

# U.S.-PANAMA TRADE PROMOTION AGREEMENT

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## HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

—————  
MAY 21, 2009  
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## **U.S.-PANAMA TRADE PROMOTION AGREEMENT**

**THURSDAY, MAY 21, 2009**

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

The hearing was convened, pursuant to notice, at 10:23 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Wyden, Menendez, Grassley, Bunning, Crapo, and Roberts.

Also present: Democratic Staff: Bill Dauster, Deputy Staff Director and General Counsel; Amber Cottle, International Trade Counsel; Darci Vetter, International Trade Advisor; and Rachel Poynter, Detailee. Republican Staff: Stephen Schaefer, Chief International Trade Counsel; David Johanson, International Trade Counsel; and Tony Coughlan, Tax Counsel.

### **OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The committee will come to order.

I apologize for the delay. We had a vote at the same time this meeting was scheduled to begin, so in the interest of efficiency we decided I would go vote first so we could begin and not be interrupted. So, the witnesses have my apologies.

Today we discuss our trade agreement with Panama, a country at the crossroads of the world. Panama links the Americas, North and South, with a land bridge that ties together two continents. Panama also links the world, east and west, with a canal that has changed the course of global trade. Our trade agreement with Panama also puts all of us—this committee, this administration, and this country—at a crossroads.

This agreement provides an opportunity for this committee to build on its past work at creating jobs through exports, it provides an opportunity for the new administration to demonstrate its support for an outward-looking trade agenda, and it provides an opportunity for the kind of export-driven economic growth that our country desperately needs. I urge the administration not to hesitate too long at this crossroads. I urge them to move forward with this agreement.

This agreement includes the comprehensive labor provisions that I helped to negotiate with Democrats and Republicans in May 2007, and the current Panamanian government has agreed to far-reaching changes to its labor code to comply with those provisions.

But the current Panamanian government leaves office in a few short weeks, and it is not clear that the next government will go as far. If we wait much longer, we may end up with a worse deal.

The Panama agreement also provides new opportunities for American farmers, ranchers, and businesses. Panama already exports most of its goods to the United States duty-free under our trade preference programs. This trade agreement will level the playing field. It will provide the same duty-free treatment to our industrial and agricultural exports to Panama.

This agreement will, for example, immediately eliminate all duties on more than half of our agricultural exports to Panama, and that includes high-quality American beef from States like Montana. These exports will not get tied up in unscientific trade barriers that have frustrated us in other markets. Panama has appropriately recognized the United States' food safety and inspection system for U.S. meat and poultry as equivalent to its own.

This agreement will also immediately eliminate tariffs on 80 percent of U.S. industrial exports to Panama. Panama has begun a significant expansion of the canal and will need more construction and other heavy equipment to finish the job. Under this agreement, United States equipment manufacturers like Caterpillar will get a leg up over their competitors.

I would be remiss if I did not also mention Panama's tax laws and practices. I share the goal of the G-20 leaders, the OECD, the administration, and this committee that tax havens must be shut down. I have introduced legislation that would improve the IRS's ability to detect and deter offshore tax evasion. My interest in moving the trade agreement does not diminish my desire to address offshore tax abuse in Panama and other countries, and to move tax legislation as well.

I understand that Panama is prepared to address these issues and has made clear that it intends to do so by working both with the U.S. Government and through the OECD process. I want to see rapid progress on tax issues in Panama, but I also believe that we can, and should, move ahead on our trade agreement right now.

Starting any ambitious initiative, whether it's a new trade agenda or new waterway, begins with the first step. The first step of the Panama Canal's construction in 1880, as well as the first step of its expansion in 2007, was marked by the detonation of earth-shaking explosives. I hope that we can begin the process of considering the U.S.-Panama Trade Agreement with considerably less drama.

So let us instead break ground with an open and honest hearing of the facts, let us engineer the best path forward, and let us help to move the U.S.-Panama Trade Agreement down the path.

Senator Grassley?

**OPENING STATEMENT OF HON. CHUCK GRASSLEY,  
A U.S. SENATOR FROM IOWA**

Senator GRASSLEY. Thank you, Mr. Chairman. I appreciate very much your involvement with this.

I want to give an overview before I go to my statement, and that overview is in regard to, everything that we can do on opening up trade is going to do as much good with getting us out of the reces-

sion and keeping us out as what we do specifically through stimulus and other things that we have done already.

I don't think it's something that's been high enough on the agenda of the administration. I know that the President has very good intentions in trade, but moving quickly and talking about it on a very regular basis would be a very big help to enhancing the attitude of getting out of the recession in this country.

I have an opportunity to introduce Mr. Sam Carney, a pork producer from Adair, and president-elect of the National Pork Producers Council, who is one of the people that you're going to be introducing. Thank you very much, Mr. Carney, for coming. He's from Adair, IA.

I support the timely implementation of this trade agreement. It's long overdue. Its implementation has been sidetracked for a variety of reasons. But now that the Finance Committee is taking the first step to advance a positive agenda of trade liberalization under the new administration, I want to take a moment to address the critics who would rather we not implement any of our pending trade agreements with Panama, with Colombia, or with South Korea, let alone negotiate others. The chief argument I've heard is that, given the magnitude of our global trade deficit, the last thing we should do is implement a new trade agreement.

Well, I have heard that argument from some colleagues. The problem is, that argument is based on a false premise: it suggests that trade agreements translate into trade deficits. That's not true. Consider our trade agreement with countries like Central America and the Dominican Republic. Before implementation, we ran a cumulative trade deficit. Following implementation, we enjoyed a trade surplus of about \$6 billion just last year. How do we explain that shift?

Well, the trade agreement required our trading partners to give our exporters the same duty-free access to their markets that their exporters already had to ours under our unilateral preference programs. In other words, we leveled the playing field, not for the benefit of somebody else, some other country, but for the benefit of our own country. In other words, that's very important for helping our economy.

The opponents of our trade agreements point to a large U.S. trade deficit with Mexico. They argue that our bilateral trade deficit is the result of the North American Free Trade Agreement because we had a relatively small trade surplus with Mexico before we implemented this agreement.

Again, I think the validity can be questioned. Before NAFTA, over 51 percent of the imports of Mexico entered the United States duty-free, and the average tariff on the remaining imports was about 4.2 percent, for an overall average tariff of just over 2 percent.

In contrast, Mexico had an average tariff of about 12 percent on imports from the United States before NAFTA. With NAFTA, this tariff disparity no longer exists. As a result, our exports to Mexico have increased significantly, particularly with respect to agricultural products. If we had never implemented NAFTA, would we have substantially altered the growth of international supply chains? I doubt it.

If NAFTA had not been implemented then, the trade deficit that we see with Mexico this very day would be shifted to some extent among other countries, but without the increase in exports to Mexico that our exporters enjoy today.

Moreover, oil and gas imports are a big part of our recent trade deficit with Canada and Mexico, and I doubt that the absence of NAFTA would have changed that significantly. In this time of economic downturn and uncertainty we can ill afford then to base our trade policies on these few examples of false premises that I give. Trade is more complicated and the benefits of expanding trade are too important for both us and our trading partners. U.S. exporters understand that, and we're going to hear some of that from our witnesses. Critics may question other elements of our trade agreements and economic relationships, but resting criticism on a bilateral trade deficit is a red herring.

One aspect of our economic relationship with Panama that has come under scrutiny is the absence of tax information exchange agreements between our two countries. In 2000, the Organization of Economic Cooperation and Development identified Panama as a tax haven. Just last month, the OECD listed Panama as a jurisdiction that has committed to provide for exchange of tax information on request without regard to bank secrecy, but has not yet substantially implemented that standard.

I welcome today's report that Panama's vice president-elect has committed Panama to negotiating with the United States, this year, a legally binding instrument to facilitate the exchange of tax information pursuant to Panama's OECD commitments. I look forward to hearing the administration's reaction to that announcement.

I fully support concluding a tax information exchange agreement with Panama as soon as possible, but I don't see why our exporters should have to pay for that agreement with lost exports, which is what is now happening. Particularly in this time of economic downturn, export sales are more critical than ever.

The expansion of the Panama Canal is moving ahead, so exporters are losing potential opportunities every day. I urge the Obama administration to continue to pursue aggressively the negotiations of this tax exchange agreement. At the same time, I urge the administration to submit this Panama Trade Promotion Agreement to Congress for approval next month.

I yield the floor.

The CHAIRMAN. Thank you, Senator.

I would now like to introduce the panel. The first witness is Everett Eissenstat, Assistant U.S. Trade Representative for Western Hemisphere Affairs. Mr. Eissenstat was involved in the negotiation of this free trade agreement, and he will be charged with its implementation once Congress acts to approve it. Of course, Everett also served in another capacity on this committee, especially for Senator Grassley and also for the committee in general. Welcome back, Everett. We deeply appreciate your return.

The next witness is Mr. James Owens, president and CEO of Caterpillar. Regrettably, you did not work here prior to your current job, so I cannot give the same kind of introduction to you, Mr.



Owens. I must say though, I love driving your equipment. It is a lot of fun. [Laughter.]

Senator GRASSLEY. Do not say that in Waterloo, IA.

The CHAIRMAN. No, no. I like John Deere, too. [Laughter.]

In fact, I have driven a lot of John Deere tractors and a lot of Caterpillars. One of my biggest privileges was driving the biggest Cat, I think, in the State of Montana about 4 or 5 years ago when I was on a construction job in Montana. So, Mr. Owens, thank you very much.

Ms. Lee, thank you very, very much for returning, too. Thea Lee, policy director for the AFL-CIO. You've been very forthright, very helpful, and have made many appearances before this committee. Thank you for your good work very, very much.

Of course, Mr. Carney is a pork producer. In fact, he's president-elect of the National Pork Producers Council and a pork producer from the great State of Iowa. Thank you, Mr. Carney. I'm sure someone else sitting to my left might have something to say about you a little later today. Anyway, thanks for taking the time to come here and participate in this discussion.

As is our usual practice, the witnesses will speak about 5 minutes. Your full statements will be in the record, and I would just urge you to proceed.

I will begin with you, Mr. Eissenstat.

**STATEMENT OF HON. EVERETT EISSENSTAT, ASSISTANT U.S. TRADE REPRESENTATIVE FOR WESTERN HEMISPHERE AFFAIRS, WASHINGTON, DC**

Mr. EISSENSTAT. Thank you very much, Senator Baucus. It is such an honor to be here with the chairman and ranking member today, and I appreciate this opportunity to testify before the committee on the benefits of the U.S.-Panama Trade Promotion Agreement.

I also want to thank you, Mr. Chairman, and all the members of this committee for the informed views and invaluable guidance we have received since we initiated negotiations with Panama over 5 years ago.

The President believes that the United States needs a new framework for trade. He recognizes that trade is essential to America's prosperity and has the potential to lift up workers in America, and around the world. But for trade to accomplish this objective, our trade agreements need to include strong labor and environment standards. We also need to do a better job enforcing our trade agreements, and we need domestic policies to help Americans succeed in an increasingly dynamic economy. The President looks forward to outlining this framework in the very near future.

At the same time, we want to make sure that any new trade agreements advanced, including our agreement with Panama, be part of this broader framework. The administration is working with Panama to ensure that this agreement and its implementation fully reflect the values of the President's vision.

In particular, we have been working with Panama to address labor law concerns and look forward to anticipated legislative and regulatory action by Panama that implements the agreement's labor provisions. We also share concerns that have been expressed

about Panama's tax policies and are working with Panama to address these concerns.

This agreement, and the closer relationship it provides, will enable us to progress much more quickly in addressing these issues than we could otherwise. Successfully addressing these concerns will be an important step in determining when, in close consultation with Congress and as part of the President's broader trade strategy, this agreement should be considered by the Senate and the House.

The Panama agreement is a historic development in our long-standing and close relationships with Panama. The agreement will put into place a strong and up-to-date structure for the U.S.-Panama trade and investment relationship that will create new opportunities for American workers, farmers, ranchers, and businesses.

Today, U.S. exporters face an unfair playing field. Last year, approximately 90 percent of Panama's imports entered the United States duty-free. In contrast, U.S. exports of consumer and industrial goods faced an average tariff of 6.4 percent, with tariffs as high as 20 percent on some products.

U.S. exports of agricultural products face an average tariff of 15 percent, with tariffs on some of our key exports as high as 70, 90, and even 260 percent. The agreement will eliminate these tariff barriers, but the agreement goes far beyond tariff reductions. One of the best opportunities for U.S. exporters lies in the \$5.25-billion expansion of the Panama Canal, as the agreement will ensure that U.S. firms have the opportunity to participate in one of the largest infrastructure projects in the hemisphere. The agreement will also provide important new opportunities in Panama for the whole spectrum of U.S. service providers.

The agreement provides strong protection for intellectual property rights and ensures a secure, predictable legal framework for U.S. investors in Panama. It does not in any way undermine the ability of either the United States or Panama to regulate the financial sector or investment practices to protect the financial system.

The labor and environmental provisions of this agreement incorporate Congress's guidance. As a result, Panama is committed to implement ILO fundamental labor rights in its labor regime, reforms which will significantly enhance the rights of workers in Panama. Protection of the environment will also be enhanced, as the agreement requires Panama to fulfill its obligations under specified multilateral and environmental agreements.

These provisions, along with our renewed focus and commitment to trade enforcement, reforms to Trade Adjustment Assistance, and the administration's investment in domestic infrastructure and competitiveness, demonstrate how trade and economic policy can create jobs for working families at its core.

Mr. Chairman and members of this committee, the agreement offers an opportunity to strengthen the economic and political ties we already have with Panama, set an example of how cooperation in commerce can elevate working and environmental conditions, and send a message to the region that the United States is engaged with willing, responsible parties. It is a strong agreement that fits with the President's goal to build trading relationships that are fair, equitable, and benefit the citizens of both countries.

It has the potential, as part of the President's broader trade strategy that he will outline, to move America's trade policy forward. I hope that after carefully reviewing the agreement the members of this committee and the U.S. Congress will agree that it is a solid agreement that is strongly in our national interest.

Again, thank you very much for the privilege of testifying today.

The CHAIRMAN. Thank you, Mr. Eissenstat.

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

The CHAIRMAN. Mr. Owens?

**STATEMENT OF JAMES OWENS, CHAIRMAN AND CEO,  
CATERPILLAR, PEORIA, IL**

Mr. OWENS. Chairman Baucus, Ranking Member Grassley, and members of the committee, I am Jim Owens, CEO of Caterpillar. I am very honored to be here today to make this presentation on behalf of not only Caterpillar, but the U.S. Chamber of Commerce, the Business Roundtable, and the Latin American Trade Coalition. It is an honor to share our views on the proposed U.S.-Panama Trade Promotion Agreement.

Caterpillar and the companies I represent believe that the Panama Trade Promotion Agreement and agreements like it promote economic growth, both at home and abroad. In just the western hemisphere, we now have trade agreements with Canada, Mexico, Chile, Central America, and the Dominican Republic.

I am pleased to report that Caterpillar exports have dramatically benefitted from all of these free trade agreements. Since the FTAs have gone into effect, Caterpillar exports have increased. In fact, last year our exports were up 4-fold to the NAFTA countries, 3-fold to Chile, and have nearly doubled in the CAFTA-DR countries in the short time that agreement has been in place.

Others have benefitted as well. Last year, and for the first quarter of 2009, the U.S. had a trade surplus in services, in agricultural, and even in manufactured goods, and that is collectively across the 17 countries that have implemented free trade agreements with the United States. However, that surplus was more than offset by a large trade imbalance of manufactured goods from non-FTA partners. I think that demonstrates that American manufacturers can compete, but we need open markets and the type of level playing field that this trade agreement will provide.

Like past agreements, the Panama TPA will substantially improve market access for American farm products, consumer and industrial goods, and services in Panama. It will bolster the rule of law, investor protections, internationally recognized workers' rights, transparency, and intellectual property protections.

Some dismiss Panama as a small country that should not be a U.S. trade priority. We disagree. Panama is an ally and a good friend of the United States. It has major ports to both the Atlantic and Pacific, and the canal is a major transit port for world trade.

Further, Panama is a good place to invest. One-third of its population speaks English fluently, it has a dollarized economy, and it is strategically located, which makes Panama an excellent place to locate logistic and Latin American customer support operations.

For Caterpillar, the canal expansion is particularly exciting. It is one of the largest public works projects undertaken globally since the Three Gorges Dam in China, over \$5 billion, as previously mentioned. If we can sell our U.S.-produced products to Panama duty-free, it will help our customers and provide us with a competitive edge over products made in other parts of the world.

In practical terms, the agreement means that Panama's 10 percent duty on off-highway trucks, motor graders, wheel tractor scrapers, and diesel engines will be eliminated. The same would be true for other types of Cat equipment and products that are sold into Panama. Those tariffs today range from 3 to 10 percent.

For other manufactured products, Panama's tariffs are even higher: the tariff on autos, 15 percent; furniture, 15 percent; and for computers, 5 to 15 percent. By eliminating these duties, the Trade Promotion Agreement will provide the average Panamanian customer with a higher standard of living by offering more product choices at lower prices, and of course it enhances American manufacturer competitiveness in the country.

There are other reasons why the TPA and an expanded Panama Canal will benefit the United States. Trade barriers take many forms, and one of the most onerous, certainly, is a weak infrastructure or a lack of infrastructure. If you cannot physically get the product to port in good time and cost-effectively, tariffs do not matter so much. Today, almost 5 percent of world trade passes through the Panama Canal, and much of that trade originates in the ports of Miami, New York City, and Los Angeles.

But with canal capacity currently fully utilized and many of the newer, larger ships unable to use the canal, it takes longer than it should for some U.S. exports to reach overseas markets. An expanded canal will help fix that and allow many American manufacturers to be more competitive by shortening their global supply chain and reducing inventories.

In summary, the proposed Panama Trade Promotion Agreement will be good for our country, and we have to do very little to realize it, as has been previously pointed out. We have, through the previous agreements and acts, essentially unilaterally granted to Panamanian manufacturers duty-free access to our markets.

So, Mr. Chairman, Senators, I urge you to move with urgency to pass the Panama Trade Promotion Agreement, as well as the pending agreements with Colombia and Korea. Not only do these agreements promote U.S. exports and support American jobs, they also promote an understanding and improved living standards among all citizens in both countries. Further, at this tenuous time for the global economy, passing the Panama TPA would send a loud message to the world that the U.S. is, indeed, open for business.

Again, I thank you very much for the opportunity to testify for what I think is a very important trade agreement. Thank you.

The CHAIRMAN. Thank you, Mr. Owens, very much.

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

The CHAIRMAN. Ms. Lee?

**STATEMENT OF THEA LEE, POLICY DIRECTOR, AMERICAN  
FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL  
ORGANIZATIONS (AFL-CIO), WASHINGTON, DC**

Ms. LEE. Thank you, Mr. Chairman, Senator Grassley, members of the committee. I appreciate the opportunity to come here today on behalf of the 11 million working men and women of the AFL-CIO to talk about this important issue.

We believe it is premature for Congress to consider passing the U.S.-Panama Trade Promotion Agreement at this time, and we will oppose passage if it is brought to a vote before outstanding and pressing concerns are adequately addressed.

First, needed labor law reforms and tax policy reforms in Panama must be fully adopted and implemented before the agreement is considered by Congress. Second, the administration and Congress should address concerns that have been raised with respect to the investment, procurement, and services provisions in the Panama and other pending trade agreements.

Finally, and most important, the administration urgently needs to lay out a coherent and principled overall international trade strategy before proceeding in haste to implement a patchwork policy left over from the previous administration.

Current U.S. trade policy, in our view, has failed to deliver good jobs at home, equitable, democratic, and sustainable development abroad, or a stable global economy. We need to review and reform our trade policy with respect to the overall framework of rules, our chronic and large trade imbalances, and the impact of our trade and investment policies on U.S. manufacturers, farmers, service providers, consumers, workers, and the environment, nor should trade policy impinge on the ability of democratically elected governments at the Federal, State, or local level to implement and enforce public policies designed to achieve legitimate social objectives.

We applaud President Obama's initiatives to invest in America's future with respect to infrastructure, clean energy, education, and health care; these are essential to America's ability to compete in the 21st century. But unfortunately they are not sufficient. We also need to enforce our existing trade laws more effectively, consistently, and energetically.

We need to ensure that we are devoting adequate resources to enforcement and that the different agencies in the government are coordinating with each other to make the best use of those resources, and, very importantly, we need a strategic approach to our enormous and growing trade imbalance with China which addresses currency manipulation, worker rights violations, and illegal subsidies. In our view, the administration needs to demonstrate concretely its commitment to a new direction in trade policy before we proceed with the Panama agreement.

With respect to Panama, significant labor law reforms are needed to bring Panama's labor laws into compliance with ILO minimum standards. The Panamanian government must also resolve the tax haven issues that have been raised by the OECD, among others. These issues should be resolved before the U.S. Congress proceeds with a vote.

As we have seen repeatedly in the past, if legislative issues are not addressed before the congressional vote, it is much more chal-

lenging to convince the government to act in a timely way. The leverage that exists for important issues like this is the greatest before Congress votes, and it evaporates after the vote happens.

In addition to the on-the-ground changes needed in Panama with respect to labor law and tax issues, it is also important to revisit the trade agreement template at this time. In particular, the AFL-CIO has consistently over many years raised concerns with respect to the investment, procurement, and services provisions in trade agreements. As we move forward, we should also look for ways to strengthen and improve the labor and environment provisions, as well as the enforcement of those provisions.

During the 2008 Presidential campaign, candidate Obama and the Democratic Party platform emphasized the need for trade policy to be an integral part of an overall national economic strategy that delivers on the promise of good jobs at home and shared prosperity abroad.

We strongly agree that our country needs a new trade policy. The Panama Trade Promotion Agreement does not represent the needed change and direction and has not been accompanied by the broader reforms that are needed. For these reasons, we urge Congress to oppose the Panama Trade Promotion Agreement.

Thank you very much for the opportunity to express the views of the AFL-CIO, and I look forward to your questions.

The CHAIRMAN. Thank you, Ms. Lee, very much. Very forthright statement.

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

The CHAIRMAN. Mr. Carney?

**STATEMENT OF SAM CARNEY, PRESIDENT-ELECT,  
NATIONAL PORK PRODUCERS COUNCIL, ADAIR, IA**

Mr. CARNEY. Mr. Chairman, Senator Grassley, thank you for inviting me to this hearing.

I strongly believe, as a farmer and a small businessman, that the future of my family's farming operation depends in large part on future trade agreements and continued trade expansion. I cannot imagine another industry that has benefitted more from trade agreements than the U.S. pork industry. We are the poster child of expanded trade: thanks to new market access from the Uruguay Round, NAFTA and other trade agreements, the U.S. pork industry is now the largest pork exporter in the world.

In 2008, the United States exported approximately 20 percent of the domestic pork production. Pork exports added \$48 to the value of every U.S. hog marketed and supported over 65,000 U.S. jobs in 2008. As a low-cost global producer of pork and the largest exporter of pork in the world, the U.S. pork industry is well-positioned to create jobs and generate wealth in the U.S. as new trade agreements are implemented. Last year, exports were our salvation. Due to high input costs, we had our second-worst financial year ever. Without the \$4.9 billion in exports, the industry would have imploded last year.

Unfortunately, just as things were starting to look up, this year we were hit by the H1N1 influenza outbreak, which wreaked havoc in our industry. Live hog prices have plummeted due to unwarranted fears about the safety of pork and non-science-based restric-

tions put in place by some of our trading partners. We appreciate the support of the committee, Congress, and the Obama administration in combatting these needless restrictions on our exports. We are pleased, with a few notable exceptions such as China and Russia, these unwarranted restrictions have been removed.

Virtually every recent trade agreement from NAFTA to CAFTA has brought significant benefits to the Nation's farmers and ranchers. President Obama recently noted that exports account for 13 percent of U.S. total economic activity, but in agriculture exports account for as much as 30 percent of farmers' income.

In 2008, agricultural exports reached an all-time record of \$115 billion, up from \$46 billion in 1994, the year NAFTA was implemented. The agreement, and the 13 that the U.S. has implemented subsequently, are the principal reasons for exports' growth. The U.S.-Panama Trade Promotion Agreement will provide new market opportunities for a wide range of U.S. agricultural products.

Immediately upon implementation of the agreement, over half of these products will begin to enter Panama free of all duties. Most of the remaining farm products will become eligible for free access to Panama over a 15-year phase-in period. The American Farm Bureau Federation estimates that by 2027, when the agreement is fully implemented, the total increase in U.S. farm exports is expected to exceed \$190 million per year.

NPPC is eager to have the pending three free trade agreements passed by Congress. The Panama agreement, if implemented, will create important new opportunities for U.S. pork producers. U.S. pork exports to Panama are currently restricted by small-quota and out-of-quota duties as high as 80 percent.

However, the Panama agreement, if implemented, will provide immediate duty-free treatment on pork variety meats and expanded market access for U.S. pork muscle meats through the Tariff Rate Quotas. The TRQs will be phased out in 15 years, and after the full implementation period U.S. pork will have unlimited duty-free access to the Panama market.

In addition to favorable market access provisions, significant sanitary and technical issues have been resolved. In a letter dated December 20, 2006, the Panamanian government confirmed that it shall recognize the meat inspection system of the U.S. as equivalent to its own meat inspection systems. The technical agreement ensures that U.S. pork producers will benefit from the Panama agreement without being blocked by unnecessary sanitary barriers.

According to Iowa State University economist Dermot Hayes, the Panama Trade Promotion Agreement, if fully implemented, would cause hog prices to increase 20 cents higher than they otherwise would have been. Exports to Panama would be worth approximately \$23 million to the U.S. pork industry, in addition to revenue that otherwise would not have been the case.

No one should believe that there are no costs in rejecting these agreements. Other countries are moving forward with agreements that individually and collectively put U.S. products at a competitive disadvantage. Some 421 bilateral and regional trade agreements have been notified to the WTO through the end of 2008, and another 400 or so are scheduled to be notified and implemented by 2010 to that organization. The U.S. is a party to just 18 of those

800-plus deals, and just 15 are in force. We will fall behind by standing still.

Thank you very much.

The CHAIRMAN. Thank you, Mr. Carney.

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

The CHAIRMAN. I have a question for you, Mr. Eissenstat. I'm just a little perplexed here. There was a template agreed to by all parties, on labor and environmental provisions with respect to future FTAs back in 2007. It was not only assumed, it was stated by the parties involved in this business—industry, labor, House and Senate, so on and so forth—that the next free trade agreements could proceed under that template.

It is my understanding that the agreement that has been negotiated with Panama does provide for those labor provisions. I further understand that Panama has agreed to make the necessary changes to its labor law. Also, the country of Panama, Torrijos's government, has said that it would honor that and enact them, but it would like the United States to send the agreement up prior to June 30 when the Torrijos government leaves power.

So I am just confused. Why would the administration not want to take advantage of that situation and send up the agreement, since the labor provisions are those that were in the template, basically, and Panama has agreed to those provisions? Further, it is my understanding that the Martinelli government, the subsequent government, agrees to begin to negotiate a tax information exchange agreement. So I am just scratching my head here. That sounds like a pretty good deal to me. Why does the administration not just take it?

Mr. EISSENSTAT. Well, thank you, Senator. I think you are absolutely correct, this agreement does incorporate the May 10 provisions on labor and the environment. We have been working with the government of Panama to ensure that their labor regime fully reflects that commitment that was the agreement between Congress and the executive branch.

The President believes it is very important that Panama be considered in the context of a broader domestic agenda. As I indicated in my opening statement, it is important that the President have an opportunity to articulate this framework in conjunction with the Panama agreement so it can be understood how the agreement will fit into the broader, overall domestic agenda.

The CHAIRMAN. I am sorry. Overall domestic—

Mr. EISSENSTAT. The overall domestic and trade agenda. Yes, sir. And many of those elements, this committee has been very active on, including health care reform, infrastructure, a lot of the elements that have been on the domestic front. That is not my area of expertise, but it is part of the broader picture. The idea is that we need to ensure that all these pieces fit together so we can build an economic framework that can help the—

The CHAIRMAN. And trade is part of health care reform?

Mr. EISSENSTAT. No. No, Senator. There are several elements to the framework. There's both the domestic policy elements and the international trade framework. You articulated correctly a couple of the elements of the international trade framework, which is the strong labor and environmental provisions incorporated in the



agreements, reflected in the laws of the countries with which we have those agreements. So that is one element.

There is also the domestic part, so the American worker can thrive in the dynamic global economy, Trade Adjustment Assistance, some of the other initiatives that this committee has undertaken, and working together to provide a framework for the American worker to be able to thrive in a very quick and dynamic economy.

The President will be articulating—

The CHAIRMAN. Might I ask how wide-sweeping, how broad? When do we see this? Meanwhile, June 30 is coming pretty close. It is going to go by.

Mr. EISSENSTAT. That is a very good point. It is a difficult situation, because we do have the Torrijos government that obviously will be leaving power at the end of June, and then a new government, the Martinelli government, coming into power shortly thereafter. So we have a transition ongoing, and we have been working with both governments on issues of concern on both the labor front and the tax front.

As Senator Grassley and yourself pointed out, we have made great progress in both areas. In fact, the statement that Senator Grassley referenced, I believe it was by the Vice President-Elect Varela, is a very powerful statement, I think, to their continued commitment, and the incoming administration's commitment, to openness and transparency.

The CHAIRMAN. Well, to be honest, this sounds—Senator Grassley was not with me. I was down with the President when he went to Mexico City and the Summit for the Americas down in Trinidad. We, I, others were there, members of Congress there, met with President Torrijos, and we discussed their concerns. But frankly, what I understand to be the agreement now is a major advance compared with what the state of play was back then, not too long ago, about a month ago.

Man, I do not understand why you do not just take it. We can always negotiate frameworks. Trade policy can always come out in the next couple of weeks, the next month, whenever. But man, if we do not take this now, we jeopardize getting an agreement. There may not be an agreement.

To some degree—and I will just be honest with you—there is a sense in the United States—especially with the President's visit to Trinidad, that was interpreted as a good-faith effort by the United States to help reach agreement with Panama—now we seem to be backing off. I just do not get it, frankly, personally.

Senator Grassley?

Senator GRASSLEY. Yes. A comment on what you just said, because I agree with what you said totally. But I would also say, as I hear Mr. Eissenstat state the administration's position, it sounds to me, if trade issues are dependent upon health care reform, dependent upon other things to revitalize the economy that are pie-in-the-sky, that all of those things are going to fit together and they all have to kind of make sure they are all going to pass before we pass a relatively small trade agreement, we ought to be doing things that we can. It may sound a little piecemeal to pass a Panama free trade agreement, but it is going to do some economic

good. It has been proven in other trade agreements, particularly in the western hemisphere, and we ought to move ahead.

I am going to start out with my questioning of Mr. Carney. You touched on this a little bit, so I am not going to ask you just about Panama, but could you elaborate on the value of our trade agreements generally to address sanitary and technical barriers to trade? For example, with respect to trading partners that do not recognize the equivalency of meat inspection systems.

Then let me follow up with this one. In your experience, do countries with which we have bilateral trade agreements treat our pork exports significantly better than countries with which we do not have bilateral trade agreements?

Mr. CARNEY. Yes, I can explain a little bit on that. First of all, the ones that we do not have agreements with—and I will touch base with, like, Russia, and we have had troubles there and they have de-listed our plants, and then they re-list our plants. They are not even a WTO member, and we do not have a free trade agreement. Right there is the problem.

Where we do have the free trade agreements and they are in the WTO, they try to eliminate the sanitary barriers in these free trade agreements. If you need more information on that, I can get it for you. I do not have it all in front of me right now, but I can get that to you.

Senator GRASSLEY. I will follow up with something maybe you or your association can answer in writing then.

Ms. Lee, in your testimony you criticize the government's procurement provisions in our trade agreements. The AFL-CIO opposes the provisions in the Panama agreement that would require Panama to allow U.S. manufacturers to compete for contracts to help expand the Panama Canal?

Ms. LEE. The procurement provisions that we object to are those that would limit the ability of the government, including the U.S. Government, to use domestic sourcing preferences, to use American taxpayer dollars to create good jobs at home in our own communities. We think that it is inappropriate for trade agreements to put additional limitations on that.

With respect to transparency—and countries can do whatever they want if they want to open up their procurement provisions. We are very supportive of transparency in government procurement provisions and voluntary commitments that are made along those lines, but what we do not want to do is weaken our own ability to put in place protections that are either with respect to social and environmental objectives or with respect to job creation at home.

Senator GRASSLEY. Mr. Eissenstat, what is your reaction to—

Senator ROBERTS. Would the Senator yield? I am over here.

Senator GRASSLEY. Yes. Yes.

Senator ROBERTS. I do not understand. Ms. Lee, I do not understand your answer to the Senator's question. Maybe I am just dense, but I do not get it. I do not know whether I just did not understand it or that is just your rote answer to what we are trying to do at the Panama Canal, or what.

Senator GRASSLEY. I think what she is getting at, we weren't quite sure whether or not you see the relationship between U.S.

manufacturers, particularly if they are going to use products down there that are manufactured in the United States, and wouldn't you like to have those products manufactured by American workers to be used in the expansion of the Panama Canal?

Senator ROBERTS. That was the question, and I do not understand the answer.

Ms. LEE. Well, the answer was with respect to our criticism of the government procurement provisions in general in trade agreements, so I was answering with respect to the argument that we have made, that the government procurement provisions in the WTO, GPA, the NAFTA and so on—

Senator ROBERTS. All right. All right. So you are opposed to the government procurement provisions—and I am sorry I am taking your time—overall. But we are talking about Panama and these particular government procurement provisions.

Ms. LEE. Right.

Senator ROBERTS. So you are tying them together simply because you are opposed to the whole shebang?

Ms. LEE. Well, we are concerned about what the impact of the government procurement provisions has been on U.S. ability—

Senator ROBERTS. I understand that.

Ms. LEE. Right.

Senator ROBERTS. But this particular provision does not really deal with that.

Ms. LEE. Well, of course it does. It is a 2-way sword. It is not just about opening up the Panamanian government, it is also about making a commitment on the part of the United States to open its own procurement markets as well. It deals with both. That is how the procurement provisions work in the trade agreements.

Senator ROBERTS. I would just like for you to shake hands with the guy to the left of you; he has a stake in this.

Ms. LEE. I would be happy to.

Senator GRASSLEY. Mr. Eissenstat, this is just a short question. It is not to just what she said, but generally speaking, what is your reaction to the concerns that Ms. Lee raised about Panama labor laws? And I am speaking more about her testimony than I am her answer to my question. That is just one example. Then that is the last question I will ask.

Mr. EISSENSTAT. All right. Thank you, Senator.

Well, obviously the Congress and the administration have shared some of those concerns, and I think that that is why there was some agreement within the May 10 compromise, the congressional-executive agreement to undertake these provisions as part of the core of the agreement itself.

We have been working with the government to address a lot of these issues, and we know that the Torrijos administration has already taken steps as recently as this week on a number of issues that have been outlined in the AFL-CIO testimony, and we expect them to continue to take steps forward. They are very committed to making sure that these ILO core labor standards are reflected in their domestic labor regime, which will significantly enhance the standard of living in Panama and the working conditions there.

Senator GRASSLEY. The chairman's list says that Senator Menendez is next.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Eissenstat, let me ask you, one of President Obama's consistent campaign pledges and his consistent engagements since becoming President has been closing tax loopholes and eliminating tax breaks for corporations that offshore United States jobs. Panama is a renowned tax haven, considered one of the top tax havens in the world for both U.S. and multinational corporations. It has lax financial regulations and is one of the easiest countries in the world in which to register a foreign subsidiary.

So what in the agreement that we are discussing today addresses the tax haven problem, and what effect, if any, does it have on Panama's regulation of its financial sector?

Mr. EISSENSTAT. Senator, those are good questions. I have a 2-part answer. The first part: there are provisions in the agreement in the services sector that do provide for transparency and openness that do not exist now in services regulation; so a more open, transparent process is in the agreement.

But in parallel to the agreement, as you know, there are a number of steps ongoing, many of which Panama has been taking part in, to address these concerns over taxation issues, including the OECD framework. I would like to note that they have committed to the principles of transparency in information exchange in 2002. We are continuing the dialogue with them.

We understand from our conversations with the Torrijos administration they are going to take some steps very soon to deal with what are called numbered accounts, which would be a way to hide assets from an individual owner. We also understand that they recently took steps to put in place a presidential committee that will make recommendations to immobilize bearer shares, which requires legislation in Panama. Demobilization of bearer shares is very important because, as you know, someone with a bearer share is able to hide an asset.

Senator MENENDEZ. Let me just interrupt you for a moment.

Mr. EISSENSTAT. Yes, sir.

Senator MENENDEZ. These are all prospective aspirations, they are not included in the agreement. Is that correct?

Mr. EISSENSTAT. No. The taxation issues are generally in parallel to the agreement. Yes, sir.

Senator MENENDEZ. Yes. Parallel to the agreement. They are not part of the agreement, is that correct?

Mr. EISSENSTAT. There is nothing in this agreement specifically. There are exceptions on taxation policies, but generally the agreement does not apply to tax issues.

Senator MENENDEZ. All right. So, if the agreement does not apply to tax issues, then largely speaking we are working on the aspiration that the government of Panama will change its tax laws and regulatory processes in a way that we would hope to see so that in fact it does not continue to be the tax haven that it is for U.S.—as far as we are concerned, U.S.—companies.

Mr. EISSENSTAT. Well, we are. In fact, I think because of the relationship that we have and because we have built this relationship through the negotiations for so many years, we have been talking to them about this and making significant progress, some of which—

Senator MENENDEZ. If we were to pass the agreement tomorrow, nothing that we really, for the most part, want to see as it relates to the reality of Panama being one of the world's top tax havens would change. Is that true?

Mr. EISSENSTAT. Well, I think that—

Senator MENENDEZ. As a result of the agreement, would it change?

Mr. EISSENSTAT. As I said, generally the agreement does not apply to taxation issues.

Senator MENENDEZ. All right.

Mr. EISSENSTAT. If I could just mention one other factor that I think is important. As I discussed, there is a transition ongoing. There is a new president-elect who was just elected, the Martinelli administration. There was, as was noted, a very important statement that was put in the press by the vice president-elect today, and I could read that if you would be interested.

Senator MENENDEZ. No. I would be happy to receive it. I sit on the Foreign Relations Committee, so I am very aware of what the new administration is aspiring to, and I think they are headed in the right direction.

The point is, I do not want anyone to be misled that this agreement does anything as it relates to those tax havens, so we are looking aspirationally towards what the government of Panama may do down the road. But, if we were to pass the agreement tomorrow, we would still have Panama, at least at this point in time, as a major tax haven. That is a fair statement, is it not?

Mr. EISSENSTAT. The work is ongoing. Yes, sir.

Senator MENENDEZ. But as of tomorrow, it would still be a major tax haven. Is that not the case?

Mr. EISSENSTAT. Until these steps are taken, there are elements of that.

Senator MENENDEZ. And then finally, with reference to the labor provisions which, I agree with the chairman, have been incorporated in this agreement, in your testimony you talk about what is going to happen in terms of implementation. Is that implementation viewed in the time frame that it would take place before a vote here, or is that an implementation that, again, is in the future?

Mr. EISSENSTAT. Well, we have actually seen steps on some of the issues that we have discussed with Panama being taken as early as this week, so actually some of the reforms are in place as of today. Our understanding in our conversations with the current administration is that they are going to continue moving in that direction. There are both legislative and regulatory steps that are going to be taken, and we anticipate that they will be in place. I cannot give you the specific time frame, but I know that they are committed to it, and we would expect that to occur before the end of the administration.

Senator MENENDEZ. Thank you, Mr. Chairman.

Senator GRASSLEY. Yes. Thank you, Senator Menendez.

Senator Crapo stepped out, so now, Senator Bunning.

Senator BUNNING. Thank you, Ranking Member Grassley.

First of all, it has been since June of 2007—both countries, both the United States and Panama signed this agreement in 2007, June 28th, so we have been dealing with it for 2 years. Almost ev-

everything that Panama sends to the United States is duty-free. Almost everything. Not quite everything, but almost. Ninety-six percent is duty-free.

More than 88 percent of the U.S. manufacturing exports would be duty-free if this agreement were in force, with the remaining tariffs phased out over 10 years. That is according to what we have already signed. More than 60 percent of our agricultural exports to Panama will receive duty-free treatment immediately, and the remaining tariffs will be phased out over 15 years.

Approval of the U.S.-Panama trade agreement would also improve Panama's economic development, and maybe, just maybe, the improvement of the Panama Canal so it could actually handle the larger ships that need to be handled. Unfortunately, they are limited right now.

My question is for Mr. Eissenstat. I support the Panama pending agreement, but I also believe that the Colombia trade agreement is essential to our national interest, especially because of Colombia's proximity to Venezuela. Can you tell me what the administration is doing specifically to move Colombia along with Panama?

You outlined this broad picture for us, that it has to fit into a broader picture, but you did not say anything about things that we have already agreed to, which are Colombia, and Panama, and not Korea yet. We are still working on that one. But see, health care is going to be done at the pace that this administration would like to see it done here in this committee, but trade is not health care.

What I am trying to say is that we understand the broad picture. We see it every day; if you are on the Energy Committee or you see an energy bill coming before us that deals with a lot of different things, in this committee we are going to see a health care bill, so we understand the broader picture. But specifically on trade, we do not see any movement. So maybe I can get a better explanation from you.

Mr. EISENSTAT. No. And thank you. I appreciate that opportunity. I do think that the way that I articulated it, it gave a perception that these were conditions precedent, and I do not want to give that perception. These issues move in parallel—the trade agenda, the domestic agenda. It is all part of the broader framework that the President will be laying out in his vision of how this fits together.

Senator BUNNING. When would that happen, since we have dealt with these for 2 and 3 years? I mean, we have had an agreement with these foreign countries. I think preferential trade agreements are proven to be very beneficial to the United States and our trading partners.

Mr. EISENSTAT. Well, I think that the key question or one of the key elements is to move the agreement at an appropriate time, in consultation with Congress so it gets support, and enables us to move forward on the broader trade agenda, including other items like Colombia. Panama is a very important agreement, and that is why we have been working on it since the administration began.

Senator BUNNING. Well, because they are changing administrations, first of all.

Mr. EISENSTAT. Part of the transition does require some movement and some discussion and some review of the agreements. I

think that would be expected. But since that time we have also been working with them to understand their labor regime, make sure their labor regime fully implements the commitments under the agreement to address some of the taxation issues, which are somewhat recent concerns because of the financial situation.

Senator BUNNING. I have to ask one more question.

Mr. EISSENSTAT. Yes, sir.

Senator BUNNING. So, I am not trying to cut you off, I just want to make sure I ask the question of Mr. Owens.

I appreciate your testimony about how the pending trade agreement will open up new opportunities for American companies like Caterpillar. I realize that this hearing is on trade policy, but I also believe that U.S. tax policy has a dramatic impact on the ability of American companies to compete in the global marketplace. If policies like the repeal of tax deferral on overseas income were pursued, can you talk about how that would affect the ability of U.S. companies to compete with foreign multinational companies in international marketplaces?

Mr. OWENS. Well, thank you, Senator. I would be pleased to.

As you know, it is a very significant concern to the multinational business community. I think the fundamental question for the American public is, do we want to have leading U.S. multinational companies based here, that are the leading companies in the world? If the answer is no, which I would be surprised and disappointed, I guess we could all move our headquarters.

I think the answer is yes. If the answer is yes, then we have to think about, what does it take to have U.S.-headquartered companies be competitive and be winners in the global marketplace? If we repeal deferral and keep one of the highest corporate tax rates in the world, we render American multinational companies uncompetitive.

Just take a small example, China. I compete in China. I have investments in China. I compete with Koreans, Japanese, European companies, as well as domestic Chinese companies. I would really like to see our government, the U.S. Government, negotiate a level playing field for me there. I feel like I can compete, and I know other multinationals feel we can compete, given a level playing field.

But let us say their tax rate in China is 25 percent. We pay that tax as we earn profits on the investment in China; so do the Japanese, so do the Koreans, so do the Europeans, and the domestic players: a level playing field. If we have to top ours up to 35 percent immediately on all the profits made, then we have a differential tax of 10 percent on all the profits we earn, and we simply cannot compete. We will end up having to sell our Chinese subsidiaries, as will other multinationals, U.S. multinational-headquartered companies, or move our headquarters.

Almost every major trading competitor we compete with has a territorial tax scheme where you pay the tax in the country you earn the profit in, and you can then repatriate that money tax-free back to your home-country base. It seems to me that would serve the United States very well. I fully recognize U.S. companies need to pay their fair share of the tax, and we are prepared to, and want to.

The CHAIRMAN. Senator Roberts?

Mr. OWENS. And we want to stay an American-based company.

Senator BUNNING. Thank you very much.

The CHAIRMAN. Senator Roberts, you are next.

Senator ROBERTS. Mr. Chairman, thank you for your courage and your very candid comments, and the same for Senator Grassley and my dear friend from Kentucky.

My statement goes into why trade is important to Kansas. I think that is obvious. But I would like to mention that our Kansas farmers and ranchers know that 35 percent of the Kansas farm economy relies on agricultural exports, much like Sam is talking about.

Our cash receipts total over \$14.5 billion. That is what is at stake here, \$14.5 billion, in regards to Kansas producers. We have to export over half of our wheat crop. If you fail to expand access to foreign markets such as in Panama, every farmer and rancher will pay the price. So, I have strong feelings about this.

And it is not just Kansas agriculture. Our manufacturers exported \$4.7 billion in transportation equipment last year. That is a big number in Kansas. The growth is significant.

Approximately 80 percent of exporters are small- and medium-sized enterprises. Lowering barriers would certainly help these folks and their workers. The U.S.-Panama trade agreement levels the playing field for 2-way trade. I am not going to get into all that; it has been stated before.

I want to say something. As the former chairman of the Senate Intelligence Committee, I worry about the Southern Command—there are 31 nations in the Southern Command, 360 million people, average age 14, and most of them malnourished. We are entering into a situation now where our relationship with our Latin American allies and all those countries in that Southern Command have grown more hostile towards the United States.

Panama is a very important country in between. It is strategically located, obviously. The canal is extremely important to us, not only in terms of a shipping route, but also strategically. So I think this is a national security issue as well as a trade issue.

Mr. Owens, I was going to ask you how the export side of your business has been impacted by the recent economic slow-down, and I know the answer. But how have exports helped your ability to sustain your business in the middle of this slow-down?

Mr. OWENS. Thank you very much. Roughly 50 percent of everything we manufacture in the United States is exported. Last year we exported about \$16 billion worth of product that not only affects our own employment directly, but also probably 3 times as many employees of small- and medium-sized companies who are our suppliers. So I think we demonstrate we can very effectively compete in the global marketplace from a U.S. manufacturing base, and I would encourage us to think more about competitiveness of U.S. manufacturing and encourage exports. So, we are proud to be there.

But we have been severely impacted. The global economy is in a severe recession, unprecedented since the 1930s, and it has had a huge impact on our employment and our suppliers' employment as we downsized our business this year.



Senator ROBERTS. I appreciate that.

Mr. Eissenstat, you know all about the beef industry and it is pretty central to our State's economy, and then the pork industry from Iowa. You know about the consequences of what diseases like BSE, and more recently the H1N1 virus can do to the livestock industry. Countries can, and they do, shut down their trade based on fear or politics or whatever, while ignoring sound science and their broader trade obligations. In your statement you highlight the sanitary and phytosanitary—the SPS—portion of the agreement. Can you expand on why the consensus in the SPS area is so important?

Mr. EISSENSTAT. Well, Senator, it is vitally important. I think the tariff reductions are one element to our ability to export quality products like beef, but, if there are sanitary and unjustified scientific barriers to those exports, we cannot get into the market. As you note, we have a very sound agreement with Panama that has really made a difference, from what I understand, in our ability to export to that market, and the tariff reductions will actually enhance and be a big part of that whole picture, enabling us to continue to take advantage of that export market.

Senator ROBERTS. I appreciate your answer.

Mr. Chairman, my time has expired. But I just want to say something. I remember clear back in NAFTA when I worked with “Kika” de la Garza, the esteemed chairman of the House Agriculture Committee; he was the Democrat, I was the Republican. There was a lot of criticism about NAFTA, and it continues. But I said at that time I think a lot of trade agreements are over-sold. I think we tend to over-sell them in regards to the prospects of what we can do, but the real thing I want to touch on is that they are definitely over-criticized.

And boy, are we seeing that today. You have asked the question: when is the President going to move on this prior to June, whatever that date was that you mentioned? Mr. Eissenstat said that we are going to have to articulate a broader domestic agenda. Man, I do not know how much broader it can get. I mean, you have a fire hose coming at us. The government has intervened with the banks, we have intervened with automobiles, we have intervened with insurance, credit cards, you name it.

As these things fly by us, and we are going to do it with education, we are going to do it with health care, we are going to do it with cap-and-trade that may or may not work—probably will not, but that is just my prejudice. And as this stream of change comes by, containing all these little bits and pieces, I want to grab onto them and say, whoa, wait a minute. Let us have a hearing. Let us put it in regular order. Let us put it in the committee of jurisdiction.

If we are waiting on the President to articulate all that, then we are going to wait years. When is he going to make the speech on a broader domestic picture? I am not doing that right. I tried to write this down, and I used to be a reporter, but I cannot read my writing. [Laughter.]

I do not understand, when we are trying to increase trade to Cuba with Raul Castro, and Fidel in whatever shape he is in, and then we trade with China. Then we are even talking about possible

trade to Iran as a carrot out there to say, stop what you are doing in regards to your nuclear ambitions.

Here we have three countries, South Korea, Colombia, and now Panama, strategically located, very important to our national security, very important to send a signal to manufacturers like Caterpillar, or to the hog industry—or the pork industry, pardon me—with Sam, and Kansas with \$14 billion, and we are not doing anything. We have one official who has raised nine different objections to the labor laws of Panama. Shucks, he ought to run for labor secretary of Panama. I do not see it happening. Mr. Chairman, in some ways I think you have great courage to have this hearing, but I do not think it is going to happen, and this is nuts. Absolutely nuts.

Ms. Lee, you can complain about everything from apples, aardvarks, to zebras, my Lord, in the circus of trade. I understand that, and Lord knows during this economy we want to do everything for the worker. But you are cutting off your nose to spite your face.

The CHAIRMAN. Senator, thank you very much. One point you make is we have to walk and chew gum much better than we even do now.

Senator Wyden, thank you for your patience.

Senator WYDEN. Thank you, Mr. Chairman.

As the new chairman of the Trade Subcommittee, on the basis of what Senator Roberts has just said, I am going to have my hands full. I want my colleague to know I am going to work closely with him, and of course with the chairman.

The first question to you, if I could, Mr. Eissenstat. How many multinational corporations have subsidiaries in Panama now?

Mr. EISSENSTAT. Senator, I do not know the exact number, but I believe it is over 300,000.

Senator WYDEN. So as of today there are over 300,000 corporations with subsidiaries. Obviously on the basis of what colleagues are asking about, there are questions about whether this is being done to take advantage of Panama's status as a tax haven.

I think the question I would want to ask on the basis of what colleagues have already gotten into at this point is, what does the agreement do, what does the FTA do to the standing of these corporations, these hundreds of thousands of corporations, to challenge current and future U.S. regulation in, take an area, financial services, any area?

Mr. EISSENSTAT. Well, thank you, Senator. I will note at the outset that, while there are many subsidiaries there, I think there is a misperception that many of them move there primarily because of the taxation regime. I do not believe that is the case. I think a lot of them move there to expand market share in the region. It is a transportation logistical hub and a very important growth market, with 8 percent growth.

On your specific question, the agreement actually builds upon the bilateral investment treaty (BIT) that has been in place now with Panama for 25 years, and it actually takes and modernizes the BIT to take into account many of the new elements, including the elements of the investment agreement in the May 10th agreement, to incorporate those elements as part of our investor state dispute process.

So the question is, what does this agreement do to enhance those rights? Actually, those rights exist for corporations today under the BIT; this brings and builds in new protections, procedural protections, and also sets out some standards for review when these issues go forward.

Senator WYDEN. What would be an example of such a protection?

Mr. EISSENSTAT. Well, that is a good question. It is actually one of the areas that we have advanced very significantly on the procedural protections, in consultation with this committee. For example, in the investor state arbitration, I will just run through a quick list here: hearings and documents are public, eligible for amicus curiae brief so, if somebody has concerns with a particular case that has been filed, they have the right to have that case put before a dispute settlement panel and have it reviewed by that panel and those facts taken into account and those legal arguments put forth as well.

The tribunals also have the ability to dismiss frivolous claims, and if there is a frivolous claim filed they have the ability to award attorneys' fees in that instance.

In a couple of others, governments can actually review the opinions before they are issued, and there is also a provision that enables governments to issue a joint interpretation of the rules that are binding once that occurs. So those are some of the protections. There are also substantive protections. It is a very complex area, as you know, but basically the substantive protections are designed as part of the work of this committee to reflect U.S. constitutional principles of taking and jurisprudence, and that is what basically the substantive elements of the investor chapter are intended to do.

Senator WYDEN. And what else can be done to address Senators' concerns, and I am sure I am going to get this—Chairman Baucus will get this—to address the concerns of Senators about Panama as a tax haven?

Mr. EISSENSTAT. Well, it is a very good question. There are a couple of steps that have already been taken very recently. One which I do not want to be minimized is the step that the Torrijos government is committed to taking on bearer shares, which is basically the ability to hold corporate shares without identification, which is one way to hide your assets and evade taxes.

He is committed to immobilizing those, which is a very important step forward in transparency, and has formed a committee—in fact, I believe it was done just this week—to do that, and we expect legislation on that in the near future.

There was also, partially because of the way we have been working with the government of Panama based upon the overall trading relationship, some discussions with them on the taxation issues. This has been, as you know, under discussion for many years. But we are seeing a general movement, not just with Panama but in the world, towards greater transparency. The key to that is obviously a tax information exchange agreement.

Senator WYDEN. Here is my message: push harder.

Mr. EISSENSTAT. Yes, sir.

Senator WYDEN. Because I can tell you, when this agreement comes up, this is going to be one of the litmus tests, and perhaps one of the key questions that is going to be debated here, and cer-

tainly going to be debated on the floor. That is the question of what this agreement does with respect to Panama as a tax haven. So, push harder.

Mr. EISSENSTAT. Thank you, Senator.

Senator WYDEN. A question for you, Mr. Owens, if I might. One out of seven jobs in my State depends on international trade. The trade jobs pay better than do the non-trade jobs. I have voted for every major market-opening agreement since I have been in the Congress.

My principles on trade have not changed in the least, but the way the American people look at trade has clearly changed, not just in my part of the country, but everywhere else. There is a sense that these trade agreements are good for people in the front office, but they are not so good for people in the back offices and the people out on the shop floor. There is the sense that their jobs are being exported.

I would like your sense about what else can be done at your company and in this agreement to expand the winner's circle, to expand the winner's circle for the members. For example, Ms. Lee has a lot of members who want to know, what is in this agreement for them, what are they going to get out of it? I have said in the past that, when there is a major trade agreement that is passed, part of the tariff reductions ought to be shared with the workers. I do not think you even need a piece of legislation to do that. You can just turn around and say, we believe in expanding the winner's circle, we want to share some of the winnings with workers.

So, if you are speaking to blue collar workers who are skeptical about this agreement and other market-opening agreements, what is in it for them?

Mr. OWENS. A terrific question. I agree, there is a public skepticism of trade in general which is astronomical, and it has been demagogued. Every job loss gets blamed on trade. First off, I think the business community has an obligation to get out and speak more to our communities and to our employees to help them understand the benefits of trade. A lot of the manufacturing "job loss," the vast majority, in fact, comes from productivity gains which are changing the demographic of the American workforce.

Now, we have spent a lot of time trying to help our employees—and our suppliers, I might add—understand that their jobs are critically related to successful trade agreements. The free trade agreements we have negotiated, as we talked about earlier here, have been hugely successful in expanding our exports to those markets.

Let year, if you just took Illinois, the big three plants that we have in Illinois, all very well-paying jobs, terrific plants, highly productive, competitive in the world market, close to 60 percent of everything built in those factories was exported. We are the number-one or number-two player for every major product line on every continent, and last year we exported \$16 billion worth of product. Most American companies, I think, are confident in their ability to compete, given a level playing field.

We mask, sometimes, the benefits. I mean, nobody talks about it because there are multiple winners. The fact that the average American family, by even the Peterson Institute estimate, benefits

to the tune of about \$10,000 annually from the globalization efforts that we have already achieved. That comes in the form of lower prices for generally everything they buy, and better choice.

I think trade is truly a win-win. We always want to characterize it as win-lose, and in fact it is win-win. I find it hard to imagine that anybody in the country, particularly anybody who has traveled extensively to China, thinks that the world is not better off because the Chinese economy has expanded the standard of living in China, lifting hundreds of millions of people out of poverty, that we are not better off even in our country for that event, that happening.

The CHAIRMAN. I would just like to know if I could ask a question here. Mr. Owens, you like this agreement because it helps, obviously, your company. But what does that do for jobs here at home in America? I mean, to what degree are you going to set up plants overseas, and so on, and so forth, which does not really help Americans looking for jobs in the U.S.?

Mr. OWENS. Well, I think it is maybe misunderstood. In fact, we can demonstrate that, when we have set up overseas manufacturing activity, it has helped our U.S. exports. China is a good example. We have a number of factories in China today that build our product, but it has allowed us to create a marketing and distribution presence in-country, brand recognition, and has increased our exports to China as we have made that manufacturing investment. So in China today—we sold over \$2 billion worth of product last year. The majority of that was exported to China.

The CHAIRMAN. I guess that is my question. I mean, it creates jobs in China.

Mr. OWENS. No, it creates jobs in the United States.

The CHAIRMAN. That is what I am saying.

Mr. OWENS. Export jobs.

The CHAIRMAN. Right. Also in the United States. But both.

Mr. OWENS. Both places. Absolutely.

The CHAIRMAN. Right. So my question really is, on a net basis, more here or more there?

Mr. OWENS. Generally speaking, more here. I mean, if a multinational company is headquartered in our country, I believe it creates administrative jobs, financial services and treasury-related jobs, research and engineering-related jobs that are used in our manufacturing operations around the world.

If we went to a territorial tax regime similar to what other large industrial countries have, Germany, all the European countries essentially, Japan, Korea, they have a territorial tax system. If we had that, U.S. multinationals would bring all of their foreign profits back to the United States, and we would manage it from here.

But we need to be engaged in the world. We are 5 percent of the global population. If we are going to have leading companies that are U.S.-based, we have to not only export from the United States, but invest in creating a presence, if you will, in the key countries of the world to allow us to be successful in those countries.

The CHAIRMAN. Yes. That is a huge, big issue, the degree to which the United States compares from worldwide to territorial. That is a huge issue.

Mr. OWENS. I know.

The CHAIRMAN. There are a lot of arguments for it. But I would be interested in knowing and getting data from Caterpillar about the degree it could—like, how many Caterpillar jobs are created overseas versus how many jobs are created in the United States. That would be helpful to know.

Mr. OWENS. In broad numbers, we employ about 100,000 people around the world today, about half of them in the United States, half of them outside the United States. The half outside is scattered; we have been in Brazil for 55 years, we have been in Europe since World War II. So we have a manufacturing presence all over the world.

The CHAIRMAN. I see Ms. Lee seeking recognition here.

Ms. LEE. Yes.

The CHAIRMAN. All right.

Ms. LEE. Thank you. I just wanted to get in on this conversation because I think it is an important one, about whether U.S. companies have done a good job in terms of managing globalization and what they have done for American workers. We talked a lot about exports today. We have heard a lot about exports and the importance of exports.

Workers—American workers—are totally in support of the idea that the United States should be a successful exporting country, but for too much of the time I think we forget we ran a \$700-billion trade deficit last year, so we were importing \$700 billion more than we were able to export, some of that oil, but a large chunk of it was manufactured goods. We have lost almost 5 million manufacturing jobs since 2000, not all of them due to trade, but I think about half of them probably due to trade according to the research that we have done.

But even the productivity gains which you talked about are important. We have lost some jobs to productivity gains and improved technology, but what we have not seen is that, in the past, there has been a linkage between productivity gains and wage gains, that as productivity increases the amount that each worker produces, generally that allows for non-inflationary wage gains. But we have seen a rupture between the growth in productivity, which has been pretty substantial over the last couple of decades, and in fact a decline or a stagnation in real wages, real hourly wages.

So when you talk about the figures, that the average American family has benefitted from trade, well, the average American family is losing ground in real terms. So even given all the cheaper imports that we are able to buy, the average worker, the typical worker, the full-time median worker earned less in 2008, the typical male worker working full-time, than his counterpart did in 1975. So that is 30 some-odd years of technological improvement—

The CHAIRMAN. Let me ask this question.

Ms. LEE. Yes?

The CHAIRMAN. Let us assume—I mean, take your point only for the purpose of discussion, that the productivity gains are not passed on to workers. Let us take that as a given, without arguing it one way or the other. To what degree, though, is trade relevant to that point?

Ms. LEE. I think it is extremely relevant to that point. What I would argue is, the reason that productivity would diverge from

wage gains is that bargaining power of workers is undermined, and there are a couple of reasons why that would be the case. One is globalization, that to the extent that companies are global and mobile internationally and workers are not—we live in the United States—we cannot out-source ourselves. We need to find a good job on American soil, unlike American companies that can make money wherever they go in the world.

So, to the extent that the companies sit down—and this happens to my members every day—at the bargaining table and they say, you have to take a pay cut, you cannot have health care, you cannot have a bathroom break, you cannot have safety equipment because we are in a global economy now. They use their global mobility as a way of bargaining down wages. And the second reason for the diminished bargaining power is the decline of unions and the attack on unions, and globalization has been one part of that.

The CHAIRMAN. Right.

Let me ask Mr. Owens to take a crack at that. Is productivity passed on? What about some of the points that Ms. Lee was making?

Mr. OWENS. Good question. I mean, if you look at the industries that have been the most impacted by foreign competition in terms of lost jobs—for example, the textile industry would be near the top of that list, and it, by the way, was a non-union environment in the textile industry—

Ms. LEE. No. No.

Mr. OWENS. Largely.

Ms. LEE. We have—

The CHAIRMAN. Sorry. Do you want to speak in the microphone, please? You can talk to Mr. Owens, that is fine, but we would like to hear it too.

Mr. OWENS. Yes. Anyway, things like the high-tech industry in the United States, the pharmaceutical industry in the United States, some of our highest tech industries are largely—it is not so much a matter of whether they are organized in terms of labor unions or not, it is a matter of education and skill of the workforce, I think, that has a big impact on compensation. I think we can have very high-paying jobs here that are competitive in the global marketplace, and in addition to that, of course, I think we almost have to get away from this blue collar/white collar related discussion. We have employment.

In our case, almost half of our employees in the United States are in traditionally what you might think of as white collar jobs, because a lot of our manufacturing operations are very highly automated and robotic, and it takes a lot more design engineers, computer scientists, and accountants, and everything else to run our business, and global business, successfully. So it is all payrolls.

The CHAIRMAN. I appreciate that. I am sure Senator Wyden has many more questions. This is an extremely important conversation. So my next point—and do not misunderstand it, misinterpret it, but I just cannot resist—I have always, for a long, long time, wondered why in the world is it, at the Panama Canal, that the Pacific Ocean level is higher than the Atlantic Ocean, when water seeks its own level down at the bottom of South America? I could never figure that out.

Remember, I asked this question first—it popped in my mind when I was in 7th grade, or something. I asked my science teacher that question. He thought I was being some upstart wise, blankety-blank kid. But it was just an honest-to-goodness question. I have never seemed to get a good answer to it. So I am wondering, to what degree will this treaty level the water levels? [Laughter.]

Actually, I looked into it a little bit. My understanding is that the Pacific Ocean is a little bit higher than the Atlantic, about 20 centimeters, and it is due to the higher density of the Atlantic Ocean versus the Pacific. It is due also to water currents and wind currents and so forth. If we could dig a ditch between the two right straight on through, the water would pass from the Pacific side straight on through to the Atlantic. There would be a flow of water through. It has always intrigued me that one is higher than the other. All right. Thank you.

Senator Wyden?

Mr. OWENS. You should talk to my friend, Riley Bechtel. The engineering of this thing is to essentially keep the fresh water in the canal, because now almost every boat that transits out, all the fresh water goes into the ocean. The engineering of the expanded canal essentially will preserve the fresh water. It is quite an engineering feat.

The CHAIRMAN. That is a very interesting point, yes, to keep the fresh water there.

Mr. OWENS. Yes.

The CHAIRMAN. That is very interesting. Thank you.

Senator Wyden, you can wrap up.

Senator WYDEN. Thank you, Mr. Chairman. I was not up on the water level issues, but I sure share your views about the American jobs issue and look forward to working with you closely under your leadership.

Let me see if you can get into this issue of the winner's circle a little bit differently, because one of the things I want to do, working with Chairman Baucus, is to try to bring business and labor together on trade issues—obviously easier said than done. There has been a lot of tension in the past in terms of trade agreements and trade-related issues.

One of the areas I have focused on in terms of trying to promote better relations between business and labor is this idea of expanding the winner's circle, that you can walk in and go to a hall with Ms. Lee's members, or a break room at any company in the country and you can explain in understandable terms why a trade agreement expands the winner's circle.

Mr. Owens, I say this respectfully, and I ask you the question, just telling people trade is good for them is not going to cut it. It is going to take new and concrete, specific actions in order to make that case. That is why I suggested this idea that, when companies get tariff reductions as part of a trade agreement, that they share some of the winnings with the workers. I do not think people even need a piece of legislation to do that.

Mr. OWENS. Senator, the term—

Senator WYDEN. Let me just make sure the idea is clear. That is only one example, but, if there is going to be a new effort to bring business and labor together in this area of trade, there are



going to have to be specific, concrete examples that do it or else Ms. Lee's members and working people generally, I think, are going to continue to drift away from the position that I think you and I largely share, and certainly is reflected in my voting record.

So, your response?

Mr. OWENS. Well, Senator, I agree with you. I think we have to really work very hard to, first off, be sure we do expand the winner's circle, be sure the American public understands how important trade is to our national future. There is no way we are going to build a wall to greatness in this country. It is the best ideas, the most original thinking, the most competitive products. Most tariff reductions, by the way, get passed to the buyers, consumers. So, for example, if we had a tariff on textiles and we drove up the cost of socks and underwear, who would pay for it? The lowest-income people in the country. But we have not explained it in those kind of terms.

I have an obligation—and I have worked pretty hard at it. I might add, CNN was outside of our plant when we just had recent layoffs, significant layoffs. They asked employees coming out, don't you wish we had passed "Buy America" legislation? Don't you wish it was more vigorous? The hourly workforce coming out of our plant said, no. We are global players. If we pass "Buy America," they are going to pass "Buy China," "Buy Germany," "Buy Brazil." This is what happens—

Ms. LEE. Guess what? They have already done that.

Mr. OWENS. We need, in this tenuous time for the global economy, to keep the trade flows going. Close to 1 in 5 jobs in the United States is tied to either imports or exports, and they are some of the best-paying jobs. We need to work hard with our trading partners to keep doors open.

In my case, half the employment—half the employment—in the United States is tied to our exporting from the United States. We have a pretty good infrastructure here. Most of the mining in the world, most of the oil and gas development in the world is occurring elsewhere with our products. So, if we are not very successful as an exporting country, we need to be focused more on export competitiveness than on protectionism, and our employees understand that. We need to do a better job.

Senator WYDEN. I want to let Ms. Lee and Mr. Eissenstat have a crack at this. I would only say that there is no question that market-opening agreements are a plus for consumers. It has been a central consideration in my supporting them. I am just saying they have to do more for workers. They have to do more for workers on the shop floor. That is why I call it expanding the winner's circle.

Ms. Lee, what is your thinking in terms of policies that your members and your organization would find expand the winner's circle?

Ms. LEE. Thank you so much, Senator Wyden, for the question. I think you are approaching it in the right way. This is exactly the kind of challenge that we need to face. My view is that it is not so much that we need to explain better to my members why trade is good for them. We need to make trade better for them. That is,

I think, the whole point of my testimony today, that we need to do some changes. I think there is a real difference.

There are two different things that happen. One, on export promotion, we agree with you, Mr. Owens. We think export promotion is a good thing, that we want U.S. producers on American soil to be more competitive and more successful in the global economy. But I think what has happened in the recent couple of decades is that there has been really a confusion between export promotion and putting in place policies that make it easier for multinational corporations to move around the globe, including to offshore our jobs and to bring the goods back into the U.S. market for consumers, usually at a higher profit.

A lot of times—Mr. Owens, actually, you would be amazed, I have done some research on it, that the tariff reductions are certainly not passed on, dollar for dollar, to consumers. A lot of them get really sucked up by the retailers and the middlemen. So when a big tariff cut happens or when a company moves production from the United States abroad, a lot of times the price of the consumer product does not change at all. So it goes to the profits, the workers lose, and the consumers do not see as much of the benefit as you might expect that they would.

I think what I would like to see—and I think that the Obama administration policies are going in the right direction in terms of investing in home and infrastructure and education and health care and clean energy, that is all the exact right thing to do, and I think that the tax deferral policies are also in the right direction, that we are trying to incentivize companies to produce on American soil for the global market and not to always serve their global markets by moving to another country, but rather to do that here.

If we start creating more good jobs at home through exports—and I have to say we certainly appreciate what Caterpillar has done, but I do not think that it is necessarily typical of multinational corporations. Many multinational corporations have very little production in the United States, and they move production offshore, not to serve markets, but to bring the goods back into the United States. It is that distinction where we should make a distinction in policy: our tax policy, our currency policies, and our manufacturing support policies need to recognize that difference and figure out how we can incentivize U.S. production.

Senator WYDEN. Mr. Eissenstat?

Mr. EISENSTAT. Thank you, Senator Wyden. This debate is exactly why it is so important to put this agreement in the broader framework and why the President wants to talk about the agreement and articulate why this is part of a bigger framework. The hearing title is a hearing on the U.S.-Panama Trade Agreement, but that is not what we have been debating here, and that is not what we were discussing. We are discussing the role of globalization and how we can make the economy work better. You have some very innovative ideas on that.

The idea is that we need to bring these together and talk about them in a way that the American people can understand and communicate with them and show the benefits of trade, while at the same time helping the American worker be able to adjust in the global economy. It is clear that trade agreements over the past sev-

eral years have been much too divisive, and we want to ensure that when the Panama agreement comes forward it does not contribute to that divisiveness, but actually lays the groundwork for us to be able to move forward on a broader global agenda, not just on Panama, but on the many other very important trade issues that we have before us.

Senator WYDEN. I will just tell you, especially since we have a company that clearly is trying to do the right thing, acknowledged by Ms. Lee, that the Obama administration, and particularly this committee under Chairman Baucus's leadership, we have a chance to build a new business-labor alliance on this trade issue, an alliance that essentially has gone by the boards in the last decade. There is much to agree on. I mean, both of you have talked about exports.

I mean, the way people see exports in the State of Oregon is, we want to grow it and build it in the State of Oregon, add as much value to it as we possibly can in the State of Oregon with family wage employment, and ship it somewhere. That is what people really see as a winner for Oregon workers. So, there is a lot to work with.

I hope that this Panama agreement, as it is considered here in this committee, as the committee works with the Obama administration, that this agreement can be used as a model for bringing together business and labor, in particular, to show workers in a concrete way how this agreement expands the winner's circle, how they get more out of this in terms of being able to fulfill their economic aspirations.

You all are great to come, and the conversation will certainly be continued.

With that, the committee is adjourned.

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



# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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### **Hearing Statement of Senator Max Baucus (D-Mont.) Regarding the U.S.-Panama Trade Promotion Agreement**

We are here today to discuss our trade agreement with Panama, a country at the crossroads of the world. Panama links the Americas — North and South — with a land bridge that ties together two continents. Panama also links the world — East and West — with a canal that has changed the course of global trade.

Our trade agreement with Panama also puts all of us — this Committee, this administration, and this country — at a crossroads.

This agreement provides an opportunity for this Committee to build on its past work of creating jobs through exports. It provides an opportunity for the new administration to demonstrate its support for an outward-looking trade agenda. And it provides an opportunity for the kind of export-driven economic growth that our country desperately needs.

I urge the administration not to hesitate too long at this crossroads. I urge them to move forward with this agreement.

This agreement includes the comprehensive labor provisions that I helped to negotiate with Democrats and Republicans in May 2007. And the current Panamanian government has agreed to far-reaching changes to its labor code to comply with those provisions.

But the current Panamanian government leaves office in a few short weeks. And it is not clear that the next government will go as far. If we wait much longer, we may end up with a worse deal.

The Panama agreement also provides new opportunities for American farmers, ranchers, and businesses. Panama already exports most of its goods to the United States duty-free under our trade preference programs. This trade agreement will level the playing field. It would provide the same duty-free treatment to our industrial and agriculture exports to Panama.

This agreement will, for example, immediately eliminate all duties on more than half of our agricultural exports to Panama. That includes high-quality American beef from states like Montana.

And these exports won't get tied up in unscientific trade barriers that have frustrated us in other markets. Panama has appropriately recognized the U.S. food safety and inspection system for U.S. meat and poultry as equivalent to its own.

This agreement will also immediately eliminate tariffs on 80 percent of U.S. industrial exports to Panama. Panama has begun a significant expansion of the Panama Canal, and it will need more construction and other heavy equipment to finish the job. Under this agreement, U.S. equipment manufacturers like Caterpillar will get a leg up over their competitors.

I would be remiss if I did not also mention Panama's tax laws and practices. I share the goal of the G-20 leaders, the OECD, the administration, and this Committee that tax havens must be shut down. I have introduced legislation that would improve the IRS's ability to detect and deter offshore tax evasion. My interest in moving the trade agreement does not diminish my desire to address offshore tax abuse in Panama and other countries, and to move tax legislation as well.

I understand that Panama is prepared to address these issues, and has made clear that it intends to do so by working both with the U.S. government and through the OECD process.

I want to see rapid progress on tax issues in Panama. But I also believe that we can and should move ahead on our trade agreement right now.

Starting any ambitious initiative — whether it's a new trade agenda or a new waterway — begins with a first step. The first step of the Panama Canal's construction in 1880, as well as the first step of its expansion in 2007, was marked by the detonation of earth-shaking explosions. I hope that we can begin the process of considering the U.S.-Panama trade agreement with considerably less drama.

Let us instead break ground with an open and honest hearing of the facts. Then let us engineer the best path forward. And let us help to move this U.S.-Panama trade agreement down the path.

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**STATEMENT OF**  
**SAM CARNEY**  
**PORK PRODUCER FROM ADAIR, IA**  
**ON BEHALF OF THE**  
**NATIONAL PORK PRODUCERS COUNCIL**  
**BEFORE THE**  
**SENATE FINANCE COMMITTEE**  
**ON**  
**IMPLEMENTATION OF THE**  
**PANAMA TRADE PROMOTION AGREEMENT**  
**MAY 21, 2009**

Chairman Baucus, Ranking Member Grassley and Members of the Committee:

I am Sam Carney, President-Elect of the National Pork Producers Council (NPPC) and a pork producer from Adair, Iowa. I also am a member of the Executive Committee of the Iowa Pork Producers Association. I am the owner and operator of Carney Farms Inc., which I run with my son Randy. We market about 6,000 hogs annually from our wean-feeder to finish operation. We raise corn, soybeans and hay. We also have a cow-calf herd, and we feed cattle. I appreciate the opportunity to appear here today on behalf of NPPC.

Mr. Chairman, I strongly believe as a farmer and a small businessman that the future of my family's farming operation depends in large part on further trade agreements and continued trade expansion. In a May 6 World Trade Week proclamation, President Obama said that he was developing an action plan for the pending free trade agreements with Panama, Colombia and South Korea. We welcome this development. U.S. pork producers strongly support each of these three trade agreements. We are here today to discuss the Panama agreement. Like the other two pending agreements, the Panama Trade Promotion Agreement should be passed by the Congress because it will generate exports, create jobs, and enhance the economic well-being rural communities.

The National Pork Producers Council conducts public-policy outreach on behalf of its 43 affiliated state associations, representing America's 67,000 pork producers, who annually generate approximately \$15 billion in farm gate sales. The U.S. pork industry supports an estimated 550,000 domestic jobs and generates more than \$97 billion annually in total U.S. economic activity and contributes \$34.5 billion to the U.S. gross national product.

The U.S. pork industry today provides 21 billion pounds of safe, wholesome and nutritious meat protein to consumers worldwide. In providing pork to the world, producers operate under a set of ethical principles, which broadly include humane and compassionate care for their pigs. Specific to animal-health products, producers use antibiotics judiciously and responsibly to protect pig health and to produce safe pork and manage antibiotic use to protect public health.

Few industries have benefited more from trade agreements than the U.S. pork industry. Thanks to new market access from the Uruguay Round, the North American Free Trade Agreement (NAFTA) and other trade agreements, the U.S. pork industry is now the largest pork exporter in the world. In 2008, the United States exported approximately 20 percent of domestic pork production. Pork exports added \$48 to the value of every U.S. hog marketed and supported more than 65,000 U.S. jobs in 2008. As the low-cost global producer of pork and the largest exporter of pork in the world, the U.S. pork industry is well positioned to create jobs and generate wealth in the United States as new trade agreements are implemented.

Last year exports were the pork industry's salvation. Due to high input costs, pork producers suffered their second worst financial year ever. Without the \$4.9 billion in exports, the industry would have imploded last year.

Unfortunately, just when things were starting to look up this year, the industry was hit by the A/H1N1 Influenza outbreak, which wrecked havoc on pork producers. Live hog prices plummeted due to unwarranted fears about the safety of pork and the non-science based restrictions put in place by some U.S. trading partners. NPPC appreciates the support of the Senate Finance Committee, Congress and the Obama administration in combating these needless



restrictions on U.S. pork exports and is pleased that, with a few notable exceptions, such as China and Russia, these unwarranted restrictions have been removed.

Now U.S. pork producers need Congress to approve the trade deals with Colombia, Panama and South Korea. With 96 percent of the world's population residing outside of the United States, it is essential that U.S. pork producers continue to gain access to more of these potential customers. While pork exports have exploded in recent years, future growth is dependent on further trade liberalization.

#### **NPPC SUPPORTS THE U.S.-PANAMA TRADE PROMOTION AGREEMENT**

The trade promotion agreement negotiated between the United States and Panama, when implemented, will create important new opportunities for U.S. pork producers.

U.S. pork exports to Panama are currently restricted by a small quota and out-of-quota duties as high as 80 percent. However, the Panama agreement, if implemented, will provide immediate duty-free treatment on U.S. pork variety meats and expanded market access for U.S. pork muscle meat through tariff rate quotas (TRQs). The TRQs will be phased out in 15 years, and after the full implementation period, U.S. pork will have unlimited duty-free access to the Panamanian market.

In addition to the favorable market access provisions, significant sanitary and technical issues have been resolved. The Panamanian government confirmed in a Dec. 20, 2006, letter that it will recognize the meat inspection system of the United States as equivalent to its meat inspection system. This technical agreement ensures U.S. pork producers will benefit from the Panama agreement without being blocked by unnecessary sanitary barriers.

U.S. pork competes in Panama with pork from Canada and the European Union. The Panama agreement, if implemented, will give U.S. pork products a competitive edge in the market.

According to Iowa State University economist Dermot Hayes<sup>1</sup>, the Panama Trade Promotion Agreement, when fully implemented, will cause hog prices to be 20 cents higher than would otherwise have been the case. Exports to Panama will be worth approximately \$23 million to the U.S. pork industry in additional revenue than otherwise would have been the case.

#### **PANAMA AGREEMENT WILL BENEFIT VAST MAJORITY OF U.S. AGRICULTURAL PRODUCERS**

Virtually every recent trade agreement – from NAFTA to CAFTA – has brought significant benefits to the nation's farmers and ranchers. In his recent trade proclamation, President Obama noted that exports account for 13 percent of total U.S. economic activity. But in agriculture, exports account for as much as 30 percent of farmers' income. In 2008, agricultural exports reached an all-time record of \$115 billion, up from \$46 billion in 1994, the year NAFTA was implemented. That agreement and the 13 trade deals the U.S. has implemented subsequently are the principal reasons for that export growth.

The U.S.-Panama Trade Promotion Agreement will provide new market opportunities for a wide range of U.S. agricultural products. Immediately upon implementation of the agreement, more than half of all U.S. agricultural products now sent to Panama will enter free of all duties. Most

<sup>1</sup>Hayes, Dermot, Department of Economics, Iowa State University. dhayes@iastate.edu, (515) 294-6185

of the remaining farm products will become eligible for free access to Panama over a 15-year phase-in period. The American Farm Bureau Federation estimates that by 2027, when the agreement is fully implemented, the total increase in U.S. farm exports is expected to exceed \$190 million per year.

Examples of products that will receive duty-free treatment immediately upon implementation of the agreement include high-quality beef, certain chicken products, frozen whole turkeys and turkey breast, pork variety meats, most whey products, soybeans and soybean meal, crude vegetable oils, cotton, wheat, barley, most fresh fruits (including apples, pears, and cherries), almonds, walnuts, many processed food products (including soups and chocolate confectionery), wine, distilled spirits and pet food.

In addition, a number of U.S. agricultural exports will benefit from expanded market access opportunities through tariff-rate quotas. These include pork, chicken leg quarters, dairy products, corn, rice, refined corn oil, dried beans, frozen French fries, and tomato products.

In 2008, U.S. agricultural exports to Panama were valued at \$304 million<sup>2</sup>. Agricultural imports from Panama totaled approximately \$55 million. The United States' current positive trade balance of \$249 million in competing agricultural products exists despite the fact that the U.S. market currently is more open to imports from Panama than Panama's market is to imports from the United States. For example, Panama's average tariff on agricultural imports is currently 43 percent compared with 12 percent in the United States. For products with tariff rate quotas (TRQs), Panama's average in-quota tariff is 15 percent and its average above-quota rate is 83 percent. By comparison, the average in-quota tariff in the United States is 10 percent and its above-quota rate is 52 percent<sup>3</sup>.

Moreover, most products enter the United States from Panama at a zero tariff because of the Caribbean Basin Economic Recovery Act (CBERA) and the Generalized System of Preferences (GSP). So, implementation of the pending trade agreement with Panama will level the playing field so that U.S. producers and exporters of food and farm products receive reciprocal market access.

In addition, important non-tariff impediments to trade that have prevented U.S. access to the Panamanian market will be removed as a result of the free trade agreement. The U.S. and Panama signed a far-reaching bilateral agreement on sanitary and phytosanitary measures and technical standards under which Panama will recognize the equivalence of the U.S. food safety inspection system for meat and poultry and the U.S. regulatory system for processed food products, including dairy products.

Panama also will provide access for all U.S. beef and poultry products, consistent with international standards. Finally, the agreement streamlines import documentation requirements for U.S. processed foods and ensures Panama's continued recognition of the U.S. beef grading system and cuts nomenclature.

U.S. agricultural exports to Panama can be expected to grow not only because of the direct effect of reducing tariffs and the lifting of other restrictions but also because of the economic growth in that country that will occur as a result of this trade agreement.

<sup>2</sup> Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics

<sup>3</sup> The tariff average data in this paragraph come from *AER-796*, Economic Research Service/USDA.

No one should believe that there are no costs to rejecting these agreements. While the United States dithers, other countries are moving forward with agreements that individually and collectively put U.S. products at a competitive disadvantage. Some 421 bilateral and regional trade agreements had been notified to the World Trade Organization (WTO) through the end of 2008. Another 400 or so are scheduled to be notified and implemented by 2010, according to that organization. The U.S. is a party to just 18 of those 800-plus deals, and just 15 are in force.

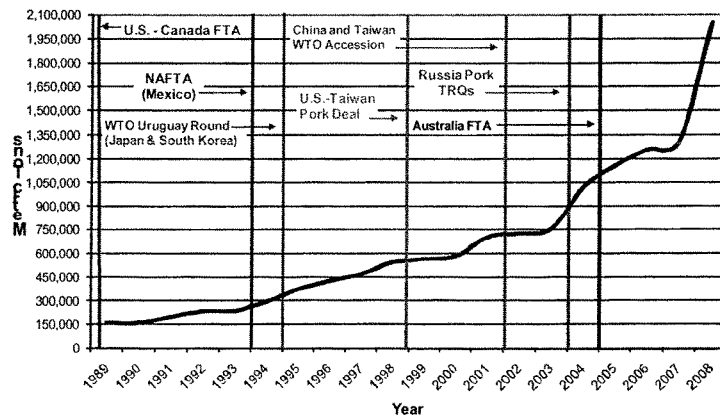
While Congress debates approval of the FTA with South Korea, for example, that country has already concluded or is working on FTAs with Chile, Singapore, Indonesia, Malaysia, the Philippines, Thailand, Brunei Darussalam, Vietnam, Lao PDR, Cambodia, Australia, New Zealand, Canada, China, the European Union (27 countries), India, Japan, Mexico, Brazil, Argentina, Uruguay, Paraguay, Peru, Pakistan and Russia.

We fall behind by standing still.

**PORK PRODUCERS ARE BENEFITING FROM PAST TRADE AGREEMENTS**

U.S. pork exports in 2008 totaled 2.05 million metric tons valued at \$4.9 billion, an increase of 57 percent by volume and 55 percent by value over exports in 2007. U.S. exports of pork and pork products have increased by more than 767 percent in volume terms and 754 percent in value terms since the implementation of NAFTA in 1994 and the World Trade Organization Uruguay Round Agreement in 1995.

**U.S. Pork Exports**



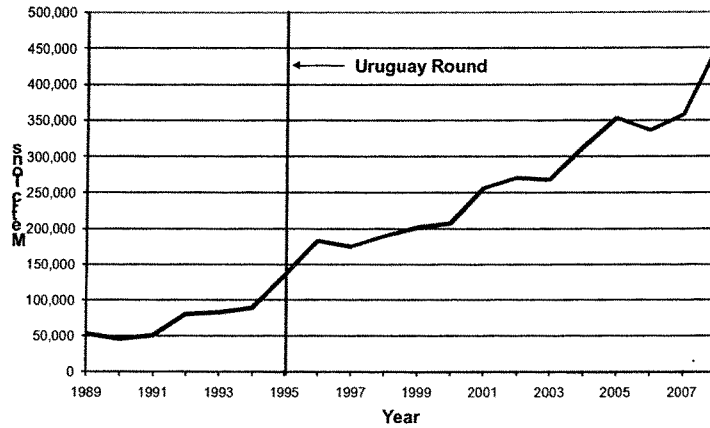
The following nine export markets in 2008 are ones in which pork exports have soared because of recent trade agreements.

**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 2008, U.S. pork exports to Japan reached 451,853 metric

tons valued at more than \$1.5 billion. In 2008, Japan was the top value foreign market for U.S. pork. U.S. pork exports to Japan have increased by 406 percent in volume terms and by 313 percent in value terms since the implementation of the Uruguay Round Agreement in 1995.

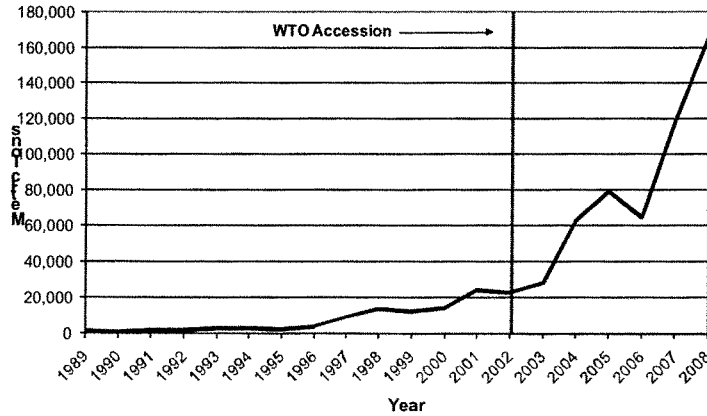
### U.S. Pork Exports to Japan



### CHINA

From 2007 to 2008, U.S. pork and pork products exports to China exploded, rising by 136 percent in volume terms and 155 percent in value terms. Pork and pork product exports last year totaled 399,562 metric tons valued at nearly \$690 million. China's accession to the World Trade Organization in December 2001 provided initial access for U.S. pork exports. Since China implemented its WTO commitments on pork, U.S. pork exports have increased 592 percent in volume terms and 938 percent in value terms. China is the single largest market opportunity for the U.S. pork industry. The cost of producing pork is much higher in China than in the United States. Notwithstanding the fabulous potential of this market and the recent increases in pork exports to China, there are serious obstacles that are blocking the realization of the true export potential of this market. Those obstacles include massive subsidies and sanitary/phytosanitary measures – in addition to the present H1N1 restrictions – such as the prohibition of using the feed additive ractopamine in the pork production process.

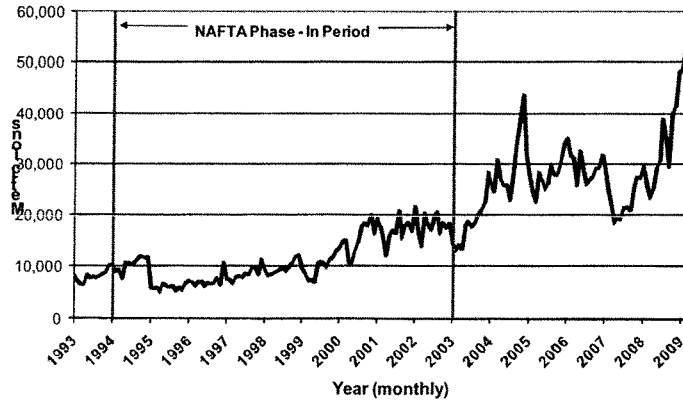
**U.S. Pork Exports to China**



**MEXICO**

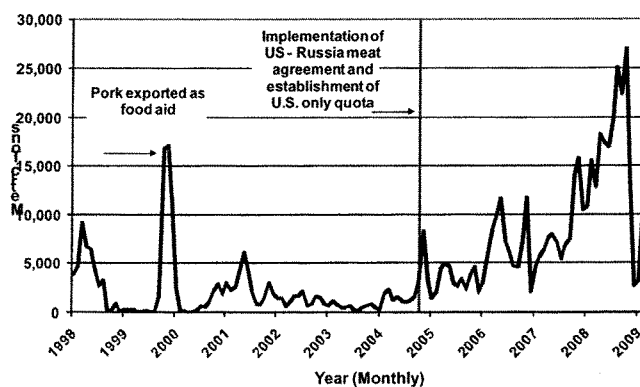
In 2008 U.S. pork exports to Mexico totaled 396,609 metric tons valued at \$691 million. U.S. pork and pork variety meat exports to Mexico in 2008 increased 43 percent by volume and 54 percent by value over 2007 exports. Without NAFTA, there is no way that U.S. exports of pork and pork products to Mexico could have reached such heights. In 2008 Mexico was the No. 3 volume market and No. 2 value market for U.S. pork exports. U.S. pork exports have increased by 316 percent in volume terms and 517 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.

**U.S. Pork Exports to Mexico**



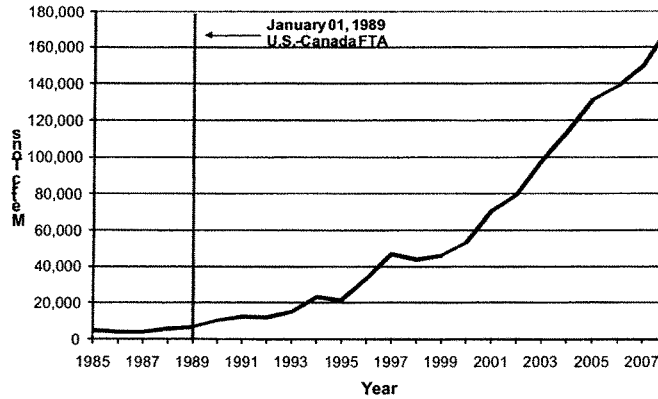
**RUSSIA**

In 2008 U.S. exports of pork and pork products to Russia totaled 217,767 metric tons valued at \$476 million, a 118 percent increase in volume terms and 130 percent increase in value terms over 2007. U.S. pork exports to Russia increased largely because of the establishment of U.S.-only pork quota, which were created in connection with Russia's efforts to join the World Trade Organization. Since the implementation of that quota, U.S. pork exports to Russia have increased 659 percent in volume terms and 957 percent in value terms. The spike in U.S. pork exports to Russia in the late 1990s was due to pork shipped as food aid. Notwithstanding the increase in pork exports to Russia, many serious obstacles, apart from the H1N1, remain for the U.S. pork industry in shipping pork to Russia.

**U.S. Pork Exports to Russia****CANADA**

U.S. pork exports to Canada have increased by 2,402 percent in volume terms and by 3,455 percent in value terms since the implementation of the U.S.-Canada Free Trade Agreement in 1989. In 2008 U.S. pork exports to Canada increased to 170,536 metric tons valued at nearly \$558 million, a 15 percent increase by volume and a 13 percent increase by value over 2007 exports.

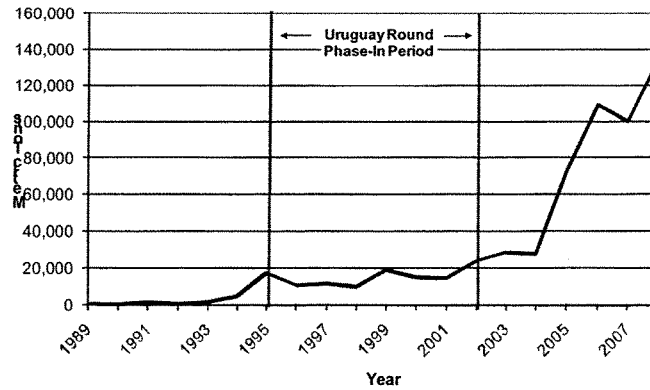
**U.S. Pork Exports to Canada**



**REPUBLIC OF KOREA**

U.S. pork exports to the Republic of Korea have increased as a result of concessions made in the WTO Uruguay Round. In 2008 exports climbed to 133,532 metric tons valued at \$285 million, an increase of 2,733 percent by volume and 3,218 percent by value since implementation of the Uruguay Round in 1995. Pork exports to South Korea in 2008 increased 34 percent in volume terms and 23 percent in value terms over exports in 2007. NPPC strongly supports implementation of the pending U.S.-Republic of Korea FTA because it will add hundreds of millions of dollars to the U.S. pork industry through additional pork exports. According to Iowa State University economist Dermot Hayes, the U.S.-Republic of Korea agreement, when fully implemented, will cause live U.S. hog prices to be \$10 higher than would otherwise have been the case.

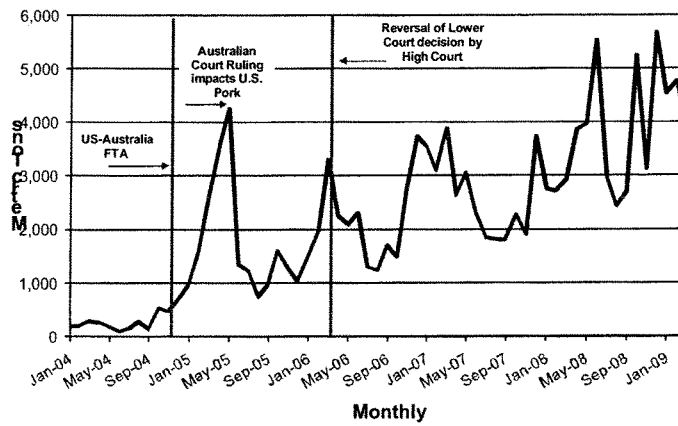
**U.S. Pork Exports to South Korea**



**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 despite a legal case over Australia's risk assessment of pork imports. Australia is currently one of the top export destinations for U.S. pork. In 2008 pork exports to Australia totaled 43,846 metric tons valued at \$111 million. Since the implementation of the U.S.-Australia FTA, U.S. pork exports to Australia have increased 1,177 percent in volume terms and 949 percent in value terms.

**U.S. Pork Exports to Australia**

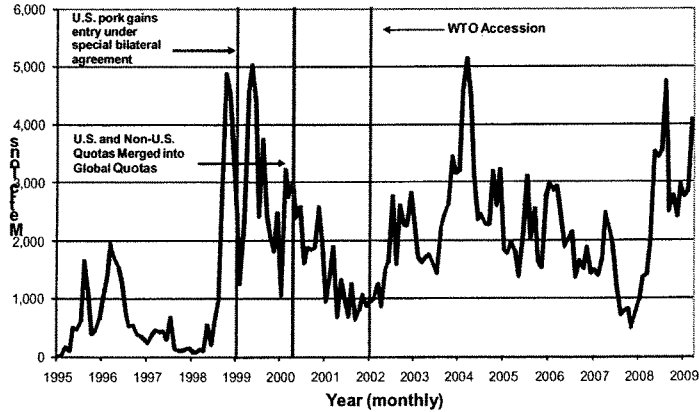


**TAIWAN**

In 2008 U.S. exports of pork and pork products to Taiwan totaled 31,701 metric tons valued at \$53 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 150 percent in volume terms and 183 percent in value terms. Nevertheless, Taiwan's unwarranted barrier on U.S. pork produced with the feed additive ractopamine is significantly undermining the export potential of this market.



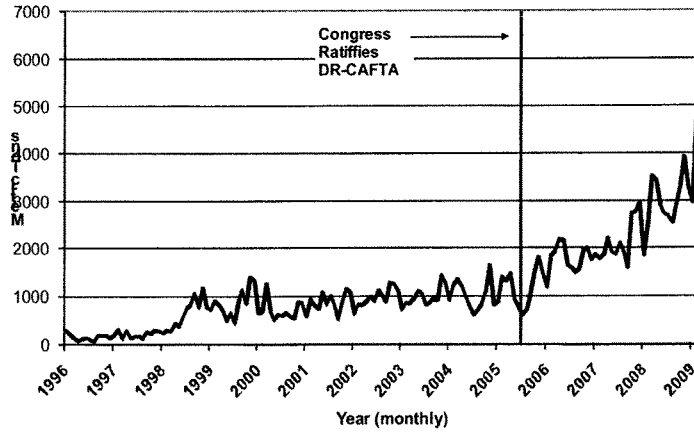
**U.S. Pork Exports to Taiwan**



**DOMINICAN REPUBLIC-CENTRAL AMERICA FREE TRADE AGREEMENT (DR-CAFTA)**

While the trade agreement ratified with the DR-CAFTA countries in 2005 is not fully phased-in, U.S. pork producers have already seen significant export growth to this region. In 2008 exports to the DR-CAFTA countries totaled 35,558 metric tons valued at \$72 million. The countries implemented the DR-CAFTA on a rolling basis, and already exports have increased 155 percent in volume terms and 148 percent in value terms since Congress ratified the agreement in 2005. The U.S. pork industry expects this market to continue to expand and contribute to the bottom line of U.S. pork producers.

**US Pork Exports to DR-CAFTA Countries**



**FINANCE COMMITTEE QUESTIONS FOR THE RECORD**

**United States Senate  
Committee on Finance**

**Hearing on  
“U.S.-Panama Trade Promotion Agreement”  
Thursday, May 21, 2009**

**QUESTIONS FOR SAM CARNEY FROM CHAIRMAN BAUCUS**

**Question 1:**

**During the FTA negotiations, Panama recognized the U.S. food safety and inspection system for meat and poultry products as equivalent to its own. Can you discuss the importance of this recognition and how it will assist the U.S. meat industry in accessing the Panamanian market?**

**Answer:** Panama’s written recognition of the U.S. food safety and inspection system for meat and poultry products as equivalent to its own is necessary to ensure U.S. exports will have the opportunity to compete in the Panamanian market without non-science based sanitary and technical restrictions. Historically, as tariffs are reduced and trade increases, many trading partners have erected non-science based restrictions such as excessive testing, labeling requirements or precautionary bans in order to restrict trade flows. For example, the United States does not have an equivalence agreement with Russia. Russia requires plant-by-plant inspections and has delisted many U.S. plants for export to Russia without scientific justification. The Panama Trade Promotion Agreement will give U.S. meat and poultry producers a fair and predictable opportunity to export.

**Question 2:**

**Do you believe Panama’s recognition of our system could be helpful in gaining broader market access and dealing with SPS barriers elsewhere in the region?**

**Answer:** Yes, I do believe Panama’s leadership and science-based approach to food safety is useful when dealing with sanitary barriers in the region. Thanks to FTA negotiations, the United States has meat and poultry equivalence agreements with the DR-CAFTA countries, Colombia and Peru. Along with these other countries, Panama’s commitment will stand as a benchmark as sanitary and phytosanitary issues arise in non-FTA partner countries. In addition, as the United States seeks additional market access around the world, an equivalence recognition of the U.S. food safety and inspection system is an essential component of any new trade deal. Congressional passage and implementation of the Panama Trade Promotion Agreement would underscore the importance of such mutually beneficial sanitary and technical agreements in future trade deals as well as increase U.S. pork, beef and poultry market access to Panama.

United States – Panama Trade Promotion Agreement

Statement of Everett Eissenstat  
Assistant United States Trade Representative for the Americas  
Before the Committee on Finance  
United States Senate  
May 21, 2009

Chairman Baucus, Ranking Member Grassley, 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 Panama.

We appreciate the informed views and guidance we have received from members of this Committee on the United States – Panama Trade Promotion Agreement (“Agreement”) over the last five years. I look forward to working with you and your colleagues as we seek congressional approval of this important agreement.

The United States and Panama concluded negotiations on the Agreement in December 2006, and signed it on June 28, 2007. As I will describe, the Agreement makes progress in achieving the applicable purposes, policies, objectives, and priorities of the Bipartisan Trade Promotion Authority Act of 2002 (“TPA Act”) and fully reflects the Congressional-Executive Agreement of May 2007 on trade. As such, the Agreement will put into place a strong and up-to-date structure for the U.S.-Panama trade and investment relationship that will strengthen the rule of law and create new opportunities for American workers, farmers, ranchers and businesses.

The President believes that the United States needs a new framework for trade. He recognizes that trade is essential to America’s prosperity and has the potential to lift up workers in America and around the world. But for it to accomplish this, trade agreements need to include strong labor and environmental standards, we need to do a better job enforcing our trade agreements, and we need domestic policies to help Americans succeed in an increasingly dynamic economy. The President looks forward to outlining this framework in the near future.

This Administration is working with Panama to ensure that this Agreement and its implementation fully reflect the values of the President’s vision. At the same time, the

Administration wants to make sure that any new trade agreements that are advanced – including with Panama – be part of this broader framework.

We have been working with Panama to address labor law concerns and look forward to anticipated legislative and regulatory action by Panama that fully captures the intent and values of the Agreement's labor provisions.

We also share concerns expressed about Panama's tax policies and are working with Panama to address these issues. We believe that this Agreement, and the closer relationship it provides, will enable us to progress much more quickly in addressing these concerns than we could otherwise.

Successfully addressing these concerns will be an important step in determining when, in close consultations with Congress and as part of the President's broader trade strategy, this Agreement should be considered by the House and Senate.

This Agreement has the potential to be a good deal for the United States. It represents an historic development in our longstanding and close relations with the Republic of Panama and accords with Congress' goal, as expressed in the Caribbean Basin Trade Partnership Act, to conclude comprehensive, mutually advantageous free trade agreements with beneficiary countries of the Caribbean Basin Initiative ("CBI") trade preference program. Since 1985, our trade relationship with Panama has been characterized by the unilateral trade preferences that the United States provides through the CBI program. While this program has contributed to economic development and helped to alleviate poverty in Panama, our common objective in concluding the Panama agreement was to build upon this success and move to a more fully reciprocal trade partnership.

Panama's economy, albeit relatively small, is one of the fastest growing economies in Latin America. Panama's GDP has grown over eight percent in each of the last three years. Panama is primarily a service economy, with nearly 80 percent of its GDP accounted for by services. The United States has one of the most advanced service sectors in the world, and thus is well poised to take advantage of the opportunities the Agreement will provide.

Panama's per capita GDP ranks among the highest in Latin America. In recent years, unemployment levels in Panama have been reduced from double digits to 5.6 percent in 2008. Between 2001 and 2007, the poverty level in Panama declined from 37 percent to 29 percent, and extreme poverty declined from 19 percent to 12 percent. The Agreement will increase

opportunities for continued economic growth and will help Panama to further develop and modernize its economy. Once the Panamanian Government fully implements its labor reforms and effectively enforces them and the labor provisions of the Agreement, these changes could help broaden distribution of the gains from the Agreement.

The United States is Panama's largest trading partner. Total goods trade between the United States and Panama was \$5.3 billion in 2008. The United States had a goods trade surplus with Panama of \$4.5 billion in 2008. U.S. goods exports to Panama increased 31 percent from 2007 to 2008. The stock of U.S. foreign direct investment in Panama was \$6.2 billion in 2007 (latest data available), up from \$4.7 billion in 2006.

Panama's strategic location as a major shipping route and the massive project underway to expand the capacity of the Panama Canal enhance the importance of this Agreement. The Panama Canal remains a vital U.S. security and commercial interest. Approximately two-thirds of the Panama Canal's 14,000 annual transits are bound to or from U.S. ports and approximately ten percent of U.S. international trade passes through the Canal. The \$5.25 billion expansion project is one of the largest infrastructure projects in the Hemisphere. The project began in 2007 and is expected to be completed in 2014. The Agreement will ensure that U.S. firms have an opportunity to participate in the project on a competitive basis, which will create significant opportunities for U.S. businesses in goods and services, in particular construction services.

Panama is a strong U.S. ally and is a country heading in the right direction. Panama restored democracy in 1989 and has had a succession of peaceful and democratic elections since then, including most recently on May 3. The current Panamanian administration under President Martin Torrijos has been a strong ally of the United States and a cooperative partner in our efforts to combat drug trafficking and money laundering. Incoming President Ricardo Martinelli is eager to build on our already close bilateral relationship. The Agreement offers us an opportunity to strengthen the economic and political ties we already have with Panama, and to reinforce Panama's ongoing economic, political and social progress.

I would now like to discuss the key benefits of this Agreement for the United States in somewhat more detail.

#### **Market Opening for U.S. Goods**

The Agreement will level the playing field for U.S. exports to Panama. The United States market is already largely open to imports from Panama. In 2008, for example,

approximately 90 percent of U.S. imports from Panama entered the United States duty free under our most-favored nation/normal trade relations tariff rates, as well as under the CBI and the Generalized System of Preferences trade preference programs. The Agreement will give American workers, farmers, ranchers, and businesses the same access to Panama's growing market that Panama has to our market.

Panama's average applied tariff rate on consumer and industrial goods is 6.4 percent, and tariffs on some U.S. products are as high as 20 percent. These tariffs hinder our ability to create jobs at home when we need to do all we can to bring down barriers to job creation. Under the Agreement, Panama will provide duty free treatment on approximately 88 percent of U.S. exports of consumer and industrial goods as soon as the Agreement enters into force. Panama will eliminate its remaining tariffs on consumer and industrial goods within ten years. Trade in all textile and apparel goods meeting the Agreement's origin requirements will become duty free immediately, providing new opportunities for U.S. fiber, yarn, fabric and apparel exporters. Other key sectors that will benefit from duty elimination under the Agreement are information technology products, agricultural and construction equipment, infrastructure and machinery products, transportation equipment, autos and auto parts, chemicals (including pharmaceuticals, fertilizers, agro-chemicals, and plastics), environmental products, and medical and scientific equipment. Panama also agreed during our free trade agreement negotiations to join the WTO Information Technology Agreement ("ITA"). Panama has since joined the ITA and eliminated duties on a wide range of information technology products.

Panama's average applied tariff rate on agricultural products is 15 percent. However, many key U.S. agricultural exports face much higher tariffs. Panama's tariffs on meat can be as high as 70 percent, on grain as high as 90 percent, and on chicken as high as 260 percent. Under the Agreement, Panama will provide duty free treatment immediately on over 60 percent of U.S. agricultural exports. Key U.S. agricultural products that will benefit from immediate duty free treatment under the Agreement include high quality beef, certain pork and poultry products, cotton, wheat, soybeans, most fresh fruits and tree nuts, and a wide assortment of processed products, including soups and chocolate confectionary, distilled spirits, wine, and pet food. Duties on other agricultural goods will be phased out within five to 12 years and for the most sensitive products within 15 to 20 years. The TPA also provides for expanded market access opportunities through tariff-rate quotas (TRQs) for agricultural products such as pork, chicken

leg quarters, dairy products, corn, rice, refined corn oil, dried beans, frozen French fries, and tomato products. These TRQs will permit immediate duty free access for specified quantities that will increase as over-quota duties are phased out over the course of the implementation period. The Agreement addresses duty treatment for imports of sensitive products into the United States through transition periods and the use of TRQs.

The Agreement will provide benefits for U.S. producers and products that go beyond tariff reductions. For example, the Agreement also establishes state-of-the-art customs rules and procedures, which will increase transparency and expedite the movement of goods between our markets. This is especially important for U.S. small and medium-sized enterprises, which may not have the resources to navigate customs and cut through regulatory red tape. The Agreement also will establish mechanisms that will enhance bilateral cooperation on technical regulations, standards, and conformity assessment procedures, which will help to prevent unnecessary technical barriers to trade that hinder U.S. companies from taking advantage of the Panamanian market.

Similarly, our two governments will work together on sanitary and phytosanitary (“SPS”) matters, with a view to facilitating bilateral trade, while appropriately protecting human, animal, and plant life and health. In connection with the negotiation of the Trade Promotion Agreement, our two governments signed in 2006 and implemented in 2007 a far-reaching bilateral agreement on SPS measures and technical standards. Under that agreement, Panama recognized the equivalence of the U.S. meat and poultry inspection systems and the U.S. regulatory system for processed food products, thereby eliminating plant-by-plant and shipment-by-shipment inspection requirements. In addition, Panama provided access for all U.S. beef and beef products (including pet food), and all U.S. poultry and poultry products, consistent with international standards. Panama lifted all import certification and licensing requirements, except those agreed with the United States, and formalized its recognition of the U.S. beef grading system and cuts nomenclature. Finally, Panama now uses an automatic, free and quick registration process for the small group of agricultural products not exempted from this process. These significant regulatory changes will help our agricultural exporters to take better advantage of the tariff elimination commitments that Panama has made under the Trade Promotion Agreement.

The Agreement includes a safeguard procedure in the unlikely event an industry sustains or is threatened with serious injury due to increased imports resulting from the reduction or

elimination of U.S. import duties under the Agreement. The Agreement also includes special safeguard mechanisms for textile and apparel goods and certain agricultural products. The United States also retains its ability to take safeguard actions under section 201 of the Trade Act of 1974, and to impose antidumping or countervailing duties under the Tariff Act of 1930.

#### **Government Procurement and the Expansion of the Panama Canal**

The Agreement will open Panama's government procurement market to U.S. suppliers for the first time and does so on transparent and non-discriminatory terms. U.S. suppliers will be permitted to bid on procurement above certain thresholds of most Panamanian government entities, including key ministries and state-owned enterprises, on the same basis as Panamanian suppliers. In particular, U.S. suppliers will be permitted to bid on procurement by the Panama Canal Authority, including for the \$5.25 billion Panama Canal expansion project. Since Panama is not a signatory to the WTO Agreement on Government Procurement, this will constitute a major benefit of the Agreement. The Agreement includes strong disciplines on government procurement procedures, including requiring advance public notice of purchases and provision of information to all interested suppliers regarding covered procurement opportunities, as well as timely and effective domestic review procedures. Consistent with the Congressional-Executive Agreement of May 2007 on trade, the Agreement provides that government agencies may include provisions in their procurement to promote environmental protection and requirements that suppliers must comply with generally applicable laws concerning fundamental labor rights in the country where they make a product or perform a service.

#### **Services**

Services represent approximately 80 percent of Panama's gross domestic product. The Agreement will create new market opportunities in Panama for a range of key U.S. services suppliers and will lock in access in sectors where Panama's services markets are already open. All services sectors are subject to the Agreement's rules unless Panama negotiated a specific exemption in that sector. The Agreement will either open or lock in existing significant access to Panama's services markets in such priority U.S. services export sectors as financial services, telecommunications, express delivery services, computer and related services, distribution services, professional services, advertising, audiovisual services, education and training, tourism, construction and engineering, energy services, and environmental services. The Agreement's market-opening provisions are complemented by high-standard rules governing regulatory



transparency – rules that are especially important given the highly regulated nature of many services industries.

The Agreement includes provisions that provide significant flexibility to the United States to act in the event of a financial crisis, including by taking measures for “prudential reasons,” such as to protect depositors, or to ensure the integrity and stability of the financial system. The United States also retains its ability under the Agreement to restrict capital transfers related to illicit activities, such as money laundering and tax evasion.

#### **Investment**

Under the Agreement, U.S. investors operating in Panama will continue to have a secure and predictable legal framework. All forms of investment will be protected, and U.S. investors will enjoy, in almost all circumstances, the right to establish, acquire, and operate investments in Panama on an equal footing with local investors. Of particular importance, Panama agreed to eliminate certain measures that restrict investment in retail trade to Panamanian nationals, thereby allowing U.S. companies to engage in the retail sale of goods and services. Among the rights that will be afforded to U.S. investors are due process protections and the right to receive fair market value for property in the event of an expropriation. Investor rights will be protected under the Agreement by an impartial procedure for dispute settlement that is fully transparent and open to the public. Under the Agreement, the United States will continue to provide Panamanian investors a high level of protection and due process, but, consistent with TPA Act objectives, will give Panamanian investors no greater substantive rights than U.S. investors already enjoy in the United States. Language in the Agreement states this explicitly.

#### **Intellectual Property Rights**

The Agreement provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with U.S. and international standards, as well as with emerging international standards, of protection and enforcement of intellectual property rights. Such improvements include state-of-the-art protections for patents, trademarks, test data, and digital copyrighted products such as software, music, text, and videos; and includes measures to further deter piracy and counterfeiting. Consistent with the Congressional-Executive Agreement of May 2007 on trade, the Agreement does not prevent Panama from taking necessary measures to protect public health by promoting access to medicines for all, particularly in circumstances of extreme urgency or national emergency.

**Labor**

The Agreement incorporates the labor provisions of the Congressional-Executive Agreement of May 2007 on trade and is one of the first to include a commitment by each Party to implement in its law and practice the fundamental labor rights as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work* (“ILO Declaration”), reflecting a key element of the May 2007 agreement. Moreover, each country commits not to fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction in a manner affecting bilateral trade or investment. This commitment concerns each Party’s statutes and regulations that embody fundamental labor rights as stated in the ILO Declaration as well as those related to a prohibition on the worst forms of child labor, labor protections for minors, and acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health. The Agreement also will prohibit each Party from waiving or otherwise derogating from its domestic labor laws or regulations that implement fundamental labor rights in a manner affecting bilateral trade or investment, where the waiver or derogation would be inconsistent with a fundamental labor right. In addition, all of the Agreement’s labor obligations will be enforceable through the same dispute settlement procedures and remedies that apply to all other obligations. Through this Agreement, the United States and Panama create a labor cooperation and capacity building mechanism to advance cooperation on labor matters. In addition, the Agreement commits each Party to provide for the receipt and consideration of communications from persons of a Party on matters related to provisions of the labor chapter, including concerns about a Party’s enforcement of its labor laws. A Labor Affairs Council comprising senior government officials will oversee the implementation of and review progress under the labor chapter.

**Environment**

The Agreement also incorporates the environmental provisions of the Congressional-Executive Agreement of May 2007 on trade and is also one of the first U.S. free trade agreements to call for each Party to adopt, maintain, and implement laws, regulations, and all other measures to fulfill its obligations under specified multilateral environmental agreements (“MEAs”) to which both governments are parties. Each Party commits not to fail to effectively enforce its domestic environmental laws and its measures to fulfill its obligations under the specified MEAs through a sustained or recurring course of action or inaction in a manner

affecting bilateral trade or investment. The Agreement also will prohibit each Party from waiving or otherwise derogating from its domestic environmental laws in a manner affecting bilateral trade or investment other than pursuant to the waiver provisions of the Party's environmental laws. Each of the obligations set out in the Agreement's environment chapter will be enforceable through the same dispute settlement procedures and remedies as those available to enforce all other obligations.

In addition, the Agreement commits each Party to provide for the receipt and consideration of communications from the public on matters related to implementation of the environment chapter, including concerns about a Party's enforcement of its environmental laws. In a provision modeled on the mechanism in our free trade agreement with Central America and the Dominican Republic, the Agreement also calls on the Parties to establish an independent secretariat to review and consider public submissions on environmental enforcement matters in Panama. An Environmental Affairs Council comprising senior government officials will oversee the implementation of and review progress under the environment chapter and consider the status of the Parties' environmental cooperation activities. Finally, in parallel with the Agreement, the United States and Panama concluded an Environmental Cooperation Agreement that will promote joint cooperative efforts to protect the environment, including protection of endangered species and management of parks and other protected areas. These provisions will help make trade and environmental protection mutually supportive for the United States and Panama.

#### **Transparency**

The Agreement includes provisions that will ensure that Panama observes fundamental transparency principles. Those provisions are set out in a specific chapter of the Agreement dealing with regulatory transparency as well as in provisions of the Agreement addressing customs administration, technical barriers to trade, government procurement, investment, cross-border trade in services, financial services, telecommunications, and dispute settlement. The Agreement's principal transparency rules are based on U.S. practice under the Administrative Procedures Act. Additionally, the Agreement's dispute settlement procedures will set high standards of openness and transparency. The Agreement will require dispute settlement proceedings to be open to the public, the disputing Parties to release their legal briefs and other filings to the public (except for confidential information), and dispute settlement panels to have the authority to receive submissions from interested non-governmental groups.

Increased transparency is an effective tool in addressing government corruption in international trade. The Agreement contains innovative provisions on combating bribery and corruption. Under the Agreement, Panama must adopt or maintain prohibitions on bribery in matters affecting international trade or investment, including bribery of foreign officials, and establish criminal penalties for such offenses.

**Exceptions**

The Agreement fully takes into account critical U.S. domestic policy objectives, such as the need to maintain flexibility in addressing U.S. national security and public health, safety, and consumer interests. The Agreement includes a broad set of general policy exceptions for measures governing trade in both goods and services to ensure that the United States remains fully free to safeguard the national and public interest, including specific exceptions for national security, public health and morals, conservation, taxation, and the protection of confidential information. In particular, nothing in the Agreement limits the ability of the United States to protect our food supply; U.S. regulatory agencies will continue to be able to take all appropriate measures to protect our food supply and safeguard life and health, on the basis of science-based assessments of specific risks. The Agreement also avoids disturbing existing state and local governmental measures by including “grandfather” clauses that will exempt those measures from challenge under the Agreement.

**Trade Capacity Building**

The United States provided nearly \$6.5 million in trade capacity building assistance to Panama over the past five fiscal years. The Agreement builds on these efforts through the establishment of a Committee on Trade Capacity Building, which will assist Panama to coordinate its capacity building needs with U.S. Government agencies, multilateral institutions, such as the Inter-American Development Bank and the World Bank, non-governmental organizations, and the private sector, which, in turn, will help Panama to implement the Agreement and benefit from the opportunities the Agreement creates.

\* \* \*

Mr. Chairman and Members of the Committee, the United States – Panama Trade Promotion Agreement enables us to turn our unilateral trade preference program into a trade partnership thereby leveling the playing field for U.S. exporters. With respect to our international competitors in Panama’s market, the agreement provides significant market access

advantages to U.S. exporters, especially small businesses, that they do not enjoy today. The Agreement provides for enhanced protection for workers and the environment, will encourage domestic political and economic reforms in Panama, and strengthen our partnership with an important regional ally. In particular, the labor provisions of the Agreement, along with our renewed focus and commitment to trade enforcement, reforms to Trade Adjustment Assistance, and the Administration's investment in domestic infrastructure and competitiveness, demonstrate how trade and economic policy can combine job creation and concern for working families at its core. It is a strong agreement that fits with the President's goals to build trading relationships that are fair, equitable and benefit the citizens of both countries. It has the potential, as part of the broader strategy the President will outline, to move America's trade policy forward.

The Agreement provides an excellent opportunity to raise working standards and enhance environmental protections in Panama, gain fair access for U.S. workers, farmers, ranchers, and businesses to one of the fastest growing markets in the Western Hemisphere, and enhance our bilateral relationship with one of our strongest allies in the region. This could affect progress in a broad number of areas, including regional security as well as efforts to combat drug trafficking and money laundering.

I hope that after carefully 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. I look forward to working with you Mr. Chairman, Ranking Member Grassley, and the other Members of this Committee to achieve strong bipartisan support for this Agreement.

Again, thank you for the opportunity to testify today.

FINANCE COMMITTEE QUESTIONS FOR THE RECORD

United States Senate  
Committee on Finance

Hearing on  
“U.S.-Panama Trade Promotion Agreement”  
Thursday, May 21, 2009

QUESTION FOR EVERETT EISSENSTAT FROM CHAIRMAN BAUCUS

Question 1

**You noted in your testimony that the U.S.-Panama Trade Promotion Agreement needs to be considered in the context of a broader domestic agenda. You also mentioned that our international trade framework must require certain elements, such as strong labor and environmental provisions.**

**Operating within these two frameworks, when do you anticipate that Congress will receive this agreement?**

**Answer:** The United States – Panama Trade Promotion Agreement (Panama TPA) remains a top priority in the Administration’s trade policy agenda. However, as discussed at the Finance Committee’s hearing, the President believes there needs to be a new framework for trade in which trade issues are considered in a broader policy context, rather than in isolation. The President also wants to convey to the American public how the Panama TPA fits in with his broader trade policy framework. This is important so that we can rebuild strong bipartisan consensus for open trade policies in the United States, which will help achieve strong support for the Panama agreement and open market policies generally.

Moreover, the Administration is working closely with Panama to address outstanding concerns with Panama’s labor and tax transparency rules. Successfully addressing these concerns will be an important step in determining when, in close consultation with the Congress and as part of the President’s broader trade policy framework, this agreement should be considered by the Congress.

The Administration would like to move the Panama TPA as quickly as feasible, but the development of the President’s trade policy framework and our discussions with the Panamanian government on the outstanding issues will be key factors in determining the timing for when we submit the agreement to the Congress. We will continue to work closely with you and other Members of Congress as we consider the appropriate time for submitting this important agreement.

**QUESTIONS FOR EVERETT EISSENSTAT FROM SENATOR GRASSLEY**

**Question 1:**

**The Administration has acknowledged the economic opportunities that the Panama trade agreement offers for U.S. exporters and workers. For example, the Administration noted that the agreement would make it possible for U.S. suppliers “to bid on procurement by the Panama Canal Authority, including for the \$5.25 billion Panama Canal expansion project.” The Administration further noted that, “[s]ince Panama is not a signatory to the WTO Agreement on Government Procurement, this will constitute a major benefit of the Agreement.”**

**Given this acknowledgment, I was disturbed to learn that the Administration has reportedly decided not to submit the Panama trade agreement to the Congress until sometime this autumn at the earliest.**

**Are such reports accurate? Has the Administration in fact decided not to submit the Panama agreement to Congress at this time? If so, when will the Administration submit the trade agreement to Congress for approval?**

**I am concerned that if we delay the agreement’s implementation, we will inevitably delay the agreement’s entry into force. That, in turn, is likely to result in lost contracts for U.S. exporters, including contracts for work on the expansion of the Panama Canal.**

**Panama is ready and willing to provide U.S. exporters with the same duty-free access to its market that Panama’s exporters already have to ours. Please explain how it makes sense to deny our exporters and workers these important opportunities, particularly in this time of economic downturn.**

**Answer:** The United States – Panama Trade Promotion Agreement (Panama TPA) remains a top priority in the Administration’s trade policy agenda. However, as discussed at the Finance Committee’s hearing, the President believes there needs to be a new framework for trade in which trade issues are considered in a broader policy context, rather than in isolation. The President also wants to convey to the American public how the Panama TPA fits in with his broader trade policy framework. This is important so that we can rebuild strong bipartisan consensus for open trade policies in the United States, which will help achieve strong support for the Panama agreement and open market policies generally.

Moreover, the Administration is working closely with Panama to address outstanding concerns with Panama’s labor and tax transparency rules. Successfully addressing these concerns will be an important step in determining when, in close consultation with the Congress and as part of the President’s broader trade policy framework, this agreement should be considered by the Congress.

The Administration would like to move the Panama TPA as quickly as feasible, but the development of the President's trade policy framework and our discussions with the Panamanian government on the outstanding issues will be key factors in determining the timing for when we submit the agreement to the Congress. We will continue to work closely with you and other Members of Congress as we consider the appropriate time for submitting this important agreement.

**Question 2:**

**When will the Administration submit the Colombia and South Korea trade agreements to Congress for approval? What is the rationale for denying or further delaying the significant benefits of these trade agreements to U.S. manufacturers, farmers, ranchers, service suppliers, and their workers?**

**Answer:** The Administration is working with our trading partners to address outstanding concerns before we submit these agreements to Congress for approval. How quickly we achieve progress on the substance will help determine the appropriate timetable. The Administration recognizes the significant benefits these agreements offer.

In the case of Colombia, the Administration believes more needs to be done to ensure that workers can exercise their fundamental labor rights in law and practice. In the case of South Korea, concerns remain, particularly with respect to autos and beef. The Administration is undertaking a thorough review of the Colombia and Korea FTAs and consulting extensively with Congress and other stakeholders to understand fully the exact nature of those concerns and how they can be addressed. We will also consult closely with our Colombian and South Korean colleagues to effectively address U.S. concerns, while taking their interests into account, so that we can be in a position to move forward with the FTAs as soon as practicable.

**Question 3:**

**I am concerned about the foreign policy implications of the Administration's decision not to move forward with our pending trade agreements. What is the President's view of the importance of our economic and political relations with Panama, Colombia, and South Korea? How are our relations served by further delaying the implementation of our respective trade agreements with these important allies, particularly after each agreement has been revised to reflect the compromise reached with Congress on May 10, 2007?**

**Answer:** All three of these countries are valued economic and political partners of the United States. That said, the President believes it important to articulate a new framework for trade before seeking Congressional consideration of the pending trade agreements. The President intends to outline this framework soon.



**QUESTIONS FOR EVERETT EISSENSTAT FROM SENATOR STABENOW**

**Question 1:**

**It is great to see the owner of a small business discuss the benefits of trade. I believe trade can work and stimulate the economy of my home state of Michigan, but unfortunately I have not heard from many small business owners in my state about the benefits of trade.**

**Instead I hear about sudden changes in import and export taxes of some of our largest trading partners, foreign government subsidies of key industries, and U.S. exports seized at foreign borders with little reason. All of these contributing factors have caused small manufacturing businesses to close and have caused many hard working families to struggle to put food on the table.**

**During the last Administration, I watched my state lose almost half of its manufacturing jobs as we entered into numerous trade agreements that did not address the changing needs of the industrial base of this country. We have over 280 agreements on the books, but, according to former USTR Mickey Kantor, we also have the smallest trade enforcement office of any industrialized country. These agreements, particularly the WTO, were supposed to prevent illegal subsidies and stop unfair practices. Unless the disparity between the number of agreements and resources, particularly the lack of an office at USTR dedicated to enforcement, it is difficult for me to support expanding the obligations of USTR.**

**It is my understanding that Panama continues to have serious problems with the protection and the enforcement of intellectual property rights. This proposed Panama FTA addresses enforcement gaps and modernizes Panama's laws. In some cases, I understand that it surpasses several World Intellectual Property Organization treaties.**

**Good agreements can exist, but if there are not enough resources to monitor them then how is the agreement useful? How will the end result be different than previous agreements?**

**Answer:** One of USTR's top priorities is to monitor our trading partners' compliance with their commitments to the United States under our trade agreements, including our FTAs, and this Administration is working to enforce U.S. rights in the global trading system. We want to make sure that Americans obtain the many benefits of trade. USTR will continue to coordinate the Administration's enforcement activities – from identifying, to monitoring, to resolving the full range of international trade issues.

Like any other enterprise, USTR could always make use of more resources, but we will pursue our mission with the appropriation that Congress provides. USTR is currently reviewing the full range of enforcement tools at our disposal. We look forward to working with you and the other Members of the Committee to see what more is necessary and what more we can do with the tools we already have.

**Question 2:**

**This FTA significantly opens up the Panamanian market for several areas of our agricultural industry. Can you help me understand what role the Chief Agricultural Negotiator played both during the initial discussion of this agreement and during the negotiation process?**

**Answer:** USTR's Chief Agriculture Negotiator played a critical role in the negotiation of the United States – Panama Trade Promotion Agreement agriculture package at every stage, as has been the case in the negotiation of other market-opening trade agreements – bilateral, plurilateral, and multilateral. Given the sensitivity of agricultural trade issues, including between the United States and Panama, decisions on trade liberalization often are made at very senior levels by political appointees, so an Ambassadorial-level USTR Chief Agriculture Negotiator is critical to advancing progress on and closing agricultural trade deals.

**QUESTIONS FOR EVERETT EISSENSTAT FROM SENATOR NELSON**

**Question 1:**

**Are you aware of any provisions in the U.S.-Panama Free Trade Agreement that would remove key policy tools used to combat financial crimes or conflict with U.S. Government efforts to combat the global economic crisis by seeking additional financial industry regulations?**

**Answer:** Nothing in the United States – Panama Trade Promotion Agreement (Panama TPA) limits the ability of the United States to combat financial crimes or to address a financial crisis.

- The Panama TPA, like all of our free trade agreements, expressly allows the United States to take measures for “prudential reasons,” such as to protect depositors, or to ensure the integrity and stability of the financial system.
- Moreover, the agreement expressly allows the Federal Reserve to adopt non-discriminatory measures in pursuit of monetary and related credit policies or exchange rate policies.
- In addition, the Panama TPA explicitly allows the United States to prevent transfers through the equitable, non-discriminatory and good faith application of its laws relating to criminal or penal offenses, financial reporting, and ensuring compliance with orders or judgments in judicial or administrative proceedings.

**Question 2:**

**On April 14, 2009, the Internal Revenue Service filed an ex parte petition to serve a “John Doe” summons in an investigation of offshore tax evasion by U.S. taxpayers. The petition specifically identifies foreign promoters of abusive offshore schemes and products. Five of the identified promoters are either based in Panama (ThetaWorld Offshore Services and Sovereign Management Services S.A.) or allegedly facilitate tax evasion opportunities in Panama through offshore merchant accounts (Liberty Enterprises, Inc.; PtClub; and Privacy World).**

**To what extent do current Government of Panama corporate, business, bank, or tax secrecy rules and practices unreasonably restrict the ability of the U.S. to obtain information relevant to enforcing its tax laws?**

**Has the Government of Panama complied with all specific requests for taxpayer information made by the U.S. Government in the last five years? If not, what reasons were provided for noncompliance?**

**Answer:** Although the United States does not have an agreement specifically providing for the exchange of information for tax purposes, the U.S. does have a bilateral Mutual Legal Assistance Treaty (MLAT) with Panama and, along with Panama, is a party to the multilateral Organization of American States MLAT. These MLATs are the only vehicles for the exchange of information with Panama and both are limited to cooperation in serious criminal law enforcement matters. Other than these two agreements, the IRS generally is only able to obtain publicly available information from Panama.

The IRS has not made a specific request to Panama for information solely related to an income tax examination because there is neither a tax information exchange agreement nor an income tax treaty with Panama allowing for the exchange of information. I understand that Panama has cooperated under the MLAT in other criminal investigations involving money laundering or narcotics combined with U.S. tax evasion offenses.

**Question 3:**

**At the Fifth Summit of the Americas in April, Lawrence Summers, the Director of the National Economic Council, stated, "I would say with respect to Panama that there are also some important issues that need to be worked through having to do with cooperation in resisting tax evasion." What specific issues was Mr. Summers referring to, and have those issues been resolved to the satisfaction of the Obama Administration?**

**Answer:** We are working closely with Panama to address concerns with Panama's tax transparency rules and the level of cooperation between our governments on tax matters. Panama recently established a public-private sector commission to evaluate and make recommendations on these issues. The incoming Panamanian administration has announced its intent to negotiate a tax information exchange agreement that meets international standards with the United States. We are continuing to work with the Panamanian government to address these concerns as promptly as possible.

**Question 4:**

**Does the U.S. Government regularly request specific taxpayer information from the Panamanian government for purposes of enforcing compliance with U.S. tax laws? How many specific requests for taxpayer information have been made in the last five years?**

**Answer:** Since there is no tax information exchange agreement or an income tax treaty with Panama, the U.S. has not made any such requests.

**Question 5:**

**In January 2002, the U.S. Government announced that discussions with the Government of Panama had begun regarding a Tax Information Exchange Agreement. More than seven years later, what is the status of those negotiations? Why have negotiations taken so long?**

**Answer:** The Treasury Department initiated negotiations with Panama on a Tax Information Exchange Agreement (TIEA) in 2001. Those negotiations effectively ended in 2003 when it became clear that Panama was not willing to enter into an agreement that met international standards. I understand that since 2003 the Treasury Department has several times requested resumption of negotiations, without success.

Since the beginning of this year, however, progress has been made towards reaching a mutually acceptable agreement with Panama that would allow our tax authorities to have access to the information they need to combat tax evasion and avoidance. The Administration has been in contact with both the current Panamanian administration and the incoming Panamanian administration regarding negotiation of a TIEA in 2009. These efforts have been fruitful, as the incoming Panamanian administration issued a statement on May 21, 2009, committing to negotiate with the United States a TIEA that meets international standards.

**Question 6:**

**Would a Tax Information Exchange Agreement (TIEA) with Panama ensure that the U.S. Government has the ability to effectively identify U.S. taxpayers seeking to evade taxes through the use of Panamanian business entities and/or Panamanian financial accounts?**

**Answer:** A TIEA between our two countries must meet the international standards to which Panama has committed. Provided that the TIEA meets these standards and Panama can meet its obligations under the TIEA, then the TIEA will provide the U.S. government with the information that it needs to enforce U.S. tax laws with respect to Panamanian business entities and financial accounts.

To ensure that Panama can meet its obligations under the TIEA, we must be satisfied that its laws relating to bank secrecy, numbered bank accounts, and bearer shares will not serve as a barrier to obtaining and providing information under the agreement. That is important because key information needed in cases where it is suspected that a taxpayer has not fulfilled its tax obligations frequently relates to the taxpayer's ownership of companies or account activities at foreign banks.

**Question 7:**

**What would be the minimum commitment that USTR would require from the Government of Panama on tax haven issues, and on labor reform, before this agreement would be sent to Congress?**

**Answer:** We are working closely with Panama to address concerns with Panama's labor and tax transparency rules. We will of course consult with the trade committees on progress in addressing these concerns, as well as on the timing for submitting the agreement to the Congress for approval.

**Question 8:**

**What additional actions has the U.S. taken to ensure greater accountability from the Government of Panama on labor enforcement?**

**Answer:** We have been working with Panama over the past months on a package of labor reforms to ensure its labor system provides for effective protection of basic worker rights. These reforms relate to such issues as the number of workers required to form unions, restrictions on collective bargaining in companies less than two years old, restrictions on workers' rights in export processing zones, the use of subcontracting and temporary workers, and employer interference in union activities. Some of the reforms have already been enacted and others are under consideration. The full package of labor reforms, if implemented, will have a broad impact on the day-to-day exercise of labor rights in Panama. These changes in combination with the strong labor protections in the FTA will create unprecedented accountability for worker rights issues in Panama.

**Question 9:**

**The agreement states that Panama will ensure U.S. access to contracts related to the Panama Canal, and provide new access in professional services that had previously been exclusively reserved for Panamanian nationals. Can you expand on what opportunities in the Canal expansion U.S. businesses might be eligible for as a result of passage of the FTA? What opportunities are they excluded from participating in today?**

**Answer:** Currently, U.S. suppliers have no rights to participate in procurement conducted by the Panama Canal Authority, the Panamanian government agency that administers the Panama Canal. That means U.S. goods, services, and suppliers can be denied opportunities to participate in the ongoing \$5.25 billion expansion of the Panama Canal. Under the United States – Panama Trade Promotion Agreement (Panama TPA), U.S. firms will be assured fair and transparent opportunities to bid on procurement by the Panama Canal Authority above certain monetary thresholds. The expansion of the Panama Canal will involve a wide range of procurement opportunities, including heavy equipment used in Canal excavation and construction projects, design and engineering services, environmental studies, and electrical equipment.

Regarding professional services, Panama currently restricts the practice of virtually all licensed professions in Panama to Panamanian nationals. There are some exceptions allowing U.S. professionals to practice in Panama, and the Panama TPA will lock these exceptions in place. In addition, the Panama TPA will grant new rights to U.S. legal, accounting, architecture, and engineering professionals to practice in Panama. It also will allow many other professionals to practice in Panama on a temporary basis.

**Question 10:**

**Can you elaborate on the customs administration provisions in the FTA, including the monitoring program for Panama's free trade zones? How will these provisions help guard against circumvention of U.S. customs rules and assist customs enforcement?**

**Answer:** Panama is an important gateway to global trade routes, and the agreement will help facilitate the movement of trade through far-reaching obligations on customs administration. The United States – Panama Trade Promotion Agreement (Panama TPA) addresses transshipment and enforcement concerns by requiring Panama to maintain a monitoring program in its free trade zones and to provide U.S. Customs and Border Protection with access to information collected in connection with the program. The Panama TPA also requires Internet publication of customs procedures, speedy release of goods, the use of advance binding rulings, and specific commitments related to express delivery shipment, as well as provisions on the use of information technology and risk assessment techniques.

**QUESTION FOR EVERETT EISSENSTAT FROM SENATOR CRAPO****Question 1:**

**I applaud the hard work of U.S. negotiators on the U.S. – Panama Trade Promotion Agreement. This agreement would offer useful new opportunities for the dairy industry in Idaho, and I want to make certain that the access secured in the agreement is fully available to exporters when implemented. What is USTR doing to ensure that U.S. dairy exporters will not run into newly introduced barriers to entry that were not present during FTA negotiations?**

**Answer:** With a view to ensuring real access to Panama's market for U.S. agricultural exporters, alongside the United States – Panama Trade Promotion Agreement (Panama TPA), we concluded and fully implemented a far reaching bilateral agreement on sanitary and phytosanitary measures and technical standards that resolved a number of longstanding regulatory issues. In this bilateral agreement, among other things, Panama recognized the equivalence of the U.S. regulatory system for processed products, including dairy, thereby eliminating the need for plant-by-plant and shipment-by-shipment requirements. The U.S. and Panamanian Governments signed this agreement in December of 2006 and worked together very closely on a number of Panamanian legal instruments to fully implement it by the end of February 2007. Should Congress approve the Panama TPA, prior to its entry into force, USTR and USDA will work equally closely with Panama in making the changes to its laws and regulations that are necessary to implement its obligations under the Panama TPA, including provisions relating to agricultural trade. Should the Panama TPA be approved and enter into force, the Administration will continue to work very closely with the U.S. dairy industry and other agricultural interests to ensure that exporters of U.S. dairy and other agricultural products are able to benefit from the expanded market access provided for under the Panama TPA.



**QUESTION FOR EVERETT EISSENSTAT FROM SENATOR CORNYN**

**Question 1:**

**Trade with Panama is important to my State of Texas. In 2008, Texas exported \$1.3 billion worth of goods and services to Panama—the most in the nation. I applaud you and Trade Representative Kirk for engaging the Panamanian government on the issues necessary to move this agreement forward in Congress. Today’s hearing is a testament to your hard work.**

**I must also mention that Texas is top exporter to Colombia as well, selling more than \$3 billion worth of goods and services there last year. My question for you concerns the benchmarks that President Obama has indicated he will pursue with regards to the Colombia Trade Agreement. *Will you please explain the progress the Administration is making in engaging Colombian leaders as you all have done with Panamanian leaders?***

**Answer:** The Administration has begun a process of meeting with the Colombian government, interested stakeholders and Congress to identify the steps necessary to ensure that workers can exercise their fundamental labor rights in law and practice. We envision meeting with each of these players on multiple occasions as we work to identify the best path forward.

*United States Senate  
Committee on Finance*



*Sen. Chuck Grassley · Iowa  
Ranking Member*

Opening Statement of Senator Chuck Grassley  
Hearing, the United States-Panama Trade Promotion Agreement  
Thursday, May 21, 2009

I'll begin by thanking the chairman for his leadership in scheduling today's hearing on the U.S.-Panama Trade Promotion Agreement. I also thank our witnesses for being here, and in particular, I want to extend a special welcome to Mr. Sam Carney, a pork producer from Adair, Iowa, and the president-elect of the National Pork Producers Council.

I support the timely implementation of this trade agreement, which is long overdue. Its implementation has been sidetracked by various issues. But now that the Finance Committee is taking the first step to advance a positive agenda of trade liberalization under a new Administration, I want to take a moment to address the critics who would rather we not implement any of our pending trade agreements with Panama, Colombia, and South Korea.

The chief argument I've heard is that given the magnitude of our global trade deficit, the last thing we should do is implement new trade agreements. I've even heard that argument from some of my colleagues in the Senate. The problem is, that argument is based on a false premise. It suggests that trade agreements translate into trade deficits. I dispute that.

Consider our trade agreement with the countries of Central America and the Dominican Republic. Before implementation, we ran a cumulative trade deficit. Following implementation, we enjoyed a trade surplus of about six billion dollars last year. How do you explain that shift? Well, the trade agreement required our trading partners to give our exporters the same duty-free access to their markets that their exporters already had to ours under our unilateral preference programs. In other words, we leveled the playing field for U.S. exporters.

The opponents of our trade agreements point to the large U.S. trade deficit with Mexico. They argue that our bilateral trade deficit is the result of the North American Free Trade Agreement because we had a relatively small trade surplus with Mexico before we implemented this agreement. Again, I question the validity of such a causal inference. Before NAFTA, over 51 percent of imports from Mexico entered the United States duty-free, and the average tariff on the remaining imports was about 4.2 percent, for an overall average tariff rate of just over 2 percent.

In contrast, Mexico had an average tariff of about 12 percent on imports from the United States before NAFTA. But with NAFTA, this tariff disparity no longer exists. And as a result, our exports to Mexico have increased significantly, particularly with respect to agricultural products.

If we had never implemented NAFTA, would we have substantially altered the growth of international supply chains? I doubt it. If NAFTA had not been implemented then the trade deficit we see with Mexico today would be shifted to some extent among other countries—but without the increase in exports to Mexico that our exporters enjoy today. Moreover, oil and gas imports are a big part of our recent trade deficits with Canada and Mexico, and I doubt that the absence of NAFTA would have changed that significantly.

In this time of economic downturn and uncertainty, we can ill afford to base our trade policies on false premises. Trade is more complicated than that, and the benefits of expanding trade are too important—for both us and our trading partners. U.S. exporters understand that, and we're going to hear from some of them today. Critics may question other elements of our trade agreements and economic relationships, but resting criticism on a bilateral trade deficit is a red herring.

One aspect of our economic relationship with Panama that has come under scrutiny is the absence of a Tax Information Exchange Agreement between our two countries. In 2000, the Organization for Economic Cooperation and Development identified Panama as a tax haven. Just last month, the OECD listed Panama as a jurisdiction that has committed to provide for the exchange of tax information on request without regard to bank secrecy, but has not yet substantially implemented that standard. I welcome today's report that Panama's Vice-President elect has committed Panama to negotiating with the United States this year a legally binding instrument to facilitate the exchange of tax information pursuant to Panama's OECD commitments, and I look forward to hearing the Administration's reaction to that announcement.

I fully support concluding a Tax Information Exchange Agreement with Panama as soon as possible. But I don't see why our exporters should have to pay for that agreement with lost export opportunities, which is exactly what's happening. Particularly in this time of economic downturn, export sales are more critical than ever. The expansion of the Panama Canal is moving ahead, so our exporters are losing potential opportunities every day.

I urge the Obama Administration to continue to pursue aggressively the negotiation of a Tax Information Exchange Agreement with Panama. At the same time, I urge the Administration to submit the U.S.-Panama Trade Promotion Agreement to Congress for approval next month. We can, and should, pursue both priorities simultaneously.

Thank you, Mr. Chairman.

**Testimony of Thea Mei Lee  
Policy Director  
American Federation of Labor and  
Congress of Industrial Organizations  
(AFL-CIO)**

**Before the  
Senate Finance Committee**

**“U.S.-Panama Trade Promotion Agreement”**

**May 21, 2009**

Good morning, Mr. Chairman, Senator Grassley, Members of the Committee. Thank you for the opportunity to testify today on behalf of the 11 million working men and women of the AFL-CIO on this important issue.

We believe it is premature for Congress to consider passing the U.S.-Panama Trade Promotion Agreement (PTPA) at this time, and we will oppose passage if it is brought to a vote before outstanding and pressing concerns are adequately addressed. First, needed labor law and tax policy reforms in Panama must be fully adopted and implemented before the agreement is considered by Congress. Second, the Administration and Congress should address concerns that have been raised with respect to the investment, procurement, and services provisions in the Panama and other pending trade agreements. Finally, and most important, the Administration urgently needs to lay out a coherent and principled overall international trade strategy before proceeding in haste to implement a patchwork policy left over from the previous administration.

Current U.S. trade policy has failed to deliver good jobs at home; equitable, democratic, and sustainable development abroad; or a stable global economy. We need to review and reform our trade policy with respect to the overall framework of rules; our chronic and large trade imbalances; and the impact of our trade and investment policies on U.S. manufacturers, farmers, service providers, consumers, workers, and the environment. Nor should trade policy impinge on the ability of democratically elected governments at the federal, state, or local level to implement and enforce public policies designed to achieve legitimate social objectives.

This review is especially urgent in light of the current economic crisis, and the weakness of the U.S. labor market. As long as we continue to run trade deficits on the order of five percent of GDP, the arguments that we need more trade liberalization to succeed in the global economy ring hollow – especially to our members, who have seen too many jobs go offshore while their wages and benefits stagnate.

U.S. competitiveness should not be assessed based on the profitability of U.S. multinational corporations operating abroad, but rather on the ability of U.S.-based

producers to compete and thrive on American soil in a dynamic global economy. By this standard, our trade policy needs deep reform. Consideration of new trade agreements should happen only in the context of broad trade policy reform.

President Obama has taken some enormously important steps in the right direction with respect to investing in America's future: the American Recovery and Reinvestment Act and the president's budget devote significant resources toward rebuilding our crumbling infrastructure; investing in clean, renewable, and efficient energy use; creating a world-class education and training system for our children and our workers; and reforming health care to reduce costs and extend access. The president has also begun to end the tax breaks for companies that send jobs offshore or abuse tax havens.

All of these are essential to America's ability to compete in the 21<sup>st</sup> century – but they are not sufficient. We also need to enforce our existing trade laws effectively, consistently, and energetically. This includes, of course, safeguard provisions, including Section 421, and the worker rights provisions in trade agreements. We need to ensure that we are devoting adequate resources to enforcement, and that the different agencies in the government are coordinating with each other to make the best use of those resources. We need a strategic approach to our enormous and growing trade imbalance with China – addressing currency manipulation, worker rights violations, and illegal subsidies. We need to reexamine broader international tax issues to address inequities created by differential tax systems, especially with respect to value-added taxes. And we need to ensure that our trade agreements “provide clear and measurable benefits for American workers,” as candidate Obama pledged in a letter to the United Steelworkers in March 2008.

### **Panama**

With respect to Panama, significant labor law reforms are needed to bring Panama's labor laws into compliance with International Labor Organization minimum standards. The Panamanian government must also resolve tax haven issues that have been raised by the Organization for Economic Cooperation and Development (OECD), among others. Both the labor law reform and the tax haven issues should be definitively resolved by the Panamanian legislature and government before the U.S. Congress proceeds with a vote on the trade agreement. As we have seen repeatedly in the past, if legislative issues are not addressed before the Congressional vote, it is much more challenging to convince the government to act in a timely way.

On the tax haven issue, at a minimum, Panama should negotiate and implement a Tax Information Exchange Agreement (TIEA) before Congress votes on the trade agreement. Panama has marketed itself to foreign companies as a non-transparent tax haven, while the Obama administration has signaled its interest in closing egregious tax shelters. For these reasons, it is especially important that this issue be resolved before we enter into a trade agreement that gives new rights to investors and limits the ability of both governments to regulate international financial flows.

### **Needed Labor Law Reforms**

Panama's labor laws fall short of international standards in numerous ways. Indeed, the ILO Committee of Experts has repeatedly criticized several provisions of the country's labor code. There are also serious problems with adequate enforcement of existing labor laws.

#### ***1. Freedom of Association in Private Sector***

**Restrictions on Union Leadership:** Article 64 of Panama's Constitution violates ILO Convention No. 87 by requiring Panamanian nationality to serve on the executive board of a trade union.<sup>1</sup>

**Burdensome Requirements for Union Recognition:** Article 344 of the Labor Code establishes a minimum number of workers to form a union of 40. As the vast majority of employers in Panama are small and medium-sized enterprises with fewer than 40 workers, the law effectively prohibits the formation of enterprise level unions in most workplaces.<sup>2</sup>

#### ***2. Right to Organize and Bargain Collectively***

**Direct Bargaining with Non-Union Workers:** Section 431 of the Labor Code permits collective bargaining with groups of non-unionized workers in the private sector, even where a union exists.<sup>3</sup> Groups of non-unionized workers in the private sector are being allowed to exclude unions from exercising collective bargaining by means of "agreements" prepared by the enterprise. As a consequence of these agreements, legitimate trade unions are unable to seek to engage in collective bargaining or to submit claims.<sup>4</sup> The ILO called on the parties to achieve compliance with the principal that collective bargaining with non-union workers should only be possible in the absence of a trade union.

**Denial of the Right to Bargain Collectively in Enterprises in Existence for Less Than Two Years:** Under Section 12 of Act No. 8 of 1981, no employer shall be compelled to conclude collective agreements during the first two years of an enterprise's operation.<sup>5</sup> The ILO has found this law inconsistent with the requirements of Convention 98.

#### ***3. Right to Strike in Private Sector***

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<sup>1</sup> CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organize, Panama – 2008 (*hereinafter* "ILO Individual Observation - Convention No. 87").

<sup>2</sup> *Id.*

<sup>3</sup> CEACR: Individual Observation concerning Right to Organize and Collective Bargaining Convention (No. 98) Panama – 2007 (*hereinafter* "ILO Individual Observation - Convention No. 98").

<sup>4</sup> *Id.*

<sup>5</sup> "ILO Individual Observation - Convention No. 98.

Federations and Confederations: The law is silent on the right of federations and confederations to call a strike, though it is widely considered that federations and confederations of unions are prohibited from calling strikes.<sup>6</sup> The ILO has called on the government to provide for the right of federations and confederations to strike.

Limitation on Purposes of a Strike: Article 480 of the Labor Code permits strikes under a list of circumstances which have been criticized as too restrictive. The ILO recognizes, for example, the legitimacy of protest strikes to challenge a government's economic and social policies. Article 480 does not permit such strikes.

Limitation of the Right to Strike in Enterprises in Existence for Less Than Two Years: Because no employer is obligated to bargain a collective agreement during the first two years of an enterprise's operation and because the labor code limits the right to strike in substantial part to strikes in pursuance of a collective bargaining agreement or to enforce a collective bargaining agreement, the bases for a legal strike are thus further limited in enterprises in existence for less than two years.<sup>7</sup>

#### **4. *Workers' Rights in the Canal Zone***

Prohibition of the Right to Strike. Article 109 of the Organic Law of the Panama Canal Authority, Law No. 19, prohibits workers covered by the law to strike.<sup>8</sup>

#### **5. *Maritime Workers***

Law 8 governs, among other things, labor relations between employers and maritime workers. However, the law is ambiguous, for example, with regard to the right to bargain collectively and to strike. Further, it is not clear how the provisions of the labor code are to be reconciled with ambiguous or contradictory provisions of the maritime law. Law 8 must be revised and updated to incorporate recent jurisprudence and to clarify several articles so as to bring them into conformity with actual practice.

#### **6. *EPZ Workers***

Although the law provides that workers may form unions and negotiate agreements, in practice, there are no collective bargaining agreements in the zones. Further, the law places restrictions on the rights of these workers.

Collective Bargaining: Law 3 of 1997 permits the negotiation of "agreements regarding the conditions of work or on other labor benefits." However, these "agreements" do not have the status of full-fledged collective bargaining agreements and thus do not fall under the norms of the labor code, which guarantee, for example, that the violation of the terms of a collective agreement could form the basis for a legal strike.

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<sup>6</sup> ILO Individual Observation - Convention No. 87.

<sup>7</sup> ILO Individual Observation - Convention No. 87.

<sup>8</sup> Id.

**Strikes:** Strikes in the EPZs are possible only after a long and burdensome process. The State Department's 2008 Country Report on Human Rights Practices for Panama states, "A strike is considered legal after 36 work days of conciliation; otherwise, striking workers could be fined or fired. These procedures are somewhat more prescriptive than those that generally apply."<sup>9</sup>

**Acceptable Conditions of Work:** Special workplace norms for this sector were imposed under Law 25 of 1992, as amended by Decree Law 3 of 1997. For example, workers in EPZs are eligible to receive only an additional 25% for overtime instead of the 50-75% found outside the EPZs. See Law 3, Sec. B(4). Also, the law gives the employer wide latitude over when and for how long workers can take vacations. Sec. B(5).

#### **7. Short Term Contracts and Subcontracting**

Employers in Panama escape many legal obligations by hiring people repeatedly under temporary arrangements rather than as full-time, indefinite employees. The U.S. State Department reports:

Employers in the retail industry frequently hired temporary workers to circumvent labor code requirements for permanent workers. In lower-skilled service jobs, employers often hired employees under three-month contracts for several years, sometimes sending such employees home for a month and later rehiring them. Employers also circumvented the law requiring a two-week notice for discharges by dismissing some workers one week before a holiday. Due to labor laws that make it difficult to fire employees who have worked two years or more, employers frequently hired workers for one year and 11 months and subsequently laid them off.<sup>10</sup>

Similarly, the proliferation of subcontracts is a major and growing problem. In numerous economic sectors, subcontracting companies provide workers to perform the core functions of the primary employer but without paying the same wages, benefits and other conditions of work. The widespread failure of employers to obey the law with regard to short-term contracts or subcontracting and the similar failure government to enforce these laws has had a substantial impact on the exercise of union rights. Workers who labor for years under these contracts are especially vulnerable to dismissal and thus are unlikely to organize. Employers are rarely punished for firing workers who attempt to exercise their rights.

#### **8. Unenforced Minimum Age for the Employment of Children**

According to the State Department Human Rights Report for 2008, Panama's child labor laws are generally in compliance with ILO norms. However, those laws are not adequately enforced: "Nonetheless, child labor in agriculture and in the informal sector of

<sup>9</sup> State Dept., *Country Report 2008*.

<sup>10</sup> U.S. Department of State, *Country Report on Human Rights Practices 2006 – Panama*, Mar. 6, 2007 (*hereinafter* "State Dept., Country Report 2006").



the economy remained a problem, and the ombudsman reported that 55,919 children were working instead of attending school.”

#### **Needed Changes to the Trade Template**

In addition to the on-the-ground changes needed in Panama with respect to labor law and tax issues, it is also important to revisit the trade agreement “template” at this time. In particular, the AFL-CIO has consistently over many years raised concerns with respect to the investment, procurement, and services provisions in trade agreements. As we move forward, we should also look for ways to strengthen and improve the labor and environment provisions, as well as the enforcement of those provisions.

**Investment:** Even after improvements negotiated in the May 2007 agreement, the investment provisions of the Panama trade agreement still allow foreign investors to claim rights above and beyond those that domestic investors enjoy. The agreement’s rules on expropriation, its broad definition of what constitutes investment, and its definition of “fair and equitable treatment” are not based directly on U.S. law, and annexes to the agreement clarifying these provisions 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 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.

**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 important procurement provisions, especially new domestic sourcing preferences. 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.

**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 Panama 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 Panama FTA, unless specifically exempted.

#### **Other Pending Trade Agreements**

We remain strongly opposed to consideration of the Colombia and South Korea trade agreements at this time.

Colombia continues to lead the world in murders of trade unionists—a shameful record. More than 2,700 trade unionists have been murdered in Colombia since 1986, including more than 500 since President Uribe took office in 2002. Forty-nine trade unionists were

killed in 2008 – a 25 percent increase over the previous year. As of May 15<sup>th</sup>, 17 trade unionists have been murdered in 2009.

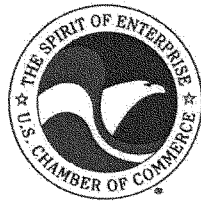
Fewer than 5 percent of the perpetrators of these murders have been brought to justice. The majority of these murders have been committed by paramilitary groups, some of which have been shown to have connections to high-ranking members of the Uribe government. We stand in solidarity with Colombian workers and will continue to oppose this trade agreement until concrete progress is made in Colombia to ensure that Colombian workers can exercise their rights to organize and bargain, free of threats and intimidation, and free of the current legal obstacles.

The Korea-U.S. Free Trade Agreement, as negotiated, would decimate our auto sector and increase pressure on other key industrial sectors, potentially costing tens of thousands of good U.S. jobs—jobs we can ill afford to jeopardize. The FTA fails to adequately address the numerous non-tariff barriers to U.S. goods in the Korean market, while opening our market quickly. This could dramatically exacerbate our already-lopsided trade relationship with Korea. Our brothers and sisters in South Korean labor unions also have concerns about the FTA, as their government and employers have recently cracked down on union activities and exploited irregular worker loopholes in Korean labor law. We stand with them in demanding that both of our governments respect all the International Labor Organization's core labor standards, in both law and practice. In addition, in the proposed FTA, our negotiators agreed to consider granting trade preferences to products made in the Kaesong Industrial Zone, an industrial park located in North Korea. The North Korean workers in this zone cannot exercise any of their fundamental workers' rights—including the freedom of association and the right to strike. In fact, these workers are not even paid directly by their employers, in a situation close to indentured servitude. We strongly oppose the Korea-U.S. FTA in its current form and call on both governments to renegotiate this flawed deal.

#### **Trade Reform and National Economic Strategy**

During the 2008 presidential campaign, candidate Obama (in the Democratic Party Platform) emphasized the need for trade policy to “be an integral part of an overall national economic strategy that delivers on the promise of good jobs at home and shared prosperity abroad.” We strongly agree that our country needs a new trade policy. The Panama Trade Promotion Agreement does not represent the needed change in direction, and has not been accompanied by the broader reforms needed.

Thank you for the opportunity to express the views of the AFL-CIO. I look forward to your questions.



Business Roundtable™

**Hearing of the U.S. Senate  
Committee on Finance**

*On*

**“The U.S.-Panama  
Trade Promotion Agreement”  
Thursday, May 21, 2009  
10:00 a.m.**

**215 Dirksen Senate Office Building**

**Testimony by Mr. James Owens  
Chairman and CEO, Caterpillar, Inc.  
Peoria, Illinois**

*on behalf of the*

**U.S. Chamber of Commerce  
Business Roundtable**

*and the*

**Latin American Trade Coalition**

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Chairman Baucus, Ranking Member Grassley, Members of the Committee:

I'm Jim Owens, Chairman and CEO of Caterpillar, Inc. Today, I have the honor to testify on behalf of the U.S. Chamber of Commerce, Business Roundtable and the Latin American Trade Coalition in support of the U.S.-Panama Trade Promotion Agreement (also known as the "Panama TPA" or "TPA").

First a word about the organizations that I represent:

- Caterpillar is the world-leading producer of construction and mining machines as well as diesel and gas turbine engines. We are also one of America's largest exporters.
- The U.S. Chamber of Commerce is the world's largest business federation, representing three million businesses of every size, sector, and region.
- The Business Roundtable is an association of chief executive officers of leading U.S. companies with \$4.5 trillion in annual revenues and more than 10 million employees.
- The 1,200-member strong Latin American Trade Coalition is a broad-based group of U.S. companies, business and agricultural organizations, and local chambers of commerce and other groups representing the largest and most dynamic sectors of our economy.

My company and the business organizations I represent today firmly believe that international trade has a critical role in fostering economic growth for America's workers, farmers and businesses. The Panama TPA and agreements like it promote sustainable economic growth both here at home and in the economies of our trading partners — in this case a close neighbor and ally, Panama.

The United States has negotiated, signed and implemented successful trade agreements in the Western Hemisphere with Canada, Mexico, Chile, Central America and the Dominican Republic, and Peru. The Panama TPA promises to build on impressive U.S. export gains in the region.

I'm pleased to report that Caterpillar exports have dramatically benefited from all these free trade agreements (FTAs). Since the FTAs have gone into effect, Cat exports last year quadrupled to the NAFTA countries, tripled to Chile, and nearly doubled to the CAFTA-DR countries.

We believe the Panama agreement will be no exception. The Panama TPA is a front-loaded, ambitious, and comprehensive agreement, with considerable benefits to both the United States and Panama. Most of the tariff cuts on American products will occur as soon as the agreement goes into effect.

The agreement will substantially improve market access for American farm products, consumer and industrial goods, and services in Panama, and it 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

rules and related enforcement provisions will help protect and promote America's dynamic innovation-based industries and creative artists. The opportunities created by lowering tariff and non-tariff barriers to U.S.-Panama trade and investment promise to expand two-way trade opportunities and lift living standards in both countries.

Beyond the purely commercial benefits, the agreement will also strengthen the century-old U.S.-Panama geostrategic partnership. From the time of the Panama Canal's construction, the United States and Panama have made common cause on issues from security to commerce. Panama has major ports to both the Atlantic and the Pacific, and the Canal is a major transit point for world trade. With one-third of its population speaking English fluently and a fully dollarized economy, Panama is a good friend and partner of the United States. The TPA offers critical support and stronger ties to this close ally in Latin America, a region where attitudes toward the United States and the values it represents — including democracy, transparency and governmental accountability — have taken a decided turn for the worse in many countries.

In Panama, the May 3 election of Ricardo Martinelli to succeed Martin Torrijos as President of Panama signals a continued commitment to close ties to the United States at a time when a number of countries in the region are taking a different course. President-elect Martinelli has called the TPA his new administration's "number one priority." Panama's legislature displayed similar enthusiasm with a strong vote in favor of the TPA shortly after its signing, which incorporated new labor and environmental provisions reflected in the May 10 (2007) Bipartisan Agreement on Trade. Both the Panamanian administration and the legislature have been responsible partners in working to meet the additional requests that have subsequently been raised by the U.S. Congress and administration.

Looking forward, the agreement with Panama is an important step in the U.S. strategy to promote trade liberalization and economic integration with the region. As well as being a gateway from the Pacific to the Atlantic, Panama is a literal and figurative bridge between Central and North America on one end and South America on the other. U.S. total exports to trade agreement partners in the Western Hemisphere reached \$471 billion in 2008. This region represents a significant and growing market that has largely avoided the worst of the current economic crisis. We urge Congressional consideration of the trade agreements with Panama and Colombia as the next step in this important strategy.

#### **Opening Markets**

Above all else, the TPA further opens Panama's market to products and services made by American workers, farmers, and companies. Panama's purchases of U.S. manufactured goods and farm products reached \$4.6 billion last year, and the \$4.2 billion U.S. merchandise trade surplus with Panama in 2008 was among the largest with any country. Goods exports to Panama from Illinois — where Caterpillar is headquartered — have grown quickly in recent years, surpassing \$110 million in 2008, led by rapid growth in exports of machinery.

The United States is far and away Panama's largest trading partner, with a 33% share of Panama's imports, and purchasing 36% of all Panamanian exports. The \$5.25 billion expansion of the Panama Canal is now moving ahead and presents significant opportunities for U.S. companies to provide goods and services to the government of Panama as they embark on one of the largest public works project since the Three Gorges Dam in China. We are also excited about construction of a new metro system in Panama City and the Petaquilla mine, which will be the 5th largest copper mine in the world.

The trade agreement will grant U.S. firms outstanding access to the Panamanian market and the chance to compete in selling everything from heavy equipment to engineering services.

U.S. export success in Panama comes despite a fundamental imbalance in the proverbial playing field. The United States unilaterally opened its market to Panama and its neighbors through the Caribbean Basin Initiative in 1983 and expanded that access through successive acts with the support of strong bipartisan majorities in Congress. Currently, under the Caribbean Basin Trade Partnership Act (CBTPA), fully 96% of all imports from Panama already enter the U.S. market duty-free. By contrast, Panama's average applied duty on imports of manufactured goods is 10%, and agricultural products face even higher tariffs. In other words, Panama enjoys virtually free access to our marketplace, while U.S. products continue to be taxed at steep rates when entering Panama.

The unilateral preferences have always been subject to re-authorization by Congress with no guarantees that they would be continued. Without the extension of these preferential programs, Panama risks immediately losing a significant part of its exports. Losing access to the U.S. market would hurt the Panamanian economy resulting in lost jobs and a lower standard of living.

The TPA makes Panama'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, the TPA will provide continuity in a long-term U.S. policy with regard to Panama — one that boosts economic development and reinforces democratic consolidation.

The TPA will also cut Panama's tariffs on U.S. products, and as a result it will transform an imbalanced trade relationship into a more mutually beneficial, reciprocal partnership. The day the agreement enters into force, 88% of Panama's tariffs on U.S. consumer and industrial goods and a majority of the tariffs on U.S. farm exports will be eliminated. In turn, the agreement locks in Panama's access to the U.S. market, creating a new level of certainty for investors and traders in that country.

**Manufacturing:** The Panama TPA offers immediate opportunities for the U.S. manufacturing sector. The fastest-growing product categories among U.S. manufactured exports to Panama have been sophisticated machinery; organic chemicals; and sound equipment. The Panama TPA promises to not only accelerate this growth by reducing the

landed cost of U.S. goods to Panama considerably, but it will open up opportunities in new product categories. The benefits of the agreement are significantly front-loaded. When the agreement goes into effect, 88% of U.S. exports of consumer and industrial goods will become totally duty-free immediately. The remainder will be duty-free within ten years.

For Caterpillar, the world's largest producer of earthmoving equipment, expanding the Panama Canal is an important opportunity. If we can sell our U.S.-produced products throughout Panama duty-free, it will provide us with a competitive edge over products made in other parts of the world. Consider Panama's significant tariffs on manufactured goods. Panama's tariff on off-highway trucks and diesel engines is 10%. For other Caterpillar-type products tariffs range from 3% to 5%. What does the U.S. have to do in return? In relation to mining and construction equipment, like off-highway trucks and bulldozers: nothing. The U.S. tariff on these products is already at zero, and that won't change.

**Agriculture:** The TPA will provide new market opportunities for a wide range of U.S. agricultural products. Upon implementation, over half of these products will be duty free, with tariffs on most remaining U.S. farm exports phased out within 15 years. The agreement is comprehensive in its coverage, providing commercially meaningful access for U.S. agricultural priorities while taking into account both U.S. and Panamanian 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 Panama. The American Farm Bureau Federation expects export gains in excess of \$151 million per year by 2027 in items such as wheat, rice, corn, cotton, soybean products and livestock products.

**Government Procurement:** Panama is not a party to the World Trade Organization's Government Procurement Agreement. If approved, the Panama TPA will guarantee U.S. firms the opportunity to bid for Panamanian government contracts on a level playing field. Guaranteed and favorable access to these procurement opportunities is important to a broad range of U.S. businesses.

**Services:** Service providers will also benefit significantly from the agreement. The Panama TPA'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 services market access.

Panama agreed to exceed commitments made in the WTO, and to dismantle significant services and investment barriers, such as lifting restrictions on investment in retail trade, ensuring access to contracts related to the Panama Canal, and providing new access in professional services that previously had been reserved exclusively to Panamanian nationals. These commitments and improvements in Panama's services regime will allow U.S. firms to take full advantage of the benefits of the agreement across all sectors, including express delivery, logistics, energy, audiovisual, computer, construction, wholesaling, health, education, and environmental services.

### The Rule of Law

**Intellectual Property:** The agreement will strengthen protection and enforcement of U.S. trademarks, patents, and geographic indicators, internet domain names and copyrighted works, creating new opportunities for U.S. innovation-based and creative industries in Panama. In specific terms, the Panama TPA 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.

**Investment Protections and Dispute Settlement:** U.S. direct investors in Panama will benefit from the strong investment chapter in the agreement, particularly the sections dealing with investment protections and dispute settlement.

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).

**Increased Transparency:** The agreement's dispute settlement mechanisms provide for open public hearings, public access to documents, and the opportunity for third parties to submit views. Transparency in customs operations will aid express delivery shipments, and will require more open and public processes for customs rulings and administration. For customs procedures, Panama committed to publish laws and regulations on the Internet and, to the extent possible, will publish proposed regulations in advance and allow interested parties an opportunity to comment on the proposals. Moreover, transparency in these areas is an essential tool in combating corruption and promoting habits of transparency in government.

### Growth, Income, and Jobs

The Panama TPA is a great step forward in the evolution of our trading relationship with Panama from one based on unilateral trade preferences to reciprocal market access. As such, the economic, employment, and pocketbook impacts of the agreement are quite positive. Indeed, the TPA is expected make valuable contributions to economic growth, incomes, and employment opportunities in cities and states across the country.

Both Texas and Florida surpassed \$1 billion in exports to Panama last year, while eight states, including Illinois, had exports to Panama in excess of \$100 million last year. Nineteen more enjoyed exports of at least \$10 million. Fully 37 states saw their exports to



Panama at least double between 2004 and 2008. This market is growing more important every year for producers all across the United States.

It's not only workers at large companies like Caterpillar who benefit from increased trade. Panama is also a great market for U.S. small business. Nearly 6,000 U.S. companies exported their products to Panama. Of this total, 4,748, or 81%, are small and medium-sized enterprises. These so-called SMEs exported \$775 million worth of merchandise to Panama in 2005. This represented 40% of all U.S. merchandise exports to these countries, well above the 29% share of U.S. exports that our smaller companies contribute globally.

With its economy overwhelmingly based on services, Panama's economy complements the strengths of the U.S. economy. Panama has no significant textile or apparel industry, and its agricultural exports (mostly tropical products) largely do not compete with U.S. farm and ranch products.

#### **Additional Benefits**

In addition to contributing strongly to the expansion of trade and economic relations between the United States and Panama, the TPA will lend a helping hand for a close ally in Latin America 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, populist economic policies 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 a great deal to enhance the rule of law and transparent governance in the region. 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, Central America struggles against corruption, which undermines growth, security, and stability. The Panama TPA contains critical provisions to enhance transparency and accountability in governance, providing the countries with important tools to fight the scourge of corruption. As an example, the agreement provides for the criminalization of bribery in government procurement, providing for better and more efficient procurement on the part of the Panamanian government entities but also affording a more competitive marketplace.

Environmental stewardship has long been a priority for Panamanians as the Canal is dependent on protection of the forests in the huge watershed that allows this engineering marvel to function. The Canal expansion now underway is expected to allow 70% of the

fresh water that was previously lost from the locks to be recycled, saving 28-35 million gallons per ship, 40-50 times per day.

The Panama TPA also promotes U.S. security interests by forging a deeper partnership with Panama 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 numerous areas, including tax information exchange; it also sets an example for other countries around the world as we pursue our global security goals. By promoting economic growth in Panama, the TPA will give a boost to its economy and provide its citizens with long-term growth opportunities.

#### **Conclusion**

In concluding, it is worth noting that the commercial benefits of recent free trade agreements have surpassed all expectations. Consider the U.S.-Chile Free Trade Agreement, which was implemented on January 1, 2004, and immediately began to pay dividends for American businesses and farmers. While the U.S. International Trade Commission (USITC) had forecast total export growth of 18-52% over the first 12 years of the agreement's implementation, U.S. exports to Chile leapt by 34% in 2004, 43% in 2005, 31% in 2006, 22% in 2007, and more than 50% in 2008. All told, U.S. exports to Chile quadrupled in just five years.

This outcome is five times as robust as the USITC's most cautious scenario and nearly twice as robust as its most optimistic scenario. Given the similarities between the Panama TPA and the U.S.-Chile TPA, we may surely expect impressive benefits from this new agreement as well.

While exports are important, we are also pleased to report that imports from Chile have also increased. As we all know free trade is about more than just exporting — it is about providing more choices at lower costs for consumers, which leads to a higher standard of living. Sometimes, as is the case with Chile, free trade is about having access to fresh grapes in the winter and more crushed grapes (i.e., wine) year-round. With Panama, our consumers will benefit from more access to tropical fruits, seafood, and high-quality coffee among other products.

I very much appreciate this opportunity to share our strong support for the Panama TPA. We believe that trade expansion is an essential ingredient in any recipe for economic success in the 21<sup>st</sup> century, and the Panama TPA 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 the Panama TPA are critical. It has been my experience that the U.S. business is more than capable of competing in the global marketplace when trade barriers are removed and markets are open.

That concludes my remarks. At this time I would be pleased to answer any questions. Thank you very much.

**FINANCE COMMITTEE QUESTIONS FOR THE RECORD**

**United States Senate  
Committee on Finance**

**Hearing on  
“U.S.-Panama Trade Promotion Agreement”  
Thursday, May 21, 2009**

**QUESTION FOR JIM OWENS FROM CHAIRMAN BAUCUS**

**Question 1:**

**As the Chairman and CEO of one of the world’s leading suppliers of earth-moving machinery and agricultural equipment, as well as a member of various important business facilitation organizations, you have made clear that you believe the U.S.-Panama TPA will benefit yours and other companies, including small and medium businesses.**

**Can you tell us specifically why this FTA and access to Panama’s market, including the expansion of the Panama Canal, presents significant opportunities for the U.S. companies and how the FTA will help you keep jobs here in the United States?**

**Answer:** Chairman Baucus, thank you for the excellent question. The FTA would help American manufacturers in several ways. First, the Free Trade Agreement would give products made by American workers preferential access to Panama’s market. For Caterpillar that means the products we make here in the United States would enter Panama duty-free, while products made by our competitors in Europe and Asia would be subject to Panama’s 3 to 10 percent duties.

U.S. companies would benefit in other ways as well. Panama is about to spend \$5.25 billion to expand the Panama Canal. That investment would generate demand for the machinery we produce in the Midwest. In addition, the increased canal capacity would allow newer, larger ships access to the canal. This would improve the transportation of supplies and products into and out of the United States, allowing American manufacturers to shorten supply chains and reduce the need for excess inventory.

## QUESTION FOR JIM OWENS FROM SENATOR CORNYN

**Question 1:**

Mr. Owens you noted in your testimony that the \$5 billion Panama Canal expansion project is a key opportunity for American manufacturers. This ambitious project has been called the greatest-ever infrastructure project in the Western Hemisphere. It is scheduled to be completed in the next five years and requires thousands of tons of specialized earth moving machinery, dredges, concrete, and other construction materials. However, the 10% Panamanian tariff on U.S.-made machinery artificially inflates prices, giving our foreign competition significant advantages in the Canal Zone.

To understand the impacts of competitiveness, one need look no further than a multi-million dollar contract Panama awarded to a Japanese company in 1997 to replace its large fleet of locomotives that haul ships through the canal locks. This is a clear example of foreign competition facing American manufacturers in Panama, and I am concerned that a 10% tariff could be a deal breaker. Approving this trade accord will ensure that American manufacturers can compete for construction contracts on a level playing field.

Mr. Owens, you testified that Caterpillar is the largest manufacturer of earthmoving equipment and that you employ approximately 50,000 American workers. Can you provide insight as to the number and types of products your company manufactures that could be readily placed into service in Panama and the impact of such manufacturing on American employment?

Also, can you provide a sense of the magnitude that Panama procurement opportunities have for your business sector as a whole?

**Answer:** The expansion of the Panama Canal is truly an ambitious project. In fact it is one of the biggest earthmoving projects since the Three Gorges Dam in China. At Caterpillar, we estimate the export opportunity for Cat-type equipment would be about \$300 million. That would include off-highway trucks built in Decatur, Illinois, bulldozers built in East Peoria, Illinois, excavators built in Aurora, Illinois and locomotives remanufactured in Alabama by Progress Rail.

Indirectly, the project is expected to create even more opportunities for American companies because Panamanian companies and individuals have long displayed a remarkable preference for American goods. Last year, Panama's merchandise imports from the United States outstripped its exports by a factor of 12-to-one. Few countries display a preference for made-in-USA goods on this scale; coupled with the stimulus of the canal expansion, these factors are likely to generate a boom in U.S. exports over the next five-to-10 years.

While Caterpillar's U.S. workers would clearly be a prime beneficiary of the Panama Trade Promotion Agreement, the biggest winners would be the 4,748 small and medium-sized enterprises that exported to Panama last year.