S. and E.U. retail sectors.

#### **1. Market Access for Agricultural and Consumer/Industrial Goods**

The U.S. and European retail sectors affirm their support for a framework in the negotiations affecting market access for agricultural and non-agricultural products that will result in the substantial reduction and eventual elimination of all tariffs and tariff-rate quotas on agricultural, consumer and industrial goods, including textiles, apparel, cotton, processed food products (including sugar), and footwear.

These sectors, in particular, are of key interest to *developing countries* and the willingness of industrialized countries to eliminate tariffs, tariff-rate quotas and subsidies affecting trade in these goods will demonstrate their commitment to achieving the “development” goals of the Doha agenda.

In addition, elimination of these trade barriers will benefit low-income *consumers* in industrialized countries who for too long have borne a disproportionate share of the cost of protecting politically-powerful domestic industries. We also strongly urge WTO members to endorse the following basic concepts:

- With comprehensive product coverage a key to the ultimate success of the entire round, *no sector should be excluded from discussions*;
- *Formulas* that will result in *substantial tariff reduction* (including tariff peaks and tariff escalation, and the elimination of nuisance tariffs), based on applied, not bound tariff rates, and, in accordance with Article 16 of the Doha Declaration, allowing less than full reciprocity and longer transition periods for developing countries as appropriate;

- *Processed foods* should be included in any general agricultural market access formula;
  - Manufactured consumer products and processed foods should be targeted for *sectoral zero-for-zero tariff* initiatives;
  - Rejection of any new or permanent *textile* safeguard mechanisms and any special formula for textiles and apparel that would result in lower average tariff cuts than other products;
  - Meaningful market access is contingent on phasing out all *agricultural export subsidies* (and measures having an equivalent effect) by an agreed deadline, and substantially reducing trade-distorting agricultural domestic support programs;
  - Significant reduction of *non-tariff barriers* such as labeling, certification, etc.; and
  - Provisions on rules of origin that prevent such rules from becoming new trade barriers and harmonization of non-preferential rules of origin.
2. Market Access for Services

As representatives of a global industry serving a growing number of customers outside its home market, the NRF and EuroCommerce strongly support a framework in the services negotiations that will expand market access in foreign markets to retailers, wholesalers, direct sellers, and other providers of distribution services, as well as other services that are critical to support successful retail operations, such as transportation, financial services, and telecommunications. Therefore, we urge:

- More WTO Members, especially developed and big-emerging market countries, should *schedule commitments* to open their distribution services sector, particularly for commercial presence ("mode 3") consistent with the principle of national treatment;
- That those commitments expand market access *beyond the current levels* by dismantling barriers to trade in distribution services, such as equity restrictions, discriminatory licensing and store size requirements, competitive needs tests for foreign investment, and limitations on access to distribution networks;
- Opposition to creating a *services safeguard mechanism*; and
- Freer temporary movement for *key business personnel* ("mode 4").



### 3. Rules Negotiations -- Trade Remedy Laws

The NRF and EuroCommerce support addressing inequities in the administration of the trade remedies laws (antidumping, countervailing duty, safeguards), which are increasingly subject to political influence and misuse for protectionist purposes. To correct some of these inequities,

- *Importers and consumers*, who are affected by such decisions, must have full standing to participate in investigations;
- Trade remedies rules must be *clarified* (e.g., by eliminating methodological biases that artificially inflate margins, like “zeroing” and ensuring greater procedural transparency);
- Members should each agree to adopt a “*public interest test*” to ensure that investigations launched are in the broader interest of the economy;
- Members should agree to measure the *direct link*, if any, between imports subject to investigation and any injury to the domestic industry.
- The “*lesser duty rule*” should apply in all cases.
- Finally, once an antidumping investigation is terminated without the imposition of antidumping duties or a petition has been rejected or withdrawn, *new petitions covering the same product and country* may not be filed until after the lapse of one year.

### 4. Trade Facilitation

Trade facilitation is particularly important to the retail and wholesalers and directly affects the cost of sourcing consumer goods. Accordingly, the NRF and EuroCommerce support a final agreement that further expedites the movement, release and clearance of goods by harmonizing global customs rules and procedures, while providing an adequate phase-in period to allow companies to adjust to any changes. Fees, rules and border procedures for imports and exports must be based on transparent and objective criteria, and reflect customs administration costs. To achieve these goals, technical assistance should be provided to developing countries.

##### 5. Trade-Related Intellectual Property (TRIPs) Rights

The NRF and EuroCommerce support a TRIPs framework that clarifies and strengthens rules protecting retailers from the growing problem of piracy of retail and brand-name trademarks.

##### **Other Issues**

In addition to the priority issues listed above, NRF would like to highlight several other trade issues of interest to the U.S. retail industry:

###### 1. Generalized System of Preferences and Other Trade Preference Programs

NRF and the retail industry strongly support the trade preference programs that offer duty free treatment to goods made in developing countries. We believe that preferential duty-free treatment should be expanded to key products, such as textiles, apparel, and footwear, from least developed countries, like Bangladesh, Cambodia, and others mainly in Asia that currently remain largely outside the U.S. regional preference programs. To that end, the U.S. retail industry is strongly supportive of initiatives such as the African Growth and Opportunity Act (AGOA), the TRADE Act (H.R. 886; S. 191), legislative initiatives to assist Haiti, and renewal of the Generalized System of Preferences (GSP).

With respect to GSP, our immediate concern is that the program is scheduled to expire the end of 2006. The retail industry has traditionally accounted for a large segment of GSP users, and has been a consistently strong supporter of the program. For many retailers, particularly smaller ones, GSP has become a key part of their businesses. It is important to note that many of the consumer goods imported from developing countries are still subject to significant U.S. duties. Therefore, the duty-free benefits of the GSP program provide important savings to U.S. retailers that use the program. GSP has also allowed retailers to provide their customers, American families, better value and selection in the products they sell. By doing so, the benefits of trade through this program flow to the American consumer, to the retailers and other companies who are made more competitive through the program, and to the beneficiary countries, many of whom rely on exports of consumer products for their economic development.

Given these considerations, it is important to the U.S. retail industry that GSP be renewed before it expires. During the 1990s, GSP expired annually and had to be reauthorized retroactively. With retailers typically placing orders six months in advance

of delivery and catalogue retailers listing their prices months in advance of sale, this situation created a great deal of unpredictability and unnecessary cost for those companies that used GSP. This situation only ended up undermining the utility and benefits of the program. Therefore, we urge Congress to renew GSP before it expires.

We would also caution against graduating countries from the program without careful consideration. In 2004, India, Brazil, Thailand, Indonesia, Turkey, Philippines, South Africa, Venezuela, Argentina, and Russia were the top GSP beneficiary developing countries by volume of trade. Suddenly cutting off these countries from the program would be very disruptive to U.S. companies that have developed close commercial relations with producers in those countries, when the only alternative supplier is likely to be China.

Finally, the GSP program has traditionally been non-controversial and has enjoyed wide, bipartisan support in Congress. Therefore, it is essential that Congress avoid the risk of unraveling that support and of delay in reauthorizing the program by making, what could be controversial changes to the program. Therefore, NRF urges no changes to GSP until we have secured a long-term reauthorization of the program, and we are clear what changes may be appropriate based on the duty-free, quota-free initiative in the Doha Development Agenda round of trade negotiations at the WTO.

Proposals to make substantive changes to the GSP system deserve thoughtful consideration and careful vetting through public comment and debate. There simply is not sufficient time before the current program expires to complete that process before the end of this Congress.

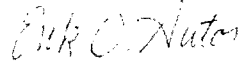
## 2. Free Trade Agreements

NRF and the U.S. retail industry (particularly apparel retail companies) have been very supportive of the free trade agreements that have been negotiated. Our industry has played an active role in securing Congressional approval of many of these agreements, including the North American Free Trade Agreement (NAFTA) and the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA). Notwithstanding our support, we have been largely unsuccessful in arguing for flexible, commercially-viable rules for textiles and apparel under these FTAs that are consistent with the rules governing other manufactured products, reflect the realities of global production and sourcing, actually promote new trade and investment, and provide genuine benefits to American consumers.

Instead, in an effort to accommodate the protectionist goals of the U.S. textile industry, we have ended up with overly restrictive rules of origin based on the so-called

"yarn-forward" rule of origin, which confers duty free treatment only for apparel made from yarns and fabrics originating in the United States or the particular free trade agreement partner country. This rule is inconsistent with current methods for producing apparel, and imposes extraordinarily high compliance costs that negate the duty free benefits. The unfortunate consequence is that NAFTA and every FTA negotiated since offer few if any benefits to apparel retailers.

Respectfully submitted,

A handwritten signature in black ink that reads "Erik O. Autor". The signature is written in a cursive style with a large initial "E".

Erik O. Autor  
Vice President, Int'l Trade Counsel  
National Retail Federation



March 1, 2006

Committee on Finance  
United States Senate  
Attn. Editorial and Document Section  
Rm. SD-203  
Dirksen Senate Office Building  
Washington, DC 20510-6200

Dear Clerk of the Committee,

On behalf of the member companies of the National Electrical Manufacturers Association (NEMA), I hereby submit the attached statement of Trade Priorities for the record of the Committee's February 16, 2006 hearing on the Administration's Trade Agenda.

NEMA is the largest trade association representing the interests of U.S. electrical industry manufacturers, whose worldwide annual sales of electrical products exceed \$120 billion. Our more than 400 member companies manufacture products used in the generation, transmission, distribution, control, and use of electricity. These products are used in utility, industrial, commercial, health, institutional, and residential installations.

Please contact me at the coordinates below if there are any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig Updyke", with a stylized flourish at the end.

Craig Updyke  
Manager, Trade and Commercial Affairs  
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cra\_updyke@nema.org

**National Electrical  
Manufacturers Association  
www.nema.org**

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## 2006 Trade Priorities

### Highlights

- Work for reciprocal **tariff elimination**, worldwide, for all NEMA products
- Support USTR negotiation and encourage Congressional ratification of bilateral and multilateral **free trade agreements** that further open markets for trade in electrical goods while upholding **NEMA Principles for FTAs** (see below right)
- Support USTR and Commerce to achieve the commitments made at the 6<sup>th</sup> WTO Ministerial Conference in December 2005 to fulfill the Doha objectives for **WTO agreements to liberalize trade in non-agricultural goods and services**
- Encourage USTR to strive for the **rule of law and adequate foreign legal infrastructure** in WTO accessions, WTO agreements, and U.S. FTAs
- Advise USG and others that market segment and product area determine whether **SDoC** or third-party certification – separate, valid solutions for market conformity compliance verification – is required
- Work with USTR and Commerce to assure that NEMA members have access to a reliable and adequate supply of globally-priced **raw materials** such as steel and other commodities
- Work with Commerce and USTR to assure that NAFTA parties, and recently ascended **WTO members fulfill their obligations** including in IPR, TBT and recognition of foreign testing labs
- Use NEMA's offices in **Beijing, São Paulo and Mexico City** to help resolve their member companies' trade issues
- Build on 2002 U.S.-EU Principles of Regulatory Cooperation to address various **EU regulatory issues** such as those relating to Chemicals ("REACH"), Energy-Using-Products ("EuP") and Metric-Only Labeling
- Oppose **unilateral economic sanctions**, since these in practice often hurt U.S. business while giving advantage to our foreign competition

### 2005 Success Stories

- Successfully advocated for Capitol Hill ratification of the free trade agreements with Dominican Republic/Central America and Bahrain
- Conducted and co-sponsored several important China-related programs, as well as signed an MOU with the Standardization Administration of China
- Promoted WTO electrical sectoral tariff elimination proposal by the U.S., Japan, Korea and Singapore; made the case for liberalization as part of industry delegations to Geneva.
- Gained Saudi Arabian entry into the WTO
- Achieved negotiation of a free trade agreement negotiated with Oman that is consistent with NEMA principles (see below)
- Obtained NIST acceptance to conduct a 2006 standards training workshop for DR-CAFTA officials

### NEMA Principles for Free Trade Agreements

- Immediate implementation of reciprocal tariff elimination
- No gov't. Mutual Recognition Agreements (MRAs) when product is not federally regulated in the U.S.
- Adequate legal and administrative infrastructure is place to provide for the rule of law, implementation, transparency and enforcement of agreements and dispute settlement.
- Protection of intellectual property rights
- Reduction in Technical Barriers to Trade (TBTs)
- Compliance with all World Trade Organization (WTO) TBT Agreement requirements
- Safe conduct of product and persons
- Energy services liberalization
- Inclusive definition of "International Standards"
- Market-driven development of product standards
- Conformity assessment usage (SDoC or third-party certification) determined by regulations, needs and preferences on a market segment basis

*NEMA is the largest trade association representing the interests of U.S. electrical industry manufacturers, whose worldwide annual sales of electrical products exceed \$120 billion. Its mission is to improve the competitiveness of member companies by providing high quality services that impact positively on standards, government regulation and market economics. Our more than 400 member companies manufacture products used in the generation, transmission, distribution, control, and use of electricity. These products are used in utility, industrial, commercial, health, institutional, and residential installations.*

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*With additional offices in Beijing, São Paulo  
and Mexico City  
[www.nema.org](http://www.nema.org)*



U.S. Senate  
Committee on Finance

Hearing on "The Administration's Trade Agenda"  
Thursday, February 16, 2006  
10:30 a.m.  
215 Dirksen Senate Office Building

Testimony for the record by 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 Senate Committee on Finance 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 Senate Committee on Finance 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.



<b>The Doha Development Agenda</b>
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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 perceived before the 6<sup>th</sup> 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.

<b>Free Trade Agreements</b>
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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 four-fold 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 Senate Committee on Finance 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.

