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UNITED STATES-PERU TRADE PROMOTION AGREEMENT

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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UNITED STATES-PERU TRADE PROMOTION AGREEMENT

THURSDAY, JUNE 29, 2006

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

The hearing was convened, pursuant to notice, at 10:02 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Present: Senators Thomas, Bunning, Crapo, Baucus, and Bingaman.

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

The CHAIRMAN. I thank everybody for coming to this hearing.

This hearing may not take a long time, but just in case it does take beyond 11, I have asked Senator Thomas if he would fill in as Chair, because I could get a commitment out of him to be here. I have to go to the House of Representatives to testify on another matter. So, I thank him very much for cooperating in that effort.

Welcome, everybody, to today's hearing on the U.S.-Peru Trade Promotion Agreement. I thank witnesses who are appearing at today's hearing. Some of the witnesses have come a long way, and that is always a burden, but we thank them for doing that.

The U.S.-Peru TPA is an exceptionally strong trade agreement that deserves the support of this committee and the Congress. This agreement provides significant benefit for U.S. farmers, manufacturers, and service providers.

The agreement will level the playing field for U.S. exporters. It will remove Peru's high tariffs on products imported from our country. While most of Peru's tariffs average between 12 and 25 percent, almost all U.S. tariffs on Peruvian products are already at zero. Some 97 percent of imports from Peru enter the United States already duty-free.

Now, this is a very unbalanced trading relationship, largely a result of unilateral trade benefits provided by Congress to Peru through the Andean Trade Preference Act of 1991, and that was renewed and expanded 4 years ago.

The U.S.-Peru agreement will bring balance to the U.S.-Peru trading relationship, obviously leveling the playing field for the United States. It will bring Peru's tariffs down to a level of almost all U.S. tariffs on Peruvian products. That, again, would be zero.

This agreement will, indeed, boost U.S. exports. Our own government's International Trade Commission has found that, under this agreement, U.S. exports to Peru should increase by 25 percent; in comparison, Peruvian exports to the United States will grow by 8 percent. The International Trade Commission has also determined that U.S. Gross Domestic Product could grow by an additional $2.1 billion as a result.

The agreement will be particularly good for agriculture in the United States. The average Peruvian duty on U.S. agricultural food imports of 18 percent will disappear when this becomes law.

Here, again, the International Trade Commission predicts good news, that the agreement will have "substantial positive effect" on U.S. exports to Peru of major U.S. commodities of pork, beef, corn, wheat, and rice.

Some examples. U.S. rice exports will grow 10- to 15-fold as a result of the agreement; U.S. exports of corn to Peru will likely double. The Pork Producers Council predicts the agreement will increase hog prices by 83 cents per head. According to the American Farm Bureau Federation, the total increase in U.S. farm exports from the agreement could exceed $700 million annually.

The agreement will boost exports of U.S. manufacturers as well. The International Trade Commission estimates U.S. exporters of machinery, chemicals, rubber, and plastic products will be among the biggest beneficiaries.

The agreement will benefit U.S. service providers, as Peru is committing under this agreement to go even beyond the World Trade Organization obligations. This agreement is also significant in that it will lock in recent economic reform in Peru.

In doing so, it will help to bring economic and political stability to Peru, a situation that ought to benefit not only the United States, but the Western Hemisphere.

Latin America, as we all know, is currently at the crossroads. Some countries in the region, particularly Venezuela, Bolivia, and Ecuador, are seeking to further centralize their economies, and at the same time to distance themselves from the United States.

But other countries in Latin America, Peru among them, are doing just the opposite. They are committed to market liberalization and to strengthening economic ties with our country.

The Peruvian Congress, by passing implementing legislation for this agreement this very week—in fact, I believe yesterday, by a vote of 79 to 14—clearly demonstrated its commitment to building economic relations with our country.

By implementing this agreement, the U.S. Congress will show that it is committed to helping build economic and political stability in Peru, and by extension, in the rest of Latin America. At the same time, by approving this agreement the U.S. Congress will provide substantial economic benefits to U.S. farmers, manufacturers, and service providers.

So, now I ask Senator Baucus to give his statement, and then we will go to the witnesses.

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

Senator BAUCUS. Thank you, Mr. Chairman.

I also, as you stated, appreciate witnesses coming, some of them from very great distances. A fellow Montanan, Jon Stoner, head of the Montana Grain Growers Association, has flown here. It is not easy to come from Montana to Washington, DC, and I very much appreciate Jon's attendance here.

I also want to welcome Mr. Eissenstat. We are used to seeing Mr. Eissenstat here, advising us in our Tuesday meetings.

The CHAIRMAN. Not long ago.

Senator BAUCUS. Not long ago. And we deeply appreciate having you with us, Mr. Eissenstat, in your new role. We appreciate your contribution to public service.

Today the Finance Committee convenes to examine the U.S.-Peru Trade Promotion Agreement. On agriculture in particular, the agreement appears to be a big win for Montana, and U.S. farmers and ranchers. I appreciate USTR's hard work.

Approximately two-thirds of current U.S. agricultural exports, including wheat and high-quality beef, will receive immediate duty-free access to Peru's market.

Under the agreement, Peru will reduce its tariffs on wheat from 17 percent to 0. Peru will eliminate its non-science based restrictions on all types of U.S. beef—boneless, bone-in, and offals. Under the agreement, Peru will address sugar in an appropriately sensitive manner.

The agreement also has other potentially good provisions. U.S. exports of industrial goods, such as medical and scientific equipment, will get immediate duty-free access. U.S. providers of distribution, securities, express delivery, and computer services will have better than WTO access to Peru's market.

U.S. innovators will benefit from better protection and enforcement of intellectual property rights, and concerns regarding compliance with Peru's environmental laws will be heard by an independent international secretariat.

I commend USTR for working so hard with me on this issue, and I commend Peru for going the extra mile to reach many good provisions in this agreement. In other words, the agreement holds promise. But we are not yet ready to realize this promise. Concerns, both substantive and political, stand in the way.

First, Peru promised to open its market to U.S. beef, not just boneless beef from cattle under 30 months, but all beef. Peru, however, seems to be backtracking. For instance, Peru continues to ban bone-in beef. Neither I, nor Montana's ranchers, will be satisfied with half measures. We expect Peru to live up to its commitments on beef now.

Second, some major U.S. investors in Peru are subject to what appear to be specious attempts to criminalize commercial disputes. It will be very hard to build political support for this agreement if it looks like current U.S. investors are not receiving fair treatment.

Third, serious labor issues have been raised, and they must be addressed. I strongly encourage the administration to work closely with the Peruvian government and Congress to resolve these questions now, because until then I cannot imagine how congressional consideration of this agreement can proceed smoothly.

Fourth, this agreement comes to Congress in a very difficult time on international trade. Trust in the administration's trade agenda is bottoming out. As yesterday's mark-up on the Oman agreement underscored, the frustration that has been building over the past few years is boiling over.

Some staunchly pro-trade members of this committee are starting to conclude that the current model of trade promotion authority does not allow them meaningful input into shaping trade policy.

The administration must begin to appreciate that this committee does not view consultations, hearings, and mark-ups as mere exercises in checking a box. They are opportunities for members of this committee to air their legitimate concerns, and they need to be opportunities to have those concerns addressed—not just listened to, but addressed.

I look forward to continuing the debate on these matters as the expiration of trade promotion authority approaches mid-next year. Also, I am watching how the administration proceeds on agreements between now and then which may well determine whether it gets renewed at all, that is, TPA.

For the good of the people of Montana, for the good of the people in America, we need to try to make this process work. It is very important.

I look forward to working with—we all say this phrase near the end of all statements—the administration, with you, Mr. Chairman, and with everyone. It is kind of trite, but it is true, that only by working together are we going to, in a meaningful way, get these issues resolved. I thank you, Mr. Chairman and Mr. Eissenstat, for all that you are doing.

The CHAIRMAN. Yes. Before we go to our first witness here, because he is with the U.S. Trade Representative's Office, and since we had a discussion about this very issue that you ended on, I might ask you to take a message back to Ambassador Schwab, and it would be along this line.

Maybe I as Chairman, or maybe all of us as members of this committee, have been somewhat derelict in not asking for more briefings prior to these agreements being signed so that we would have this dialogue, so that maybe these post-signing agreements, when they come up here for the mark-up and we offer amendments, and they are not given the consideration that maybe some members think they should have been given, and mostly because they have not been accepted by the administration, I made the point yesterday that, really, before the signing, the consultation is really valuable and that we ought to have more such consultation.

Now, I said to some extent we in this committee have to assume some responsibility for that, because I think you folks in that agency would come up here whenever we ask you to.

But I might ask you to consider this, and that is that maybe you think from your end, some initiatives from your end as well as initiatives from this end, of how we could have dialogue prior to signings, prior to mock mark-up, because at that point the law does not allow the changing of the agreement, in the sense that you have to do what this committee says.

I assume that you are going to want to do what this committee says before you sign something, because otherwise then the process really does not amount to anything. It ought to, and it has in the past, and it can in the future. So that is something maybe you can consider within your agency. I hope that is in the spirit that you meant it.

Additionally, I would like to do what I can to make the pre-mock-up type consultations we have, and we have them periodically, but maybe not often enough.

Now, as Senator Baucus has said, we have Mr. Eissenstat before us. We all know him well. You folks in the audience, I suppose some of you know him well, but he was a very outstanding staff person for the Committee on Finance, specializing in trade.

Before that, he worked in the House of Representatives for a long period of time on issues of trade. So he goes to his present position as Assistant U.S. Trade Representative for the Americas well prepared to do work for the executive branch of the government. So, we welcome you and would entertain your testimony at this time.

STATEMENT OF EVERETT EISSENSTAT, ASSISTANT U.S. TRADE REPRESENTATIVE FOR THE AMERICAS, OFFICE OF THE U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Mr. EISSENSTAT. Thank you, Senator Grassley, Ranking Member Baucus, and members of the committee. Let me, first, say that it is indeed a real honor for me to be here before you today, and I very much appreciate the opportunity to discuss the economic and political benefits of the free trade agreement with Peru.

The U.S.-Peru Trade Promotion Agreement marks the beginning of a new chapter in our commercial partnership with Peru. The agreement sets out fair and reciprocal rules which will promote economic growth and prosperity in both countries. It eliminates unfair barriers to U.S. exporters, opening a market of 28 million consumers to U.S. manufacturers, farmers, ranchers, and service providers.

In exchange, the agreement makes permanent the trade benefits Congress first authorized for Peru in 1991 under the Andean Trade Preference Act. By helping to create favorable conditions and incentives, the agreement will aid in creating real growth, characterized by more jobs and investment in Peru.

Most importantly, this agreement will support and enhance the democratic and economic reforms undertaken by Peru's leaders in recent years.

Please allow me to put this agreement in context. In 1991, the U.S. Congress, with strong bipartisan support, voted to authorize duty-free benefits to Peru through the Andean Trade Preference Act, or ATPA.

ATPA was designed to help expand economic opportunities and encourage our Andean neighbors to move away from the production, processing, and shipment of illegal drugs and toward legitimate products. Peru has benefitted significantly from the program, steadily increasing its exports to the United States since 1993.

In 2002, two events occurred which helped lay the economic and political foundation for the agreement. First, Congress enacted the Andean Trade Promotion and Drug Eradication Act, which renewed trade preferences under the ATPA.

Second, Peru's President, Alejandro Toledo, instituted a series of political and economic reforms which have helped lift many Peruvians out of poverty, and have solidified Peru's democratic institutions.

The entire region took note when the people of Peru recently reaffirmed their support for these positive reforms by electing a president who is committed to continuing the pursuit of democracy and free market principles.

The results have been impressive. Since 2003, Peru's GDP has grown at an annual rate of 5 percent, and this economic expansion has reached all levels of society. Yesterday, the Peruvian Congress approved the U.S.-Peru Trade Promotion Agreement by a wide margin of support, by a vote of 79 to 14.

Meanwhile, our trade preference program with Peru will expire at the end of this year. To ensure that these positive trends I have outlined continue, the time for us to act on this important agreement is now.

The political and economic benefits of this agreement are significant. For the United States, the agreement makes trade between us a two-way street. Today, 98 percent of our imports from Peru enter the United States duty-free under unilateral preference programs. Meanwhile, less than 2 percent of our U.S. agricultural exports and 4 percent of U.S. industrial exports can enter Peru duty-free.

The agreement makes our trade relationship more reciprocal and more equitable. On day one of the agreement, 80 percent of our industrial products will be able to enter Peru duty-free. Duties on the remaining industrial products will be phased out over 10 years.

This will mean significant new opportunities for American manufacturers of technology products, mining, agriculture and construction equipment, medical and scientific equipment, auto parts, paper products, and chemicals. Peru also agreed to join the Information Technology Agreement, which is considered the gold standard of liberalization in high-tech products.

In agriculture, we see a similar story. While Peruvian agricultural exports face few, if any, duties when they enter the United States, U.S. agricultural exports face Peruvian tariffs as high as 25 percent on most products.

Under Peru's current WTO commitments, these tariffs can legally be set as high as 30 to 68 percent. Additionally, Peru applies variable tariffs based on price bands on more than 40 products, including corn, rice, dairy, and sugar.

The agreement eliminates the disparity that currently exists between the United States and Peru. It lowers tariffs, turning our one-way preference program into a trade partnership and ensures that our exporters will not face higher tariffs in the future.

On day one of the agreement, almost 90 percent of our current agricultural trade with Peru will enter the Peruvian market duty-free. In addition, Peru will immediately eliminate its price band system on trade with the United States. Tariffs on other agricultural products will be eliminated gradually, most within 5 to 15 years; within 17 years, all of our agricultural exports will be duty-free.

In addition, the agreement will enable U.S. exporters to compete more favorably with those exports from other countries which already enjoy preferential access to the Peruvian market.

Over the past several years, Peru has entered into preferential trade agreements with many of our strongest competitors in the region, including Brazil, Argentina, and Chile.

The agreement affords U.S. exporters preferential treatment that will position them favorably vis-à-vis these competitor countries. It also gives U.S. exporters a competitive edge over countries such as China, which are gaining market presence in Peru.

Here are a few examples of how the agreement will help boost our agricultural exports to Peru. U.S. beef and beef products currently face applied tariffs, ranging from 0 to 20 percent in Peru.

Under the agreement, tariffs on the most important products for the U.S. beef industry, high-quality beef, will drop to zero immediately upon entering into force. This will enable our beef industry to compete on equal or better terms with beef products from Argentina and Brazil.

Tariffs on most pork products, currently set as high as 25 percent, will be eliminated immediately or within 5 years. This will position the U.S. pork industry on an equal or more favorable basis with pork products from Chile.

The U.S. poultry industry is another clear winner. The agreement provides an immediate 1,200-ton tariff rate quota at zero duty for chicken leg quarters, and the quota will grow at an annual compound rate of 8 percent.

Other U.S. agricultural exports, such as wheat, cotton, fruits, tree nuts, vegetables, and vegetable products are all expected to increase significantly, as the agreement will immediately eliminate Peru's tariffs on these products, which range from 12 to 25 percent. In sum, this agreement will substantially benefit U.S. agriculture.

The agreement benefits U.S. exports by going beyond tariff reductions. It eliminates non-tariff barriers that currently limit U.S. products and services from competing in Peru's market.

Under the agreement, Peru will become the first Andean country to lift its import restrictions on remanufactured goods. The agreement also establishes state-of-the-art customs procedures to expedite the movement of goods between our markets.

It also provides new opportunities for U.S. companies in Peru across a wide range of services sectors, such as telecommunications, banking, insurance, audiovisual services, and express delivery, just to name a few.

The agreement provides comprehensive and strong protection for U.S. intellectual property interests, including copyright protection for the digital age, as well as patents, trademarks, and proprietary data protections.

Strong anti-corruption procedures are included, as well as provisions on transparency. Finally, the agreement establishes a secure, predictable legal framework for U.S. investors in Peru.

I want to briefly address two issues that I know are of particular concern to many members of the Congress: labor and the environment. Peru has undertaken significant labor reforms in the past several years and is committed to undertaking additional reforms in an effort to address the concerns the U.S. has raised.

Peru has ratified all eight conventions of the International Labor Organization, and Peru's constitution guarantees freedom of association, collective bargaining, and the right to strike. In 2003, Peru enacted a major labor reform law, strengthening labor rights and responding to the ILO's observations on Peru's labor laws.

The agreement includes a variety of tools that will help to ensure that workers in Peru benefit from these reforms. First, the agreement will require Peru to effectively enforce its labor laws. Should Peru fail to do so, the United States can invoke the agreement's consultation proceedings and dispute settlement, if needed.

The agreement also calls for Peru to provide fair, equitable, and transparent domestic legal procedures through which persons can seek enforcement of Peru's laws, creates a labor cooperation and capacity building mechanism, and establishes a Labor Affairs Council to oversee implementation of, and review progress under, the Labor Chapter.

The environment chapter also includes specific obligations in the core text of the agreement. Specifically, each party must effectively enforce its domestic environmental laws, and this obligation is subject to dispute settlement.

The agreement calls on parties to establish an independent secretariat to review and consider public submissions on environmental enforcement matters in Peru. An Environmental Affairs Council, comprised of senior-level officials with environmental responsibilities, will review how the agreement's provisions are implemented.

Finally, in parallel with the agreement, the United States and Peru concluded an environmental cooperation agreement that will promote joint cooperative efforts to protect the environment.

Mr. Chairman and members of this committee, the agreement with Peru enables us to turn our unilateral preference program into a trade partnership, level the playing field for U.S. exporters with respect to our competitors in Peru's market, help lock in domestic political and economic reforms in Peru, and enhance protection for workers and the environment in that country.

Let me conclude where we began. Peru is a country heading in the right direction. Peru's leaders and its people are making the right choices. Just a few weeks ago, the people of Peru elected a new president, with a strong mandate to promote free market principles and continue efforts towards a stronger democracy.

Today it is our turn to choose. We need to seize this opportunity to advance our partnership with Peru and help promote economic growth, prosperity, and political stability in Peru, and throughout the Andean region.

I hope that, after examining this agreement, the members of the committee and the U.S. Congress will conclude that it is strongly in our National interests.

I look forward to working with you, Mr. Chairman, Ranking Member Baucus, and all the members of this committee to achieve strong bipartisan support for this agreement. Again, thank you for the opportunity to testify.

The CHAIRMAN. Thank you very much.

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

The CHAIRMAN. We will have 5-minute rounds for questioning, if you have any questions for the administration.

I want to ask, Peru is moving very swiftly to implement the free trade agreement with the United States. Two of its neighbors, Ecuador and Bolivia, I believe I can say, have walked away from the free trade negotiations with the United States.

Why is the country of Peru, in your judgment, taking such a different economic path than two of its neighbors? And before you answer, let me make this point. I will bet, before the end of the year, Ecuador and Bolivia are going to be up here whining to us, why we do not reinstitute the Andean Trade Preference Act. There is an opportunity to work these things out in a free trade environment as Peru is, and they are not taking advantage of it. I am not very comfortable extending preferences to countries when they have an opportunity to work out these agreements.

So, I think these two countries had better look at this process working its way out if they want to do it, because I am not going to be very open to reauthorizing the Andean Trade Preference Act when they have this sort of environment of ignoring a real opportunity to make real breakthroughs, not only for their countries, but for our country as well.

Go ahead.

Mr. EISSENSTAT. Thank you, Senator Grassley. I think that is a very good point, and it is one that we are trying to emphasize as we move forward with the Peru agreement.

Countries in the region are making choices. They are trying to decide which economic models they would like to pursue and how they would like to embrace democratic institutions.

As I indicated in my opening testimony, the people of Peru have chosen a path towards open markets and democracy. I think it is important for us to embrace those countries in the region that are pursuing these reforms.

Other countries in the region are looking at alternative models. We continue to discuss the benefits of pro-market economics for these economies. I think their experience under the ATPA demonstrates what trade can mean for an economy and how it can help lift people out of poverty and expand economic opportunities.

But we cannot dictate what those countries do, and they do need to make choices. The Peruvian people have made a very solid choice in favor of open markets. We would like to help them solidify this choice. We would like to work with them to expand our trade partnership.

Significantly, in doing so the agreement will help us benefit our own exporters. So, it truly is a win-win opportunity that I hope we will be able to embrace as we move forward with this agreement.

The CHAIRMAN. I understand that Peru will remove its agricultural price bands if the agreement is implemented. How will their removal impact U.S. agricultural exports?

Mr. EISSENSTAT. Well, as you know, Senator, the price bands are a variable tariff that is applied on imports into Peru depending upon external market conditions. Because the price bands are variable, it is very difficult for our industry to be able to predict at any particular point what their import tariff will be in Peru, so it creates a lot of uncertainty in the market.

One of the outstanding features of this agreement is that it will eliminate the price bands on our exports. What this will mean is, not only will we get transparent systems so we know what the tariff will be on any given day, but we will also get a hard zero on a lot of our exports to Peru.

This means that the market of 28 million people will be open to our exporters, should they desire to export to that country, under a preferential duty rate, which should substantially benefit industries such as beef, pork, wheat, corn—many of them have already been noted today—as well as a lot of our manufacturers and service providers. So, it is a very substantive point, and it is one that is going to make a big difference for a lot of exporters.

The CHAIRMAN. On another point, we have heard an awful lot that the Peruvian people do not support the free trade agreement that we have before us. I have had an opportunity to talk with President Toledo on the phone last week and again maybe 6 months ago over dinner, and more recently to talk with Prime Minister Kuzinsky, who obviously strongly back this agreement.

These folks, I believe, 6 years ago, maybe 4 years ago, whenever it was, were democratically elected. We have the Congress passing the free trade agreement just this week, and its members are democratically elected. Why do some people say that the Peruvian people might not back this agreement?

Mr. EISSENSTAT. Well, that is an excellent question. I think it points to a couple of different factors. One is, during the campaign, President Toledo, actually, under their campaign laws, could not have advocated in favor of this agreement.

So while some of the candidates were out there arguing that the trade agreement would be bad for Peru, the administration was somewhat constrained in what they could say about the agreement.

But I think, regardless of that, there has been a demonstration by the people of Peru that they do support the model demonstrated by the Peru Trade Promotion Agreement. The first indication is the election of their new president, Alan Garcia, who has committed to the process of democracy and open markets versus an alternative model being propounded by others.

In addition, recent polls show that 68 percent of the people in Peru support the agreement. The vote in the Congress is very indicative, 79 to 14, overwhelming support in the Peruvian Congress for the agreement.

So I think, despite how this may be portrayed by some, I think the support in Peru is quite strong for this agreement, and I know they are looking forward to us being able to implement it soon so they can take advantage of the benefits of the agreement for themselves as well.

The CHAIRMAN. Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Eissenstat, you are clearly aware of the little kerfuffle at this committee yesterday on Oman. What can you tell us about that? Will the administration respect the amendments that this committee passes?

Mr. EISSENSTAT. Well, Senator, I cannot speak to the specific amendment. I heard your point very, very clearly this morning, and Senator Grassley's position. I really believe that the consultations are key to trade promotion authority.

I know that Ambassador Schwab and myself want to consult with you and the members of this committee. As Senator Grassley indicated during one portion of his opening statement, the best time period for us to consult is now as we move through this agreement.

We have had a number of consultations with committee staff, some more formal than others. We have had some meetings and teleconferences as we have proceeded through negotiating the agreement.

I would be delighted to meet with you or a member of your staff at any time to go through this process and to address your concerns and try to build the kind of bipartisan support I think every member of the committee and the administration wants to have.

Senator BAUCUS. I appreciate that, and that is a good suggestion. But sometimes a member of this committee might offer an amendment and it might be approved unanimously, which happened. I am asking, will the administration, in the future, continue to stiff-arm this committee?

Mr. EISSENSTAT. Well, I cannot predict the outcome on a particular amendment; we do not know what it will be, we do not know what the situation will be. But I can pledge to you that we will work to address your concerns, and, should an amendment arise, we will work with this committee to try to address those concerns.

There are some constraints under trade promotion authority on what can be put into an implementing bill. There are also some other entities, such as the House——

Senator BAUCUS. But the amendment on Oman, that was permissible, was it not?

Mr. EISSENSTAT. As you know, Senator, I work primarily on Latin American issues. I have followed the Oman process and I was aware of the amendment. I have not actually seen the amendment, as I was working on——

Senator BAUCUS. But you are not telling this committee that it was inappropriate?

Mr. EISSENSTAT. Well, I have seen recent correspondence——

Senator BAUCUS. Are you?

Mr. EISSENSTAT. No, no. I do not think it was inappropriate. I think it is quite appropriate for the committee to offer any amendment.

Senator BAUCUS. But, I mean, that would be appropriate within the context of the agreement.

Mr. EISSENSTAT. There is, as you know, a requirement for "necessary and appropriate." I think what falls within that parameter is fact-dependent. I know there was a letter sent to the committee—I have not read the letter from our general counsel—that they did not believe that the amendment was necessary or appropriate in this context.

Senator BAUCUS. Which branch of government sets trade policy?

Mr. EISSENSTAT. The Congress, sir.

Senator BAUCUS. I strongly encourage you to remember that in most everything you do. Just keep that in the back of your mind.

Mr. EISSENSTAT. Yes, sir.

Senator BAUCUS. All right.

Mr. EISSENSTAT. Thank you.

Senator BAUCUS. The next question. I have one more.

The CHAIRMAN. Just to emphasize what he said, and I will give you additional time.

Senator BAUCUS. Sure.

The CHAIRMAN. Obviously, we still have to have a mock-up on this Peru agreement

Senator BAUCUS. Right.

The CHAIRMAN. But when you talk about more consultation, we have South Korea, we have Egypt, we have six or seven countries we have bilateral agreements going on with. I think it is fruitful to think of this conversation in regard to not making these mistakes again, not just on the amending process, but what can we do before we consider a mock mark-up to make sure that amendments are not necessary.

Senator BAUCUS. Thank you, Mr. Chairman. Thank you very much. I think we are making progress. But as we all know, the proof is in the pudding, and we are hopeful.

Mr. Eissenstat, I would like to talk to you a little bit about the beef provisions in this agreement. According to an exchange of letters between Peru and the United States on the FTA, Peru agreed to allow imports of all beef products in line with international standards, as of May 31 of this year.

I understand, however, Peru is attempting to back out of its commitments regarding U.S. beef, which I find particularly disturbing, because all of our FTA partners, I think, should abide by international standards and accept U.S. beef.

Can you tell me exactly, what U.S. imported beef products are now being accepted in Peru today and which are not, and why?

Mr. EISSENSTAT. Well, Senator, I appreciate you bringing up this issue. This is something we have been in deep discussions with Peru about and we want to ensure, and will work to ensure, that they do meet their commitments under the letter.

As of today, it is my understanding they are importing boneless beef from the United States. It is an improvement over past trade, but we expect the commitments of the letter to be fulfilled.

Senator BAUCUS. Which means bone-in as well as offals.

Mr. EISSENSTAT. I think the letter discusses an OIE-consistent standard, and that is something that we expect them to achieve at the end of the day.

Senator BAUCUS. Do you consider an exchange of letters to be an integral part of the agreement or outside the agreement?

Mr. EISSENSTAT. Senator, like all the sanitary and phytosanitary (or SPS) issues, the letters themselves are not part of the agreement, they are done in tandem with the agreement. It is something that we value very highly, and we expect the SPS to be based on sound science so we can get the exports into the markets.

Senator BAUCUS. But do you consider those letters to be an integral part of the agreement?

Mr. EISSENSTAT. The letters are part of the broader negotiations, but they are not actually an integral part of the agreement itself.

Senator BAUCUS. And what is the operative effect of what you just said?

Mr. EISSENSTAT. The operative effect is that that provision would not be subject to dispute settlement under the terms of the agreement.

Senator BAUCUS. But it is part of the agreement. That is, those letters are right alongside of the agreement. That is what we would be voting on.

Mr. EISSENSTAT. I think in this context, when the Congress considers it, I fully expect, as you have raised today, that these letters and the commitments under them would be part of the consideration.

Senator BAUCUS. That is very important before we vote. It is important that the letters be honored——

Mr. EISSENSTAT. Yes, sir.

Senator BAUCUS [continuing]. And that Peru accept all beef. Frankly, I think it is also beef—I may be wrong on this next point—over 20 months of age.

Mr. EISSENSTAT. Right.

Senator BAUCUS. Is that true, over 20 months?

Mr. EISSENSTAT. There is a cut-off of 30 months. I think your understanding is, you are talking about some standards under the OIE code. I am not an SPS expert, but I think the commitments are broad that have been made, and we expect them to meet those commitments.

Senator BAUCUS. I stand corrected. My staff tells me it is over 30. That is the agreement.

Mr. EISSENSTAT. Well, Senator, we will work with you. As I mentioned, we do expect these commitments to be fulfilled, and we will work with you to make sure that that is done.

Senator BAUCUS. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes. Now, the next order would be: Thomas, Bunning, Bingaman, and Crapo.

Senator Thomas?

Senator THOMAS. Thank you, Mr. Chairman.

Mr. Eissenstat, nice to have you here.

Mr. EISSENSTAT. Thank you, Senator.

Senator THOMAS. Thank you very much.

First of all, let me just say that we have heard a lot the last couple of days about input into these agreements, and a lot of complaining. I wanted to tell you that, in the last year or so, I have had more opportunity to have input through the Ambassador to Trade than we have ever had before, and we are continuing to have that chance. I notice there is hardly anybody here today.

I think if you want to have input, you have to come to these hearings and participate. Also, when people come up here to share the ideas, that's when input is needed. You cannot do it after the trade agreements are already made and then decide you are going to change everything. So, I hope we can participate a little more fully.

Senator BAUCUS. I am just curious. Why are you looking at me when you say that? [Laughter.]

Senator THOMAS. I do not know. It seems like I heard something about that from your side. [Laughter.]

Senator BAUCUS. Thank you.

Senator THOMAS. Just in general, tell me the size of the U.S. exports to Peru as opposed to our imports, just in dollars.

Mr. EISSENSTAT. I do not actually have that memorized. I can tell you now, the disparity between our imports and exports is fairly large. I think the total trade now is $7.5 billion. If I were just approximating, if my memory serves me right—and I can check these numbers for you—we currently have a deficit with Peru in our trade.

Senator THOMAS. Yes.

Mr. EISSENSTAT. One of the things that the International Trade Commission study shows is that this agreement, should it be approved by the Congress, will reduce that deficit. It is going to eliminate a lot of tariffs on our products and help us expand opportunities in that market.

So the current balance is growing. It is a good market for a lot of our exporters. It can be a better market. I think that a lot of the tariff and non-tariff barriers that will be removed under this agreement are going to provide significant opportunities for U.S. exporters that choose to do business there.

Senator THOMAS. Peru is a relatively small country in terms of world trade. Compared to Japan, for example, do you have any idea of the size of our exports to these countries? I would just like to get some feeling about where this fits into the overall look of things.

Mr. EISSENSTAT. Yes, sir. I have some statistics here. Our total goods trade with Peru is $5.8 billion. U.S. agricultural exports were $301 million in 2004. This, compared to a market like Japan, is not huge for us, but it is an important market.

It is a market where competitors in the region currently have preferential treatment over us. And while it may not be a market as large as something like Japan, it is a market that is willing to embrace openness to us and have a trade partnership, and the agreement will help us seize that opportunity.

I will provide for you and your staff a specific breakdown of that.

Senator THOMAS. I guess it seems to me, coming up with something here in fairness—and fair trade is what I really wish we would talk about instead of free trade—might help set the priorities with other countries in South America.

We are going to have to deal with larger markets, such as Brazil, and so on. I would guess, if we could get some fairness here, that might set some precedents, would you not think, in that region of the world.

Mr. EISSENSTAT. That is an excellent point. It is one of the reasons that we engage with these economies and these governments that seek to expand these opportunities and these precedents in Peru that will enable and will set standards that we expect, and I would think the Congress would expect, to be met in other markets, such as Colombia, Brazil, and Argentina if an opportunity should present itself to negotiate with those countries.

Senator THOMAS. Well, I appreciate that. I think as we do this, particularly with smaller countries where we have a considerable amount of leverage, why, we ought to set some precedents that we would like to see so we have fairness around the world in the kinds of marketing arrangements that we make. So, I appreciate what you are doing here, and thank you.

Mr. EISSENSTAT. Thank you, Senator.

Senator THOMAS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Bunning?

Senator BUNNING. Thank you, Mr. Chairman. First of all, I would like my opening statement to be put into the record.

The CHAIRMAN. Yes. And everybody's statement will be put in.

Senator BUNNING. Since you did not open up that way, I want to make sure that we get it in.

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

Senator BUNNING. Mr. Eissenstat, there have been allegations over the years from American companies about arbitrary and inappropriate taxation by Peruvian taxing authorities.

As you know, a House International Relations Subcommittee held hearings on this issue in 2004. As the subcommittee examines situations involving Doe Run Corporation, Duke Energy, the Englehart Corporation, and several other companies, the chairman expressed his belief that Peru's tax agents saw American companies "as money trees."

If this trade agreement is approved, it is expected that investment in Peru by American companies will increase. I need assurances that our companies will not be seen as an easy source of money.

Do we have evidence that the attitude of Peru's taxing authorities toward American companies has improved?

Mr. EISSENSTAT. Thank you, Senator Bunning. We have had significant investment disputes with Peru over a very, very long period of time, and we have raised those with them in many different forums. I think that one of the things that the trade agreements enable us to do is engage on a more in-depth and deeper level in these discussions. I think, as part of that, we have made——

Senator BUNNING. Well, are they in the agreement? That is my question.

Mr. EISSENSTAT. Yes. That is a great question, and I was going to get to that. Let me get to that, first. What the agreement attempts to do on investment is make our investors in Peru get the same type of protections that a Peruvian investor would get in the United States, and in that sense get a level playing field so there will not be arbitrary decisions against our investors in Peru.

It does that through a number of mechanisms, both procedural and substantive, including transparency provisions, anti-corruption provisions, the ability to go to investor state arbitration in the event there is a dispute, so it does provide significant new guarantees that are not present, should this agreement not be followed.

Senator BUNNING. In other words, you are telling me that if this agreement is approved, American companies will have recourse if taxation is inappropriately applied by the Peru government? We will have the same level field that we would have as though they were in the United States?

Mr. EISSENSTAT. That is the idea, and that is what we are trying to get, Senator.

Senator BUNNING. No, not the idea. That will not get it. It has to be in writing, and approved in writing. I do not want any side agreements. I want it in the agreement.

Mr. EISSENSTAT. Yes, Senator. It is in the agreement. There is a very extensive investment chapter. It does include procedural and substantive guarantees for investors in Peru across the board, and this will enable companies that have had disputes, similar to those in the past, to go to investor state arbitration.

Should they be treated in an unfair manner, in a discriminatory manner by the government, should they have their property expropriated without compensation, they will have remedies. That is one of the major benefits of this agreement.

Senator BUNNING. At the same subcommittee hearing, there was a discussion about transparency and the rule of law in the court system in Peru. Again, there have been numerous complaints about the treatment of international investors by the Peruvian court system.

Without due process and fair treatment by the court system, it is difficult for any businessman to feel comfortable investing in Peru. Obviously, this affects not only American investors, but all investors, including the Peruvian investors themselves.

Assistant USTR Vargo, one of your predecessors, told the House subcommittee back in October of 2004 that the administration and members of Congress need to have confidence that the rule of law is respected by our respective FTA partners.

Is that factual in this agreement?

Mr. EISSENSTAT. Yes. The rule of law is very important and should be respected by our FTA partners. In selecting partners, we look to those governments that are embracing the transparency/openness/democratic principles.

Senator BUNNING. As recently as this morning, we talked with General Electric, and they have a real problem right now with Peru.

Mr. EISSENSTAT. Yes, sir.

Senator BUNNING. Is this going to be solvable under this agreement?

Mr. EISSENSTAT. The agreement will not address this particular issue with GE. We have raised this issue with the Peruvian government. In fact, it was raised at a very senior level just 2 days ago. I understand that it is close to resolution, and we are going to continue to seek resolution of this in a fair manner.

Senator BUNNING. Then why is it not being included in this agreement if you expect us to approve it?

Mr. EISSENSTAT. Well, the agreement is a prospective agreement. It addresses problems that may arise in the future. It cannot necessarily reach back to a dispute that has happened in the past.

Senator BUNNING. In other words, if some company is getting the royal you-know-what right now in Peru, this current agreement will not help them.

Mr. EISSENSTAT. Well, it certainly will not help investors if we do not get the agreement going forward. In the GE case——

Senator BUNNING. You did not answer my question.

Mr. EISSENSTAT. In the case of GE, it is a criminal proceeding. We understand that the charges have been dismissed, but it has gone back to the lower courts. The judge that was on the case has been taken off, and we expect that, at the end of the day, the criminal charges will be dismissed under the agreement.

Senator BUNNING. Mr. Chairman, my time has expired, but I would like another round, if we are going to have another one. Thank you.

The CHAIRMAN. The issue you just ended with, I did have a conversation with the President of Peru on that. I want to talk to my staff as to what extent I can speak publicly about that specific issue, since it is in the courts. But I just wanted you to know, I did have that conversation.

Senator BAUCUS. If I might add to that, speaking with the Prime Minister myself yesterday, I raised the same issue.

Senator BUNNING. Well, I got the call from GE.

Senator BAUCUS. Yes, I know. Right. Correct. Which is more important. But anyway, he gave me assurances that he thought that that was going to be resolved in time.

Senator BUNNING. Good.

Senator BAUCUS. That is what he said.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Bingaman?

Senator BINGAMAN. Thank you very much.

Thanks for being here. One of the issues that you addressed in your testimony is the labor standards, and this is an issue that we—quite a few of us here in the Congress, and members of this committee—have addressed with regard to this agreement over some period of time. I think you are well aware of that.

I met with President Toledo also, I think, last year. My initial question to him was, why will you not, as President of Peru, agree to labor standards, the ILO standards, and agree to some system for monitoring those? He said, oh, we do agree to it. We have no problem. We are glad to have it in the agreement. He said, it is your own administration that refuses to allow it to be in the agreement.

We wrote a letter, a bunch of us in Congress to Ambassador Portman on April 6, expressing our strong belief that we needed to have something in this agreement on these ILO standards. Then 6 days later, the agreement was signed without anything being included.

So I am sort of hard-pressed to know how we influence that process. Do you have any plan for ILO monitoring of these commitments? I mean, this is something the Peruvians are willing to do. Everyone seems willing to do it, except the administration.

Mr. EISSENSTAT. Well, Senator Bingaman, thank you for raising this issue. We have been able to work successfully with your office on a number of issues, including in the CAFTA context, to ensure that the labor provisions in the agreement are fulfilled. I would be very happy to do that in this context, as well.

We can discuss those types of procedures. There are basically three parts to this labor discussion with Peru. One is the agreement itself. The second would be trying to ensure that Peru's labor laws are consistent with ILO standards.

I think President Toledo, as he indicated to you, feels that their labor laws are very consistent with ILO labor standards. And where they had seen concerns from the ILO, they had undertaken significant reform as recently as 2003.

If there are areas that are inconsistent, then we would like to work with the government of Peru to ensure, at the end of the day, that their laws are ILO-consistent.

Senator BINGAMAN. I do not think it is a question of their laws being consistent. I think it is a question of enforcement of their laws and monitoring the enforcement of their laws.

I had hoped that we could include in this agreement some provision that essentially committed them, not just to enforce their own laws, but actually had some mechanism for monitoring enforcement that would have some credibility.

Mr. EISSENSTAT. Well, that is a great point, and it goes to the third part of this, which is the follow-up, the capacity building and the cooperative activities. I think in that context the specifics, making sure that they are carried through, is something we can work on with the government of Peru going forward.

Senator BINGAMAN. So you anticipate some capacity-building program to assist the government of Peru in carrying out these obligations?

Mr. EISSENSTAT. I think that is quite possible, Senator. I think that is something that we would look at, and we would value your input into this process. I know that one of the unique things about the Peruvian government is they are deeply committed to strong labor practices in their country, as you probably know yourself from your discussions with President Toledo. We do have some trade capacity-building money going to Peru now. As we move the agreement forward, we will look at other avenues as well.

Senator BINGAMAN. Let me ask about another aspect of this. You make a major point in your testimony that one effect of this agreement is to eliminate—essentially eliminate—Peruvian tariffs on many agricultural products that we will be then sending into Peru in larger numbers.

It strikes me that we have a conflict between our anti-drug campaign that we are trying to promote. We are trying to encourage Peruvian farmers to quit growing coca and diversify into other crops.

At the same time, we are trying to persuade them all—we just persuaded them—to sign an agreement with us to allow us to ship all kinds of agricultural products in, vegetables, wheat, corn, everything else, which are going to undercut the ability of their farmers to remain competitive and to remain in those other commodities.

Do you really think that this makes good sense, from our perspective? I mean, how does it help either us or the Peruvians? I can see how it helps some agricultural companies, producers, but how does it help our government, the United States, or the Peruvians for us to be dramatically increasing our agricultural exports in and undercutting their agricultural sector?

Mr. EISSENSTAT. Well, ultimately what we want to achieve is a viable, strong agricultural sector, both in the United States and Peru. There are a number of very small subsistence farmers who are living on very little money per day. It is a very hard existence. There are a lot of reasons for that.

The current situation has not pulled those people out of poverty. The ones who are benefitting are the ones who are engaged in trade and export opportunities. Those tend to be along the coast, where generally export jobs pay better. The type of products being grown enable them to bring more income in. But it is not just about how much they bring in, it is being able to get their products to market.

One of the deep problems that they have in Peru is not just what is coming in, but how do they get their products out. There are difficulties in transportation through the Andes, getting the products from the highlands to the port system.

There are difficulties in land titling, where the titles to lands are not clear, so it is difficult for them to get financing and credit. These are the kinds of things we can work on with the Peruvian government, through USAID and other programs, to try to get the appropriate titling, the transportation necessary to engage in the economy.

On the imports coming into Peru, the sensitive products are phased out over a longer period of time. Additionally, there are some provisions for safeguards for Peru as well.

So we have tried to strike a very careful balance, allowing time for them to adjust, recognizing that there are other elements that we can put into place that will help ensure that these farmers can compete and succeed in a trade agreement with the United States.

Senator BINGAMAN. Thank you, Mr. Chairman.

The CHAIRMAN. I let you go over for a little while because Senator Bunning wanted a second round. So I hope that this might be the last of the questioning, because we have to get the next panel on.

Go ahead, Senator Bunning.

Senator BUNNING. Thank you.

Discussing other commitments Peru has made to the U.S. in the trade area and where they have lived up to them, can you review the commitments made by Peru as part of the Andean Trade Preference Act and their status in fulfilling the commitments? Have they honored the commitments they made in that act?

Mr. EISSENSTAT. Senator, I actually can answer that question.

Senator BUNNING. You cannot?

Mr. EISSENSTAT. I can. Yes, sir.

Senator BUNNING. Oh, good.

Mr. EISSENSTAT. I will read through them now. It is quite a lengthy list.

Senator BUNNING. No. I do not want you to read through them. If you will make them available to me, I would appreciate that.

Mr. EISSENSTAT. Yes, sir. I would be happy to do that, Senator.

Senator BUNNING. As a result of this agreement, will Peru's Customs procedures become more transparent to U.S. exporters?

Mr. EISSENSTAT. Absolutely. This will have greater transparency and Customs cooperation provisions that currently do not exist today.

Senator BUNNING. This is very important: could you explain, briefly, the rules of origin that must be met in order to gain the benefits of the agreement for textiles and apparel exported from Peru to the United States?

Mr. EISSENSTAT. Yes, Senator.

Senator BUNNING. Because I have a lot of textiles, and I am very interested in it.

Mr. EISSENSTAT. Yes, Senator. First, let me note that this agreement is reciprocal, so all our tariffs on our textile exports are going to be eliminated. They are going to be reduced, which will give our——

Senator BUNNING. Going in?

Mr. EISSENSTAT. Going in.

Senator BUNNING. What about theirs coming into our country?

Mr. EISSENSTAT. It will lock into place current ATPA benefits. The rules of origin are a yarn-forward rule of origin, meaning that in order to qualify for duty-free treatment, the textile and apparel goods must be made from U.S. or Peruvian yarns and fabrics.

It has some other improved safeguard provisions to strengthen Customs cooperation to stop illegal shipment, illegal transshipment and circumvention, and I think this is——

Senator BUNNING. Like most of them are doing now?

Mr. EISSENSTAT. It is an area that we do need improvement in, and that is one of the reasons that we seek to do this, as you know, in our textile trade, particularly, where transshipment can be a very serious problem.

Senator BUNNING. Yes. China is killing us.

How would our industries' intellectual property rights be protected by this agreement?

Mr. EISSENSTAT. Well, it provides protections in a number of ways. Not only does it provide greater protection for patents, trademarks, and other intellectual property rights, but it also has very explicit enforcement provisions that provide for new remedies.

Senator BUNNING. Will Peru be held accountable to international standards for intellectual property rights under this agreement?

Mr. EISSENSTAT. Yes.

Senator BUNNING. All right.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Eissenstat. There may be other questions in writing, but for now, that is the end of your testimony.

Mr. EISSENSTAT. Thank you, Senator, and thank you, Ranking Member Baucus and members of the committee. I really hope that we can work to address your concerns. I hope, if there is any issue where I can be of assistance, that you will not hesitate to call me.

Thank you very much.

Senator BAUCUS. Just include our amendments. [Laughter.]

Mr. EISSENSTAT. Thank you, Senator.

The CHAIRMAN. I am going to ask Senator Baucus to introduce his constituent. Will the next panel all come at the same time to the table, please?

Thank you, Mr. Eissenstat.

I am going to ask Senator Baucus to introduce Mr. Stoner.

Senator BAUCUS. Thank you, Mr. Chairman.

It is really a privilege for me to introduce Jon Stoner from Montana. Jon is a wheat producer, and he is also president of the Montana Grain Growers Association. He farms near Havre, MT.

Havre is along what we in Montana call the Highline. It is up in northern Montana. It crosses Montana just below the Canadian border. When you drive on Highway 2 on the Highline, you really do think you are on a high line. You feel like you are on the top of the world.

Anyway, Jon is from that part of the country. In addition to all of those qualities, he is really just a good person, and it is my honor to have you here, Jon. Thanks for taking the extra time to come out here. I understand you came at the drop of a hat, and we appreciate that very much.

The CHAIRMAN. The rest of our panel consists of Ms. Joy Philippi, president of the National Pork Producers Council, from Nebraska; Mr. Leon Trammell, founder and chairman of TRAMCO, in Wichita, KS; Mr. Richard Trumka, secretary-treasurer of the AFL–CIO here in Washington, DC; and Mr. Brian O'Neill, vice managing director and vice chairman of Latin America, investment banking, J.P. Morgan, New York.

As for Senator Baucus and I, I am going to be leaving in just a few minutes because I have to go over to the House, and Senator Baucus, at 11:30, is going to have to leave to manage the Oman trade agreement on the floor. I have asked Senator Thomas to fill in for me.

So, I hope you do not think your testimony is not important because we will not all be here, but we cannot predict these conflicts. Your testimony will be given the utmost attention by us and our staffs, so we thank you for understanding why maybe we all cannot be here.

Mr. Stoner, would you proceed?

Mr. STONER. You bet.

STATEMENT OF JON STONER, PRESIDENT, MONTANA GRAIN GROWERS ASSOCIATION, HAVRE, MT

Mr. STONER. Good morning, Chairman Grassley, Senator Baucus, and members of the committee. My name is Jon Stoner, and I farm near Havre, MT, just south of the Canadian border. I raise three classes of high-quality wheat on my farm: hard red winter, dark northern spring, and durham.

I also raise barley, dried peas, and lentils. I am president of the Montana Grain Growers Association, which is a grassroots organization representing over 1,600 members in Montana.

Let me state up front that international markets and export opportunities are not an illusion for Montana producers. In 2005, the State raised nearly 200 million bushels of wheat, with 60 percent of that production exported overseas, primarily to the Pacific Rim countries.

This translates into half a billion dollars in sales for our producers. We know the opportunities that free and fair trade with our international partners can bring, and that is why we strongly support the issue before you today, the U.S.-Peru Trade Promotion Agreement.

If I may, let me highlight two points that wheat producers in the United States take into account when looking at export trade opportunities.

First, 96 percent of the world's population lives beyond our borders. The 4 percent that lives within the United States does not consume enough wheat to sustain a viable wheat industry.

Second, we consistently export over 50 percent of our total U.S. wheat production. As you can imagine, our success—or failure—hinges on our ability to export U.S. wheat around the world. Trade is a vital component for ensuring the financial viability of U.S. wheat farmers.

All trade agreements, such as this U.S.-Peru Trade Promotion Agreement, must offer a unique potential for expanding market opportunities for the American growers. The way we see it, every market, regardless of size, is an important market.

Let me point out some of the key advantages for agriculture that I see in this agreement. They reinforce why the agricultural community is uniformly supportive of this agreement: the market access. There are no products that are excluded.

Elimination of tariffs. Sixty percent of the tariff lines, representing 90 percent of the agricultural trade between the two countries, will be eliminated immediately.

Sanitary and phytosanitary measures. An SPS joint committee will be established to expedite the resolution to this issue.

Now, let us turn to the benefits that this agreement offers for the primary crops that I raise on my farm, wheat and barley, and the Montana barley and wheat producers that I represent.

In the case of wheat, according to the USDA, the United States had a 66-percent share in Peru of the wheat market in 2003–2004, and a 43-percent share in the 2004–2005 marketing year.

In 2005, U.S. wheat export sales into that market were valued at $78 million, but breathing down our necks are our competitors, Canada and Argentina. Currently, Peru's applied tariff rates for wheat are 17 percent. Under this agreement, the tariffs would go to zero immediately.

So while we already have a significant market share for wheat in Peru, I am confident this agreement will allow us to capture even more of that growing market. As a side note, I might add that Peru has a relatively low per capita consumption rate for bread, so I believe our growth potential is even greater.

Barley, the other major crop that I raise on my farm, I am even more optimistic about its potential in Peru. This country currently imports about 75,000 tons of malt and barley per year, but the sales have been dominated by Australia, Canada, Argentina, and the EU. Like wheat, the current applied tariff rate for both malt and feed barley is 17 percent. Similar to wheat, both malt and feed barley tariffs will go to zero upon signing this agreement.

Great Falls, MT recently became home to the newest and the most efficient malting facility in the United States. It utilizes 13 million bushels of barley a year.

This plant, owned by the International Malting Company, is a textbook example of a value-added agricultural enterprise ripe for new export opportunities under a U.S.-Peru Trade Promotion Agreement.

And because Canada is the major competitor in Peru, we are pleased that our negotiators secured a commitment on state trading enterprises in this TPA which commits Peru to work with the U.S. toward an agreement in the WTO negotiations, and it will basically ensure greater transparency regarding the operation and the maintenance of export trading enterprises.

We applaud our negotiators for their hard work and tenacity to reach this agreement that we believe is very beneficial to U.S. agriculture, and we strongly support the U.S.-Peru Trade Promotion Agreement and urge Congress to pass it quickly. Again, thank you, Mr. Chairman and members of the committee, for the opportunity to speak in favor of this agreement.

I especially want to thank Senator Baucus for all his work representing the great State of Montana, and his work in promoting trade is just one example of his commitment to the State and the agricultural industry.

I look forward to answering questions at the appropriate time.

Senator THOMAS. Thank you. Thank you for being on time. I appreciate that.

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

Senator THOMAS. Ms. Philippi?

STATEMENT OF JOY PHILIPPI, PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL, BRUNING, NE

Ms. PHILIPPI. Good morning, Mr. Chairman, Mr. Ranking Member, and members of the committee. I am Joy Philippi, president of the National Pork Producers Council, a pork producer from Bruning, NE.

I own and operate Pine Alley, LLC, a 2,000-head swine nursery that is networked with local producers. My parents and I are partners in our family farm operation, and we also raise 400 acres of corn and soybeans.

In 2005, U.S. pork exports set another record. Much of the growth in U.S. pork exports is directly attributable to new and expanded market access through recent trade agreements.

However, as the benefits of the Uruguay Round and the NAFTA agreement are fully realized, the negotiation of new trade agreements becomes paramount to the continued growth and profitability of U.S. pork producers.

While the WTO negotiations clearly offer the single-largest opportunity to increase exports, the bilateral and regional negotiations also offer significant opportunity. We are pleased that the U.S.-Peru Trade Promotion Agreement is now signed, and America's pork producers fully support this agreement.

The U.S.-Peru Trade Promotion Agreement, when implemented, will create important new opportunities for U.S. pork producers. U.S. pork exports to Peru currently are restricted by duties as high as 25 percent. However, PTPA, if implemented, will establish immediate tariff reductions on all pork products.

Some pork products will receive unlimited duty-free access upon implementation, tariffs on most pork items will be phased out within 5 years, and all pork tariffs will be completely phased out in 10 years.

In addition to the favorable market access provisions, significant sanitary and technical issues have already been resolved. The Peruvian government confirmed that it shall recognize the meat inspection system of the United States as equivalent to its own meat inspection system.

The aggressive market access provisions, coupled with the agreement on equivalence, make the Peru agreement a state-of-the-art agreement for pork producers to which all future FTAs will be compared.

Live hog prices are positively impacted by the introduction of new export markets. Recent price strength at U.S. pork markets is directly related to increased U.S. pork exports.

Mexico continues to be a strong and growing export market for U.S. pork. The same competitive advantage that has resulted in expanded U.S. pork exports to Mexico will also facilitate an expansion of U.S. pork exports to 28 million new consumers in Peru.

According to Iowa State economist Dermot Hayes, the Peru agreement, when fully implemented, will cause hog prices to be 83 cents higher than would otherwise have been the case. That means that for a pork producer like myself, we will see our profits expand by 7 percent.

One of the most important impacts of PTPA will be the income growth in Peru generated by this agreement. Most consumers in Peru currently are at an income level that does not allow them to consume meat on a regular basis. Prosperity created by a free trade agreement will create millions of new customers for U.S. meat and other agricultural products.

There are many other agricultural organizations in support of the Peru trade agreement. NPPC is coordinating the Agricultural Coalition for U.S.-Peru trade, consisting of 59 organizations, representing the vast majority of U.S. farmers, ranchers, food producers, and exporters.

PTPA sets a new and higher standard for future free trade pacts. More than two-thirds of current U.S. agricultural exports to Peru will immediately receive duty-free treatment upon entry into force of the agreement. The tariffs on remaining U.S. agricultural products will be reduced over time, with all tariffs eliminated within 17 years.

Currently, only 1.5 percent of U.S. food and agricultural exports to Peru enjoy duty-free access. The Peruvian Congress just ratified the U.S.-Peru Trade Promotion Agreement this week.

NPPC applauds Peru's commitment to democracy and a free market. PTPA is the most ambitious trade agreement ever negotiated for U.S. agriculture. It is imperative that the U.S. Congress approve the agreement.

On behalf of the pork industry, I thank you for the opportunity to present this statement today and will answer any questions, when it is appropriate. Thank you.

Senator THOMAS. Thank you very much.

[The prepared statement of Ms. Philippi appears in the appendix.]

Senator THOMAS. Mr. Trammell?

STATEMENT OF LEON TRAMMELL, FOUNDER AND CHAIRMAN, TRAMCO, INC., WICHITA, KS

Mr. TRAMMELL. Senator Thomas, Senator Baucus, and members of the committee, thank you for the opportunity to testify on the U.S.-Peru Trade Promotion Agreement.

I am Leon Trammell, CEO of TRAMCO, Incorporated, from Wichita, KS, the regional vice chairman of the board of directors of the U.S. Chamber of Commerce, as well as vice chair of the U.S.

Chamber's International Policy Committee. I am also a member of the U.S. Chamber's Council on Small Business, and an SME member of the Trans-Atlantic Business Dialogue.

I appear today on behalf of my company, the U.S. Chamber of Commerce, the Association of American Chambers of Commerce in Latin America, and the U.S.-Peru Trade Coalition, a broad-based group of companies, farmers, and business organizations representing all sectors of our economy.

TRAMCO has two small factories, one in Hull, England, which employs approximately 20 people, and at our Wichita facility we employ approximately 100. In both locations, we manufacture and sell environmentally friendly conveyors, primarily for the cereal food processors, but also for a variety of other industrial products, such as coal, cement, wood chips, municipal solid waste, and many others.

Our annual revenue in the Wichita facility is roughly $20 million, and our exports amount to about 45 percent of our total sales, with Peru accounting for 3 to 5 percent more or less each year.

TRAMCO has been exporting for 33 years to over 52 foreign countries around the world, including Peru for the last 19. On behalf of my company and also the business organizations I represent today, I would like to voice strong support for the Peru Trade Promotion Agreement, PTPA.

Free trade agreements like PTPA will do much for companies like mine to slash barriers to our exports. They will also improve protection of U.S. investments in South American countries, and they will strengthen our position and make us more competitive in the global economy.

Currently, 90 percent of all U.S. exports to Peru are manufactured goods like TRAMCO's products, which face an average tariff of 12 to 25 percent. This is just one of the costs of doing business there. PTPA will completely eliminate 80 percent of the tariffs on manufactured goods as soon as it is entered into force, and the rest of the products will become duty-free within 10 years.

For small businesses like mine, a tariff reduction of 12 to 25 percent is quite significant. High tariffs in the EU, sometimes as high as 18 percent, is the reason TRAMCO opened a small factory in Hall, England to service that market to avoid the high EU tariffs.

Most of the 52 countries I sell to already commit to some business-friendly practices, otherwise I could not have sold my products there. The main point of trade agreements is to improve upon the status quo, and PTPA does just that.

By ratifying PTPA, Congress will send an important message that goes beyond Peru. It will say to the world, we are open for business and are committed to working with them to provide mutually beneficial economic opportunities for employees, consumers, and employers.

Today, 97 percent of all imports from Peru enter this country duty-free because of preferential market access programs like ATPA, and that is why Peru has increased its exports here by 157 percent during the past 3 years.

In contrast, American products and services face tariffs and other restrictions in Peru, and, as a result, our exports to Peru during the same time frame have increased by only 38 percent.

The U.S. International Trade Commission estimates that when PTPA enters into force, exports to Peru may increase by over $1 billion annually, while our imports may rise by approximately $444 million. This will help us level the playing field and provide more favorable conditions for American exporters. Further, the U.S. ITC predicts that PTPA will add over $2 billion per year to the U.S. Gross Domestic Product.

Mr. Chairman, I started my company in 1967 part-time. Today, I have over 100 workers in Wichita, KS. Approximately 45 percent of our employees owe their jobs to our ability to access markets abroad.

My point is that free and fair trade, which is achieved by this type of free trade agreement, is what would really help our small- and medium-sized companies that look to exports for an increasing share of their sales.

These trade agreements work. Just look at Chile. After our Congress approved the U.S.-Chile agreement and after its implementation in January of 2004, our exports to Chile have risen 91 percent in just 2 years.

Caterpillar, for example, has doubled its sales to Chile since 2004, and added some 5,000 new jobs in Illinois. Now, that is the kind of success we like to achieve.

In addition, PTPA would not only open new markets for U.S. business large and small, it will send a strong message that the U.S. stands by its friends and allies in regions where leaders like Hugo Chavez and Hugo Morales are vying for influence.

In closing, I would like to say, give U.S. manufacturers and farmers a level playing field with zero tariffs, and we can compete anywhere in the world. I urge the Senate to approve legislation to implement the U.S.-Peru Trade Promotion Agreement as soon as possible.

Thank you.

Senator THOMAS. Thank you very much.

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

Senator THOMAS. Mr. Trumka?

STATEMENT OF RICHARD L. TRUMKA, SECRETARY-TREASURER, AFL–CIO, WASHINGTON, DC

Mr. TRUMKA. Thank you, Mr. Chairman. I thank you for the opportunity to testify today on behalf of the 9 million working men and women of the AFL–CIO on the U.S.-Peru Trade Promotion Agreement.

I will submit my testimony and summarize it, but I urge you to carefully study the full testimony because it clearly shows that this agreement fails to protect workers' interests in the United States and Peru.

The failed FTA model neither addresses the problems confronted by workers in Peru nor contributes to the creation of good jobs and decent wages at home. The workers' rights provisions are entirely inadequate to ensure that workers' fundamental human rights are respected.

Quite frankly, Mr. Chairman, the inclusion of weak labor provisions in this agreement is, quite honestly, inexcusable. In 2005, President Toledo publicly expressed his support for the inclusion of ILO core labor standards in the trade agreement, and a mechanism to enforce them.

Moreover, then-U.S. Trade Representative Robert Portman also promised to consider the concerns raised by Congress during the CAFTA debate in future trade agreements. Thus, there is no reason that we continue to see the same weak language again and again.

Workers in Peru and the United States deserve protections at least as strong as those of commercial interests, and until those provisions are included in trade agreements, they will continue to face some very strong opposition.

Mr. Chairman, today over 2 million children will wake up in Peru, and, instead of going to school, they will trot off to the workplace somewhere. Many of those children are going to go to work in a coal mine, reminiscent of the Breaker Boys in this country back at the turn of the century.

When you look at the picture of those children, Mr. Chairman, all hope, all dreams have been plucked out of their eyes; they look like cadavers. Those children, probably during the day, look up a time or two and wonder when it all ends, who will come to help them, how they will get a better life, when they will be able to get a little bit of education.

Somewhere in Peru today, Mr. Chairman, about 30,000 men and women will wake up. Some of them have been captured and forced to work against their will in the illegal industries.

Sometime during the day, I am sure that they will look up and they will wonder when it all ends, who is willing to help them, and what the United States will do to bring democracy to them.

Somewhere today, Mr. Chairman, in the agricultural export industry, women, 18 to 25 years old, are going to be working 9- to 12-hour days, and, during the harvest or the shipment period, they are going to be working 18- to 20-hour days.

Those field workers will see toxic pesticides. Some of them will lose their sight. They will see gastritis, fungal infections, breathing problems, and back problems. I am sure that, many times during the day, they look up to the sky and wonder when will it all end, who will come to help them, who will make things more fair, more just.

Mr. Chairman, just yesterday, thousands of those agricultural workers protested this very agreement because they think it will make their lives worse, not better.

Now, the Trade Representative said that these countries are making choices right now. You yourself said that this agreement will set precedent in the area. We need to set a precedent that the United States truly does stand on behalf of those workers, that we want to bring democracy to that area, and some freedom.

We want those children to have a better life and to be educated. We want people who are improperly pressed into forced labor to have some rights and be set free. We want those agricultural workers to be able to get up off of their knees, look around, and say, somebody did come, somebody did help.

The U.S. could do a whole lot better than we have done here. In fact, quite frankly, the world needs us to do a whole lot better when it comes to workers' rights here and abroad. We can either stand with and we can help those workers achieve a better life or we can be part of the problem, and the precedent that we set will move that area further away from us, not closer to us.

Mr. Chairman, thank you for the opportunity to speak my piece and testify on behalf of those workers in both countries today.

Senator THOMAS. Thank you very much.

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

Senator THOMAS. Mr. O'Neill?

STATEMENT OF BRIAN O'NEILL, VICE MANAGING DIRECTOR AND VICE CHAIRMAN, LATIN AMERICA, INVESTMENT BANKING, J.P. MORGAN, NEW YORK, NY

Mr. O'NEILL. Thank you. Good morning, Senator Thomas and members of the committee. It is a pleasure and a privilege for me to be here with you this morning. I am Brian O'Neill, a banker on Wall Street for over 29 years, ostensibly all of these years working with clients with interests in countries of Latin America, including 12 years living and working in three of the countries of South America.

I am also a longstanding Director of the Council of the Americas, a New York-based organization with offices in Washington, representing over 170 companies with investments and businesses in the countries of the Americas. Founded in 1965, the Council is dedicated to the promotion of open markets, democracy, and the rule of law in the countries of the Americas.

The then-U.S. Trade Representative, Robert Zoellick, announced the U.S.'s intentions to negotiate a trade agreement with Peru at the Council's Washington conference in 2004.

I strongly support our efforts to expand trade and investment throughout the countries of the Americas, as these efforts are consistent with U.S. national security and economic interests.

I consistently have supported our agreements with Canada, Mexico, Chile, as well as Central America and the Dominican Republic, as I now support this agreement with Peru.

Expanded trade and investment opportunities with Peru are good for U.S. companies, such as Caterpillar, an exporter of equipment for the mining industry; Hunt Oil, an investor in the development and export of Peru's largest natural gas reserves; and Phelps Dodge, an investor in one of Peru's larger mining projects in the south of the country.

U.S. credibility in the region, as well as with the broader multilateral trade agenda, is an important consideration as the Senate Finance Committee looks at this agreement.

The Peru TPA sets the stage for an attractive regional market and should enhance integration and cooperation among the countries of the Andes, a very positive contributing factor for sustainable growth. The TPA offers significant growth opportunities for U.S. industry and agriculture by opening a significant market and putting it on a footing for more rapid growth.

Peru, which is already a moderately low tariff country, is significantly opening its markets to U.S. farm exports under the agreement, setting the stage for similar agreements elsewhere.

The U.S. is Peru's largest trading partner and a large foreign direct investor in the country. The disciplines contained in the agreement in areas such as services, investment, and government procurement enhance the transparency and accountability of day-to-day governance, which makes Peru a more attractive destination for U.S. investments.

Peru has just completed a difficult election process, and it is, therefore, important for the U.S. to show its support to a country that has made major efforts to lift up its economy in a market-friendly and democratic way, while fighting poverty.

The agreement enhances the U.S. relationship with a country that is a much-needed ally in a strategic region during a politically sensitive time. Having TPAs with most of the countries along the Pacific Coast of Latin America, including the agreements with Colombia and Peru, the U.S. is contributing to the creation of a strategic area of stability in the West Coast of Latin America, thereby enhancing our interests.

These are, in my opinion, compelling foreign policy reasons to support passage of the Peru TPA. This is a very effective tool as a countervailing force to competing world views in the region.

In short, I believe that the Peru TPA stands on its economic merits. On the basis of reciprocity alone, for 15 years of duty-free access under the ATPA and ATPDEA, it should be non-controversial to open Peru's markets to our goods, as ours is already open to theirs.

The foreign policy arguments in favor of this agreement are equally compelling, if not, in fact, even more so. The Peru TPA is also an important building block toward the vision of a unified hemispheric market that will enhance U.S. competitiveness and that of its neighbors in an era of unparalleled global competition and opportunity.

Thank you.

Senator THOMAS. Thank you very much.

[The prepared statement of Mr. O'Neill appears in the appendix.]

Senator THOMAS. I appreciate all of you being here. It is very important to have your input and your insight into this operation, as it is in any trade negotiations we are in.

Actually, as you know, this is a complicated process, and for the most part, these things take a long time. We have been working on this for months. I have to tell my friends on the committee that we have to have input as it goes along.

When it comes here, it is finally ready for approval or disapproval. So in any event, it is really important for you to have your input, and I know my colleagues would agree.

A couple of questions, perhaps, as we have a little time yet. Mr. Stoner, you mentioned that the grain producers' greatest competitors in Peru are Canada, Australia, Argentina, and the European Union. I assume that producers in these countries probably do not support our FTA between Peru and the United States. It seems to me, the failure to pass this would only hurt producers in one country, the United States, particularly. Is that correct?

Mr. STONER. Well, it is going to give us a lot better chance to compete with those people who already have the trade agreements with them, so it is tough competition. Maybe they do not want us to come in, but we need a level playing field.

Senator THOMAS. Yes. I am sure. Some of them like the advantages that they have now with the tariffs that are on our products. We need to work on that.

Ms. Philippi, I agree with you that the Peruvian government agreeing to recognize meat inspections in the U.S. as an equivalent to its own meat inspections is a tremendously good provision. How important is that provision not only in Peru, but to other future negotiations?

Ms. PHILIPPI. An equivalent inspection system ensures our standards will be accepted in Peru. This is probably one of the most important things that we need to have accomplished when we put an agreement together, and it makes PTPA an agreement that will set a new precedent. Other countries should understand the importance when we negotiate trade agreements.

Senator THOMAS. It is kind of difficult to understand, like in Japan, when they want to come to look at our inspections, when we are willing to use that product ourselves. We should not have to re-do it and have everyone come and look at our own inspections. I think you are right. So, I hope that can be a precedent set here, and I hope that will happen.

Mr. Trammell, what countries compete against U.S. manufacturers for the market, and will industries from those countries benefit if this agreement is not approved?

Mr. TRAMMELL. Well, all the European countries, of course, as well as South American countries. It depends on certain regions. I have customers in a particular area that I compete with that I do not in another, but in South America it is European, and the other local manufacturers.

Our biggest competitor, always when we go abroad—and as I stated earlier, we are in 52 foreign countries—is always the local. That is the most difficult, because he does not have the duties, does not have the freight.

So when you add 10 or 15 percent to your price for duties, and when you are selling the top of the line to start with, you add another 15 to 20 percent, it puts you out.

Senator THOMAS. Yes.

Mr. TRAMMELL. I was invited a number of years ago to go to the island of Guadelupe to design a conveying system from the ships to the port. I asked, who am I competing against? They said, well, a French company.

Well, I knew the French company, and they were kind of a junk dealer, but they still had an 18-percent advantage over me. I said to my customers look, he has an 18-percent advantage. They said, oh, you will still be successful, I think. Well, I was not successful because of the 18-percent duty. But I enjoyed my trip to the island of Guadelupe and the French West Indies.

Senator THOMAS. But do not go there any more. I guess that is right. My point was, some of the other countries have a better arrangement than we do.

Mr. TRAMMELL. That is correct.

Senator THOMAS. And so we give them an advantage by not taking advantage of being able to reduce those there.

Mr. Trumka, I have been told Peru has ratified all of the International Labor Organization's core conventions, and it has ratified 71 ILO conventions. Do you know if this is true, and how does it compare to the U.S. approval of ILO standards? How does it compare to Jordan at the time the Jordan-U.S. agreement was signed?

Mr. TRUMKA. First of all, they have ratified some of the ILO standards, and the United States, unfortunately, has not ratified those same core labor standards.

This agreement, however, will not force them to live up to them. The agreement only says that they have to live up to current law. One, it does not prevent them from changing those laws. They could change them tomorrow if they choose. It does not force them to do anything else.

And even whenever they do not live up to their own current laws, the penalties for violations of labor laws are significantly weaker than they are for commercial interests. There is a fixed cap on the penalty, $15 million, tops, regardless of what the damages ultimately are, and the amount is paid back to the government, so the government pays the money back to itself.

It is not like in the United States, where if Mr. Trammell had a violation, the money would be paid to him. This gets paid back to the Peruvian government, which has inadequate monitoring capability. Mr. Chairman, there is just simply no question, these are——

Senator THOMAS. Why do we have International Labor Organization standards if they are not going to be enforced?

Mr. TRUMKA. That is a good question. We ask that all the time.

Senator THOMAS. It seems like, rather than deal with each trade agreement, if we are going to have international ones, why should that not be our emphasis?

Mr. TRUMKA. There are no mechanisms in the ILO to enforce those standards. They can report on it, they can talk about it. The only way we can improve enforcement is through these agreements. This agreement could have included stronger labor rights because the president of Peru said he would include them, and include enforcement mechanisms.

Senator Bunning said to you, I do not want side letters. I want them included in the agreement. We would like to have workers' rights the same way, just exactly what he said, included in the agreement so they are enforceable, because they are not right now. Workers' interests, worker capital, what should be the most important on both sides of the border gets the least protection.

Senator THOMAS. What is the balance in trade agreements between trade issues, and labor restrictions? They are two different things, are they not?

Mr. TRUMKA. No, they are not. They are very, very intertwined. Mr. Trammell here will tell you that if China can cheat by not paying their minimum wage and not living up to their health and safety standards, they get an advantage over him. If these people can be forced to do forced labor, child labor——

Senator THOMAS. Well, we do not accept forced labor. It is in the arrangement here.

Mr. TRUMKA. No, it is not.

Senator THOMAS. Yes, it is.

Mr. TRUMKA. I disagree with you about the enforcement mechanism.

Senator THOMAS. Well, it may be the enforcement, but forced labor is not allowed.

Mr. TRUMKA. It cannot be enforced, so it is useless to us.

Senator THOMAS. All right.

Mr. TRUMKA. Just as Senator Bunning said.

Senator THOMAS. All right. I understand.

Mr. TRAMMELL. In 2003, 50 percent of my production was shipped from Wichita, KS to China, so I wish I had 20 China customers. They have been great customers. I might add, I have been doing business there for 18 years, and they have paid every dollar of every invoice I have invoiced them, and I have never had a dispute that could not be readily resolved.

Senator THOMAS. I certainly do not disagree at all with what Mr. Trumka is saying in terms of trying to get these changes. It is always a question of how you enforce it, where you put the pressure, and what you can do.

Mr. TRUMKA. Mr. Chairman, could I just say one thing? I would just like to personally thank you for your interest in these issues, even if we disagree on them. The fact that you are here and the fact that you are always there means a tremendous amount to people like us. So, I would just like to say thank you for your interest.

Senator THOMAS. Thank you very much.

Well, I do not think we disagree on it. Sometimes we have different ideas of how we might enforce provisions and get it done. All of us are looking for changes in the world, all of us are looking for better opportunities for people, for fair treatment, and how much of it you do in trade agreements, in terms of fixing other issues, is complicated. Of course, the fact is, if we can make some trade agreements and develop stronger economies in these countries, why, it does help, too. So it is a question of how we best approach the issues.

Mr. O'Neill, it is my impression that many countries in Latin America are at the crossroads, that there are some changes. Some are increasingly rejecting fair markets, while others like Peru are embracing. Do you have any opinion as to why countries in the region are going in different directions at this current time?

Mr. O'NEILL. Thank you, Senator. I think this is an opportunity for us to send a good, clear, strong message not just to the people of Peru, but to many of those neighboring countries, some of which are going off in different directions, that the United States cares and the United States recognizes the importance of agreements like this.

I think that sending that message, particularly after the Peruvian Congress sent us such a clear message this week, I think that will be heard outside of Peru's borders, not just within Peru.

Senator THOMAS. Yes. I hope that is true.

Well, we all understand that the world is changing, and billions of dollars are going around the world every day, and there is going to be more and more of that as technology and transportation improve.

It is just our challenge to make sure that, as we move into that new era, that it is fair, that it is an opportunity for us to take care of people in the United States, as well as around the world, and to make these business operations succeed. So it is a real challenge, and I appreciate your involvement and helping make it work out.

Mr. O'NEILL. Thank you.

Senator THOMAS. I would like to remind my colleagues to submit questions for the record at the close of this business session. If you folks get questions, I hope you will respond to them in the next couple of weeks so that members can be involved in what is happening.

So, thank you very much for being here. The hearing is adjourned.

[Whereupon, at 11:47 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT FOR SENATOR BUNNING

SENATE COMMITTEE ON FINANCE

Hearing on Implementation of U.S. Bilateral Free Trade Agreement with Peru

29 June 2006

Thank you, Mr. Chairman.

I would like to welcome our guests. We appreciate your willingness to share your observations and expertise with the committee today.

I look forward to learning more of the details of our proposed trade agreement with Peru.

Today, I plan to spend some time discussing with Mr. Eissenstat a number of concerns about the investment climate in Peru. I am disturbed by various reports about the Peruvian taxing authority and a lack of transparency in the judicial system.

We must insist on a fair, prompt and transparent process for U.S. companies that seek to enforce their rights through the Peruvian court system.

The USTR has been aware of the concerns that have been raised. I look forward to a report on the progress that has been made in these matters.

I have some questions, and I look forward to hearing your responses.

Thank you.

United States - Peru Trade Promotion Agreement

Statement of Everett Eissenstat
Assistant United States Trade Representative for the Americas
Before the Committee on Finance
United States Senate
Washington, D.C.
June 29, 2006

Chairman Grassley, Ranking Member Baucus, and Members of this distinguished committee, thank you for the opportunity today to discuss the economic and political benefits of our free trade agreement with Peru.

I appreciate the views and guidance received from members of this Committee on the U.S.-Peru Trade Promotion Agreement over the last two years. I look forward to working with you and your House and Senate colleagues as we seek congressional approval of this historic agreement.

The United States -Peru Trade Promotion Agreement marks the beginning of a new chapter in our commercial partnership with Peru. The agreement sets out fair and reciprocal trade rules which will promote economic growth and prosperity in both countries. It eliminates unfair barriers to U.S. exporters, opening a market of 28 million consumers to U.S. manufacturers, farmers, ranchers, and service providers. In exchange, the Agreement makes permanent the trade benefits Congress first authorized for Peru in 1991 under the Andean Trade Preference Act. By helping to create favorable conditions and incentives, the U.S.-Peru TPA will aid in creating sustained real growth characterized by more jobs and investment in

Peru. Most importantly, this agreement will support and enhance the democratic and economic reforms undertaken by Peru's leaders in recent years.

An Emerging Partnership

Please allow me to put this Agreement in context. In 1991, the U.S. Congress with strong bipartisan support voted to authorize duty-free benefits to Peru through the Andean Trade Preference Act, or ATPA. ATPA was designed to help expand economic opportunities in the Andean region and encourage our Andean neighbors to move away from the production, processing and shipment of illegal drugs and to move toward legitimate products. Peru has benefited significantly from the program, steadily increasing its exports to the United States since 1993.

In 2002, two events occurred which helped lay the economic and political foundation for this Agreement. First, Congress enacted the Andean Trade Promotion and Drug Eradication Act (ATPDEA), which renewed and enhanced trade preferences under the ATPA. Second, Peru's President, Alejandro Toledo instituted a series of political and economic reforms which have helped lift many Peruvians out of poverty and have solidified Peru's democratic institutions. These reforms have included: (1) restoring democratic practices, best illustrated through the free and fair presidential elections held this year; (2) increasing expenditures for health and social infrastructure programs; (3) undertaking initiatives in the area of labor rights, particularly to protect the rights of labor unions and children; (4) enhancing respect for the freedom of the press; and (5) improving Peru's investment climate. The entire region took note when the people of Peru reaffirmed their support for these positive reforms by electing a President committed to continuing to pursue democratic and free-market principles, The results have been impressive. Since 2003, Peru's GDP has grown at an annual average rate of five percent. In 2005, Peru's GDP totaled $78 billion, a 16 percent increase from $67 billion in 2004. Two-way trade between Peru and the United States increased from $3.4 billion in 2001 to $7.4 billion in 2005, a growth of 118 percent over four years. This economic expansion has reached all levels of society.

The Peruvian Congress is currently considering the United States-Peru Trade Promotion Agreement. All signs are that Peru's Congress will approve the Agreement this summer. Meanwhile, our trade preference program with Peru (ATPA) will expire at the end of this year. To ensure that these positive trends I have outlined continue, the time for Congress to act on this Agreement is now.

The political and economic benefits of the United States.-Peru Trade Promotion Agreement for the United States are significant (notwithstanding the small size of Peru's economy). This agreement makes trade between us a two-way street. Today, ninety-eight percent of imports from Peru enter the United States duty-free under our unilateral preference programs. Meanwhile, less than two percent of U.S. agricultural exports and four percent of U.S. industrial exports can enter Peru duty-free. This is attributed to the fact that Peru applies duty-free treatment to very few products on a most favored nation (MFN) basis.

The Agreement makes our trade relationship more reciprocal and more equitable. On day one of the Agreement, 80 percent of our industrial products will be able to enter Peru duty-free. Within five years, an additional six percent of our industrial products will become duty-free and another four percent within seven. Duties on the remaining 10 percent will be phased-out over ten years. This will mean significant new opportunities for American manufacturers of technology products, mining, agricultural and construction equipment, medical and scientific equipment, auto parts, paper products and chemicals. Peru also agreed to join the

Information Technology Agreement in the WTO, considered the "gold standard" of liberalization in high tech products.

In agriculture we see a similar story. Today, the United States has a 20 percent share of Peru's agricultural market. While Peruvian agricultural exports face few if any duties when they enter the United States, U.S. agricultural exports face Peruvian tariffs as high as 25 percent on most products and even higher tariffs for some others such as rice. Under Peru's current WTO commitments, these tariffs can legally be set as high as 30 to 68 percent *ad valorem*. Additionally, Peru applies variable tariffs based on price bands on more than 40 products, including corn, rice, dairy, and sugar.

The United States-Peru Trade Promotion Agreement eliminates the tariff disparity that currently exists between the United States and Peru. It lowers tariffs, turning our one-way preference program into a trade partnership, and assures that our exporters will not face higher tariffs in the future. On day one of the agreement, almost 90 percent of our current agricultural trade with Peru will enter the Peruvian market duty-free. In addition, Peru will immediately eliminate its price band system on trade with the United States. Tariffs on other agriculture products will be eliminated gradually, most within five to fifteen years. Within 17 years, all our agriculture exports will be duty-free.

In addition, the agreement will also enable U.S. exports to compete more favorably with those from countries that already enjoy preferential access to the Peruvian market. Over the past several years, Peru has entered into preferential trade agreements with many of our strongest competitors in the region, including Brazil, Argentina, and Chile. The United States-Peru Trade Promotion Agreement affords U.S. exporters preferential treatment that will position them favorably vis-à-vis these competitor countries. It also gives U.S. agriculture exporters a competitive edge over countries such as China, who are gaining market presence in Peru, but do not enjoy preferential access.

Here are a few examples of how the Agreement will help boost our agricultural exports to Peru.

U.S. beef and beef products currently face applied tariffs ranging from 0 to 20 percent in Peru, with "bound" (*i.e.* WTO ceiling) rates set at 30 percent. Under the Agreement, the tariffs on the most important products for the U.S. beef industry, high quality beef, will drop to zero immediately upon entry into force of the Agreement. This will enable our beef industry to compete on equal or better terms with beef products from Argentina and Brazil, which currently enjoy preferential access to Peru's market.

Tariffs on most U.S. pork products, currently set as high as 25 percent, will be eliminated immediately or within five years after the Agreement enters into force. The U.S. pork industry will then be in a position to compete on an equal or more favorable basis with pork products from Chile, which currently enjoy preferential access to Peru.

The U.S. poultry industry is another clear winner. The Agreement provides an immediate 12,000-ton tariff rate quota at zero duty for chicken leg quarters, and the quota will grow at an annual compound rate of eight percent.

Other U.S. agricultural exports such as wheat, cotton, fruits, tree nuts, vegetables and vegetables products, are all expected to increase significantly as the Agreement will immediately eliminate Peru's tariffs on these products, which range from 12-25 percent. Even for sensitive products for which tariffs are phased-out over longer time periods (rice and dairy), Peru will establish tariff-rate-quotas that will provide immediate duty-free access for certain quantities that grow as the tariffs are phased-out.

In sum, this Agreement will substantially benefit U.S. agriculture.

The Agreement benefits U.S. exports by going beyond tariff reductions. It eliminates non-tariff barriers that currently limit U.S. products and services from competing in Peru's market. Under the Agreement, Peru will become the first Andean country to lift its import restriction on remanufactured goods. This is a significant achievement, creating a new export market for U.S. remanufactured products such as computers, cell phones, construction and medical equipment, heavy machinery, and auto parts. The Agreement also establishes state-of-the-art customs procedures to expedite the movement of goods between our markets.

The Agreement will also provide important new opportunities for U.S. companies in Peru across a wide range of services sectors: telecommunications, banking, insurance, audio-visual services, transportation, engineering, computer and related services and express delivery, just to name a few. This agreement also provides comprehensive and strong protection for U.S. intellectual property interests, including copyright protection for the digital age, as well as patents, trademarks and proprietary data protections. Additionally, the Agreement provides for stronger enforcement against infringements of intellectual property. The United States-Peru Trade Promotion Agreement also includes strong anti-corruption procedures and provisions on transparency in government contracting and in other areas of trade that will help address this issue. The agreement also establishes a secure, predictable legal framework for U.S. investors in Peru.

Let me briefly address two issues that we know are of particular importance to many members of this Committee - labor and the environment. Peru has undertaken significant labor reforms in the past several years, and is committed to undertaking additional reforms in an effort to address concerns the United States has raised. Peru has ratified all eight core conventions of the International Labor Organization (ILO) and Peru's Constitution guarantees freedom of association, collective bargaining, and the right to strike. In 2003, Peru enacted a major labor reform law, strengthening labor rights and responding to ILO observations on Peru's labor law. Among the changes it made, Peru's labor reform law reduced the number of workers needed to form a union, limited the power of the labor authority to cancel the registration of a union, and eliminated provisions that prohibited unions from engaging in political activity.

The United States-Peru Trade Promotion Agreement includes a variety of tools that will help ensure that workers in Peru benefit from these reforms. First, the Agreement will require Peru to effectively enforce its labor laws. Should Peru fail to do so, the United States can invoke the Agreement's consultation and dispute settlement procedures, which could ultimately lead to the imposition of an annual monetary assessment of up to $15 million. The Agreement also calls for Peru to provide fair, equitable and transparent domestic legal procedures through which persons can seek enforcement of Peru's labor laws. The Agreement also creates a labor cooperation and capacity building mechanism to further cooperation on labor matters. It establishes a Labor Affairs Council, comprised of senior government officials, to oversee implementation of and review progress under the labor chapter.

The environment chapter, like the labor chapter, includes specific obligations in the core text of the Agreement. Specifically, each Party must effectively enforce its domestic environmental laws, and this obligation is subject to the Agreement's dispute settlement provisions. The environment chapter not only includes the obligation to effectively enforce domestic environmental laws, but also includes obligations on transparency, rule of law, procedural guarantees and access to the judicial, quasi-judicial and administrative proceedings and requirements for public participation in policy decisions in the area of trade and environment. The Agreement calls on the Parties to establish an independent secretariat to review and consider public submissions on environmental enforcement matters in Peru. An Environmental Affairs Council, comprising senior-level officials with environmental responsibilities, will review how the Agreement's environmental provisions are implemented. We have also included, for the first time in a U.S. free trade agreement, an Article affirming both countries' commitment to protect and conserve biological diversity. Finally, in parallel with the free trade agreement, the United States and Peru, concluded an Environmental Cooperation Agreement (ECA) that will promote joint cooperative efforts to protect the environment, including protection of endangered species and fragile ecosystems.

We strongly believe that the obligations set out in the environment chapter and the cooperative activities we have agreed to undertake under the ECA will help make trade and environmental protection mutually supportive for both Peru and the United States.

Mr. Chairman and Members of the Committee, the United States-Peru Trade Promotion Agreement enables us to turn our unilateral trade preference program into a trade partnership, level the playing field for U.S. exporters with respect to our competitors' in Peru's market, help lock in domestic political and economic reforms in Peru, and enhance protection for workers and the environment in that country. I hope that after examining the Agreement, the Members of this Committee and the U.S. Congress will agree that this is a solid agreement that is strongly in our national interest.

Let me conclude where we began. Peru is a country heading in the right direction. Peru's leaders and its people are making the right choices. Just a few weeks ago, faced with the choice to continue the economic and political reforms instituted by President Toledo or to follow an alternative, anti-market and anti-democratic model propounded by others in the region, the people of Peru, elected a new president with a strong mandate to promote free market principles and continue efforts toward a stronger democracy. Today, it is our turn to choose. We can turn our back on Peru by rejecting this Agreement or we can seize this opportunity to strengthen our partnership with Peru and help promote economic growth, prosperity and political stability in Peru and throughout the Andean region. I look forward to working with you Mr. Chairman, Ranking Member Baucus, and the other Members of this Committee to achieve strong bipartisan support for this Agreement.

Again, thank you for the opportunity to testify today.

STATEMENT OF BRIAN D. O'NEILL
VICE MANAGING DIRECTOR & VICE CHAIRMAN
LATIN AMERICA, INVESTMENT BANKING
J.P. MORGAN
BEFORE THE U.S. SENATE FINANCE COMMITTEE

JUNE 29, 2006

Good morning, Mr. Chairman and Members of the Committee. It is a pleasure and privilege for me to be here with you this morning. I am Brian O'Neill, Vice Chairman of Investment Banking for Latin America for JPMorgan. I have worked with Latin America for the bank for over 29 years, having lived in the region for 12 years.

I am also a long-standing director of the Council of the Americas, a New York-based organization with offices in Washington representing over 150 companies with investments and businesses in the countries of the Americas. Founded by David Rockefeller in 1965, the Council is dedicated to the promotion of open markets, democracy and the rule of law in the countries of the Americas. The then US Trade Representative, Robert Zoellick, announced the U.S.'s intentions to negotiate a trade agreement with Peru at the Council's Washington Conference in 2004.

I strongly support our efforts to expand trade and investment throughout the countries of the America as these efforts are consistent with US national security and economic interests. I consistently have supported our agreements with Canada, Mexico, Chile as well as Central America and The Dominican Republic, as I now support this agreement with Peru. Expanded trade and investment opportunities with Peru are good for US companies investing in Peru, amongst others Catepillar, an exporter of equipment for the mining industry, Hunt Oil as an investor in the development, and export, of Peru's largest national gas resources and Phelps Dodge as investor in one of Peru's largest mining projects in the south of the country.

US credibility in the region, as well as with the broader multilateral trade agenda, is an important consideration as the Senate Finance Committee looks at this agreement.

- The Peru FTA sets the stage for an attractive regional market and should enhance integration and cooperation among the countries of the Andes – a very positive contributing factor for sustainable growth.
- The FTA offers significant growth opportunities for US industry and agriculture by opening a significant market and putting it on a footing for more rapid growth.
- Peru, which is already a low tariff country, is significantly opening it's market to US farm exports under the agreement, setting the stage for similar agreements elsewhere, such as Asia.

- The US is Peru's largest trading partner and a large foreign direct investor in the country. The disciplines contained in the agreement in areas such as services, investment and government procurement enhance the transparency and accountability of day-to-day governance, which makes Peru a more attractive destination for US investments.
- Peru has just completed a difficult election process and it is therefore important for the U.S. to show it's support to a country that has made major efforts to lift up it's economy in a market friendly and democratic way, while fighting poverty in the last 5 years.
- The agreement enhances the US relationship with a country that is a much-needed ally in a strategic region during a politically sensitive time.
- By having FTA's with most of the countries along the Pacific coast of Latin America, including the agreements with Colombia and Peru, the US is creating a strategic area of stability in the west coast of Latin America, thereby enhancing our national security interest.

These are, in my opinion, compelling foreign policy reasons to support passage of the Peru's FTA. This is a very effective tool as a countervailing force to competing world views in the region.

In short, I believe that the Peru FTA stands on its economic merits. On the basis of reciprocity alone, for 15 years of duty-free access under the ATPA/ATPDEA, it should be non-controversial to open this market to our goods, as ours is already open to theirs. The foreign policy arguments in favor of this agreement are equally compelling, if not, in fact, even more so.

The Peru FTA is also an important building block toward the vision of a unified hemispheric market that will enhance US competitiveness and that of its neighbors in an era of unparalleled global competition – and opportunity.

Thank you.

Statement Of

Joy Philippi
National Pork Producers Council

Before the
Senate Finance Committee

On

The U.S.-Peru Trade Promotion Agreement

June 29, 2006

Mr. Chairman, Mr. Ranking Member and Members of the Committee:

I am Joy Philippi, President of the National Pork Producers Council (NPPC) and a pork producer from Bruning, Nebraska. I own and operate Pine Alley L.L.C. a 2,000 head nursery that is networked with other local producers. My parents and I are partners in our family farm operation that also includes 400 acres of corn and soybeans.

Mr. Chairman, I greatly appreciate everything that you and other members of this Committee have done to advance U.S. agricultural exports. I strongly believe that the future of the U.S. pork industry, and the future livelihood of my family's operation, depend in large part on further trade agreements and continued trade expansion.

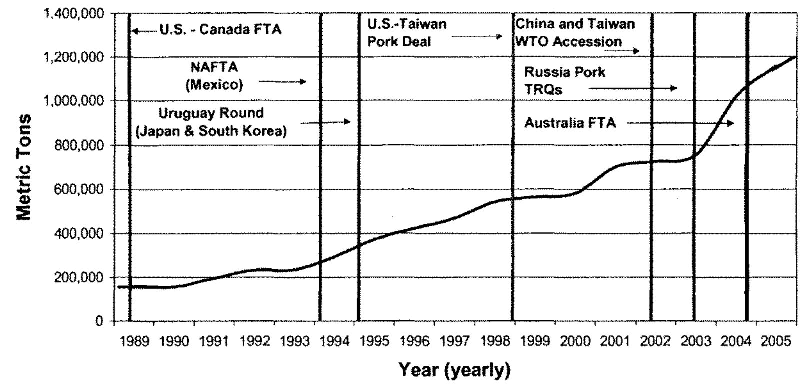
The National Pork Producers Council is a national association representing 44 affiliated states that annually generate approximately $14.35 billion in farm gate sales. The U.S. pork industry supports an estimated 566,000 domestic jobs and generates more than $84 billion annually in total U.S. economic activity.

Pork is the world's meat of choice. Pork represents 43 percent of total world meat consumption. (Beef and poultry each represent less than 30 percent of daily global meat protein intake.) As the world moves from grain based diets to meat based diets, U.S. exports of safe, high-quality and affordable pork will increase because economic and environmental factors dictate that pork be produced largely in grain surplus areas and, for the most part, imported in grain deficit areas. However, the extent of the increase in global pork trade – and the lower consumer prices in importing nations and the higher quality products associated with such trade - will depend substantially on continued agricultural trade liberalization.

PORK PRODUCERS ARE BENEFITING FROM PAST TRADE AGREEMENTS

In 2005 U.S. pork exports set another record. Pork exports totaled 1,157,689 Metric Tons valued at $2.6 billion, an increase of 13 percent by volume and 18 percent by value over 2004 exports. U.S. exports of pork and pork products have increased by more than 389 percent in volume terms and more than 361 percent in value terms since the implementation of the NAFTA in 1994 and the Uruguay Round Agreement in 1995. Total exports increased every year in this period and set a record in 2005 for the 15th straight year.

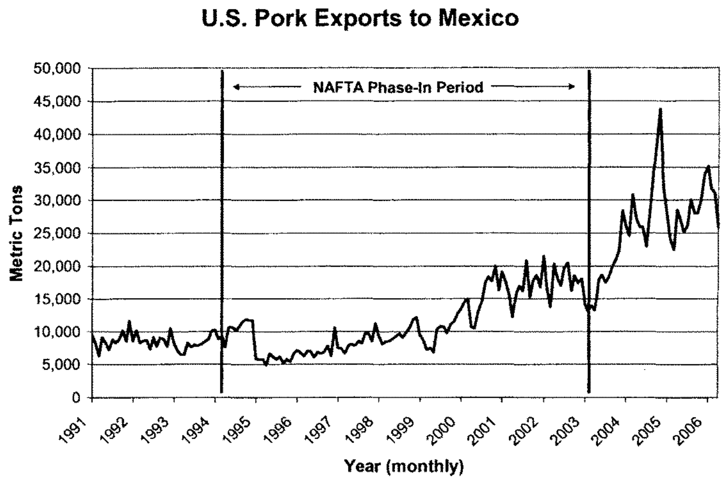
U.S. Pork Exports



The following 8 export markets in 2005 are all markets in which pork exports have soared because of recent trade agreements.

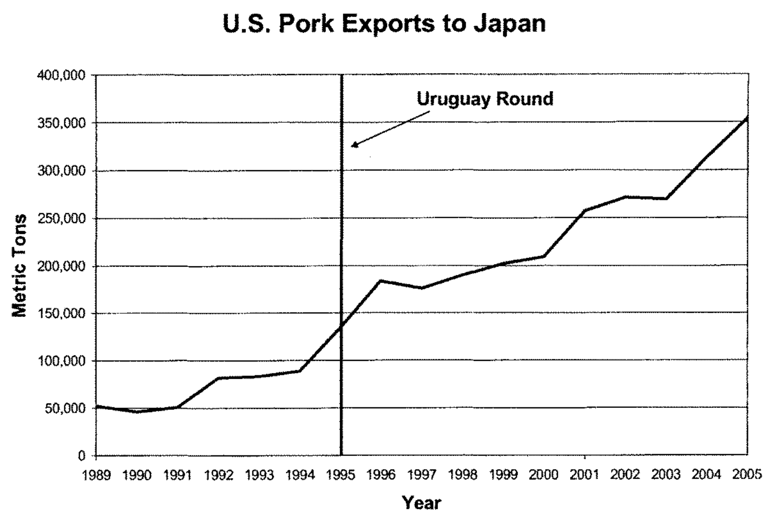
Mexico

In 2005 U.S. pork exports to Mexico totaled 331,488 metric tons valued at $514 million. Without the NAFTA, there is no way that U.S. exports of pork and pork products to Mexico could have reached such heights. In 2005, Mexico was the number two market for U.S. pork exports by volume and value. U.S. pork exports have increased by 248 percent in volume terms and 358 percent in value terms since the implementation of the NAFTA growing from 1993 (the last year before the NAFTA was implemented), when exports to Mexico totaled 95,345 metric tons valued at $112 million.



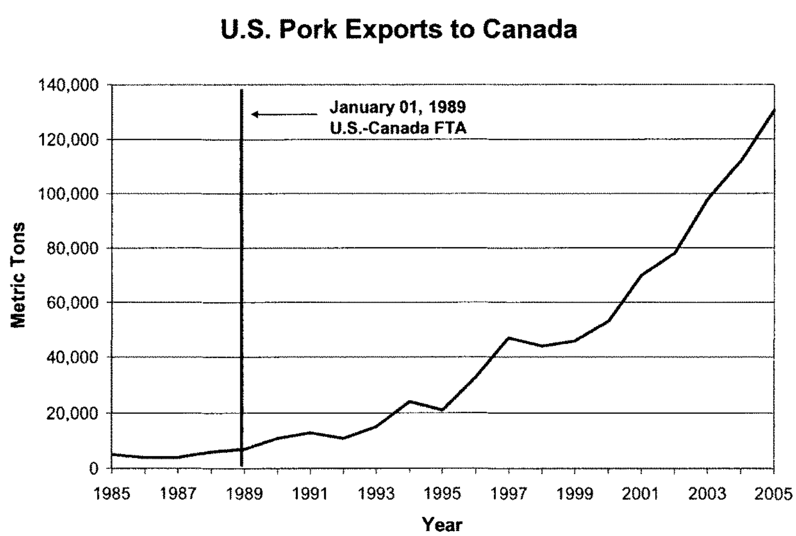
Japan

Thanks to a bilateral agreement with Japan on pork that became part of the Uruguay Round, U.S. pork exports to Japan have soared. In 2005, U.S. pork exports to Japan reached 353,928 metric tons valued at just over $1 billion. Japan remains the top value foreign market for U.S. pork. U.S. pork exports to Japan have increased by 322 percent in volume terms and by 191 percent in value terms since the implementation of the Uruguay Round.



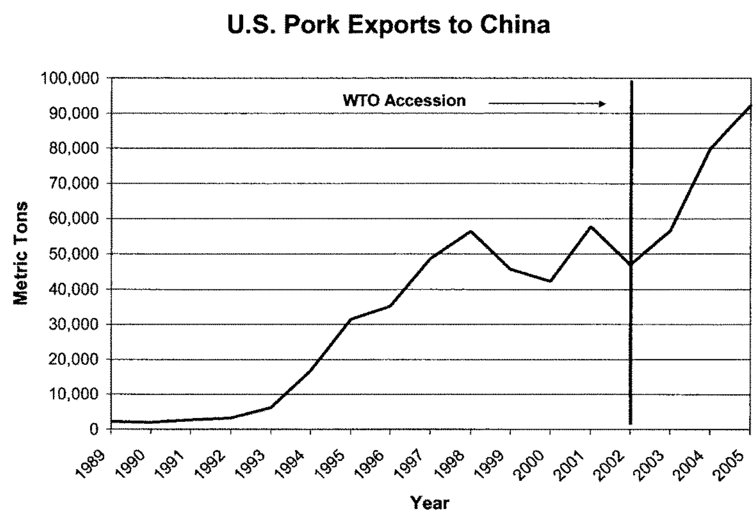
Canada

U.S. pork exports to Canada have increased by 1,816 percent in volume terms and by 2,422 percent in value terms since the implementation of the U.S. – Canada Free Trade Agreement in 1989. In 2005 U.S. pork exports to Canada increased to 130,581 metric tons valued at $396 million.



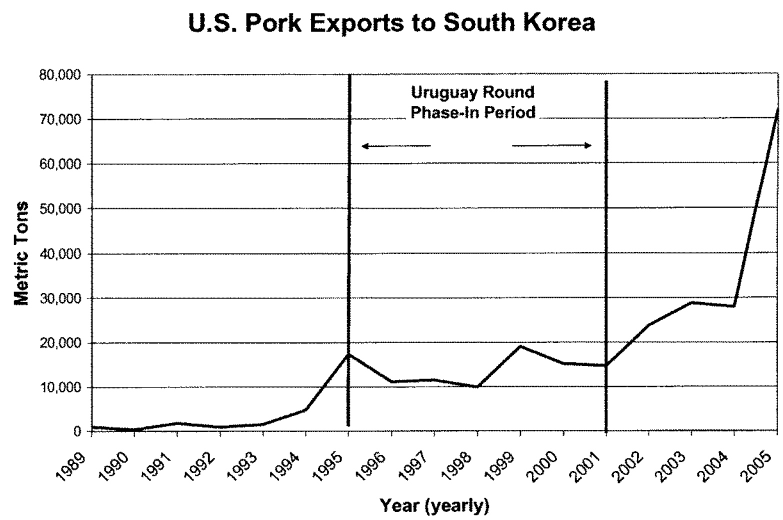
China

U.S. exports of pork and pork products to China increased 22 percent in value terms and 16 percent in volume terms in 2005 versus 2004, totaling $111 million and 92,255 metric tons. U.S. pork exports have exploded because of the increased access resulting from China's accession to the World Trade Organization. Since China implemented its WTO commitments on pork, U.S. pork exports have increased 60 percent in volume terms and 67 percent in value terms.



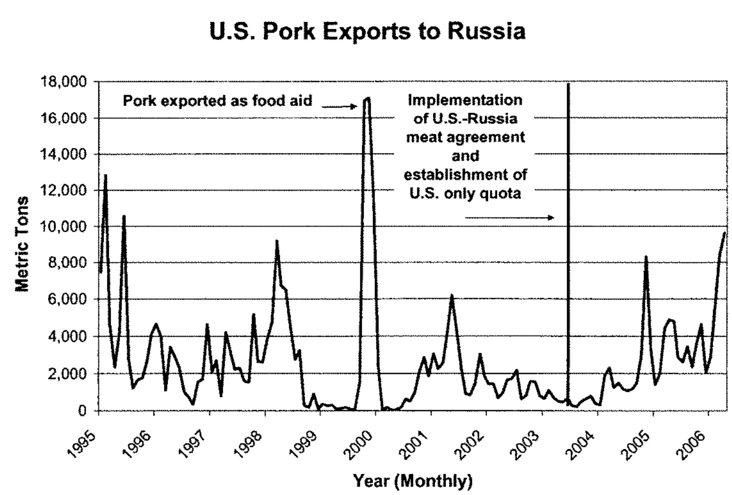
Republic of Korea

U.S. pork exports to Korea have increased as a result of concessions made by Korea in the Uruguay Round. In 2005 exports climbed to 71,856 metric tons valued at $155 million, an increase of 1,425 percent by volume and 1,705 percent by value since implementation of the Uruguay Round.



Russia

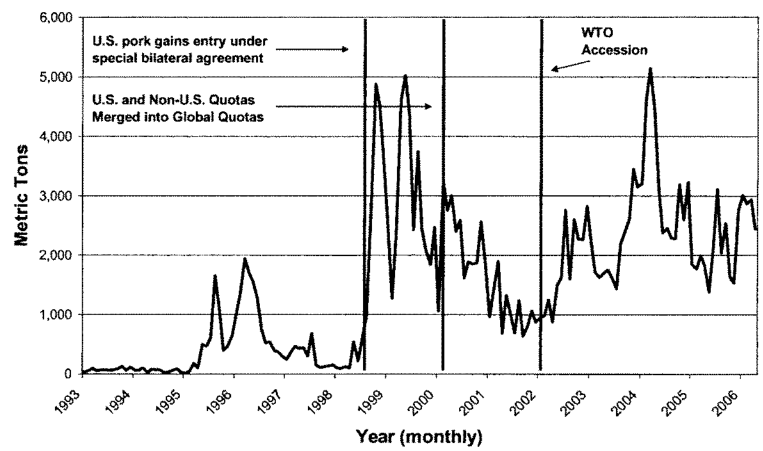
U.S. exports of pork and pork products to Russia increased 48 percent in volume terms and 71 percent in value terms in 2005 versus 2004, totaling 40,315 metric tons valued at $72 million. U.S. pork exports to Russia have increased largely due to the establishment of U.S.-only pork quotas established by Russia as part of its preparation to join the World Trade Organization. The spike in U.S. pork export to Russia in the late 1990s was due to pork shipped as food aid.



Taiwan

In 2005, U.S. exports of pork and pork products to Taiwan increased to 24,555 metric tons valued at $41 million. U.S. pork exports to Taiwan have grown sharply because of the increased access resulting from Taiwan's accession to the World Trade Organization. Since Taiwan implemented its WTO commitments on pork, U.S. pork exports have increased 94 percent in volume terms and 132 percent in value terms.

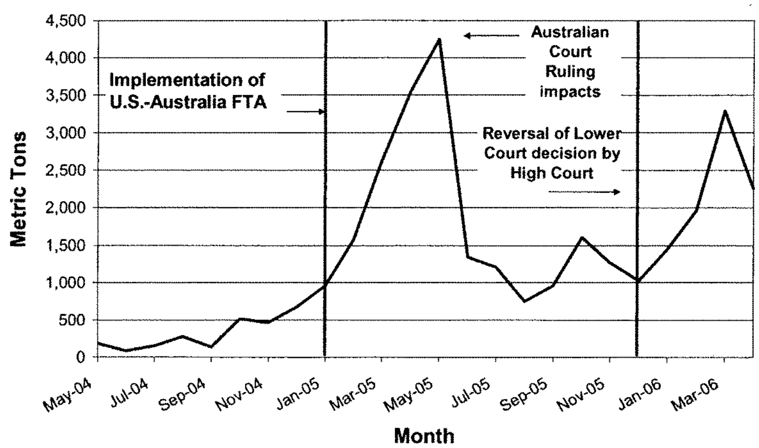
U.S. Pork Exports to Taiwan



Australia

The U.S. pork industry did not gain access to Australia until recently, thanks to the U.S. – Australia FTA. U.S. pork exports to Australia exploded in 2005 making Australia one of the top export destinations for U.S. pork. Even with the disruption caused by a legal case over Australia's risk assessment of pork imports, U.S. pork exports to Australia in 2005 totaled $60 million—a 463 percent increase over 2004 exports.

U.S. Pork Exports to Australia



Impact of Pork Exports on Prices
The Center for Agriculture and Rural Development (CARD) at Iowa State University has calculated that in 2004, U.S. pork prices were $33.60 per hog higher than they would have been in the absence of exports.

Impact of Pork Exports on Jobs
The USDA has reported that U.S. meat exports have generated 200,000 additional jobs and that this number has increased by 20,000 to 30,000 jobs per year as exports have grown.

Impact of Pork Exports on Economy
The U.S. Bureau of Economic Analysis (BEA) has calculated that for every $1 of income or output in the U.S. pork industry, an additional $3.113 is generated in the rest of the economy. The USDA has reported that the income multiplier from meat exports is 54% greater than the income multiplier from bulk grain exports.

Impact of Pork Exports on Feed Grain and Soybean Industries
Pork production is a major user of U.S. feed grains and oilseeds. U.S. hog slaughter in 2005 consisted of 100.807 million head of U.S.-fed pigs and 2.774 million head of pigs fed in Canada and imported into the U.S. for slaughter. The U.S.-fed pigs consumed an estimated 1.062 billion bushels of corn, 105.8 million bushels of other feed grains such as barley, grain sorghum and wheat and the soybean meal from 418 million bushels of soybeans.

U.S. pork exports in 2005 accounted for 12.5% of total U.S. pork production. This implies that 136.3 million bushels of corn and the soybean meal from 52.2 million bushels of soybean were exported in the form of pork from U.S.-fed pigs.

CONGRESS NEEDS TO PASS PTPA

The Peru Trade Promotion Agreement, when implemented, will create important new opportunities for U.S. pork producers. U.S. pork exports to Peru currently are restricted by duties as high as 25 percent. However, PTPA, if implemented, will establish immediate tariff reductions on all pork products. Some pork products will receive unlimited duty free access upon implementation of the agreement. Tariffs on most pork items will be phased out within five years. All pork tariffs will be completely phased out in ten years.

In addition to the favorable market access provisions, significant sanitary and technical issues have been resolved. By a letter dated January 5, 2006 the Peruvian government confirmed that it shall recognize the meat inspection system of the United States as equivalent to its own meat inspection system. The aggressive market access provisions coupled with the agreement on equivalence make the Peru agreement a state of the art agreement for pork producers to which all future FTAs will be compared.

Live hog prices are positively impacted by the introduction of new export markets. Recent price strength in U.S. pork markets is directly related to increased U.S. pork exports. Mexico continues to be a strong and growing export market for U.S. pork. The same competitive advantage that has resulted in expanded U.S. pork exports to Mexico will also facilitate an expansion of U.S. pork exports to 28 million new consumers in Peru.

The most important impact of this agreement is the income growth that accompanies free trade. Most consumers in Peru currently are at an income level that does not allow them to consume meat on a regular basis. Prosperity created by a free trade agreement will create millions of new customers for U.S. meat and other agricultural products.

According to Iowa State University economist Dermot Hayes, the Peru agreement, when fully implemented, will cause hog prices to be 83 cents higher than would otherwise have been the case. That means that the profits of the average U.S. pork producer will expand by 7 percent.

Much of the growth in U.S. pork exports is directly attributable to new and expanded market access. However, as the benefits from the Uruguay Round and NAFTA begin to diminish due to the fact that benefits from these agreements are now fully phased-in, the creation of new export opportunities becomes increasingly important. PTPA is an important part of this process and will bring real benefits to U.S. pork producers.

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Before the U.S. Senate Committee on Finance

Review of the United States - Peru Trade Promotion Agreement

Presented by

Jon Stoner, President
Montana Grain Growers Association

June 29, 2006

Good morning Chairman Grassley, Senator Baucus and Members of the Committee. My name is Jon Stoner and I farm near Havre, Montana, just south of the Canadian border. I raise three classes of high quality wheat on my farm – hard red winter, hard red spring and durum. I also raise barley, dry peas and lentils. Currently I serve as president of the Montana Grain Growers Association, a grassroots producer organization representing over 1,600 members across Montana.

Let me state up front that international markets and export opportunities are not an illusion for Montana producers. In 2005 the state raised nearly 200 million bushels of wheat, with 60 percent of that production exported overseas, primarily to Pacific Rim countries. This translates to over $400 million in sales for our producers. We know the opportunities that free and fair trade with our international partners can bring and that's why we strongly support the issue before you today, the U.S. – Peru Trade Promotion Agreement.

If I may, let me highlight two points that wheat producers in the United States take into account when looking at export trade opportunities. First, 96 percent of the world's consumers live beyond our border. The four percent within the United States do not consume enough wheat to sustain a viable wheat industry.

Second, we consistently export nearly 50 percent of our total U.S. wheat production. As you can imagine, our success or failure hinges on our ability to export U.S. wheat around the world. Trade is a vital component for ensuring the financial viability of U.S. wheat farmers. All trade agreements, such as the U.S. – Peru Trade Promotion Authority, must offer unique potential for expanding market opportunities for American growers. The way we see it, every market, regardless of size, is an important market.

Let me point out some of the key advantages for agriculture that I see from this agreement. They reinforce why the agricultural community is uniformly supportive.

- Market Access – No products are excluded
- Elimination of Tariffs – Sixty percent of the tariff lines, representing 90 percent of agricultural trade between the two countries, will be eliminated immediately.
- Sanitary and Phytosanitary Measures – An SPS joint committee will be established to expedite resolution of technical issues.

Now let's turn to the benefits this trade agreement offers for the primary crops I raise on my farm, wheat and barley. And the Montana wheat and barley producers I represent.

In the case of wheat, according to USDA the United States had 66 percent market share in Peru during 2003/04 and 43 percent during 2004/05. In 2005 U.S. wheat export sales into that market were valued at $78 million. But breathing down our neck are competitors Canada and Argentina. Currently, Peru's applied tariff rates for wheat is 17 percent. Under this agreement, the tariff rates would go to zero immediately for wheat. So while we already have significant market share for wheat in Peru, I'm confident this agreement will allow us to capture even more of that growing market. As a side note I might add that Peru has a relatively low per-capita consumption rate for bread, so I believe our growth potential is even greater.

Barley is the other major crop I raise on my farm and I am even more optimistic about its market potential in Peru. The country currently imports approximately 75,000 tons of malt barley per year, but the sales have been dominated by Australia, Canada, Argentina and the EU. Like wheat, the current applied tariff rate for both malt and feed barley is 17 percent. And similar to wheat, both malt and feed barley tariff rates go to zero upon the signing of this agreement. Great Falls, Montana, recently became home to the newest and most efficient malting facility in the United States, utilizing 13 million bushels of barley per year. This plant, owned by International Malting Company, is a textbook example of a value-added agricultural enterprise ripe for new export opportunities under a U.S. – Peru Trade Promotion Agreement.

Because Canada is a major competitor for sales to Peru, we are pleased that our negotiators secured a commitment on state trading enterprises in this TPA which commits Peru to work with the U.S. toward an agreement in the WTO negotiations. It will:

- Eliminate restrictions on the right to export;
- Eliminate the special financing granted to state trading enterprises which export for sale, directly or indirectly, agricultural products as a significant share of their country's exports; and
- Ensure greater transparency regarding the operation and maintenance of export state trading enterprises.

We applaud our negotiators for their hard work and tenacity to reach this agreement that we believe is very beneficial for U.S. agriculture. We strongly support the U.S. – Peru Trade Promotion Agreement and urge Congress to quickly pass it.

Thank you Mr. Chairman and members of the Committee for this opportunity to speak in support of the agreement and I look forward to answering questions at the appropriate time.

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Chamber of Commerce of
the United States of America

Association of American Chambers
of Commerce in Latin America

AACCLA

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Hearing of the United States Senate
Committee on Finance

on

"The U.S.–Peru Trade Promotion Agreement"
Thursday, June 29, 2006
10:00 a.m.

Dirksen Senate Office Building
Room 215

Testimony by Leon Trammel
Founder and Chairman
TRAMCO

on behalf of the

U.S. Chamber of Commerce,
Association of American Chambers of Commerce
in Latin America
and the
U.S.-Peru Trade Coalition

On behalf of the U.S. Chamber of Commerce (Chamber), the Association of American Chambers of Commerce in Latin America (AACCLA), and the U.S.-Peru Trade Coalition, I would like to voice strong support for the U.S.-Peru Trade Promotion Agreement (PTPA). My name is Leon Trammel, and I am founder, President and CEO of TRAMCO, a company based in Wichita, Kansas, that employs nearly 100 full-time employees and exports to more than 50 countries. Our company has been exporting its products to Peru for 19 years.

First a word about our organizations:

- The U.S. Chamber of Commerce is the world's largest business federation, representing three million businesses of every size, sector, and region.
- The Association of American Chambers of Commerce in Latin America (AACCLA) represents 23 American Chambers of Commerce in 21 Latin American and Caribbean nations, and its 20,000 member companies represent over 80% of all U.S. investment in the region.
- The U.S.-Peru Trade Coalition is a broad-based group of U.S. companies, farmers, business organizations and other groups representing the largest and most dynamic sectors of our economy. With over 100 companies and associations taking part, this new coalition is growing very rapidly.

Our company, TRAMCO, is a leader in the design, application, engineering and manufacture of the world's most complete line of chain conveyors, enclosed belt conveyors, specially designed conveyors and conveyor conversions. TRAMCO conveyors are used to upload and unload a variety of bulk materials such as coal, food and grain, ore from mines, plastic, pulp, rubber and paper, or solid waste and recycling. Since the company's inception, over 20,000 TRAMCO conveyors have been designed and put into service all over the world. TRAMCO's production facility offers high technology in automated milling and machining equipment and robotics, all of which allows for complete "in-house" production. A year ago, I was honored to receive the President's "E" Award for excellence in exporting. Established by executive order on December 5, 1961, the "E" Award recognizes people, firms, or organizations that contribute significantly in the effort to increase U.S. exports.

My company and the business organizations I represent today believe that international trade plays a vital part in the expansion of economic opportunities for American workers, farmers and businesses. PTPA is a critical step in U.S. efforts to promote sustainable economic growth in the Western Hemisphere through trade rather than aid, and it follows in the footsteps of the successful U.S.-Chile Free Trade Agreement (FTA). Indeed, PTPA is a front-loaded, ambitious and comprehensive agreement that promises considerable benefits to both the United States and Peru.

The agreement will substantially improve market access for American farm products, industrial and other non-agricultural goods, and services in Peru. The opportunities created by lowering tariff and non-tariff barriers to U.S.-Peru trade and investment promise to expand two-way trade opportunities and lift living standards in both countries.

Beyond its purely commercial benefits, the agreement offers critical support and stronger ties to a close ally in the Andes, a region where political and economic instability poses a real threat to U.S. and regional security. The election on June 4 of Alan García to succeed Alejandro Toledo as President of Peru marks a clear victory by a candidate endorsing closer ties to the United States at a time when some countries in the region are taking a different course. At this writing, two key committees in Peru's legislature have overwhelmingly approved the agreement, and the national Congress is likely to do so this week — with President-elect García's party lending its full support.

In addition, PTPA will bolster 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 not only protect U.S. innovation-based industries but contribute to the fight against counterfeit and pirated products, denying an important source of funds for groups engaged in narco-trafficking and terrorism.

Looking forward, the agreement with Peru is an important step in the U.S. strategy to promote trade liberalization and economic integration with the Andean region. U.S. trade with Peru and its Andean neighbors reached nearly $30 billion in 2005. This region represents a significant potential market, with a population approaching 100 million and a collective GDP near $500 billion when measured on a purchasing power parity basis. We welcome the conclusion of negotiations for a similar trade agreement with Colombia as the next step in this important strategy.

Opening Markets

Above all else, PTPA further opens Peru's market to products and services made by American workers, farmers, and companies. Equally important, the agreement makes it easier for U.S. consumers to buy products made by Peru's workers, farmers and companies. Total two-way trade between U.S. and Peru has doubled over the past three years, reaching $7.4 billion in 2005. However, due to U.S. trade preference programs, growth in U.S. exports to Peru reached 38% from 2000-2005, while Peruvian exports to the U.S. grew 157% during the same time period.

The United States unilaterally opened its market to Peru and its neighbors through the Andean Trade Preference Act (ATPA) in 1990 and its successor ATPDEA. According to the U.S. International Trade Commission (USITC), fully 97% of all imports from Peru already enter the U.S. market duty-free; the report continues: "While most of Peru's average tariff rates range from 12% to 25%, most of the U.S. average tariff rates are zero, with only one (sugar, 46.3%) exceeding 3%." In other words, Peru enjoys nearly free access to our marketplace while Peru taxes the products that U.S. companies and farmers ship there.

PTPA will cut Peru's taxes on U.S. products and as a result make this trade relationship a more mutually beneficial, reciprocal partnership. The day the agreement enters into force, 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. Consider the following examples of the current imbalance in tariff treatment and the impact of PTPA on this discrepancy:

Without PTPA		Products	With PTPA	
We Pay	**They Pay**		**We Pay**	**They Pay**
12–20%	0–6%	Processed Foods	0%	0%
12%	2.5%	Automobiles	0%	0%
12%	0%	Furniture	0%	0%
12%	0%	Audiovisual products (film and DVDs)	0%	0%
12%	0%	Chemicals, Plastics, Mineral Fuels and Coal	0%	0%
12%	5%	Cotton	0%	0%
12%	0%	Metal Products (copper, zinc, gold, silver)	0%	0%
20%,12% and 4%	0%	Cereals (oats, corn, soybeans)	0%	0%
4%	0%	Other transportation equipment	0%	0%
4%	0%	Computers and related products	0%	0%

Manufacturing: PTPA offers immediate opportunities for the U.S. manufacturing sector. Manufactured goods represented 90% of U.S. merchandise exports to Peru in 2005. The fastest-growing categories among U.S. manufactured exports to Peru have been petroleum and coal products; other furniture-related products; and boilers, tanks, and shipping containers. PTPA promises to not only accelerate this growth by reducing the landed cost of U.S. goods to Peru considerably but open up opportunities in new product categories. The benefits of the agreement are significantly front-loaded. When the agreement goes into effect, 80% of U.S. exports of consumer and industrial goods will become totally duty-free. The remainder will be duty-free within ten years.

As a result of the agreement, Peru will become a full member of the World Trade Organization's Information Technology Agreement, eliminating tariffs on information technology products and providing substantial new opportunities for U.S. high-tech exporters.

Agriculture: U.S. ranchers and farmers should reap substantial benefits from PTPA. According to the Agriculture Coalition for U.S.-Peru Trade, the United States exported an annual average of $227 million in agricultural products to Peru in 2000-2004. U.S. agricultural exports to Peru include wheat ($78 million), feed grains ($20 million), cotton ($38 million), oilseeds and products ($13 million), rice ($9 million), and dairy products ($6 million).

As noted, more than two-thirds of U.S. agricultural exports to Peru will be duty free upon implementation of the agreement, and tariffs on remaining U.S. farm exports will be phased out over 15-17 years. As a result, the Agriculture Coalition estimates the agreement will bring an increase in U.S. agricultural exports to Peru of more than $700 million by the end of the implementation period. The agreement is comprehensive in its coverage, providing commercially meaningful access for U.S. agricultural priorities while taking into account both U.S. and Peruvian agricultural sensitivities. The agreement also creates a mechanism for sanitary and phytosanitary cooperation and should ease related non-tariff barriers to U.S. agricultural exports to Peru.

Services: Service providers will also benefit significantly from the agreement. PTPA's services commitments cover both the cross-border supply of services and the right to invest and establish a local service presence and are strengthened by a set of detailed disciplines on regulatory transparency — which is fundamental to meaningful market access to services. In fact, as a result of PTPA, Peru has agreed to a series of new commitments that extend beyond Peru's existing commitments under the General Agreement on Trade in Services (GATS). Specifically, PTPA extends trade disciplines to services such as computer and related services, real estate, construction, environmental, and pipeline transport services.

While the agreement clearly levels the playing field for U.S. business and agriculture, it is a balanced one with significant benefits for Peru as well. While Peru has enjoyed virtually duty-free access to our market to their products under unilateral preference programs set-up to encourage alternatives to the drug trade, these preferences have always been subject to re-authorization by Congress with no guarantees. For example, both the ATPDEA and GSP benefits are set to expire in December 2006. Together, they represent half of all Peruvian exports that enter the United States duty-free, i.e. almost $2.45 billion, with the ATPDEA accounting for most of that sum. Without the extension of these preferential programs, Peru stands the risk of immediately losing a significant part of its exports. Moreover, most of the goods that have been exported under the ATPA/ATPDEA represent sectors that have previously not existed (e.g., fresh asparagus) and have flourished only because of these trade preferences.

Losing access to the U.S. market would mean losing millions of dollars in revenue and thousands of Peruvian jobs that depend on it. Without these jobs, many Peruvian workers will be forced to find other employment opportunities in a country that still has a very high unemployment rate and where nearly half of the population lives in poverty. However, the PTPA makes Peru's favorable access to our markets permanent and provides additional benefits in the form of improved market functioning and enhanced economic growth. In other words, PTPA will provide continuity in a long-term U.S. policy with regard to Peru — one that calls for economic development and democratic consolidation.

The Rule of Law

The agreement will strengthen protection and enforcement of U.S. trademarks, patents and copyrights, creating new opportunities for U.S. innovation-based and creative industries in Peru. In specific terms, PTPA includes strong intellectual property enforcement mechanisms and penalties provisions, including the criminalization of end-user piracy and counterfeiting and the authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. The agreement also provides necessary mechanisms to fight the problem of trans-shipment of counterfeit goods with specific provisions that are aimed at goods-in-transit.

In addition, U.S. direct investors in Peru will benefit from the strong investment chapter in the agreement, particularly the sections dealing with investment protections and dispute settlement. As noted by the Advisory Committee for Trade Policy and Negotiations in its report to President Bush, PTPA goes beyond earlier agreements in this regard and sets the gold standard for future free trade agreements. Indeed, the agreement enables binding third party arbitration for investor-state disputes not only for investments concluded after the agreement goes into effect, but also for many types of investments that pre-date the agreement.

The agreement provides for rights that are consistent with U.S. law and also contains fully transparent dispute settlement procedures that are open to the public and allow interested parties to provide their input. As such, these trade agreements provide an opportunity for the partner countries to improve their investment climate by undertaking legal and judicial reforms and resolving investment disputes (e.g., the criminalization of commercial disputes).

Growth, Income, and Jobs

PTPA is a great step forward in the evolution of our trading relationship with Peru from one based on unilateral trade preferences to reciprocal market access. As such, the economic, employment, and pocketbook impact of the agreement are quite positive. Indeed, PTPA is expected make modest but nonetheless valuable contributions to economic growth, incomes, and employment opportunities in cities and towns across the country.

According to the U.S. Department of Commerce, Peru was the 43rd largest market for U.S. goods in 2005, out of a total of 228 markets. Texas and Florida were the top state exporters, with California, Louisiana, Illinois, South Carolina, New York, Georgia, Pennsylvania, Tennessee, Washington, and New Jersey also posting significant export totals to Peru in 2005.

According to the USITC's June 2006 report on economy-wide effects of PTPA, the agreement is likely to result in a much larger increase in U.S. exports than in U.S. imports given the substantially greater tariffs faced by U.S. exporters to Peru than Peruvian exporters to the United States. The USITC estimates U.S. exports to Peru will increase by $1.1 billion, while imports will only increase by $439 million. Furthermore, the USITC predicts that PTPA will add $2.1 billion per year to U.S. gross domestic product.

The Chamber has begun preparing state-specific economic impact studies in order to gauge the impact of the agreement. Our initial findings for Texas and Florida provide an idea of how the agreement will impact local economies. The studies show moderate but real gains for industrial output, household earnings, and employment for both states. In the first year, our model shows a potential increase in output across all industries of $155 million in Texas and $143 million in Florida; increased earnings for employees in all industries of $35 million in both states; and the creation of 1,055 and 931 new jobs in Texas and Florida, respectively.

Of course, the real impact of the agreement becomes clearer as we look further into the future. In nine years, our model[1] shows a potential increase in output across all industries of $829 million in Texas and $768 million in Florida; increased earnings of employees in all industries of $188 million in Texas and $186 million in Florida; and the creation of 4,141 and 4,970 jobs, respectively.

Additional Benefits

In addition to contributing strongly to the expansion of trade and economic relations between the United States and Peru, PTPA will lend a helping hand for a close ally in the Andes and will enhance U.S. efforts to strengthen democracy in the region. The embrace of democratic norms throughout the hemisphere over the past 25 years has been remarkable. But in some countries, poor economic policy and weak political parties, among other factors, have recently endangered this progress. The recent surge in populist victories, especially in South America, underscores the fact that democratic elections do not by themselves guarantee the rule of law.

While questions of the rule of law in the region may legitimately be addressed in a number of ways, we believe that the promulgation of ambitious and comprehensive free trade agreements would do more to enhance the rule of law and transparent governance in the region than any other possible step the United States could take. While the commercial benefits are substantial, they go beyond just opening overseas markets for America's workers, farmers and companies. These agreements assist in the creation of a transparent, rules-based economic environment, which is a critical element in the success of democratic institutions and market-based economic policies.

Like much of Latin America, the Andean region is struggling against corruption, which undermines growth, security, and stability. PTPA contains critical provisions to enhance transparency and accountability in governance, providing the countries with

[1] This study uses the U.S. Department of Commerce's Bureau of Economic Analysis Regional Input-Output Modeling System (RIMS II) to offer a vision of the potential impact of the Peru TPA.

important tools to fight the scourge of corruption. As an example, the agreement provides for the criminalization of bribery in government procurement, providing for more efficient procurement and a more competitive marketplace.

PTPA also promotes U.S. security interests by forging a deeper partnership with Peru through a framework for government-to-government relationships that is grounded in the tangible national interests of all parties. Such a framework is vital to enhancing cooperation in the fight against terrorism and narcotics trafficking; it also sets an example for other countries around the world as we pursue our global security goals. By promoting economic growth in Peru, PTPA will help stabilize its economy and provide its citizens with long-term alternatives to narcotics trafficking or illegal immigration.

Conclusion

In sum, it is worth noting that the commercial benefits of recent free trade agreements have surpassed all expectation. Consider the U.S.-Chile FTA, which 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. While the USITC had forecast total export growth of 18-52% for the first 12 years of the agreement's implementation, U.S. exports to Chile nearly doubled in just two years — a combined 91% increase over just 24 months. Given the similarities between PTPA and the U.S.-Chile FTA, we may surely expect impressive benefits from this new agreement as well.

While exports are important, it is worth reporting that imports from Chile have also increased. In the end, trade is about more than just exporting — it is about more choices at lower costs for consumers, and as a result a higher standard of living. Sometimes, as is the case with Chile, free trade is about having access fresh grapes in the winter and more crushed grapes (i.e., wine) year-round. With Peru, our consumers will benefit from more access to healthy foods and vegetables like asparagus and fish. This is especially appreciated during the winter.

We appreciate this opportunity to share our strong support for PTPA. We believe that trade expansion is an essential ingredient in any recipe for economic success in the 21st century, and PTPA is an excellent model in this regard. If U.S. companies, workers, and consumers are to thrive amidst rising competition, new trade agreements such as PTPA are critical. U.S. business is more than capable of competing in the global marketplace when trade barriers are removed and markets are open.

Thank you very much.

Testimony of Richard L. Trumka,
Secretary Treasurer
American Federation of Labor and Congress of Industrial Organizations
(AFL-CIO)

before the
Senate Finance Committee

June 29, 2006

Hearing on the
Implementation of the United States-Peru Free Trade Agreement

Mr. Chairman, members of the Committee, thank you for the opportunity to testify today on behalf of the nine million working men and women of the AFL-CIO on this very important topic.

The trade debate in the United States continues to be contentious, bitter, and partisan. But it doesn't have to be this way. We in the labor movement, along with our allies in the environmental, family farm, small business, development, and faith communities, have repeatedly communicated our substantive and concrete concerns about the direction of U.S. trade policy to the Administration -- through testimony, advisory committee reports, and meetings. Yet our concerns have been completely ignored, and the Administration continues to barrel ahead with ill-advised bilateral trade deals that will only further exacerbate our current trade imbalance, and erode the living standards of American workers and our counterparts in our trading partners.

Mr. Chairman, members of the Committee, we ask you to reject the Peru FTA and urge the administration to renegotiate this deeply flawed deal.

In our view, the Peru FTA provides precisely the wrong answers to the challenges faced in Peru and the United States. The agreement is based on a failed model that neither addresses the problems confronted by workers in Peru, nor contributes to the creation of good jobs and decent wages at home. Once again, the workers' rights provisions are entirely inadequate to ensure that workers' fundamental human rights are respected, and the dispute settlement mechanism for workers' rights and environmental protections is far weaker than that available for commercial provisions. At the same time, flawed provisions on services, investment, government procurement, and intellectual property rights will undermine the ability of both governments to protect public health, strong communities, and the environment.

In addition to the problems outlined above, which are common to all of the trade agreements negotiated by this Administration, we continue to have very serious concerns about the labor laws of Peru. As the International Labor Organization (ILO) recently observed, many of Peru's labor laws still do not comply with ILO core labor standards.

Moreover, existing laws are not respected in practice. Despite improvements made to Peru's legal framework in 2003, labor laws today do not provide for the full exercise of the most important and fundamental workers' rights: freedom of association and the right to organize and bargain collectively.

Workers in Peru suffer from a labor relations system that makes the entire employment relationship precarious and unfair. Employers can and often do avoid unions by employing workers on short, fixed-term contracts, commercial contracts, or by hiring workers through a management-dominated service cooperative. Should a worker with a fixed-term contract attempt to organize or join a union, the contract is generally not renewed upon expiration. Those workers hired through a cooperative are not considered employees but members of the cooperative; thus, they are completely denied the ability to exercise their basic labor rights.

Workers fortunate enough to be in a union are largely unprotected from employer interference or from anti-union discrimination, further limiting the ability of workers to organize and bargain for better, dignified working conditions. Even if a worker does have a collective bargaining agreement, employers may unilaterally modify its terms as a condition for negotiating a new contract. Most troubling, the law gives the employer the power to fire any worker *without cause, and without the right to legally challenge the action*. This effectively eliminates the rights for workers hired under direct, permanent contracts to organize, bargain collectively, and strike.

Labor law reform is currently stalled in the Peruvian Congress. But even if these reforms were fully implemented, the labor provisions included in the Peru FTA do *not* include any enforceable provisions preventing the weakening of or derogation from domestic labor laws. This means that even if Peru's labor laws are brought fully into compliance with ILO standards, the U.S. government would have absolutely no recourse to dispute settlement or enforcement if a future government were to reverse those gains and weaken or gut Peru's labor laws after Congressional passage of the FTA.

In addition to our concerns on Peru's labor situation, any vote on the Peru FTA must take into account the broader economic reality that we are facing today. Our trade deficit hit a record-shattering $726 billion last year; we have lost more than three million manufacturing jobs since 1998; and average wages have not kept pace with inflation this year – despite healthy productivity growth. The number of people in poverty continues to grow, and real median family income continues to fall. Offshore outsourcing of white-collar jobs is increasingly impacting highly educated, highly skilled workers – leading to rising unemployment rates for engineers and college graduates. Together, record trade and budget deficits, unsustainable levels of consumer debt, and stagnant wages paint a picture of an economy living beyond its means, dangerously unstable in a volatile global environment.

The AFL-CIO Executive Council adopted a statement in March calling for a moratorium on all new free trade agreements, including with Peru, until we can rewrite them to protect and advance workers' interests.

Labor Provisions of the Peru FTA

Like CAFTA, the Peru FTA's labor provisions constitute a significant step backwards from existing labor rights provisions in the U.S. – Jordan FTA and in our Generalized System of Preferences (GSP) program. In the Peru agreement, only one labor rights obligation – the obligation for a government to enforce its own labor laws – is actually enforceable through dispute settlement. All of the other obligations contained in the labor chapter, many of which are drawn from Congressional negotiating objectives, are explicitly excluded from the dispute settlement system and are thus completely unenforceable.

The USTR has no legitimate excuse for continuing to negotiate these weak and inadequate labor provisions. During a visit to Washington, D.C., in 2005, President Alejandro Toledo expressed support for including an enforceable commitment to comply with ILO core labor standards in the trade agreement. Our government has consciously chosen not to include this provision in the final text, despite the willingness of the Peruvian government to do so. It is no longer credible for USTR to claim that other governments are not willing to include meaningful worker rights provisions in FTAs.

The labor provisions of the Peru FTA, like those in all the FTAs negotiated by this Administration, are simply inadequate to ensure that workers' fundamental human rights will be protected. These weak labor provisions:

- do not contain any enforceable requirements that domestic labor laws comply with the international standards established by the International Labor Organization (ILO). While the labor chapter includes a commitment to respect the ILO core labor standards, this commitment is not subject to the enforcement mechanisms of the trade agreement.

- do not prevent a government from "weakening or reducing the protections afforded in domestic labor laws" to "encourage trade or investment." A government could roll back its labor laws without threat of sanction or fine. This is a very real problem. In 2005, for example, the Mexican government drafted and attempted to pass legislation that would have substantially weakened its labor code. Unfortunately, this is an all-too-common occurrence.

- do not include any requirement that countries effectively enforce non-discrimination laws, even though this is an ILO core labor standard. The Andean governments expressed willingness to include non-discrimination within the definition of internationally recognized worker rights, but USTR refused to make this important change.

Penalties are Insufficient

Even for the one labor obligation in the FTA that is subject to dispute resolution – the requirement to effectively enforce domestic laws – the procedures and remedies for addressing violations are significantly weaker than those available for commercial disputes in the agreement. This directly violates Trade Promotion Authority, which instructs our negotiators to seek provisions in trade agreements that treat all principle negotiating objectives equally and provide equivalent dispute settlement procedures and equivalent remedies for all disputes.

The labor enforcement procedures cap the maximum amount of fines and sanctions available at an unacceptably low level, and allow violators to pay fines that end up back in their own territory with inadequate oversight. These provisions not only make the labor provisions of the agreement virtually unenforceable, they also differ dramatically from the enforcement procedures and remedies available for commercial disputes:

- In commercial disputes, the violating party can choose to pay a monetary assessment instead of facing trade sanctions, and in such cases the assessment will be capped at half the value of the sanctions. In labor disputes, however, the assessment is capped at an absolute level, no matter what the level of harm caused by the offending measure.

- Not only are the caps on fines much lower for labor disputes, but any possibility of trade sanctions is much lower as well. In commercial disputes, a party can suspend the full original amount of trade benefits (equal to the harm caused by the offending measure) if a monetary assessment (capped at half that value) is not paid. In a labor dispute, the level of trade benefits a party can revoke if a monetary assessment is not paid is limited to the value of the assessment itself – capped at $15 million.

- Finally, the fines are robbed of much of their punitive or deterrent effect by the manner of their payment. In commercial disputes under the Peru FTA, the deterrent effect of punitive remedies is clearly recognized – it is presumed that any monetary assessment will be paid out by the violating party to the complaining party, unless a panel decides otherwise. Yet for labor disputes, the violating country pays the fine to a joint commission to improve labor rights enforcement, and the fine ends up back in its own territory. No rules prevent a government from simply transferring an equal amount of money out of its labor budget at the same time it pays the fine. And there is no guarantee that the fine will actually be used to ensure effective labor law enforcement, since trade benefits can only be withdrawn if a fine is not paid. If the commission pays the fine back to the offending government, but the government uses the money on unrelated or ineffective programs so that enforcement problems continue un-addressed, no trade action can be taken.

The labor provisions in the Peru FTA are woefully inadequate, and clearly fall short of the TPA negotiating objectives. They will be extremely difficult to enforce with any efficacy, and monetary assessments that are imposed may be inadequate to actually remedy violations. Given Peru's failure to respect core workers' rights and the huge inadequacies in its labor laws, it is especially problematic to implement an FTA with weak labor protections at this time.

Labor Rights in Peru

Workers continue to face legal and practical obstacles to the exercise of their rights to freely associate, to join a trade union and to bargain collectively in Peru. Under the autocratic rule of President Alberto Fujimori, which lasted from 1990 to 2000, trade unionists suffered heavy losses. Collective bargaining agreements were abrogated, harsh industrial policies were enacted, and political repression became the norm. As a result, there was a sharp drop in the union density in Peru, from 21.9% in 1990 to 4.6% in 2002. Similarly, the percentage of workers covered by collective bargaining agreements dropped from 37.9% to 11.7%, during the same period.[1] Although the outgoing administration of President Toledo took some steps to moderate the Fujimori era "reforms," serious problems still persist in the labor laws and practices in Peru. Additional reforms to the General Labor Law, which would have made additional steps towards bringing the country's labor code into compliance with ILO labor standards, have been drafted but unfortunately never enacted.

With the coming of a new administration, it seemed possible that an improved General Labor Law could pass soon. However, we are deeply troubled by recent remarks made by Congressman Jorge del Castillo, the Secretary General of APRA -- the political party of president-elect Alan Garcia. In the June 22 issue of *Gestion*, he explains that the current congress would not approve the revised General Labor Law. Even worse, he goes on to say that the labor reforms do not constitute a priority for the new congress, but that they will focus instead on austerity reforms and investment policy. His remarks clearly do not bode well for Peruvian workers and the prospect for needed labor law reforms.

Right to Organize and Bargain Collectively:

In 1992, President Fujimori decreed that collective bargaining agreements would expire within a year and would thereafter be subject to renegotiation. With unions already on the defensive, the gains won through years, and in some cases decades, of negotiation were wiped away. Today's collective bargaining agreements contain only a fraction of the rights and benefits of pre-1992 contracts. Unfortunately, not much has changed as to collective bargaining.

Section 9 of Legislative Decree 728 allows employers to introduce changes unilaterally to the content of previously concluded collective agreements, a practice denounced by the ILO.[2] At the expiration of a collective bargaining agreement, all previously negotiated agreements must be ratified in order for the previously established terms and

[1] ILO, Peru: Proposal of the National Program for Decent Work 2004-2006 (Dec. 2003), p.70.
[2] CEACR: Individual Observation Concerning Convention No. 98, Right to Organize and Collective Bargaining, Peru (2005).

conditions to continue in force. Employers often introduce modifications unilaterally as a "condition" to move forward with re-negotiation of an existing agreement.

The ILO has also found that legal procedures for addressing anti-union discrimination and employer interference are so slow as to be ineffective. It recently recommended that "the legislation ...make express provision for rapid appeal procedures and effective and dissuasive sanctions against acts of interference by employers against workers' organizations and that cases concerning issues of anti-union discrimination and interference should be examined promptly so that the necessary remedial measures can be really effective."[3]

Freedom of Association - Right to Strike

Article 73(b) of the Industrial relations Act of 1992 requires that a majority of the workers in a workplace vote in favor of a strike before it can be held. The ILO has found such a requirement to be excessive, as ILO standards only call for the support of a majority of those voting.[4] The right to strike is further restricted for those workers employed in "essential public services." However, the government's list of "essential services" is vast and goes far beyond what is deemed essential under international law.[5]

The ILO has also held that an independent body should determine the legality of a strike. In the case of a strike in an essential public service, an independent body should also determine how many workers are needed to maintain minimum services. In Peru, the Ministry of Labor makes these determinations.[6]

According to the State Department's 2005 Report on Human Rights Practices, there was a single legal strike and 45 illegal strikes between January and August. Labor leaders alleged that it was difficult to get approval for a legal strike and believed that the Ministry of Labor was reluctant to do so for fear of hurting the economy.

Use of Short-Term Contracts and Labor Cooperatives to Frustrate Labor Rights:

Under the laws of Peru, employers may hire new employees through renewable, fixed-term contracts, which are typically for no longer than a few months. Employees may be employed for years on such contracts, despite their temporary nature. However, if an employee attempts to form or join a union, the contract is typically not renewed. Further, it is more difficult to prove anti-union discrimination in the termination of a temporary

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[3] Id.

[4] CEACR Individual Observation Concerning Convention No. 87, Freedom of Association and Protection of the Right to Organize, Peru (2005)

[5] According to the Public Service Law, essential services are defined as: a) health services; b) waste collection and public sanitation; c) electricity, water, drainage systems, gas and fuel services; d) funeral and burial services; e) prison system; f) communications and telecommunications; g) transportation; h) national security, national defense and strategic services; i) justice system as decided by the Supreme Court; j) others determined under the law.

[6] See id, supra, n. 4.

three-month contract, as the employer can justify the dismissal on the basis that the work was temporary and that the worker is no longer needed.

Some workers are also hired through a service cooperative. Workers hired by such cooperatives, which are often set up and controlled an employer, are not considered employees of the establishment but rather are deemed members of the cooperative. Thus, since the relationship with the employer is indirect, the employee is not protected by the terms of the General Labor Law. Such workers also do not receive legally established benefits and protections either.

Forced Labor

Forced labor continues to be practiced in rural areas of Peru, affecting primarily the indigenous populations of Atalaya and Ucayali. In 2004, the ILO published the report, *Forced Labor In The Extraction Of Timber In Peruvian Amazonia* as a product of the ILO's special action program to combat forced labor. The report found the "existence of forced labor, particularly in work related to the unlawful extraction of timber in various regions of the Peruvian Amazon basin. …The number of persons affected is reported to be around 33,000, mainly belonging to various ethnic groups of Peruvian Amazonia."[7] The report found extreme cases in which indigenous workers are actually captured and forced to work in timber camps, although forms of debt bondage is a more common practice. The document also reported that major international corporations and powerful timber industry groups provided the financing of timber extraction activities.

Following the release of the report, the government prepared a National Plan of Action for the Eradication of Forced Labor. However, the ILO reported that the government did not receive any legal complaints concerning forced labor. Given that forced labor is known to exist, the absence of any penalties was found to be "indicative of the incapacity of the judicial system to prosecute such practices and penalize those who are guilty." In accordance with Article 25 of the Convention, the Government is under the obligation to ensure that the penalties imposed on those found guilty of the exaction of forced labor are really adequate and strictly enforced.

Child Labor

The 2005 U.S. Department of State Report on Human Rights Practices notes that although the law generally restricts child labor "the law's provisions were violated routinely in the informal sector." The National Institute for Statistics and Information (INEI) estimated that "2.3 million children between 6 and 17 years of age were engaged in work, of which 1.9 million labored in the informal sector."

[7] CEACR: Individual Observation Concerning Forced Labor Convention, No. 29, Peru (2006).

Child labor in the mining sector, a "worst form" due to the hazards it poses to the health and welfare of children, persists in Peru. We note that ILO/IPEC has established programs in Peru to help raise awareness of the problem and to expand health and education services. However, there is a long way to go before the problem is resolved, as thousands of children continue to labor in the mines. Peru must take the necessary measures to eradicate the exploitation of children in the mining sector and to improve the conditions of work for adult miners.

Conditions of Work - Export Agriculture and EPZs

Workers in the export agriculture sector enjoy fewer benefits, by law, than their non-agricultural counterparts. Under Law 27,360 of 2000, workers are entitled to less vacation, do not receive compensation for holidays, and in the case of arbitrary dismissal are eligible to collect only up to 15 days wages for each year of service.

Workers, largely women, who enter this line of work are usually between 18 and 25. They work long days, between 9 and 12 hours daily and up to 18 to 20 hours during harvest or during the shipment of product. In general, they do not receive overtime pay. This situation is even worse for those who are transported from their homes to work in the fields, as they are unable to return home until the company agrees. Fieldworkers are also exposed to toxic pesticides and experience a range of occupational health problems, including loss of sight, gastritis, fungal infections, breathing problems and back problems. In the processing factories, workers are required to stand the entire day in highly physical labor without the ability to move about or change position. Additionally, workers are not provided adequate protective gear and are subject to frequent changes in temperature.

In the four Export Processing Zones (EPZs), special regulations "provide for the use of temporary labor as needed, for greater flexibility in labor contracts, and for setting wage rates based on supply and demand."[8]

Trade Impacts of the Peru FTA

The overall trade relationship with Peru is small relative to the economy of the United States. However, the trade agreement will likely exacerbate the already enormous and growing U.S. trade deficit. In fact, the U.S. trade deficit with Peru has grown eightfold in just five years: from $335 million in 2000 to $2.8 billion in 2005. In the first four months of 2006, the trade deficit reached $900 million, up 27% over the previous year at the same time. The agreement is likely to result in a deteriorating trade balance in specific sectors, including sensitive sectors such as apparel. Imports of cotton apparel from Peru doubled in the last five years and are expected to increase. Imports in other sectors, especially metals (e.g., gold, copper, and aluminum), are projected to increase enough to impact U.S. output and employment, according to the recent U.S. ITC study, "*U.S.-Peru*

[8] U.S. Department of State, Country Reports on Human Rights Practice – Peru (2005).

Trade Promotion Agreement: Potential Economy-Wide and Selected Sectoral Effects." Even where the market access provisions of the agreement themselves may not have much of a negative impact on our trade relationship, these provisions when combined with rules on investment, procurement, and services could further facilitate the shift of U.S. investment and production overseas, harming American workers.

Investment: In TPA, Congress directed USTR to ensure "that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States." Yet the investment provisions of the Peru FTA contain large loopholes that allow foreign investors to claim rights above and beyond those that our domestic investors enjoy. The agreement's rules on expropriation, its extremely broad definition of what constitutes property, and its definition of "fair and equitable treatment" are not based directly on U.S. law, and annexes to the agreement clarifying these provisions also fail to provide adequate guidance to dispute panels. As a result, arbitrators could interpret the agreement's rules to grant foreign investors greater rights than they would enjoy under our domestic law. In addition, the agreement's deeply flawed investor-to-state dispute resolution mechanism contains none of the controls (such as a standing appellate mechanism, exhaustion requirements, or a diplomatic screen) that could limit abuse of this private right of action. Finally, the marked difference between the dispute resolution procedures and remedies available to individual investors and the enforcement provisions available for the violation of workers' rights and environmental standards flouts TPA's requirement that all negotiating objectives be treated equally, with recourse to equivalent dispute settlement procedures and remedies.

Intellectual Property Rights: In TPA, Congress instructed our trade negotiators to ensure that future trade agreements respect the declaration on the Trade Related Aspects on Intellectual Property Rights (TRIPs) agreement and public health, adopted by the WTO at its Fourth Ministerial Conference at Doha, Qatar. The Peru FTA contains a number of "TRIPs-plus" provisions on pharmaceutical patents, including on test data and marketing approval, which could be used to constrain the ability of a government to issue compulsory licenses as permitted under TRIPs and the Doha Declaration.

Government Procurement: The FTA's rules on procurement restrict the public policy aims that may be met through procurement policies at the federal level. These rules could be used to challenge a variety of important procurement provisions including domestic sourcing preferences, prevailing wage laws, project-labor agreements, and responsible contractor requirements. We believe that governments must retain their ability to invest tax dollars in domestic job creation and to pursue other legitimate social objectives, and that procurement rules which restrict this authority are inappropriate.

Safeguards: Workers have extensive experience with large international transfers of production in the wake of the negotiation of free trade agreements and thus are acutely aware of the need for effective safeguards. The safeguard provisions in the Peru agreement, which offer no more protection than the limited safeguard mechanism in NAFTA, are not acceptable. U.S. negotiators should have recognized that much faster, stronger safeguard remedies are needed. The Peru FTA has failed to provide the necessary import surge protections for American workers.

Services: NAFTA and WTO rules restrict the ability of governments to regulate services – even public services. Increased pressure to deregulate and privatize could raise the cost and reduce the quality of basic services. Yet the Peru agreement does not contain a broad, explicit carve-out for important public services. Public services provided on a commercial basis or in competition with private providers are generally subject to the rules on trade in services in the Peru FTA, unless specifically exempted.

Conclusion

Congress should reject the Peru FTA, and send a strong message to USTR that future agreements must make a radical departure from the failed NAFTA model in order to succeed.

American workers are willing to support increased trade if the rules that govern it stimulate growth, create jobs, and protect fundamental rights. The AFL-CIO is committed to fighting for better trade policies that benefit U.S. workers and the U.S. economy as a whole. For the reasons stated above, we urge the Congress to reject the U.S.-Peru FTA and begin work on a more just economic and social relationship with Peru.

COMMUNICATIONS

Testimony of Bacilio A. Amorrortu
Hearing on the
Implementation of the United States-Peru Trade Promotion Agreement

Mr. Chairman, members of the House Senate Finance Committee, thank you for the opportunity to testify individually before you on this very important issue. This testimony is in memory of my wife Gladys who passed away days ago in Houston, Texas.

I am a petroleum engineer and oilfield services businessman, who became a politician. In 1999, I came, this time, to USA seeking for freedom and justice, as a victim of a cruel political persecution executed by the Peruvian Government. In 2001, the INS United States Department of Justice granted me a political asylum ruling, ratifying that the Peruvian Government executed human rights violations against me. I got freedom. This decision was the result of my 510 pages complaint filed against the Peruvian government. The Peruvian Government confiscated my assets. My next step is seeking for justice. In accordance with the US Constitution and law, I am here to file a political and human rights claim before you and the Senate against the Peruvian Government, to get a fair reparation or remedy. Also to request you to suspend the implementation of the United States-Peru Trade Promotion Agreement until the Peruvian Government compromises to comply with this reparation or remedy.

I always understood that the United States Trade Agreements, like this one, are to promote freedom, human rights, democracy and mutual prosperity; also, to fight against corruption and poverty. Therefore, I consider solving my mentioned claim is one of the purposes of this Trade Agreement.

The following laws of the United States support my Political and Human Rights Claim:
The U.S. Constitution Article I. Section.8.Clause3: The Congress shall power to regulate Commerce with foreign Nations, and the International Covenant on Civil and Political Rights that provides in Part II Article 2.3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, (c) To ensure that the competent authorities shall enforce such remedies when granted.

In the 1980s, as a result of having created hundreds of jobs with my company Propetsa, the way I treated my workers, and my social services furnished in my region "Grau", I became an oil businessman and political leader. The terrorist groups shining path and mrta threatened me to stop me working for the people and community. Thousands of workers and unemployed Peruvians approached me and told me that they believed I was the right person to head a political party. In 1990, I was the founder and leader of a political party in Peru named "En Accion", and raised the political symbol "the tower" of energy, fighting politically against terrorist group shining path, who collapsed the towers of electricity producing blackouts, killing people, and creating terror to the Peruvians. I raised the message to increase the oil & gas exploration and exploitation to solve the energy problem in Peru. I aired a TV spot saying "the blackouts must no be repeated, join us and raise the tower". Terrorist increased threats against me. This message gained support and thousands of supporters.

In 1992, I filed 230,000 supporter signatures before the Peruvian Electoral Court to participate in the national election for Congress. The Peruvian Government rejected my participation to be in the ballot. I was vetoed. The Peruvian government saw in me a real opposition and a presidency alternative. On the contrary, I read that another political party would had filed fake signatures and that they would had been in the ballot. They were not vetoed. The repressive Peruvian Government increased the political persecution against me. They threatened me and executed an economical torture shutting down my company Propetsa to avoid incomes and confiscated my oil rigs and an important receivable account.

On February 13, 1992, I requested the Peruvian Minister of Energy and Mines to pay my oil company a debt owed by the Peruvian Government oil company, the same way they did with foreign companies. We agreed to audit this claim by the Peruvian State Comptrollership. On May 18, 1992, during the audit, the Peruvian Government sent unilaterally the judicial deposit No. 70880755 to a Civil Judge in favor of my company with a diminutive amount. This was a clear sign of obstruction of justice and a confiscation of my biggest receivable account asset. However, this arbitrary act did not stop the Peruvian Comptrollership to issue a "Special Analysis" ratifying that the Peruvian Government owed to my company a debt in a large amount. This judgment was not fulfilled and the Peruvian Government did not pay me or my company. On the contrary, foreign companies were paid. I filed a lawsuit against the Peruvian Government without success. The 2001 U.S. Department of State human rights report about Peru says: "the judiciary has been subject to interference from the executive and is corrupt and inefficient". In 1992, after receiving a copy of the Comptrollership's "Special analysis" ratifying the debt to Propetsa, I apprised the tax office (Sunat) that both Propetsa and myself were creditors of the State, and that tax liability was to be assessed at zero, since the State literally owed me and my company many, many times any tax debt.

Conclusion

The political persecution has been cruel. I am extremely damaged and we did not have the money at the right time to pay complete medical exams for my wife Gladys, but the Peruvian Government on June 28, 2005, would had been sold two of my very expensive oil rigs confiscated. I do not know the details. My case as a victim of human rights violations must not be repeated. This Senate Finance Committee and the Senate should send a strong sign to Peru related to human rights and should suspend the implementation of the United States-Peru Trade Promotion Agreement until the Peruvian government agrees to pay a political and human rights reparation or remedy claimed.

COUNCIL OF THE Americas

STATEMENT OF THE COUNCIL OF THE AMERICAS
BEFORE THE SENATE COMMITTEE ON FINANCE
HEARING ON IMPLEMENTATION OF THE UNITED STATES-PERU
TRADE PROMOTION AGREEMENT
JUNE 29, 2006

SUBMITTED BY
ERIC FARNSWORTH
VICE PRESIDENT

The Council of the Americas ("Council") appreciates the opportunity to submit testimony in support of the United States-Peru Trade Promotion Agreement. The Council is a New York-based organization with offices also in Washington representing approximately 175 companies invested in and doing business throughout the Western Hemisphere. The Council is dedicated to the promotion of open markets, democracy, and the rule of law in the Americas. Founded in 1965, we have been widely recognized throughout the region as the voice of Western Hemisphere business and policy for over 40 years.

A Regional Network of Open Markets

The Council strongly supports efforts to expand trade and investment throughout the Americas, both on the basis of US economic and national security interests and in the belief that open markets and healthy investment flows are critical factors in the search for sustainable, equitable growth in the hemisphere. For that reason, we are strong advocates for the negotiation of a Free Trade Area of the Americas, as democratically-elected leaders first agreed at the 1994 hemispheric summit in Miami. Such an agreement would provide the very underpinnings of broad, sustained US engagement in the region. As stepping stones to this ultimate goal, we have supported agreements with Mexico, Canada, Chile, Central America and the Dominican Republic, and will continue to support new agreements such as the one with Peru that can contribute to that overall goal of a hemispheric open trade zone. As with the DR-CAFTA, our hope for the Andean region is an agreement that boosts regional integration efforts by uniting our trading partners in the Andes and throughout the Americas in an agreement that applies collectively among all the countries, rather than simply on a bilateral basis between each country and the United States. Therefore, in the broader context of US strategy for economic engagement in the Western Hemisphere, the Council urges policymakers to pursue a path of integration and harmonization among existing and pending free trade agreements. At the very least, the terms of agreements now being negotiated should be conducive to future integration. In this way, the bilateral/sub-regional agenda will be a path toward hemispheric free trade through the Free Trade Area of the Americas, which, despite being delayed, remains our ultimate goal.

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US-Peru FTA

As a next step toward this goal, and in direct support of US strategic interests in the critical Andean region, the Council strongly supports the pending agreement between the United States and Peru and urges its rapid advance through the Trade Promotion Authority-mandated process to Congressional approval and timely implementation.

- An Andean Free Trade Agreement is the next logical step in a long-term pattern of economic and political engagement of the region pursued by Republican and Democratic administrations alike. US credibility in the region, as well as with the broader multilateral trade agenda, is an important consideration as Congress looks at this agreement.
- As an agreement with the potential for regional application, the Peru FTA sets the stage for an attractive regional market and potentially enhances integration and cooperation among the countries of the Andes—a critical ingredient for long-term, peaceful and democratic stability in the region and for the effective management of the challenge of illicit narcotics.
- The free trade agreement offers important growth opportunities for US industry and agriculture by opening a significant market, and putting it on a footing for more rapid growth.
- The disciplines contained in the agreement in areas such as services, investment and government procurement enhance the transparency and accountability of day-to-day governance, which makes Peru a more attractive place for foreign investment, while reinforcing democratic processes and narrowing opportunities for corruption.
- As a strategic matter, for the last 15 years stemming from the 1991 Cartagena Summit, the United States on a bipartisan basis has supported economic growth in the Andean region as a bulwark against movements inimical to US interests—primarily illegal narcotics trafficking—by opening its markets unilaterally to Andean countries through the Andean Trade Preferences Act. The ATPA was later extended and expanded by the Andean Trade Partnership and Drug Eradication Act, now set to expire in December 2006. With economic populism reaching across the Andes, the US-Peru trade promotion agreement will move the pre-existing relationship to a reciprocal and sustainable basis for the first time.
- Perhaps most importantly, the agreement enhances the US relationship with a country and its newly-elected government that is a much-needed ally in a strategic region during a politically-sensitive time.

The Peru FTA stands on its merits. On the basis of reciprocity alone, for 15 years of duty-free access under the ATPA/ATPDEA, it should be non-controversial to open the Peruvian market to US goods, as ours is already open to theirs. The foreign policy arguments in favor of this agreement are equally compelling, if not, in fact, even more so.

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The Climate for Investment

The Council's enthusiasm for the US-Peru FTA is the result of long-term engagement with political leaders and policy makers in the United States and Peru. In the past it has been tempered at times by the intractability of certain disputes affecting investors. It is safe to say that, wherever investments are made, investment disputes will inevitably arise. The issue is not whether such disputes exist. The issue, rather, is whether, when they do arise, investment disputes are promptly, transparently, and effectively resolved, and whether the established patterns of foreign government behavior build momentum and goodwill toward their ultimate resolution, or obstruct this goal.

The Council has long supported an open and rules-based approach to trade. In a global economy, investors will look first to the investment climate as to whether they will increase or reduce their exposure to the countries in question. During the course of the negotiations we emphasized the necessity for Peru to demonstrate both the capacity, and the willingness, to implement and enforce trade and investment related legislation, and to maintain a demonstrated institutional consistency across administrations. We called attention to the vexing nature of investment disputes in Peru and urged the sequential, definitive resolution of disputes, insisting upon a strong, meaningful dispute resolution chapter that would provide the opportunity for adequate redress in cases where disputes may arise.

In this regard, the Toledo Administration has exhibited a strong commitment as part of the FTA process to resolving investment disputes in accordance with the rule of law. Much concrete progress has been made. Though some disputes remain, the trade agreement as negotiated provides cutting edge protections which, when implemented fully by the new Garcia Administration, will give greater confidence to investors thus bringing about, over time, the full benefits promised by an expanded trade relationship. We stand in favor of cementing these efforts through a formalized agreement with Peru.

Conclusion

The Council urges timely and favorable action on the pending agreement with Peru, which we believe will provide a cornerstone for continued democratic and economic growth and development and important new economic opportunities for the United States. As well, the Peru FTA is also an important building block toward the vision of a unified hemispheric market that will enhance US competitiveness and that of its neighbors in an era of unparalleled global competition—and opportunity. The agreement should be passed without delay.

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PUBLIC DOCUMENT

BEFORE THE
UNITED STATES SENATE COMMITTEE ON FINANCE

In the Matter of:

The U.S. – Peru Trade Promotion Agreement

WRITTEN STATEMENT ON BEHALF OF
EXPORAMERICA

June 29, 2006

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This statement is submitted on behalf of EXPORAMERICA, an association of Peruvian apparel companies whose objective is to promote increased trade between Peru and the U.S. Exporamerica presented testimony at the public hearing conducted by the International Trade Commission (ITC) on March 15, 2006 in connection with its investigation regarding the Peru Trade Promotion Agreement (PTPA).

I. U.S. – Peru Trade in Fibers, Yarns, and Apparel – A Mutually Beneficial Relationship

Since the implementation of the Andean Trade and Drug Eradication Act (ATPDEA) in 2002, trade in textiles and apparel between the U.S. and Peru has grown considerably.[1] In Peru's case apparel exports have nearly doubled since 2001 and Peru has surpassed Colombia to become the leading Andean exporter of textiles and apparel to the U.S. Although Peru supplied only 1% of total U.S. apparel imports in 2005, it was the fifth largest source of knit cotton shirts and blouses, with shipments of $644 million (equal to 78% of US textile and apparel imports from Peru) and a 5% marketshare.[2]

Peru's growth has also led to significant benefits for the U.S. as demand in Peru for raw materials has outstripped supplies. As noted by the I.T.C., U.S. cotton for use in the textile and apparel industry is a major export product to Peru,[3] and the provisions of the PTPA are likely to have a significant positive effect on U.S. cotton exports to Peru.[4] In addition, according to the ITC, tariff liberalization under the PTPA will likely result in a large percentage increase in U.S. exports of textiles and apparel to Peru. These exports consist mostly of yarns, fabrics, and garment parts.[5]

Building on the benefits of the ATPDEA (which is set to expire in December of 2006), and its predecessor the ATPA of 1991, the PTPA has been signed by executives of both countries and ratified by the Peruvian Congress, but is still pending approval of the U.S. Congress. The increasing interconnectedness of the U.S. and Peruvian textile and apparel industries, which is a direct outgrowth of the ATPDEA, is also creating a mutually beneficial trade relationship that will permit industries in both countries to face the stiff competition coming from China and other Asian producers, which largely do not use U.S. inputs in their textile and apparel production. The PTPA will allow this already thriving relationship to grow.

The emerging "strategic alliance" between textile and apparel industries in both countries is being replicated in other FTAs between the U.S. and its trade partners in the Western

[1] The ATPA (1991) and the ATPDEA (2002) , although used interchangeably at times in this testimony, contain differences of importance to the textile and apparel industry. According to the International Economic Review (published ITC #3571 Nov./Dec. 2002), the ATPDEA "authorizes the extension of duty—free treatment to certain products previously excluded from ATPA preferences, including certain textiles and apparel, footwear, petroleum and petroleum derivatives, watches and watch parts (including cases, bracelets, and straps), and certain tuna in smaller foil or other flexible airtight packages (not cans). However, ATPDEA did not renew the reduced--duty provisions on certain handbags, luggage, flat goods, work gloves, and leather wearing apparel."

[2] United States International Trade Comission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects" – USITC Publication 3855, May 2006, p. 3-22.

[3] United States International Trade Commission, "The Impact of the Andean Trade Preference Act" – Eleventh Report 2004, USITC Publication 3803, September 2005, p. 2-38.

[4] United States International Trade Comission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects" – USITC Publication 3855, May 2006, p 3-7.

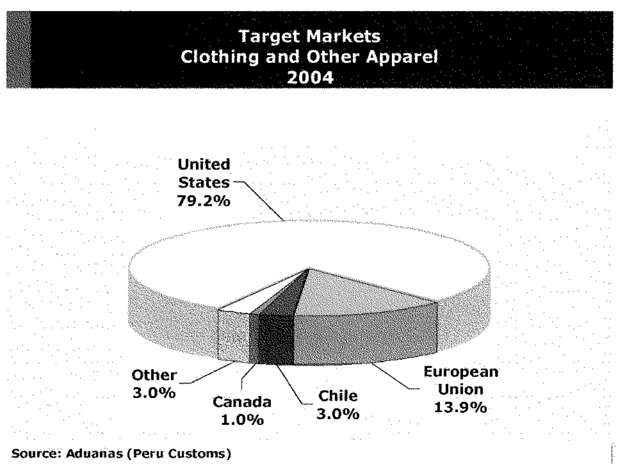
[5] Ibid p. 3-22.

Hemisphere. This will help Peru and the U.S. to face the threat presented by Chinese and Asian competition, which in many instances depends on subsidies; artificially low exchange rates to promote exports; and labor that in many cases does not conform with minimum, internationally-recognized, labor standards, none of which occurs in Peru, a country that scrupulously observes the 71 International Labor Organization (I.L.O.) agreements to which it has subscribed.

II. Importance of the Textile and Apparel Industry to Peru's Economy

The textile and apparel manufacturing industry represents around 10% of Peru's total exports. It is one of Peru's leading industries and an estimated source of direct and indirect employment for over 500,000 Peruvians. As such, it accounts for nearly 20% of the country's manufacturing jobs and almost 10% (considering an average family size of 5) of Peru's population of 28 million depends on this industry for its livelihood.

It is also one of Peru's fastest growing export industries. In 2005, Peru exported approximately US$ 1,150 billion worth of textiles and apparels, compared to US$ 664 million in 2001. Approximately 79.2% of Peru's exports were destined to the U.S. market. This industry has become successful in large part thanks to the ATPDEA.



The qualitative importance of apparel exports to Peru becomes evident when considering that 70% of Peru's exports correspond to minerals (gold, copper, lead, silver, zinc, etc.) and fish meal, all of which represent commodities and have little or no value-added. In this regard, it is estimated that an article of clothing multiplies the value of the fiber approximately 12 times. Peru's apparel industry allows for substantial value added because, unlike neighboring Colombia or the Central American nations which are overwhelmingly maquila (cut & sew) oriented, its industry is vertically integrated throughout the productive chain and its niche market is the "full package" product. Approximately 80% of Peru's textile and apparel exports are represented by cotton garments and fabrics. Of this amount, about 80% are knit fabrics.

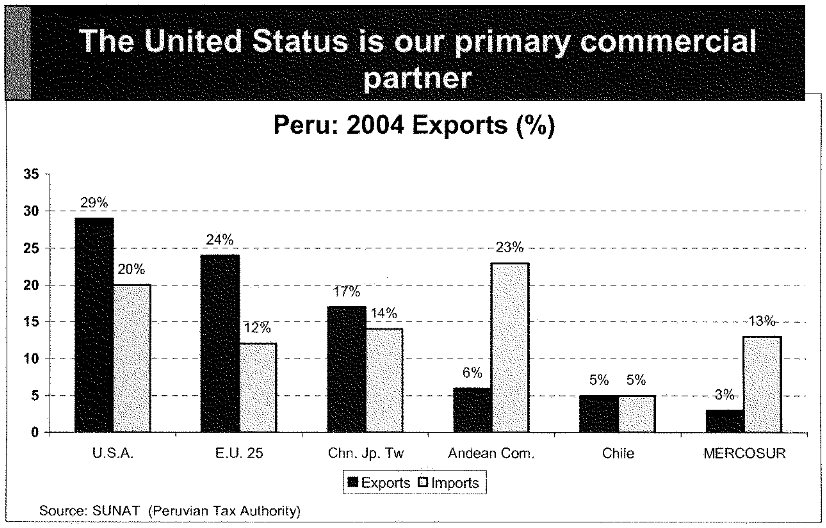
III. Benefits to the U.S. Economy:

A. Cotton

As is shown in the chart below, the U.S. is Peru's primary trade partner and the destination for nearly one third of the country's exports. As indicated earlier, Peru's growing exports also benefit the U.S. In the case of apparel, 95% of Peru's exports are manufactured from cotton fiber. Given that there is a shortfall of cotton production in Peru for use in export garments, the country must import cotton to meet the demand of its textile and apparel sector. According to the ITC, Peru imported an average of 39625 MT of cotton annually from 2000-2005, of which 27,155 MT, or more than two-thirds, were imported from the United States.[6] This growing consumption of U.S. cotton has been spurred by the ATPDEA and will be further encouraged by approval of the PTPA.

It should be noted that, at present, U.S. cotton exports to Peru are currently subject to a 12% import duty on the CIF value. Upon implementation of the PTPA, this import duty will be eliminated immediately. This will further encourage U.S. cotton exports to Peru and in turn make Peruvian apparel more competitive price-wise in the U.S. market. Moreover, Peruvian imports of a variety of synthetic fibers, demand for which has grown on a daily basis, are also likely to increase significantly. However, allowing the ATPDEA to lapse without the PTPA in place would immediately threaten this thriving relationship and hurt Peruvian apparel producers and their U.S. cotton suppliers.

[6] ITC May 2006 report, p. 3-8.



Recognizing the benefits to the U.S. cotton industry of increasing exports of U.S. cotton to the ATPDEA countries, the Memphis, TN-based, National Cotton Council (NCC) passed a resolution supporting the adoption of the PTPA and its strong rule of origin requirements, and informed the U.S.T.R. that the NCC had determined that the agreement will be beneficial for U.S. cotton producers and for U.S. textile and apparel manufacturers.[7] The chart below shows the growth in U.S. cotton exports to Peru over the last five years.

U.S. Cotton Exports to Peru (including US Pima and US Upland)

YEAR	VOLUME M.T. FIBER	CIF VALUE IN US $	TOTAL IMPORTS %
2001	22,141.82	30,461,312	60.33
2002	32,910.34	38,909,099	77.00
2003	34,374.10	50,018,140	86.03
2004	23,774.70	43,311,251	66.87
2005	34,672.84	48,484,849	74.57

B. Yarns and Fabrics

The rules of origin agreed to under ATPDEA, and the PTPA, are designed to foster the use of inputs produced in member countries (the use of yarn or fabrics from third parties – as is

[7] "Cotton's Week" (NCC Newsletter), February 17, 2006, referring to letter from John Maguire, NCC senior vice president, Washington Operations to Ambassador Portman.

the case in some of the countries that participate in the CAFTA- is not allowed in PTPA except in specific cases). Once the PTPA is in place Peru is expected to increasingly meet its unsatisfied demand for yarn and fabrics with products manufactured in the U.S., because this is the only way in which apparel will qualify for duty free treatment in the U.S. under the rules of origin.

As the ITC notes, U.S. textile firms generally support the rules of origin for textiles and apparel under the PTPA because the rules ensure that the agreement benefits both parties and will further regional integration goals.[8] Under the agreement, yarns and fabrics produced in the U.S. will enter Peru duty free immediately upon implementation. This will boost imports from the U.S., which will have an advantage vis-à-vis yarn and fabric suppliers that pay a 25% customs tariff to enter Peru. Again, expiration of the ATPDEA, without the PTPA in place, will interrupt this flow and will threaten the growth in trade between both countries that would otherwise be expected from a smoother transition from the ATPDEA to the PTPA.[9]

C. The Apparel Value Chain in the U.S. and Other Considerations

In addition to the direct benefits to the U.S. cotton and textile industries noted above, growing apparel imports from Peru under the ATPDEA have generated benefits to the U.S. economy across the entire transportation, distribution, and retail chain. In this regard, if for example a clothing garment has a FOB Callao-Peru value of US$ 6.00, the price at which the same garment is sold in the U.S. generally ranges from US$ 40 to 50. This price differential indicates that a greater portion of the value chain involved in Peruvian apparel exports remains in U.S. hands. These considerable benefits are distributed among U.S. sea, air, and land transporters; couriers; ports; warehouses and distribution facilities; and finally retailers. It is also safe to say that the Peruvian apparel industry supports thousands of U.S. jobs along the value chain associated with this trade. Finally, the last link of this value chain is, of course, the U.S. consumer who as a result of the ATPDEA has had access at more competitive prices to high-quality apparel containing in many instances cotton and animal fibers unique to Peru.

In this regard, it is important to mention that Peruvian apparel exports include those manufactured with wools from species in the camelid family such as the alpaca, llama, and vicuña. This uniquely Peruvian production has grown rapidly in recent years, does not compete with U.S.-produced apparel, and has resulted in concrete conservation and environmental benefits in Peru.[10]

Under both the ATPA, and its successor the ATPDEA, Peru's growing apparel industry, its capacity to generate employment, and its need for imported and domestically grown cotton and other inputs, has also contributed to Peru's success in reducing illegal coca-leaf cultivation

[8] United States International Trade Comission, "U.S.-Peru Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects" – USITC Publication 3855, May 2006, p. 3-23.

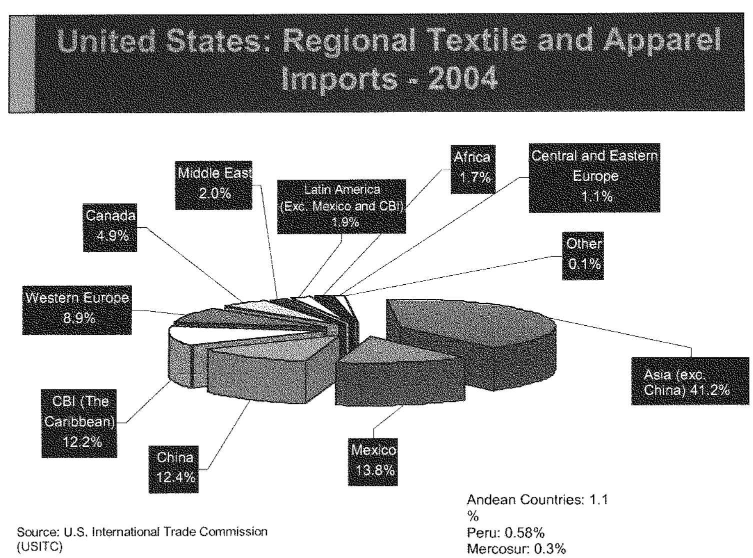
[9] The National Council of Textile Organizations (NCTO), another major U.S. association based in Gastonia, NC, which represents numerous yarn and fabric producers throughout the U.S., but who are mostly concentrated in North Carolina, South Carolina, and Georgia, is also pleased that the PTPA addresses all the major negotiating objectives, which significantly enhances the hemispheric supply chain and makes these improvements permanent. The structure and rules of the PTPA will benefit textile and apparel producers in both countries.

[10] Once endangered wild vicuña herds, which have some of the finest fibers in the animal kingdom, are making a comeback in the impoverished Andean highlands thanks to export markets created in the last 15 years for apparel made with their wool.

and providing alternative, legal, employment for tens of thousands of Peruvians. This is an important U.S. strategic objective in the war on drugs, the struggle against narcotics trafficking towards the U.S., and keeping illegal drugs out of U.S. communities and neighborhoods. This is also a key reason for approval of the PTPA.

Figures from the ITC noted that net coca cultivation decreased dramatically from 115,300 hectares in 1995 to 27,500 hectares in 2004.[11] Although coca cultivation has risen slightly in Peru in the last two years, it is important to note that since 2000, coca cultivation in the Andean region as a whole has declined by nearly 30% to 158,000 hectares, according to the United Nations Office on Drugs and Crime (UNODC).[12] Given that the ATPDEA has been in place since 1991, it is clear that this program has been an invaluable tool in reducing coca cultivation by spurring the growth of the apparel and other export-driven industries in Peru.

In observing the overall picture, it is also important to note that Andean apparel exports to the U.S. do not even reach 1.1% of total U.S. imports. Therefore, there is no risk of displacement or damage to the U.S. from Peruvian apparel imports.



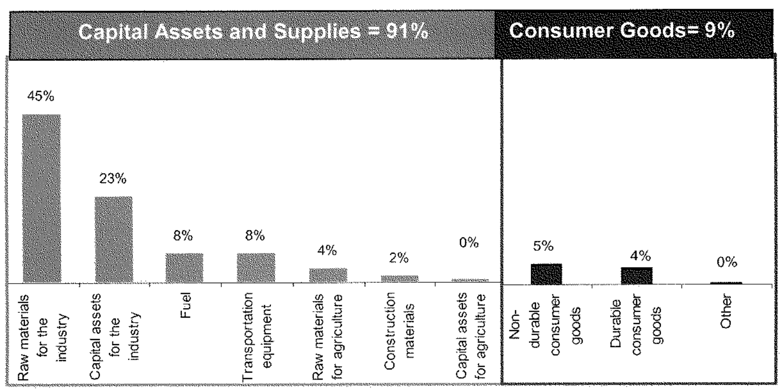
[11] United States International Trade Commission, "The Impact of the Andean Trade Preference Act" – Eleventh Report 2004, USITC Publication 3803, September 2005, p. 4-14.
[12] UN Office on Drugs and Crime, "Coca Cultivation in the Andean Region: A Survey of Bolivia, Colombia and Peru," June 2006, Preface.

It should be considered that, as shown in the chart below, Peruvian and U.S. economies are complementary in many aspects and barely compete against each other, and therefore, a bilateral agreement generates a win-win situation for both countries.

In this regard, it is estimated that for every dollar exported by the ATPDEA beneficiary countries to the U.S., 94 cents worth of U.S. goods are in turn imported by the ATPDEA countries, whereas by way of comparison the Asian countries only buy 14 cents out of every dollar exported to the U.S.[13]

Peruvian and U.S. industries do not compete against, but rather complement each other

Peru: U.S. imports for 2004
Millions of US$ CIF



IV. Peru TPA and Labor

The growth of globalized, export-based industries in Peru has been such that in parts of the country such as Ica and La Libertad there is full-employment year round and extreme poverty has been reduced by an astounding 36% comparable to levels experienced nationwide by countries such as Chile. The cotton, textile and apparel industries located in these regions have helped to contribute to these successes. Moreover, workers in these industries earn good wages by Peruvian standards which is helping to reduce Peru's extreme poverty levels. Just recently, for example, the Peruvian Prime Minister Pedro Pablo Kuczynski annouced that extreme poverty has been reduced from 24% to 18% between 2001 and 2005.

[13] The ATPDEA beneficiary countries are Bolivia, Colombia, Ecuador and Peru.

In terms of its committment to global labor standards, Peru has ratified 71 ILO conventions, including the eight "core conventions." It has been praised multiple times by the ILO for its progress in improving labor laws. In addition to all of the ILO's Core Labor Rights Conventions, the PTPA's labor standards exceed those of five other previously-ratified trade agreements: Jordan, Chile/Singapore, CAFTA, Bahrain and even the ATPDEA, which does not make ILO or national standards mandatory.

The PTPA goes beyond many other free trade agreements in the enforcement of worker rights and dispute resolution. The PTPA-created Labor Affairs Council develops public participation in reporting and funding to ensure implementation of the agreement and improved cooperation and capacity-building mechanisms. Additionally, the PTPA holds member countries accountable to effectively enforce existing labor laws, under penalty of fines, which are used by the PTPA commission to fund projects improving labor right protections. Noncompliance results in the formation of an arbitral panel, which may fine violating parties up to $15 million per year and suspend tariff benefits to the party complained against if necessary to cover the assessment.[14]

V. Investment and Dispute Resolution

The PTPA's Investment Chapter will facilitate transactions for U.S. industries and banks, as well as commercial and service companies, among others, that have investments or are interested in investing in Peru. U.S. investors will be treated equally as local institutions. Moreover, they will have full freedom to remit investments and profits. Therefore, it is possible that U.S. textile companies will install industrial plants and trading companies in Peru, which will use supplies produced in the United States, such as state-of-the-art fibers, yarns and fabrics.

It should also be pointed out that the PTPA contemplates a dispute settlement mechanism, designed to provide security to U.S. investors in Peru given that any controversy will be resolved on a fair and equitable basis, without the intervention of political or other considerations in the settlement of disputes.

VI. Concluding Remarks

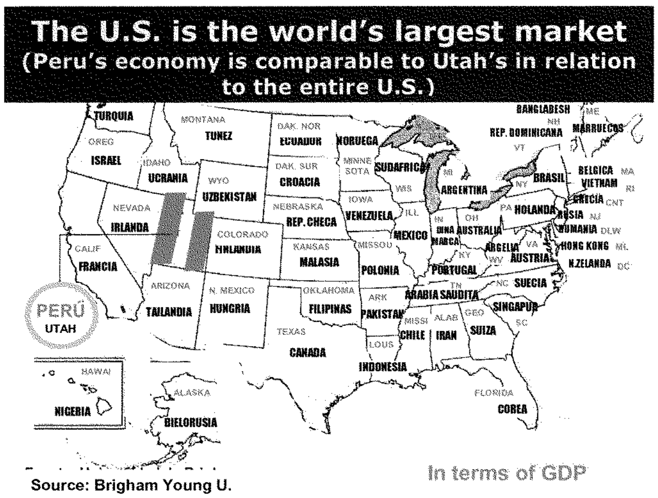
The Peruvian economy, as shown in the chart below, is clearly very small in comparison to U.S. economy. However, an emerging strategic alliance between the textile and apparel industries of both countries, and more broadly between the countries themselves, which has been made possible by the ATPA/ATPDEA, and will be enshrined by the PTPA will provide stability to the hemisphere based on the common principles shared by the U.S. and Peru, such as freedom and democracy, upon which fair and prosperous societies are based.

The ATPA/ATPDEA has brought significant benefits to the United States – progress in the "war on drugs," benefits to U.S. consumers of imports from Peru and segments of the U.S. economy from distribution and manufacturing – as well as to Peruvian economy in general and to the apparel sector in particular. If the ATPDEA is allowed to lapse after December 31, 2006

[14] Peru Trade Promotion Agreement, Chapter Twenty-One: Dispute Settlement.

with the PTPA in its place, the benefits that currently flow to both the Peruvian and U.S. economies from this program would lapse as well.

Exporamerica is pleased that the United States has negotiated a free trade agreement with Peru that subject to the rules of origin would provide duty-free treatment to imports from Peru. However, it is not at all clear whether this agreement will be fully implemented until January 1, 2007. For this reason, Exporamerica urges prompt consideration and approval by the U.S. Congress of the PTPA, and looks forward to working with this body to achieve this objective.



HUMANE SOCIETY INTERNATIONAL

July 11, 2006

Senate Committee on Finance
Attn. Editorial and Document Section
Room SD-203
Dirksen Senate Office Building
Washington, DC 20510-6200

Dear Chairman Grassley,

On June 29, 2006, the Senate Committee on Finance held a hearing to discuss the U.S.-Peru Trade Promotion Agreement. Pursuant to the Committee guidelines regarding the submission of written testimony by interested parties, please accept the following comments discussing the environmental and public participation provisions of the U.S.-Peru Trade Promotion Agreement. These comments are timely as they have been submitted within two weeks of the hearing.

Humane Society International (HSI) operates as the international arm of The Humane Society of the United States (HSUS). Founded in 1954,The HSUS is the largest animal protection organization in the United States with a constituency of over 9.5 million. As the international arm of The HSUS, HSI works to promote the protection of all animals around the world by participating in programmatic activities in developing countries, advocating for the effective enforcement of international environmental treaties, and furthering humane and sustainable international trade policy. HSI actively participates in discussions of international trade policy at the World Trade Organization addressing such issues as equitable development, humane and sustainable agriculture, environmental conservation, and wildlife and habitat protection. Furthermore, as a member of the Trade and Environment Policy Advisory Committee in the United States, HSI advises the United States Trade Representative and the U.S. Environmental Protection Agency on international trade policy.

The following comments are intended to address the provisions of the U.S.-Peru Trade Promotion Agreement affecting the environment, including wildlife and their habitat and biodiversity, as well as public participation, including that of Non-Governmental Organizations such as HSI. Please feel free to contact me with any questions regarding these comments.

Respectfully submitted,

Patricia A. Forkan
President, Humane Society International

Promoting the protection of all animals worldwide

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I. Introduction

In the Trade Act of 2002, Congress directed the United States Trade Representative (USTR) to achieve several trade negotiating objectives with respect to the environment. These objectives include: requiring that parties to a trade agreement with the Untied States effectively enforce their environmental laws; strengthening environmental protection through the promotion of sustainable development and efforts to build the capacity of trading partners of the Untied States; and ensuring trade and environment policies are mutually supportive and seek to protect and preserve the environment and enhance the international means of doing so, while at the same time optimizing the world's resources.

About fifteen months ago, HSI testified before the Senate Finance Committee on the free trade agreement with Central America and the Dominican Republic (CAFTA – DR) and discussed HSI and HSUS's support of the environmental provisions of that Agreement. It is the view of HSI and HSUS that each free trade agreement signed by the Untied States should be judged on its individual provisions and through an objective lens.

In providing these written comments to the Committee, we do not propose that each and every aspect of the U.S.-Peru Trade Promotion Agreement (PTPA) will further the aims most important to HSI and HSUS -- protecting the environment and promoting the protection and humane treatment of all animals. However, we do view the environmental provisions of this Agreement as providing needed opportunities and incentives to enhance environmental protection in Peru and the Untied States.

II. PTPA Chapter on Environment

Protecting the environment, habitat, and animals (wildlife, farm, and companion) and promoting sustainable development requires education, resources, and a commitment from the governments of both Parties to the PTPA to follow through on programs and projects once they have started. In particular, the Government of the United States needs to ensure that its trade, economic, environment, and development policies are well coordinated and that various U.S. government agencies involved in these areas communicate effectively and work together to make sure such initiatives are mutually supportive.

It is incumbent upon the U.S. government, therefore, to devote appropriate levels of funding over the long-term for environmental and sustainable development programs and projects. In addition, the U.S. should take this opportunity to encourage partnerships with local Non-Governmental Organizations (NGOs) in Peru in order to better address important environmental issues.

With respect to the PTPA, HSI and HSUS believe that the chapter on the environment continues to build upon those included in previous free trade agreements. While HSI and HSUS do not support the use of "boilerplate" language for the environment chapter of all free trade agreements, the text of the PTPA does provide for the creation of further opportunities to enhance environmental protection in Peru. Most importantly, the PTPA environment chapter includes important provisions that HSI and HSUS believe will help to promote improved governance and stewardship in Peru, and permit citizens and NGOs to have their voices heard on important environmental issues.

A. Effective Enforcement and Environmental Consultations

The most important obligation agreed upon by the Parties in the PTPA environment chapter is the obligation to effectively enforce domestic environmental laws, while at the same time striving to improve upon current environmental laws and policies. With respect to Party to Party disputes, the PTPA environment chapter provides each Party with the right to request consultations regarding any matter arising under the chapter. Where the matter concerns whether a Party is failing to effectively enforce its own environmental laws in sustained or recurring course of action or inaction in a manner that affects trade, the complaining Party may request the formation of a panel to settle the dispute. A finding by the panel in favor of the complaining Party may result in a monetary assessment of $15 million, not an insignificant amount for the country of Peru.

In addition to the requirement to effectively enforce environmental laws, the Parties have also agreed to establish an Environmental Affairs Council ("the Council") made up of senior level officials with expertise in the environment. Pursuant to the Agreement, the Council is required to attempt to resolve disputes referred to it when one Party requests consultations alleging a failure to effectively enforce environmental laws.

Included in domestic environmental laws covered by the effective enforcement provision are Multilateral Environmental Agreements ratified by both Parties because those agreements become part of domestic law when ratified or implemented through legislation. For example, the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES), which has been ratified by Peru and the United States, must be effectively enforced by both countries. Failure to effectively enforce CITES, therefore, could lead to consultations under Article 18.11 and possibly dispute settlement. Although seeking resolution through dispute settlement should be used only as a last resort, the decision of both Parties to voluntarily submit to formal dispute settlement procedures provides the PTPA with a more robust and effective means of enforcing this obligation.

B. Public Participation

HSI and HSUS strongly believe that public participation provisions in free trade agreements are integral to the implementation and formation of ongoing operations of the environmental provisions of these agreements. For this reason, we strongly support the inclusion of several provisions in the PTPA chapter on environment which permit the public and NGOs to participate in bringing environmental issues to the attention of the competent authorities in each of the Parties.

For example, under the PTPA each Party is directed to establish a national consultative or advisory committee, comprised of persons with knowledge of environmental issues, to provide views on the implementation of the chapter as well as on issues raised by interested persons in submissions to a Party. Furthermore, Article 18.5.2(c) requires the Environmental Affairs Council to establish mechanisms to exchange information with the public, consider public submissions at Council meetings, and request public input on matters relevant to the Council's work. Finally, under Article 18.3.1 interested persons are guaranteed access to the competent authorities of each party to investigate alleged violations of domestic environmental laws.

Most importantly, HSI and HSUS support the PTPA's creation of an independent secretariat designed to receive submissions on enforcement matters, and in cases where such a failure is demonstrated, to develop a factual record. Pursuant to Article 18.7.1, any person (including NGOs) of a Party may file a submission asserting that one of the Parties has failed to effectively enforce its environmental laws. Where warranted, the Environmental Affairs Council may require that the secretariat develop a factual record on the issue including information provided by the public or NGOs.

Once completed, the factual record must be made available to the public by the secretariat within 60 days if requested to do so by the Council. In addition, following compilation of the factual record, the Council may provide recommendations to the Environmental Cooperation Commission (created pursuant to the Environmental Cooperation Agreement signed by the Parties), including suggestions for further development of a Party's mechanisms for monitoring domestic environmental enforcement. Taken together, these provisions empower civil society, NGOs, and the private sector to have a voice in their country's environmental policies, programs, and enforcement regimes.

As a member of USTR's Trade and Environment Policy Advisory Committee here in the United States, HSI recognizes the importance of public participation in the development of trade and environmental policy. HSI, therefore, believes that it is crucial for both Parties, civil society, NGOs, and the private sector to remain engaged in environmental and economic development issues. While HSI and HSUS support the public participation provisions included in the environment chapter of the PTPA, it should not escape the Committee's attention that both USTR and the Congress share responsibility for closely monitoring the implementation of these provisions.

C. Biodiversity

Peru is one of the most biologically diverse countries in the world. It is home to unique species such as alpacas, vicuñas and Andean river dolphins as well as a number of endangered species including the yellow-tailed woolly monkey, yellow-eared parrot, Andean mountain cat, and the Andean tapir.

For the first time in a trade agreement, the United States and a trading partner included a commitment to protect and conserve biodiversity. Under Article 18.10 of the PTPA environment chapter, both Parties declare their commitment to the promotion and encouragement of biodiversity, including animals, habitat and plants. In addition, both Parties explicitly acknowledge their commitment under the Agreement to strive to continue the improvement of their individual levels of environmental protection. Finally, the Parties agree to enhance their cooperative efforts on issues affecting biodiversity through the Environmental Cooperation Agreement.

The recognition of the important role biodiversity plays in the diverse ecosystems found in Peru and the United States is a substantial achievement in the environment chapter of a trade agreement. Both Parties should be commended on this accomplishment. Should the PTPA enter into force, however, it is incumbent on the governments of both the United States and Peru to ensure that the Agreement does more than just put words on paper for the first time. Provisions such as the biodiversity Article need long-term financial backing and support in order to achieve their desired result. Through innovative programs and efforts, including the Environmental Cooperation Agreement, such protections may be increased and enhanced.

III. Funding for Environmental Cooperation

Concurrently with the PTPA negotiations, the Parties negotiated an Environmental Cooperation Agreement (ECA). Recognizing the importance of strengthening the capacity in each Party to protect the environment and promote sustainable development, the ECA provides a foundation for long-term cooperation and assistance on environmental issues, programs, and policies. Pursuant to the ECA, each Party is required to take into account the public comments and recommendations regarding cooperative environmental activities.

Although HSI and HSUS support the efforts of the United States to promote enhanced environmental cooperation in Peru, we are concerned about the level of financial commitment to these efforts. For example, ensuring that the public submission mechanism works as intended – including building the capacity of local organizations to participate effectively in the public submission process, strengthening the ability of Ministries to enforce environmental laws (including CITES), training of government officials on how to set up a national advisory committee system, and ensuring transparency and openness by communicating issues to civil society – will all require a great deal of funding and technical assistance.

As with all previous free trade agreements that include ECAs, the PTPA does not set forth a dedicated funding source to achieve intended results of the capacity building provisions. Due to budget constraints, these agreements will all be competing against each other for a limited and diminishing amount of funding. In addition, it is too often the case that environmental projects are placed at the bottom of the priority list for funding.

HSI and HSUS are hopeful that the ECA will provide a strong basis for ongoing environmental cooperation, and urge Congress to ensure that the ECA is adequately funded. While we are aware of the need to be fiscally responsible, environmental cooperation is an area where we can achieve a great deal of good and improve the life and health of people and animals in addition to increasing economic opportunities. HSI and HSUS, therefore, recommend that Congress set aside a specific amount of funding for environmental cooperation with Peru as it did in the case of CAFTA-DR.

IV. Conclusion

HSI and HSUS support the efforts of the United States and Peru in including the effective enforcement, public participation, and biodiversity provisions in the environment chapter of the PTPA. In addition, the Environmental Cooperation Agreement illustrates the strong commitment by both Parties to work together to protect the environment and conserve precious natural resources including biodiversity. For all of these reasons, HSI and HSUS are strongly encouraged that the PTPA will support increased environmental protection in both countries.

Thank you very much for the opportunity to present written comments to the Committee. We would be happy to answer any questions the Committee may have with regard to our comments.

Respectfully submitted,

Patricia A. Forkan
President, Humane Society International

PUBLIC DOCUMENT

BEFORE THE
UNITED STATES SENATE COMMITTEE ON FINANCE

In the Matter of:

The U.S. – Peru Trade Promotion Agreement

WRITTEN STATEMENT ON BEHALF OF
THE PERUVIAN ASPARAGUS IMPORTERS ASSOCIATION

June 29, 2006

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This statement is submitted on behalf of the Peruvian Asparagus Importers Association (PAIA). PAIA is a not-for-profit association of 24 U.S. companies that earn a living by importing fresh asparagus from Peru.[1] PAIA presented testimony at the public hearing conducted by the International Trade Commission (ITC) on March 15, 2006 in connection with its investigation regarding the Peru Trade Promotion Agreement (PTPA).

I. The Peru TPA would continue favorable economic trends begun under the ATPA for both the United States and Peru

PAIA's particular area of interest in the context of trade between the U.S. and Peru is imports of fresh asparagus from Peru. Under the ATPA and its successor, the Andean Trade Promotion and Drug Eradication Act (ATPDEA), imports of fresh asparagus from Peru have been accorded duty-free treatment since 1992.[2] PAIA strongly supports the actions of U.S. and Peruvian negotiators to maintain this duty-free treatment for imports of fresh asparagus under the terms of the PTPA. The duty-free treatment accorded to imports of fresh asparagus from Peru since 1992 has resulted in pronounced economic benefits to U.S. consumers, U.S. importing companies, U.S. distributors, U.S. transportation companies, the many other companies in the domestic commercial chain, the Peruvian economy, and the thousands of people in Peru whose livelihood is dependent on trade with the United States. However, if the PTPA is not approved by Congress, or is implemented sometime after January 1, 2007, and the ATPDEA is not renewed in the interim, this will surely result in discernible economic harm to both the United States and Peruvian economies.

Peru is the world's largest exporter of asparagus,[3] and that crop stands squarely at the heart of a dynamic agroexport sector in Peru.[4] As the ITC has noted in prior reports,

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1 The member-companies of PAIA are: Altar Produce Inc.; Alpine Fresh; AYCO Farms Inc.; Chestnut Hills Farm – Bounty Fresh; CarbAmericas Inc.; Central American Produce Inc.; Crystal Valley Foods; Dole Fresh Vegetables Inc.; Fru-Veg Marketing Inc.; Globalex Inc.; Gourmet Trading Company; Growers Express LLC ; Jacobs Malcolm & Burtt; North Bay Produce; Pro-Act LLC; Rosemont Farms Corporation; Southern Specialties; Team Produce International; Triton International; United Fresh International; AL-FLEX Exterminators; Customized Brokers; Hellmann Perishable Logistics ; The Perishable Specialist, Inc.; and YesFresh, LLC.

2 The ATPDEA is currently scheduled to expire as of December 31, 2006. Imports of fresh or chilled asparagus from Peru are not currently subject to duty-free treatment under the Generalized System of Preferences.

3 *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook*, Foreign Agricultural Service, U.S. Department of Agriculture (August 2005) at 1 (data provided for 2004). The United States "is Peru's top market, accounting for 75 percent of Peru's fresh asparagus exports in 2004." *Id.* at 3

4 *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook*, Foreign Agricultural Service, U.S. Department of Agriculture (July 2004) at 2 ("In 2003, asparagus became Peru's leading agricultural export, valued at a record $206 million, bumping coffee to second place.").

asparagus is a perennial crop that requires substantial long-term investment. Peru's exceptional climate conditions, its favorable geographic location, and the advances made by Peru in its management of water supply for irrigation, has enabled the country to achieve the highest asparagus crop yields in the world.[5] "Peru is one of only a few countries whose favorable climate enables it to produce asparagus year round."[6] In turn, the asparagus-growing industry in Peru is estimated to employ nearly 60,000 people,[7] and has enabled regions of the country – such as Ica and La Libertad – to become models of economic development and engines of job creation. Of these sixty thousand jobs, roughly half are held by women, the primary breadwinners in many Peruvian households. The trickle down effects of this industry on tens of thousands of Peruvians and their families are helping to reduce poverty and raise living standards. The Asociación de Gremios Productores y Agroexportadores del Perú (AGAP) (the umbrella organization for Peru's agricultural producers and exporters) estimates that the Peruvian agroexport chain as a whole has generated 600,000 jobs, three times more than were generated in traditional agriculture sectors. [8]

According to U.S. Customs, in the past two years, U.S. imports of fresh asparagus from Peru had a value of between $100 and $110 million. That is a significant amount of foreign exchange earnings for a country with a gross domestic product of only $67.1 billion, and with a per capita GDP of only $2,777 per year.[9] Under the ATPA, asparagus imports grew by about five times from $31 million to $232 million between 1990 and 2005. The success of Peru's agroexport industry in general, and the asparagus industry specifically, over the past decade is one of the signal achievements of the ATPA in that it has effected the creation of high-value marketable agricultural businesses at the expense of illegal coca cultivation. In its most recent report on the impact of the ATPA, the ITC

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5 *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, Inv. No. 332-352, USITC Pub. 3803 (September 2005) at 2-20.

6 *Id.*

7 *Id.* at 3-14.

8 *See Improving Competitiveness and Market Access for Agricultural Exports Through the Development and Application of Food Safety and Quality Standards: The Example of Peruvian Asparagus*, A Report by the Agricultural Health and Food Safety Program of the Inter-American Institute for Cooperation on Agriculture (IICA), Tim M. O'Brien and Alejandra Díaz Rodríguez (July 2004) at 4-5.

AGAP discussed this finding in a report that it presented earlier this year to the Technical Working Group for the PTPA from the Congressional Agricultural Commission in Peru. AGAP's president, Felipe Llona Málaga, explained that the high level of employment generated in the agroexport sector is concentrated in crops including asparagus, artichokes, paprika, onions, grapes, and garlic, particularly in the provinces of Lima, Ica, Piura, La Libertad, and others.

9 *See Background Note: Peru*, U.S. Department of State (December 2005), http://www.state.gov/r/pa/ei/bgn/35762.htm (last visited March 22, 2006). Peru's asparagus exports are forecast to increase by an additional 3 percent in 2006. *World Horticultural Trade & U.S. Export Opportunities: World Asparagus Situation & Outlook*, Foreign Agricultural Service, U.S. Department of Agriculture (August 2005) at 3

noted that net coca cultivation decreased dramatically, from 115,300 hectares in 1995 to 27,500 hectares in 2004.[10]

II. Economic Benefits of the US – Peru Trade in Asparagus

While the Peruvian asparagus industry has created tangible economic benefits in that country, the U.S. has also derived a significant economic benefit from this trade. The vast majority of the value chain generated by sales of Peruvian asparagus in this market remains in this country. For example, in 2003, the value chain for imports of fresh asparagus from Peru was worth approximately $300 million. Of that total, approximately 70 percent remained in U.S. hands, including air, sea and land carriers, importers, ports, storage facilities, distributors, wholesalers and retailers. In other words, for every dollar spent by a U.S. consumer on fresh asparagus imported from Peru, 70 cents remains in the U.S. Moreover, even of the 30 percent that reverts back to the country-of-origin, a substantial portion is spent on U.S. inputs such as seeds and fertilizers.[11]

In addition, imports of fresh asparagus from Peru fuel job creation in the United States. PAIA estimates that aside from the several hundred persons employed or indirectly involved in the process of importing fresh asparagus imports from Peru, these imports result directly or indirectly in the creation of at least 5,000 U.S. jobs in companies throughout the commercial chain.

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10 *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 4-14.

11 Transcript of hearing before the United States International Trade Commission: *In the Matter of: U.S.-Peru Trade Promotion Agreement: Potential Economywide and Selected Sectoral Effects*, Investigation No. TA-2104-20 (March 15, 2006) at 33-35.

For example, in 2003 (the last full year for which the complete set of following data are available), the fob value of Peruvian fresh asparagus exports to the U.S. was approximately $78.5 million. The comparable cif value was $132.7 million. The value that accrued to importers was approximately $20 million, while the value that accrued to wholesalers and retailers was approximately $90 million. In addition, other value-added in the U.S. (*e.g.*, for storage, fumigation, etc.) totaled approximately $15 million. These sub-totals sum to $258 million, which represents the approximate retail value of fresh asparagus imports from Peru sold off the U.S. supermarket shelves. In other words, approximately 30 percent of that end-value ($78.5 million out of $258 million) remains in Peruvian hands, while the remainder ($179.5 million out of $258 million) remains here in the United States.

Sources: Aduanas (National Customs Superintendancy of Peru); U.S. International Trade Commission Trade DataWeb; estimates by APOYO Consultoría, and the Instituto Peruano del Espárrago y Hortalizas (IPEH).

III. Peruvian Asparagus Imports are *Counterseasonal* to U.S. Asparagus Production

Imports of fresh asparagus from Peru also serve a U.S. market demand that cannot be met by domestic growers alone. The most important factor here is that imports of fresh asparagus from Peru are largely counter-seasonal to the U.S. crop. As the ITC has noted, historically, the season for U.S. production has differed somewhat from that of most imports from ATPA countries, with the bulk of fresh asparagus imports from ATPA countries entered during July through the following January when overall U.S. production is low.[12]

According to official U.S. import statistics for 2005, 85 percent of total fresh asparagus imports from Peru entered the United States during the months of July through January; only 15 percent entered during the remainder of the year (February through June). In contrast, the peak production period for U.S.-grown fresh asparagus is February through June; therefore, all or nearly all U.S. production occurs during a period when the level of imports from Peru is minimal.

This is not to say that there are no imports of fresh asparagus from Peru present in the U.S. market during the peak production period for the U.S. crop; as referenced above, imports of Peru during the February – June period represent 15 percent of total annual imports from that country, or approximately 9,794 net tons (2005 data). However, even in this period, imports from Peru largely complement, rather than supplant, the U.S. crop. The vast majority of fresh asparagus imports from Peru enter the United States through the Port of Miami,[13] and are sold primarily in East Coast markets. Because of the distances involved and the high costs for transportation, most of the fresh asparagus produced in California and Washington are sold in West Coast and Southwest markets.

Therefore, even to the extent that there is some degree of overlap between the U.S. production period and imports from Peru, direct competition between these sources is reduced. Most of the imports from Peru that enter the United States during the February through June period are marketed in the East Coast and southeast United States regions. Indeed, the advent of year-round availability of fresh asparagus from Peru has allowed U.S. consumers in large geographic portions of the country to gain access to this product at times when supply would simply not exist from U.S. growers. This is one reason why per capita consumption of asparagus in the United States has doubled in the last decade alone, exceeding the rate of growth exhibited by nearly all other fruits and vegetables. As the ITC recently stated, the impact of ATPA on U.S. consumers has been significant in that imports of Peruvian fresh-market asparagus, together with Mexican exports and U.S. production, have resulted in greater availability of fresh asparagus

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12 *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12.

13 In 2005, 89 percent of imports of fresh asparagus from Peru entered the U.S. through the Port of Miami. Source: U.S. International Trade Commission Trade DataWeb (subheadings 0709.20.1000 and 0709.20.9000, HTSUS), by quantity.

throughout the year. This extended availability of fresh-market asparagus, together with the overall consumer awareness of, and preference for, healthy foods, may be partly responsible for higher per capita annual consumption of fresh asparagus in recent years.[14]

Notwithstanding the seasonality and regionality aspects of supply and consumption discussed above, the fundamental fact is that since at least 1998, U.S. consumption of fresh asparagus has outpaced U.S. supply.[15] Imports are *necessary* to meet demand in the United States. In the absence of import sources – meaning, specifically, imports from Peru and Mexico – domestic production would be woefully inadequate to meet U.S. consumer demand. This would inevitably lead to a jump in prices, to the detriment of U.S. consumers, and eventually a drop in consumption, to the detriment of U.S. producers. While domestic production of fresh asparagus may have declined in recent years,[16] the decline would surely accelerate in coming years in the absence of reliable import supply.

IV. Asparagus and Other Agroexports as a Weapon Against Narcoterrorism

The intention of the ATPA was to spur the development of alternative industries to assist Peru and other Andean countries in the "War Against Drugs" and the struggle against guerrillas and terrorist organizations dependent on the illegal coca trade for funding. In this regard, the program has succeeded. Thanks to the ATPA and the vision of US policymakers, the Peruvian asparagus and a number of other industries were able to blossom starting in the early 1990's. These industries have helped Peru to sustain some of the highest growth rates in Latin America, have provided employment for hundreds of thousands of Peruvians, and have helped reduce poverty levels. Just recently, for example, the Peruvian Prime Minister, Pedro Pablo Kuczynski announced that extreme poverty has been reduced from 24% to 18% between 2001 and 2005. It is estimated that nearly 1 million jobs in Peru are dependent on trade with the United States, most of which is covered by the ATPA program.

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14 *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12-14.

15 Total imports accounted for approximately 60 percent of the U.S. market for fresh asparagus in 2004. U.S. imports from Peru accounted for approximately 60 percent of total imports in 2004, as well. *See also* U.S. Department of Agriculture FATUS data (http://www.fas.usda.gov/ustrade/). Consequently, Peru's share of the U.S. market was about 36 percent (compared to about 40 percent accounted for by domestic production).

Indeed, the quantity of domestic production in 2004 was approximately 87,000 net tons, which exceeded the volume of imports from Peru that year (61,123 net tons) by 42 percent. About one-fourth of domestic production, or approximately 22,000 net tons, was exported.

16 According to the Commission's most recent report on the impact of the ATPA, domestic production of fresh asparagus declined 4 percent from 2003 to 2004, from 119.4 million pounds to 115 million pounds. However, the value of domestic production increased by 10 percent over that period, from \$136.7 million to 150.4 million. *The Impact of the Andean Trade Preference Act: Eleventh Report 2004*, USITC Pub. 3803 at 3-12.

As stated earlier the Peruvian agro-export chain has generated approximately 600,000 jobs. 10%, or 60,000 of these jobs are held by workers in Peru's asparagus industry. The Peruvian Asparagus and Vegetables Institute (IPEH) estimates that nearly 40% of the workers in the asparagus industry come from areas that formerly supplied workers to illegal coca cultivation. Asparagus has been a model for other agroexport industries and their growth is having a multiplier effect in terms of their impact on trade, job creation in both countries, reduced illegal coca cultivation, and reduction of poverty in Peru. Peru's paprika industry, for example, has enjoyed export growth of 88% from 2004 to 2005, making Peru now the top world exporter of paprika, an industry which employs 15,000 Peruvians. Another successful example is the Peruvian artichoke industry, which has increased exports by 100% from 2004 to 2005, and also employs about 15,000 workers.

It is clear, therefore, that the ATPA spurred industries such as asparagus have had a positive impact in the war against drugs in Peru. As noted earlier, coinciding with the rise of asparagus and other agroexport industries, from 1995 to 2004, the ITC reported that coca cultivation has decreased dramatically, from 115,300 hectares to 27,500 ha in 2004. This has helped to reduce the presence of drugs in US communities. In a related event, Peru successfully confronted and nearly eliminated the terrorist threat constituted by the radical Shining Path narcoterrorist organization during the 1990's, a group largely funded by illegal coca production. The PTPA will help consolidate these gains against the scourge that the illegal drug trade has represented for both countries.

V. <u>Peru TPA and Labor Standards</u>

In addition to Peru's compliance with ILO's core labor standards and the labor rights provided by the country's constitution, the asparagus and vegetables industry has implemented best labor practice programs (Buenas Prácticas Laborales –BPL) to ensure that the industry is engaged the creation of a healthy and safe work environment. The Peruvian asparagus and vegetables industry is also committed to help build schools and health facilities that will contribute to improved living standards for their workers, their families, and the rural communities where they live.

The growth of agroexports in Peru has been such that in parts of Peru such as Ica and La Libertad there is full-employment year round and extreme poverty has been reduced by an astounding 36% comparable to levels experienced nationwide by countries such as Chile. Workers in these industries make wages of between $5 and $7 per day which is considered a good salary by Peruvian standards.

Peru has ratified 71 ILO conventions, including the eight "core conventions." It has been praised multiple times by the ILO for its progress in improving labor laws. In addition to all of the ILO's Core Labor Rights Conventions, the PTPA's labor standards exceed those of five other previously-ratified trade agreements: Jordan, Chile/Singapore, CAFTA, Bahrain and even the ATPDEA, which does not make ILO or national standards mandatory.

The PTPA goes beyond many other free trade agreements in the enforcement of worker rights and dispute resolution. The PTPA-created Labor Affairs Council develops public participation in reporting and funding to ensure implementation of the agreement and improved cooperation and capacity-building mechanisms. Additionally, the PTPA holds member countries accountable to effectively enforce existing labor laws, under penalty of fines, which are used by the PTPA commission to fund projects improving labor right protections. Noncompliance results in the formation of an arbitral panel, which may fine violating parties up to $15 million per year, and suspend tariff benefits to the party complained against if necessary to cover the assessment.[17]

VI. Peruvian Asparagus and Environmental Concerns

Since asparagus cultivation is undertaken almost entirely on irrigated desert lands along Peru's coast, the environmental impacts of this industry on existing habitats is negligible. In fact, by contributing to the successful reduction of coca leaf production in biologically sensitive rain forest habitats, the growth of the asparagus industry along Peru's arid coast has had, in an indirect manner, highly beneficial environmental impacts.

The growth of the asparagus industry has created a business that is a global player and as a result has adopted rigorous international standards on environmental management practices and labor standards to comply with import requirements in the U.S., the European Union, and elsewhere. The Peruvian asparagus industry complies with very exacting practices of EUREPGAP and GAP (Good Agricultural Practices) to maintain consumer confidence in the quality and safety of its product.

VII. Conclusion

The duty-free treatment for imports of asparagus from Peru provided for in the proposed PTPA will serve a wide range of economic interests both in the United States and in Peru. In the United States, a steady, year-round demand supply of asparagus enters the U.S. and satisfies the increased demand for asparagus in the U.S that domestic production cannot meet. Asparagus also accounts for about 5,000 U.S. jobs in transportation and distribution.

In Peru, the asparagus industry, thanks to the duty-free access to the U.S. market, has been able to fight extreme poverty by employing at higher wages than other Peruvian jobs. Asparagus in Peru has also indirectly fought coca production and narcoterrorism by providing an alternative source of well-paying employment.

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[17] Peru Trade Promotion Agreement, Chapter Twenty-One: Dispute Settlement.

These great changes could not have been possible without the duty-free access afforded to Peru in the ATPA and ATPDEA. PTPA is now an excellent opportunity to ensure the continued prosperity of these industries, and by extension raise living standards in Peru. It is for this and the above reasons we urge prompt consideration and approval of the PTPA by the Committee, the Full Senate, and the Congress.

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