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Thank you, Mr. Chairman. I am pleased to testify before the Committee today.

I am a partner in the Washington office of the law firm of Covington & Burling LLP and co-chair the firm's International Trade and Investment practice.

I spent much of my career in government, focusing on international trade and security matters. In the Bush Administration, I had the privilege of serving as General Counsel in the Office of the United States Trade Representative and subsequently as Deputy United States Trade Representative. In the Clinton Administration, I served as an Assistant Secretary of Defense under then Secretary of Defense Bill Cohen for whom I also worked in the U.S. Senate.

I appreciate this Committee's leadership in promoting fair and open terms of trade and welcome the opportunity to speak today on the role that the Asia-Pacific Economic Cooperation (APEC) forum has and can play in fostering global trade and investment.

The United States benefits greatly whenever foreign markets become more open to U.S. exports. Tremendous gains in market access have been achieved over the years through global agreements like the General Agreement on Tariffs and Trade (GATT), regional agreements like the North America Free Trade Agreement (NAFTA) and bilateral agreements like the U.S.-Chile

Free Trade Agreement. There is more work to be done to open foreign markets to U.S. goods and services, beginning with passage of trade agreements with Colombia, Panama and Korea. Our trading partners are moving ahead aggressively to lower barriers through bilateral trade agreements. If the United States sits on the sidelines, we will put ourselves at a severe competitive disadvantage. To take Colombia as just one example, in the four years since Congress refused to vote on this agreement, American workers, farmers and ranchers have lost significant market share to competitors from countries like Canada that moved forward with their own trade agreements with Colombia.

We should seize every opportunity to improve market access for U.S. goods and services by addressing traditional border measures like tariffs and import restrictions. But border measures are no longer the most pernicious trade barriers faced by American exporters. Today, our exports are more likely to be blocked by internal regulatory measures that are often more difficult to identify and overcome. When a foreign country uses a high tariff to protect a domestic producer, at least it is a transparent form of protectionism and can be addressed through direct and traditional trade negotiations. But when a country uses -- or should I say, misuses -- its food safety laws, for instance, to exclude U.S. beef or other products from its market, it is much more difficult to respond to these barriers. The increasing use of internal regulations to protect local producers from foreign competition is a serious and growing problem. Compounding this problem is the fact that we do not have in place the right institutions and rules to combat these trade barriers in effective and efficient ways. This is an area where I believe APEC can play a critical and leading role.

There is a large and growing gap between the breadth and scope of the global economy and the breadth and scope of global trade rules, or more broadly, global governance. This gap accounts for much of the inefficiency in the cross-border flow of goods and services. There is significant waste when each country imposes its own, often redundant regulatory process. For instance, if a medical product or device is approved in a country with a rigorous and credible review process, others countries should recognize this approval rather than requiring expensive and redundant certification processes that unnecessarily drive up costs for consumers.

Worse than this inefficiency, the lack of proper global governance accounts for much of the lawlessness that remains in global commerce. This lawlessness has consequences at both ends of the spectrum. At one end, unsafe products -- like melamine-tainted products from China -- too easily can enter the stream of global commerce. At the other end, this lawlessness makes it too easy to block safe products. The current system too easily tolerates protectionist measures masquerading as safety measures.

We have seen before a large gap between the scope of an economy and the scope of its governance. In the last century, as the U.S. economy grew from a one that was primarily local in character to one that was primarily national in character, problems regarding product safety, competition and other matters were no longer best handled through local law. In response, we developed institutions and legal structures to better align our governance with our economy.

We cannot and should not aspire to creating global regulatory regimes that would undermine sovereignty. Neither the United States nor other countries should surrender ultimate authority and responsibility to protect the health and welfare of its citizens. But, we must find ways to better coordinate our regulatory regimes so that common and legitimate interests in protecting health and welfare can be pursued in ways that do not frustrate our interests in global trade and competitiveness. We can do this through greater use of mutual recognition agreements, through greater recognition of standards-setting initiatives and through binding agreements requiring regulators to operate with a high degree of transparency.

Countries have a common interest, for instance, in reasonable rules and procedures to promote food safety. Countries also have a common interest in preventing food safety claims from being advanced as pretexts for protectionism. Without better rules and institutions to address disputes, we will be left with endless fights over the safety of U.S. beef and other products. Without better and swifter ways to overcome illegitimate regulatory barriers, we will lose U.S. export opportunities and in the process undermine public support for global trade.

I want to emphasize that the goal of better global governance is not more government. It is to have <u>less</u> government standing in the way of private parties who wish to exchange goods and services globally. The best way to reduce government involvement in these private exchanges is to define more clearly what governments can and cannot do. Reducing the opportunity for governments to block US imports on the basis of unsubstantiated health claims would clearly help U.S. exporters. This is best achieved through clearer rules and stronger enforcement tools.

The World Trade Organization (WTO) is a remarkable and critical institution, but today it is not well placed to address technical regulatory issues like food safety disputes in a timely and effective manner. When I served as USTR's General Counsel, we initiated the case against Europe over its ban on genetically modified foods. We won the case, but regrettably U.S. products are still blocked from that market. WTO litigation is necessary and appropriate at times, but it is a blunt instrument. We need additional and more nimble ways to address market access problems in commercially meaningful time frames.

Achieving greater coordination and cooperation among countries on internal regulatory matters will not be easy. It will require tremendous patience, goodwill and give-and-take on the part of each country, including the United States. This is where APEC can play an important role. Because APEC lacks authority to impose rules on its members, it is a less threatening forum for discussing these matters and therefore is well suited to foster consensus.

APEC's 21 member economies account for 54 percent of world GDP and 44 percent of world trade. Since 1994, U.S. exports to APEC nations have increased by 137 percent. APEC member economies are the destination for 58% of U.S. exports of goods. The top four export markets for U.S. goods are all APEC member economies, as are seven of the top 15 U.S. trading partners. APEC thus presents a unique opportunity to collectively engage many of our most important and like-minded trading partners.

APEC member economies have long been committed to promoting free trade and improving market access. The 1994 Bogor Goals reflect APEC's commitment to free and open trade and investment. APEC is committed to promoting high quality global, regional and bilateral free trade agreements. APEC has demonstrated its ability to advance trade initiatives to a point where countries are ready to enter into formal trade negotiations. In the 1990s, APEC was instrumental in developing consensus on the benefits of eliminating tariffs on a broad range of high-tech products that were being developed. This consensus led directly to negotiating the Information Technology Agreement (ITA) that, as part of the Uruguay Round, eliminated significant tariffs in the IT sector. More recently, APEC's long-term support for a Free Trade Area of the Asia-Pacific has fostered interest and support for the Trans-Pacific Partnership (TPP) agreement.

The TPP agreement is an important trade initiative that I know enjoys strong support in this committee. This agreement has the potential to make important gains in lowering traditional barriers to trade. It is important that bilateral market access that the United States currently enjoys by virtue of existing trade agreements with TPP partners not be diminished. The TPP should also provide significant market access gains among TPP countries as a whole. Importantly, the TPP presents a welcomed opportunity to address regulatory barriers, as well as a means of strengthening Intellectual Property protection.

President Bush embraced the TPP in 2008 after USTR Susan Schwab proposed it as an important way to expand access for U.S. exports. I had the opportunity to travel to Vietnam, Japan and other APEC countries at that time to urge their consideration of this important initiative. I am pleased that Vietnam has joined these discussions and hope that Japan, while contending with much more pressing matters right now, will eventually join these negotiations. I applaud the Obama Administration's support for the TPP which I believe can serve as an important anchor for U.S. trade policy in Asia.

The eight countries negotiating the TPP are important trading partners of the United States. Taken collectively, TPP negotiating parties would comprise the United States' third largest export market for goods and its fourth largest export market for services. Given the importance of Pacific markets to U.S. trade, the TPP represents a valuable opportunity to establish a high-quality trade agreement. A primary goal of TPP negotiations is to address internal barriers created by differences in the regulatory systems of TPP countries and to try to improve the compatibility of these regulatory systems. These governance objectives are being pursued to improve market access for all businesses, with a particular focus on small- and medium-sized businesses that often have greater difficulty navigating complex and contradictory regulatory requirements in various markets. Improving market access for smaller businesses is a worthy goal, as it would allow more companies and more workers to engage in international trade and access the benefits of global economic integration. The TPP can eventually serve as a model for future agreements by creating transparent and fair regulatory regimes that improve market access by eliminating internal barriers to trade.

The importance of Pacific trade initiatives such as those undertaken by APEC and the TPP is often framed in terms of our relationships with our trade partners in Asia. While many of our most important trade partners are indeed Asian nations, and the growing markets of Asia are an important focus of our trade policy, I would also like to highlight the benefits of the participation of Latin American countries in Asia-Pacific trade regimes. Many Latin American countries are important trade partners of the United States, and the importance of our trade relationships with the region is increasing. In 2008, total U.S. trade in goods and services with the Western Hemisphere was $1.5 trillion. U.S. trade with Latin America increased by 82 percent between 1998 and 2009, a larger jump than the 64 percent increase in overall international trade and the 72 percent increase in trade with Asia. Exports to Chile and Peru, both parties to the TPP negotiations and APEC member economies, each grew by more than 130 percent between 1998 and 2009. Mexico, another APEC member economy, is the second largest export market for U.S. goods and our third largest trading partner.

Trade initiatives undertaken by APEC and regional agreements such as the TPP provide the United States the opportunity to engage with like-minded trading partners such as Chile, Mexico, and Peru. These initiative also have the potential to further expand market access in Latin America. The TPP contemplates that more countries will eventually join the agreement, and APEC seeks to establish a far-reaching Asia-Pacific trade agreement. Latin America is an increasingly important market for U.S. trade, and the participation of more Latin American countries in these initiatives would be beneficial to the United States. As the United States seeks to expand its market access in Latin America, it is important that it does so in a way that develops governance structures that reduce internal barriers to trade. APEC and the TPP are both important venues for establishing such structures.

In a recent speech opening the 2011 APEC meetings, Secretary of State Clinton called for the development of open, free, transparent, and fair trading platforms. Developing international governance structures that reduce internal barriers, improve regulatory compatibility, and ensure that trade practices are conducted in a manner consistent with the rule of law is an essential step to creating such platforms. The development of such governance structures should be undertaken with the goal of achieving a meaningful net increase in market access for U.S. businesses. I hope that the 2011 APEC meetings hosted by the United States, including the important meetings to be held in Big Sky, Montana, will advance these issues.

Expanding access to a growing global economy is critical for U.S. competitiveness. Traditional trade agreements, rules and institutions can be effective in overcoming access barriers posed by traditional border measures like tariffs. Overcoming access barriers posed by internal measures will require new agreements, rules and institutions. Collaborative organizations like APEC can serve critical roles in developing consensus on how best to address these 21st century trade barriers.

I appreciate the opportunity to testify before the Committee today and would be pleased to answer any questions.