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# ADMINISTRATION'S 2008 TRADE AGENDA

## HEARING

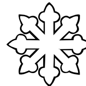
BEFORE THE

## COMMITTEE ON FINANCE
## UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

MARCH 6, 2008



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# CONTENTS

## OPENING STATEMENT


Page

Baucus, Hon. Max, a U.S. Senator from Montana, chairman, Committee on Finance ..... 1


## ADMINISTRATION WITNESS


Schwab, Ambassador Susan C., U.S. Trade Representative, Washington, DC .. 3


## ALPHABETICAL LISTING AND APPENDIX MATERIAL


Baucus, Hon. Max:
- Opening statement ..... 1

Cantwell, Hon. Maria:
- Prepared statement ..... 21

Grassley, Hon. Chuck:
- Prepared statement ..... 22

Schwab, Ambassador Susan C.:
- Testimony ..... 3
- Prepared statement ..... 24
- Responses to questions from committee members ..... 33

# ADMINISTRATION'S 2008 TRADE AGENDA

THURSDAY, MARCH 6, 2008

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

The hearing was convened, pursuant to notice, at 10:07 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Bingaman, Lincoln, Cantwell, Salazar, Snowe, and Roberts.

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

The CHAIRMAN. The hearing will come to order.

One hundred fifty years ago, tens of thousands of prospectors came to Montana hoping to tap promised riches in the hills. Some had visions of gold, others sought silver and copper. In a day's work, a prospector's claim could yield a fortune, or a day's wages of nothing but sore muscles.

Looking at our trade agenda for the remaining months of 2008, we have chances like those prospectors. We can hit a rich vein of productivity and accomplishment, or we could come up empty-handed, or we could come out somewhere in between. There is only one way to find out. That is, we need to put our backs into it and keep digging.

Optimism is in my Montana blood, and frankly I think it is in the blood of most everybody in public service. You have to be an optimist. I hope our year this year will end in a rich payday for America's workers, ranchers, and farmers.

Our work this year can put our economy on a path to greater wealth, stronger productivity, and more vigorous international engagement. I have made clear where our work must begin. We must begin with reform, expansion, and implementation of Trade Adjustment Assistance. After listening to my constituents, my colleagues, and my conscience, I am certain that we must put a better TAA program in place before Congress can move on to other trade priorities, especially pending free trade agreements. I say this not to be rigid, but to do what is right by America's workers, farmers, and ranchers.

I have also been clear about what a new TAA program must look like. It must cover services workers, workers whose jobs are off-shored to China, India, and other non-FTA partner economies. It must enhance the health care tax credit. It must boost training funds and help displaced workers get back in the labor force, and

it must help communities like Montana's lumber communities that are negatively affected by unfair trade.

This year we also have an opportunity to help America's consumers by safeguarding our borders. We must meet that responsibility of border enforcement and security without sacrificing trade facilitation and enforcement. This committee will do so by reauthorizing Customs and Border Protection.

We can pursue a bill that will put more resources at our Nation's borders to ensure that imports of food and consumer goods are safe and healthy. Our bill will buttress our ability to identify, destroy, and keep pirated and counterfeit goods off our store shelves, and our bill will make sure that Customs fully collects the revenue due to the United States.

Enforcement of our trade laws must also be at the heart of our trade agenda. That is why I intend to pursue the Trade Enforcement Act that I introduced with Senator Hatch and Senator Stabenow last year. That bill will strengthen our trade remedy laws, it will create a Senate-confirmed enforcement officer, and it will increase oversight of dispute settlement implementation.

Fair and firm enforcement includes a WTO-consistent approach to addressing misaligned currencies like China's RMB. This committee strongly endorsed such a bill last year. And fair and firm enforcement also includes better intellectual property rights enforcement in our trade agreements. That will bolster our most innovative companies.

This year's trade agenda also promises the opportunity to implement policies that are both good economic policy and good foreign policy. This includes extending trade preference programs to the Caribbean, it includes extending the Generalized System of Preferences, and it also means reviewing trade sanctions toward countries that act against American interests, such as Burma and Iran.

We are faced with an opportunity to consider free trade agreements pending before this Congress. This administration has concluded free trade agreements with Colombia, Panama, and Korea. Each holds some promise, each poses some obstacles. None are simple, none face unanimous support. But each agreement has its potential for passage when fairly handled and properly addressed.

Montana's mining boom in the mid-1800s yielded some of the world's greatest riches. Even today, Montana copper illuminates much of America, from Butte to Brooklyn. How brightly this year's trade achievements will shine is up to all of us. There is just one way to find out, and that is to put our backs into it and keep digging. I hope Ambassador Schwab and my colleagues will join me in this effort.

Before I turn to our witness, I want to take a moment to note that, if and when we get a quorum of 11 Senators, we will interrupt to take up the nomination of Doug Shulman to be Commissioner of the IRS, and also to revise subcommittee assignments in the wake of a new Senator added to this committee.

Now, turning to our hearing, our witness today is Ambassador Susan Schwab, U.S. Trade Representative.

Ambassador, thank you very much for coming today to give the administration's trade agenda. Your full statement will be in the record.

**STATEMENT OF AMBASSADOR SUSAN C. SCHWAB, U.S. TRADE REPRESENTATIVE, WASHINGTON, DC**

Ambassador SCHWAB. Thank you, Mr. Chairman. I have a lengthier statement that is in the record. I just wanted to say a few words at the outset. I am very pleased to be here to address the 2008 trade agenda with you and members of the Senate Finance Committee.

Trade, as you know and as you stated, is critical to our economy and vital to sustaining our economic growth. If you look at 2007 statistics, the year just passed, we exported $1.6 trillion worth of agricultural goods, manufactured exports, and services, historic highs in all three sectors, including our first-ever $100 billion trade surplus in services.

U.S. exports represented 12 percent of our GDP, again, the highest ever. If you look at export growth last year, it was responsible for over 40 percent of our GDP growth overall. Therefore, our 2008 trade agenda is very clear. We need to move this economy forward by opening overseas markets to U.S. workers, farmers, ranchers, and service providers, and to do this we seek approval of the pending free trade agreements with Colombia, Panama, and South Korea, and a successful conclusion to the Doha Round of multilateral trade negotiations.

We also look forward to continuing working with you and other congressional leaders to reform and reauthorize Trade Adjustment Assistance, and we will continue to aggressively enforce existing trade agreements. We accomplished a great deal last year, and working together we know that we can accomplish even more in 2008.

Let me begin briefly with the free trade agreements, because those who say they want a more level playing field in trade need to look no further than the two pending Latin FTAs. Our agreements with Colombia and Panama will provide a level playing field by transforming one-way free trade with those nations into two-way free trade.

Both the House and Senate voted overwhelmingly, twice in the past 15 months, to continue giving virtually all of Colombia's exports duty-free access to the U.S. market. We are asking the Senate and the House now to vote to give American agricultural, manufacturing, and services the same preferential treatment when they export to both the Colombia and Panamanian markets, and the only way to do that is through enactment of these free trade agreements.

For those who hesitate over the Colombia FTA with claims that the government is not doing enough to stem the violence, the evidence to the contrary is clear and compelling. President Uribe has a remarkable track record of success in reducing the historic violence and impunity that has plagued Colombia for decades.

For example, since his government came into office in 2002, the Colombia homicide rate has dropped by 40 percent. Homicides of unionists have dropped more than twice that fast. Kidnappings are down, as are terrorist incidents. Those who have perpetrated crimes in the past are being brought to justice with the help of additional investigators, prosecutors, and judges. Moreover, the Co-

lombia FTA has profound implications for U.S. strategic interests in the region and the future of the western hemisphere.

As for the U.S.-Korea FTA, this is, as you know, the most commercially significant free trade agreement the United States has concluded in 15 years. According to the ITC, the Korea FTA promises to boost U.S. exports and GDP by some $10 to $12 billion annually.

A "no" vote on any of these FTAs, any of these three FTAs, is a vote against U.S. exporters, manufacturers, service providers, and agricultural producers, and the 20,000 small and medium-sized companies that benefit from exports to the markets.

On the Doha Round, the Doha Round is the President's highest trade negotiating priority this year. He is committed to concluding an ambitious Doha Round this year that will increase economic growth, alleviate poverty, encourage development through new trade flows in agriculture, manufactured goods, and services. We are committed to doing everything possible to conclude a Doha Round, short of signing off on an unambitious deal. In this regard, we are not alone in our concern about the serious potential erosion of ambition evident in the most recent Agriculture and Non-Agriculture Market Access (NAMA) texts.

Doha cannot succeed if WTO members cave in to the lowest common denominator positions advocated by some who merely want to preserve the status quo, or worse, roll back progress made in earlier rounds. The fact is, there are many countries, developed and developing alike, that want a successful round and, like the United States, are prepared to show the necessary flexibility and political will to get there.

The positions of these countries need to be taken as seriously as those of the noisier groups that have focused on what they will not do rather than making efforts to contribute. Done right, the Doha Round offers unparalleled promise for America and the world, particularly the developing world, and I remain confident that a successful Doha Round is doable this year.

Finally, when it comes to enforcement of existing trade agreements, this administration will continue to employ the continuum of tools at our disposal to restore our rights and, if necessary, litigate to ensure our rights are protected.

Again, thank you for the opportunity to discuss our 2008 trade agenda. I look forward to fielding your questions and will certainly "put my back into it," Mr. Chairman.

The CHAIRMAN. That is good to hear.

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

The CHAIRMAN. Thank you, Madam Ambassador. I would like to raise with you the problem of Canadian softwood lumber. As you know, the Canadians are not—at least it is my view, and the view of many—properly applying the circumstances under which they can export lumber to the United States and they are not properly calculating the surge and export charges.

There was a decision before the Court of International Arbitration which basically, in its arbitration ruling, came up with decisions that I believe are unfair for the United States. I just wonder what you think we should do to get better enforcement with respect

to agreements, generally, that we reach with other countries, and in particular, this one.

Ambassador SCHWAB. Thank you, Mr. Chairman. As you know, the softwood lumber agreement is exceedingly important for this country and for U.S. industry, and, quite frankly, U.S. users, in that it has brought some stability to a market that has been in turmoil as a result, in part, to litigation for over 20 years. We were disappointed in the mixed outcome of the arbitration decision and believe that it did not accurately reflect the agreement that we had reached with the Canadians.

That said, it is worth noting that the core of the agreement is fully intact and has not been challenged, and we have every reason to believe is being enforced, and that is the export tax being imposed on the western Canadian provinces which is at the maximum 15 percent that was in the agreement, and the quantitative controls on exports from the eastern provinces.

The arbitration case—and a second one, as you know, is pending—is still pending related to provincial subsidies that we believe are inconsistent with the SLA. But in the one that was decided earlier this week, it was a mixed result. In the first part, we won in our assertion that an adjustment mechanism to account for dramatic increases or dramatic surges, changed circumstances, that the quantitative measure that was to be put on the eastern provinces should have been imposed from January to July of 2007 rather than imposed starting in July. In the case of the western provinces, we did not win in our assertion that an additional tariff should have been imposed. This would have been 7.5 percent over the 15 currently in place. Excuse me. Not tariff, export tax. And we believe that should have been in place from January to July. But even we would agree that, at this point in time, that would not have been in place, therefore while we had——

The CHAIRMAN. I appreciate that. But what ideas do you have for making sure the Canadians do live up to this? Because we have a long history here. I mean, it has been 20 years at least. As long as I can remember, it has always been a problem. Sure, we like to think we are fair and others are not. But even looking at this thing objectively, it is clear that the Canadians have broken the agreement several times, and sometimes in very clever ways. They put notches in the lumber, bore holes in lumber so it is not graded properly, et cetera.

What more can you do? What more is the administration thinking of doing to uphold this agreement?

Ambassador SCHWAB. The single most important thing we can, and we believe we are doing, is that where the Canadians are expected under the agreement to have in place quantitative—well, export taxes in the case of eastern provinces, 5 percent plus a quantitative limit, and in the western provinces now a 15 percent export tax, but those are in fact being collected. So, first and foremost——

The CHAIRMAN. Well, I appreciate that. My time is about to expire, and I would just tell you to really barrel down on this thing, because it is getting out of hand, frankly, in my judgment.

The second question is, what priorities has the administration given to Trade Adjustment Assistance? I did not hear much in your

comments about Trade Adjustment Assistance. In the President's State of the Union address, he said that he wants to help. The Federal Government has a responsibility to help misplaced workers. So where is TAA in your priorities?

Ambassador SCHWAB. TAA is extremely high in our priorities. Obviously it would not have been in the President's State of the Union address if it were not one of his highest priorities, along with enactment of the free trade agreements, and as I noted, the Doha Round. We continue to be very interested in working with you and other congressional leaders to——

The CHAIRMAN. I appreciate that. I urge you to be very interested because I don't think we're going to make much progress on the free trade agreements until we get TAA done.

Ambassador SCHWAB. Mr. Chairman, we all have priorities here, and I think that it is in everyone's interest for a win-win that would include movement on Trade Adjustment Assistance and the free trade agreements.

The CHAIRMAN. I am just saying, TAA is number one. Get that done, we can talk.

Senator Bingaman?

Senator BINGAMAN. Thank you very much.

Ambassador Schwab, thank you for coming. Let me go right to this issue that you raised toward the end of your written testimony—what you refer to as "trade saber rattling" in connection with climate change. You say that nations should avoid using the environment and climate change as an excuse to impose trade restrictions.

I have a level of frustration on this. I have tried for the last 2 years, at least, to cause the administration to engage with Congress on a cap and trade system, with no success. The only statement I have seen from the administration on the proposal that I have made with Senator Specter, or that Senators Warner and Lieberman have made, is your statement concerning this one provision that we have in there which says that 8 years after we put a cap and trade system in place, we can consider the possibility of requiring imports into this country to have some allowances attached to them.

The statement that you made, which is that this is "trade saber rattling" and that we are using the environment as an excuse for imposing trade restrictions, is just not a very constructive way to engage the Congress on a serious debate about climate change. I do not know if you have a suggestion for changes that we should make in the bill. If you do, I would be anxious to hear that. I do not know if the administration wants to participate in this discussion. I would be anxious to get them involved.

I do not know who is in charge of climate change policy for the administration, but personally I just have real trouble with the idea that, after we get as far down the road as we have gotten in trying to get a bill drafted and get it where we can consider it, the only thing we hear from the administration is, you guys ought to quit "trade saber rattling."

We are trying to get a bill here that we can get the votes to pass. Obviously there are legitimate concerns on the part of U.S. industry that we are going to be competitively disadvantaged if we put

a cap and trade system in place and do nothing to encourage other countries to follow suit. So I do not know if you want to elaborate on your comments, but I have to tell you, my own reaction is not very favorable to what you are saying here.

Ambassador SCHWAB. I would welcome the opportunity to elaborate. Let me just mention a couple of things. One, the obvious, which is, we would be happy at any point that you wanted to sit down. I would be happy to come up. Jim Connaughton from the Council for Environmental Quality——

Senator BINGAMAN. I have spoken to Jim Connaughton, and he has indicated the administration opposes any limits on greenhouse gases. If you oppose any limits on greenhouse gases, then I do not know that you have a whole lot of standing to be part of the discussion.

Ambassador SCHWAB. Well, there is a lot of work, as you know, going on in the administration related to the major economies initiative, related to activities in a post-Kyoto structure and environment. There are a lot of us involved in that. USTR on the trade side. But as I said, we would be happy to sit down with you at any point to talk through the issues.

I think the point I was trying to make in the testimony—I was trying to make two points. One is that you hear a lot of negatives about trade and the environment, and one of the things that has not been stressed enough is how trade can really make a positive contribution to the environment and to the climate change issue.

The best example is the proposal that we have put forward with the EU and the Doha Round to eliminate all tariffs and non-tariff barriers to environmental technologies and goods trade in the world. I mean, if we are serious about using environmental technologies, adopting environmentally friendly production processes, this specific proposal that we have offered would result in a 7- to 14-percent increase in trade, and presumably use of these technologies. So, let us first of all look at trade——

Senator BINGAMAN. I think that is a constructive suggestion.

Let me just go to one other thing since I am about out of my time here. I voted for CAFTA. Trade Representative Portman at the time committed the administration to request $40 million a year for fiscal years 2007, 2008, and 2009 to support labor and environmental capacity building efforts in CAFTA countries. I am informed now that that was then, and now is now, and you have decided $30 million is adequate. Is that the position of the administration?

Ambassador SCHWAB. Actually, that is not the position of the administration. The administration requested the full $40 million. Unfortunately, only $30 million was appropriated. Plus, as you know, an extra $10 million each for two of the CAFTA countries for some infrastructure building.

We would be happy to work with you and members of the Appropriations Committee, AID, State Department, to see how we can come up with sufficient funds to meet the full commitment. But we did make the request and we are working to make sure that we continue to deliver on our commitments, both in the labor and in the environment areas in capacity building and CAFTA. It is a firm commitment.

If I may just add quickly, on the——

The CHAIRMAN. Very briefly, please.

Ambassador SCHWAB. On the question of using trade restrictions related to climate change initiatives, as I said, we would be happy to come up and talk about it. I think if you look around the world, you look, for example, at some of the saber-rattling that France has been doing on this, you can see how easily abused trade restrictions can be in connection with what would otherwise be legitimate efforts to address climate change. So I think the key is, how do we address climate change in a way that is not going to be using trade restrictions that are an excuse to be protectionist rather than making a real contribution to the goal? But as I said, I am happy to follow up on that.

The CHAIRMAN. Thank you.

Senator Roberts?

Senator ROBERTS. Thank you, Mr. Chairman.

I want to thank the Ambassador for your testimony, your strong leadership. I appreciate your hard work and your perseverance. As of this morning, we have intelligence reports that Hugo Chavez's tanks are on the border of Colombia in a dust-up down there. So the trade policy situation in regards to the trade pact with Colombia is very important from an economic standpoint, but now we have to toss in national security as well. Thank you for your perseverance.

But, unfortunately, recent events have forced my attention and that of Senator Cantwell—and I appreciate her very strong leadership, and others in the Senate—to an extremely disappointing and egregious decision by the Air Force, who rewarded EADS—*i.e.,* Airbus—over Boeing to make our critical new aerial refueling tanker, a project worth $40 billion. Not only does this defy common sense, but it does raise some national security concerns as well.

Now, the chairman mentioned copper and gold in Montana and the history of copper and gold, and the value of mining in his fine State, and I appreciate that. But with apologies to Larry Gatlin, all the trade gold in America is now in the bank in the middle of Paris, France in somebody else's name, and that name is Airbus.

It truly makes me question our trade agenda when we brought a massive case before the WTO challenging unfair subsidies or launch aid provided by the EU government to Airbus, then turn around and bestow one of the largest military contracts we have ever had to the same company using the very aircraft developed with unfair launch aid.

Now, the whole situation is like Alice in Wonderland, or maybe I should say the Air Force in Wonderland. Ambassador Schwab, I think this is a ridiculous situation, a disservice to you, and to all of your efforts to protect the U.S. aerospace industry from unfair foreign competition. I do not envy you your position. I hope the misguided tanker deal does not undermine you and our efforts.

Question number one for you: what is the status of the current case against Airbus? Are you still pursuing it?

Ambassador SCHWAB. Yes, we are still pursuing it as actively as ever.

Senator ROBERTS. Then question two: given the fact that we are aggressively pursuing the WTO case and hopefully can see some

light at the end of the tunnel this May with an announcement from WTO, did the Department of Defense seek your input considering the $15 billion in launch aid alone, not to mention the great benefit of debt forgiveness? Did they seek your input?

Ambassador SCHWAB. We had discussions with the Department of Defense at an early stage of the procurement, the so-called criteria stage.

Senator ROBERTS. Yes.

Ambassador SCHWAB. And we described to them the litigation. Beyond that point we had no interaction at all with the Air Force on their procurement.

Senator ROBERTS. Did you hear back from them in regards to the fact that the WTO case would not be part of the bidding process, would not be part of the evaluation, would not be part of the critical analysis?

Ambassador SCHWAB. No, we did not hear back. As you know, this decision was a procurement done solely by the Air Force under the procurement laws and regulations.

Senator ROBERTS. Well, you have answered my question, because my next one was, was USTR part of the decision-making process?

Ambassador SCHWAB. No, we were not.

Senator ROBERTS. Well, perhaps this is a start to a new precedent, where the United States starts handing out contracts to countries that we are challenging before the WTO. In fact, we just filed a case against China, which has a problem enforcing intellectual property rights. Why do we not just go ahead and give them a contract to provide the security for the Patent Office?

Well, on the flip side, does this make sense to award one of the largest military contracts, in part, to a country that has a separate retaliatory challenge before the WTO against the United States?

I think the irony is almost laughable if it were not true and so serious. I sincerely hope, and I know Senator Cantwell does as well, that the tanker decision does not make this mountain you are climbing any steeper. I would like you to walk me through what happens next, if you can, with our WTO case. The first decision is due out in May, is that correct?

Ambassador SCHWAB. We have not been told officially when the interim decision on the first case, meaning the case we filed against Airbus, will come out. The deadline has slipped. We know it will be no earlier than April. We hope it will be in the April/May time frame.

Senator ROBERTS. So the next step would be to determine if there is any compensation. Is that correct?

Ambassador SCHWAB. Yes. The first step, we would first receive the interim finding, which is generally supposed to be a confidential determination. As you know, there is a second case, as you said, that Airbus has filed against us. That is several months behind. If we were to have won the case, and we will continue to pursue this case as rigorously as ever, then there are opportunities for settlements, opportunities for compensation, and, if necessary, opportunities for retaliation.

Senator ROBERTS. Then if we find that Airbus and the EU countries are not complying with their commitments—you have just

said this—then we could retaliate by increasing tariffs. Is that correct?

Ambassador SCHWAB. That is always an option.

Senator ROBERTS. That is a hypothetical, but it is an option.

Ambassador SCHWAB. It is a hypothetical in the absence of a settlement or compensation.

Senator ROBERTS. All right. A situation could arise then that the United States must retaliate against Europe, potentially in the form of increased tariffs on foreign aircraft and aircraft parts. Let us get this straight. U.S. taxpayers could potentially foot the bill for higher duties imposed on spare parts for the Airbus tanker being finished in the United States. That is quite a Catch-22. Now, that is hypothetical, but that could happen.

So the long and short of it is, if this decision holds, it will be to the detriment of our local and national economy, if not our National security, in my view and that of Senator Cantwell.

Let me be very clear: this is not an anti-trade rant. I am not holding you responsible. I just do not see how you can do your job with this kind of thing, the left hand not knowing what the right hand is doing, or maybe the left hand knowing what the right hand is doing and then it does not make any difference. This is an outrage, with the fact that the Air Force chose the, in my view, inferior aircraft in the so-called competitive bidding process. I think they pushed it.

Ambassador Schwab, I do not expect you to have any response to most of my questions here. That is for the Air Force and the Department of Defense to face up to. Thank you for the job that you are doing.

Ambassador SCHWAB. Senator, thank you very much. Let me add to your initial comments about Colombia, the Colombia FTA, as I noted in my testimony, written and oral, is an unqualified win for the United States as well as a win for Colombia. In terms of the geopolitics and U.S. national security interests in the region, it is also absolutely critical and critical that we move expeditiously on it.

The President spoke with President Uribe just the other day, and President Uribe made it clear that the single most important thing that we can do to contribute to stability in the region—and, I might add, we have heard that from leaders throughout the western hemisphere—is for the Congress of the United States to act expeditiously and enact the Colombia free trade agreement.

The CHAIRMAN. Thank you very much. Thank you, Senator.

Next on the list is Senator Cantwell. She obviously is not here. She has very strong views on the matter raised by the Senator from Kansas, and frankly I think there is a problem here, too.

Ambassador SCHWAB. Senator Cantwell actually has raised——

The CHAIRMAN. But I think that Senator Roberts and Senator Cantwell have raised a very, very important issue, and it is very disturbing.

Next on the list, after Senator Cantwell, is Senator Salazar.

Senator SALAZAR. Thank you, Chairman Baucus.

Let me thank you, Ambassador Schwab, for your service to our country. I know the hard work that you put in trying to deal with this tangled world that you have to deal with all the time.

I want to go back to Senator Baucus's question relating to TAA and the free trade agreements. In the exchange between you and him, I think it was very clear that he indicated to you that we needed to get TAA done. My comment to you, and to the President through you, is that it seems to me that unless we get TAA done we are not going to move forward with the rest of the trade agenda that we currently have before us. At the end of the day, we are getting close to the end of the Bush administration. We have less than 9 months before the election. There is only going to be so much we are going to be able to do.

I heard Chairman Baucus say loud and clear, we need to get TAA done. Unless we get TAA done, then we cannot go on and work on some of the other trade issues that are on your agenda. It is either, we are going to have a dead Colombia Free Trade Agreement and other trade issues or we are going to make progress. I want to just underscore my support for the point of view that Senator Baucus has taken here, which is, let us get TAA done and then hopefully we can move forward and try to address some of the other issues that are on our agenda.

If we can get that done, I am hopeful we can turn our attention to Columbia. I look back at the Peru Free Trade Agreement which came out of this committee, which went to the floor of the Senate, and was adopted by the Senate on a bipartisan vote of 77–18. That free trade agreement, in my view, had essentially the same kinds of parameters that we have for the Colombia Free Trade Agreement.

So I think that if we can deal with TAA in the right way, that there is a possibility that we might be able to deal with Colombia. I understand the geopolitical importance of us being able to deal with the Colombia Free Trade Agreement.

So I would like you to take a minute and talk to us about the differences between the framework of the Peru Free Trade Agreement and the Colombia Free Trade Agreement. I know the economic parameters are different, but what are the essential differences in terms of some of the protections for American workers?

Then, second, if you would, tell us how the administration and how President Uribe and his regime have been attempting to address the issue of violence against labor leaders, because even the latest information I have still is that Colombia is leading the world in terms of violence against labor leaders. Now, you may have different information on that, and I would appreciate hearing your point of view.

Ambassador SCHWAB. Thank you, Senator. I appreciate your question and comments. You are absolutely right, the Colombia Free Trade Agreement is identical, really, to the Peru Free Trade Agreement in that both Colombia and Peru have had virtually unlimited access to the U.S. market through the Andean Preference Program.

In both cases, Peru and Colombia have said they are willing to trade in temporary extensions of this preference program for the stability that comes with making preferences permanent, and in exchange are willing to totally open their markets in terms of our agricultural exports, our manufactured exports, our services exports.

There are protections in terms of investment, protections in terms of intellectual property rights. When it comes to protections in the labor and environment area, those are identical to the ones that were built into the Peru Free Trade Agreement and come from the May 10 bipartisan agreement between the Democratic leadership and Republicans in the Congress and administration to, for the first time, make labor and environmental protections fully enforceable, as are the commercial provisions of our free trade agreements. So in that way——

Senator SALAZAR. Given that similarity, Susan, really the obstacle that we face politically here in the U.S. House of Representatives and the U.S. Senate is a concern about the treatment of labor leaders within Colombia. That is what I hear the most. So how would you respond to that particular concern that we have?

Ambassador SCHWAB. You are absolutely right. I guess I shared Chairman Rangel's frustration when he said last week that it is not the facts on the ground, it is the politics in the air that seems to account for the Colombia FTA situation.

In the case of violence and impunity issues, what I would like to do is provide more for this committee in writing on that. I am just going to do a quick summary. Colombia, as you know, for many decades has been plagued with violence. It is, in fact, under the Uribe administration since 2002 that we have seen a dramatic transformation in the situation. As I mentioned, murders are down 40 percent. Murders involving trade unionists are down 85 percent.

Now, that is not to say that the situation is fine, is good. Even with kidnappings down over 70 percent, terrorist incidents down almost 70 percent, all of those trend lines are trend lines in the right direction, but even President Uribe and the administration in Colombia acknowledge there is more to be done, and they are doing more. So in the case of——

Senator SALAZAR. Ambassador, my time is up. But I would say, just in conclusion, two things. One is, I do think it is so important for us to get TAA done, because unless we get TAA done we are not going to get the rest of this done.

Two, it would be very helpful to us to get a written description of how it is that the violence issue has changed on the ground as opposed to the politics in the air, but how it has changed on the ground and how we are going to make sure that Colombia is protecting labor leaders within its country.

Thank you very much.

Ambassador SCHWAB. I would be very happy to provide that, plus information on the impunity issue. I will say on the TAA question, passage of TAA and passage of the Colombia Free Trade Agreement both would be wins for American workers. Honestly, I do not——

The CHAIRMAN. That is right, Madam Ambassador. You can do the one first and then do the second, maybe. But you are not going to get the second until you do the first. I will make that clear.

Senator Lincoln?

Senator LINCOLN. Thank you, Mr. Chairman. I appreciate you holding this hearing, and certainly very much appreciate your balanced leadership on the issue of trade. We all know that free trade is important, but it has to be fair and we have a lot to do.

Ambassador Schwab, thanks so much for coming to the Hill today. We appreciate your leadership as well. I certainly enjoyed my very first opportunity to travel on the trip we took to Colombia.

As we all know, I think the current economic climate has become a source of anxiety among many working Americans, and for some, trade has become a scapegoat for their economic woes. We do not need to let that exacerbate.

But as we do begin to see this tremendous erosion of domestic political support for trade, we have to understand that there are multiple things that we can do to recapture the ability to engage in good trade negotiations. But we have to realize that now, I think more than ever, that we have seen this domestic erosion of support for it. We also have to understand that, now more than ever, we are an integral part of the global economy as it is growing. The 21st century is a whole different era in terms of trade and the countries that we are dealing with. I think we cannot shrink from our responsibilities there.

But as I think to my State, having been a strong advocate for free trade but looking to my constituency for the support that they have had for free trade in the past, it is going to be very, very critical that we move forward on the TAA. The multiple closures and job loss that we have seen in our State just over the past 6 months have been phenomenal.

The only thing in many of those instances that we have been able to use has been Trade Adjustment Assistance in terms of retraining and a host of other things that are critically important to at least maintaining the support for free trade in States like mine where we have had it in pretty good form. While I am definitely a firm believer that we have to be aggressive in looking for new markets for our goods and services, I also recognize that trade has its difficulties.

As my colleagues have said, you have done a tremendous job in working through those challenges. We cannot turn a blind eye to the impact that trade has had on our workers in the U.S., or certainly for me in Arkansas, seeing the number of jobs that we have lost. We cannot turn a blind eye to the environment, as Senator Bingaman mentions, or certainly to our trading partners.

It means moving forward on trade agreements like Colombia. As I said, traveling there, I had a tremendous experience of being able to visit with President Uribe and many others, got a great sense of where they were and where they were going. We also need to update and extend the TAA programs so that we can ensure individuals who do not benefit from free trade have access to the support and assistance that they truly need to recover.

From an agricultural standpoint, which you know I will always bring up, it also means ensuring that our domestic producers have access to new markets before we agree to concessions to reduce our domestic support.

Just a couple of questions. The Doha Round. The WTO negotiations continue, particularly with respect to agricultural negotiations. I am increasingly concerned that our negotiators are so driven to complete an agreement before the end of this year, that the U.S. is now offering far greater concessions on domestic support from agriculture than we will gain in additional market access. It

always seems to happen with this administration that they want to give away the farm, quite frankly, in terms of the concessions they are willing to make, and cutting back on domestic support without getting the assurances of the open markets that we need, our producers need in the world marketplace.

I am just hoping that you can provide some assessment of what our negotiating approach is going to be and will continue to be. Do I have your assurances that we are not going to bring back a bad deal for U.S. agriculture? I need that. I need those assurances. I would have to say, over the way that we have had the debate on the farm bill, it is hard for me to believe that we are spending $15 billion a month in Iraq and we just spent $150 billion with a surgical shot into stimulating the economy, and yet we are arguing over a $4-billion difference in the farm bill—$4 billion over 5 years, mind you—in one of the greatest stimulus packages for rural America that we could possibly see.

So, we are hoping that you will ensure that in any potential agreements we will make sure that our farmers are given greater market opportunities, without dismantling our domestic safety net. I think it is absolutely critical. We are seeing continued imports from other countries that are unsafe.

I think we are at the juncture now where we are either going to protect a domestic supply of safe and abundant food or we are going to start out-sourcing our food supply and become dependent on other countries for our food supply, just like we have our source of oil.

The other key subject I wanted to bring up is Cuba. I do not know if anybody else has. I was a little bit late. It is of key importance to our rice producers in Arkansas. It is a huge export market potential that exists. Cuba was once our number-one export market for rice prior to the embargo. Today, we are meeting a small percentage of their demand for rice. Industry estimates put the potential size of the Cuban market for U.S. rice at 600,000 metric tons annually, at a minimum. Less than 90 miles from our U.S. borders, we could easily achieve this market potential, if not for the undue restrictions that are placed.

We have been given, with the recent developments in Cuba, an opportunity. I hope there are some discussions, in your office and elsewhere in the administration, under way to rethink the policy towards Cuba moving forward. I do not know if those discussions are occurring or you are at least reassessing the situation in Cuba, and I hope you can answer that for me.

Then, last, I just wanted to throw out there some of our efforts on behalf of our hardwood flooring, the unbelievable imports from China. Our hardwood flooring industries and U.S. counterparts are being subject to some unfair trade practices from China, obviously the controlled exchange rate, but government subsidies, and certainly the unimpeded access to illegal logging. Again, if we are going to move into this environmental discussion here, we need to make sure that we have an equal playing field for those. I appreciate the chairman's work on that hardwood flooring as well.

The CHAIRMAN. Thank you. Thank you, Senator, very much.

Ambassador, I would like to have you address this a little bit on what you are doing about beef. As you know, many countries—

Korea, Japan, China, et cetera—do not take all the beef that the World Animal Health Organization guidelines suggest they could take. The United States is a controlled-risk country, and under the OIE guidelines, certainly our beef, of all ages, should be imported by those countries. It is a $2-billion loss to the United States' beef producers because Japan and Korea do not take American beef. We are not asking Japan and Korea to do something they should not do, we are asking them to do something they should do. Your comments. What are you doing to open those markets?

Ambassador SCHWAB. Let me, if I may, quickly touch on a couple of items that Senator Lincoln asked, and beef, an issue that you know is near and dear to my heart. I would be very happy to respond.

Just a couple of things about the politics of trade. I agree with your comments on that and would say, quickly, there are four things that we can be doing to address it: (1) doing a better job of getting the word out about the benefits of trade; (2) we have talked about Trade Adjustment Assistance; (3) we have talked about the importance of enacting trade agreements that open foreign markets to U.S. exports; and (4) the enforcement side of the equation, which we have also talked about today and USTR takes very seriously.

In terms of Doha, you have my assurance that we will not come back with a bad deal. I mean, we have unfortunately had to walk away from bad Doha deals, or potential Doha deals, in the last 2 years. We believe, however, Doha is doable if it is an ambitious deal, and ambitious has to include real, new market access in agriculture, in manufacturing, and in services. So there has to be a balance there when it comes to domestic support. We are prepared to do our share, but we cannot do it by ourselves. I absolutely take your point.

On the issue of Cuba, that is a long, involved conversation. I know we are exporting some agricultural commodities to Cuba. I would just point out that the Cuban market is less than one-eighth the size of the Colombia market for American agricultural products.

China. That is an enforcement issue. Let me get back to you on that on the hardwood flooring, because we have done a lot on that. Let me see what the status is. You know that we won the subsidies case that we took against China, the prohibited subsidies. China has now eliminated those export subsidies, but let me find out about the other part of the unfair trade practice side.

On beef——

The CHAIRMAN. Madam Ambassador, you have 2 minutes left. You have not even started to address the question I asked you.

Ambassador SCHWAB. On beef——

The CHAIRMAN. I am just quite surprised you did not address the question I asked you at the beginning of my 5 minutes. But go ahead.

Ambassador SCHWAB. All right. There is no product that the United States produces that I personally have spent more time on, nor I suspect that the President of the United States has spent more time on, than getting U.S. beef into the Korean market, into the Japanese market, into the Chinese market, into Taiwan's mar-

ket. This is a matter, as you say, of getting those countries to adopt international standards, the OIE.

The CHAIRMAN. I know you have been working on it. But, if you will pardon the pun, where is the beef? Where are the results?

Ambassador SCHWAB. We believe that we have been making progress. As you know, last May was the first time the OIE called the United States a controlled-risk country—that, in the wake of the BSE issues in 2003. We have been working with the Korean government. We have worked with the previous government. We are working with the current government to see that the beef issue is resolved.

We know, and the Korean government knows, that Congress is not going to act on the KORUS FTA absent beef being resolved. We have raised the beef access issue, the OIE compliance issue, with Japan on multiple occasions—when I say "we," that includes the President of the United States—with leaders in Japan.

The CHAIRMAN. So how do we get results? Talking is one thing, results is another. How do we get results?

Ambassador SCHWAB. I think we are on a path to get results.

The CHAIRMAN. And what is the path? Do you have benchmarks? Do you have dates that are quantifiable by which something is going to be done?

Ambassador SCHWAB. We have, yes.

The CHAIRMAN. And what are they?

Ambassador SCHWAB. We are working on all of those fronts.

The CHAIRMAN. And what are they?

Ambassador SCHWAB. The effort is to move—in the case of Korea, as you know, currently they let in de-boned beef under 30 months. In the case of Japan, it is 20 months for de-boned and for bone-in. We are looking at steps where they can go directly to full OIE compliance.

The CHAIRMAN. What have you learned about China? We have been dealing with China a bit, the Strategic Economic Dialogue, for example, and trying to get a good, solid relationship with China. You have had this job a while. Step back a little bit. What have you learned? What has our country learned? How do we deal with China?

Ambassador SCHWAB. I think you have to treat China with respect, but to be very clear about what we expect and what we need from China in terms of their behavior and their responsibilities to the international trading system. That includes what they should be contributing to the Doha Round, it also includes compliance.

We have had some real successes in terms of our approach, the administration's approach, of engagement where dialogue through the Strategic Economic Dialogue, through the Joint Commission on Commerce and Trade has generated real results, but has not resolved all of the issues, and therefore, where we have not been able to resolve issues through dialogue, we have turned to litigation. We have filed the first six cases ever filed against China at the WTO. We launched six cases.

As you know, we have three currently pending, and we just announced a new case this week. We have resolved successfully, settled successfully, several of those cases—three of those cases. So it really is a balance, where you have to be ever-vigilant, we have to

pursue actively our interests, but we need to do so in a way that is knowledgeable about China's interests and approach and respectful but no less pushy.

The CHAIRMAN. You know, some endowments in the United States—and I will finish with this; I have over-extended my time—major university endowments, are assuming that the RMB is going to be a major currency about 20 years from now. It will be the dollar, euro, and the RMB. What are we doing? How do we keep the United States number one, in the best sense of the term, on trade?

Ambassador SCHWAB. Well, first of all, I think we need to recognize that we are still number one, in the best sense of the term, in trade. If you look, for example, at our trade picture, our manufacturing output, our employment picture, real hourly compensation, all of those numbers are up. Manufacturing output continues to be up, productivity growth, technology enhancements. However, the key is making sure that the infrastructure, the underpinnings stay intact to retain that competitiveness. As you know, I came out of higher education. The importance of education and training is absolutely a critical component of that.

The CHAIRMAN. I appreciate that. I have over-extended my time. I will let Senator Lincoln ask some questions if she wishes to.

Senator LINCOLN. I asked mine before you.

The CHAIRMAN. All right.

Senator LINCOLN. I think I am good.

The CHAIRMAN. Right. Sorry. Go ahead.

Ambassador SCHWAB. No, no. Before I came into this position, as you know, I was the president of the University System of Maryland Foundation and we were making a lot of these investment decisions, endowment investment decisions. What you will see universities, pension funds, and others do with these large sums of money is look to diversify their portfolio and obviously maximize the long-term return for their investors or for their shareholders or for those people, those students who depend on student aid that is generated through endowments.

In terms of U.S. competitiveness, the President, in the American Competitiveness Initiative that he announced 2 years ago, stressed a variety of measures that includes encouraging investment, includes our own investments in math and science education. The No Child Left Behind program, again, is another example of something that is contributing to, and should be contributing to, our competitiveness moving forward.

There are other elements associated with making sure that we are not placing undue restrictions on the mobility of our economy, on the ability of our economy to adjust. That includes not putting up isolationist barriers, both within and at the border. Those kinds of things all contribute to maintaining and growing U.S. competitiveness internationally.

The CHAIRMAN. I appreciate that. There is no easy answer to the question I asked. I am just urging all of us to be asking ourselves that question constantly so that, without being too corny about it, our kids and grandkids have the same living standards that we have enjoyed as Americans.

Senator Snowe?

Senator SNOWE. Thank you, Mr. Chairman.

Welcome, Madam Ambassador. I am sorry I was not here for your testimony. Constant conflicts.

I just want to make sure that I indicate my strong support for Trade Adjustment Assistance. I have joined the chairman in support of legislation to reauthorize and to expand it to include communities as well, because they certainly are directly and negatively affected by the loss of jobs abroad. That has certainly been exacerbated with this declining economy. I know that in Maine, for example, we have lost 24 manufacturers in 2006 alone. It has been staggering. That is why I am such a strong champion and advocate of the Trade Adjustment Assistance program.

I was concerned because the President indicated in his State of the Union address that he was going to reform trade adjustment, and we have seen in his budget that he is reducing worker training programs, as I understand it, by 15 percent, $70 million, at a time in which Americans should be getting the benefits of the support of these types of programs, at the minimum.

There is no question, with the globalization of our economy and these trade agreements, it has resulted in the loss of jobs, and is certainly true in my State. We have seen the loss accelerated over the last few years, and we have lost more than 17,000 jobs in the State of Maine. That is 26 percent of our manufacturing force since 2000.

So I would like to ask you your views and the administration's on Trade Adjustment Assistance, similar to the legislation the chairman has introduced and I am co-sponsoring. I think it is so important. I think our government has an obligation to support these types of programs. It represents a very small amount of our overall budget. In fact, our exports were more than $1.6 trillion in 2000 alone; the current TAA programs cost 1/20th of 1 percent.

The legislation the chairman has introduced and that I am supporting would raise those expenditures to less than 1/10th of a percent of the entire total. I mean, I do not think that that is too much to ask. We have an obligation to assist our workers, and certainly in the difficult transitions that they are making as a result of losing their jobs.

So can you tell me where the President and you stand on these questions, and what are you going to do to support these efforts in Congress? Because we really do need to reauthorize and expand the support of these programs.

Ambassador SCHWAB. Thank you, Senator, for the question. As the President laid out in the State of the Union address, he and the administration are fully supportive of a strong, vibrant Trade Adjustment Assistance program that includes reauthorizing and improving TAA. We have noted that we are willing and ready as an administration to work with Congress on TAA legislation. In terms of the budget, the budget assessment reflects the current state of play and current law. As you know, the authorization for TAA has expired. So, I think that the key is for Congress and the administration to move forward in terms of working on TAA legislation.

I would note, when it comes to jobs and employment—and this in a way goes back to your question about competitiveness—every year the economy creates approximately 17 million jobs, on aver-

age. It loses approximately 15 million. These are long-term jobs. Last year it was for a net plus of a little over one million, but generally on average, you look back, say, 10 years, 17 million created, 15 million lost. There is this churn in the economy. The key is to ensure that the individuals who may be losing their jobs are eligible and knowledgeable about, have the skills, training, and mobility to have access to the net increase, the 17 million jobs being created.

We know, for example, that since August of 2003 the U.S. economy has created, net, over 8 million jobs. Who is getting those jobs? And are those individuals who may be laid off, those individuals, whether they are losing their jobs because of productivity enhancements, technological change, even trade—and we know that the trade impact, while very narrow, is something we need to be cognizant of and sympathetic to and address, for example, through Trade Adjustment Assistance. But overall, we need to create an environment within which these individuals in these communities can make the transition. Many have, and some are struggling to. We look forward to working with you on it.

Senator SNOWE. Well, first of all, that may be true if you look at the long term and what has happened. But in January alone, we have lost 17,000 jobs, which is the first time in 4 years employment has shrunk in America's economy. I am just saying that I have seen the acceleration of job losses, and particularly in the manufacturing sector in my State. We just lost another company a few weeks ago, Burlington Homes, 70 jobs. They had been in business for more than 14 years.

So I guess what I am asking is, first, why is the President proposing cuts in Trade Adjustment Assistance? It does not stand to reason. It does not make sense. It is going totally in the wrong direction. I am telling you, we have an obligation, so cutting these programs simply does not make sense, and it is the wrong thing to do.

Second, I would hope the President does not threaten to veto this reauthorization. I hope that we can work together to make sure that it can happen to benefit workers. This time is very important to so many. This is the safety net that we owe the American worker at a time in which we are talking about and expounding the virtues of trade agreements, and we have heard it time and again, but there are a lot of losers in those trade agreements, and there certainly have been many in my State. So we have to honor, I think, the benefits of that program and to make sure that we expand it to address some of the real problems that are facing these workers.

Ambassador SCHWAB. Let me offer just a quick, 2-part response to what you said. One, the President is not threatening to cut Trade Adjustment Assistance. Recognizing the way TAA is set up, it is basically an entitlement, so the budget estimates what the through-put will be. As I said, we are committed as an administration to work with the Congress to reauthorize and improve TAA. The President stated that. He stated it in the State of the Union, and we stand by that.

The CHAIRMAN. Madam Ambassador, I am afraid——

Ambassador SCHWAB. Could I just mention one other thing?

The CHAIRMAN. Well, we have 3 minutes left to get to the floor to vote.

Ambassador SCHWAB. All right.

The CHAIRMAN. And we should vote. It takes only a certain amount of time to get there, so I thank you very much, Madam Ambassador.

I note there have not been 11 Senators present for a quorum so we could not report out the nomination of Doug Shulman to be IRS Commissioner. We will find an opportune time when we can vote on that nomination.

In the meantime, the committee stands in recess.

[Whereupon, at 11:12 a.m., the hearing was concluded.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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**Senator Maria Cantwell**
**March 6, 2008**
**Finance Committee**
**Statement for the Record**

Thank you, Ambassador Schwab, for your leadership on our trade agenda. It is a difficult and important job that you handle with grace.

I want to ask you about the status of the pending WTO case involving the more than $40 billion in illegal subsidies that European governments have provided to Airbus since the 1960s. *When will the WTO panels reach their decisions?*

European governments have long provided subsidies for the development, production, and financing of Airbus planes to ensure success. At the same time, it has long been U.S. Government policy to actively work to stop foreign governments from granting subsidies that violate WTO rules and distort fair trade.

In the spring of 2005, the Senate overwhelmingly passed a resolution by a vote of 96-0 calling on the European governments to end Launch Aid.

I know you personally have vigorously and consistently spoken out against Launch Aid for Airbus. On many occasions both in public and in private, you have said that Launch Aid must end.

Last week, we were all stunned and extremely disappointed by the U.S. Air Force's decision to award its tanker bid to Airbus/Northrop Grumman for the KC-30. What is particularly disturbing is the disconnect between the U.S. Government's trade policy against subsidies and this tanker contract.

The platform for the KC-30, the A330, was developed and financed through billions of dollars in illegal subsidies!

Given ongoing concerns about the subsidies European governments provide to their aerospace companies, awarding this historic contact to Airbus/Northrop Grumman is an unbelievable contradiction.

The tanker contract sends the wrong signal to our trading partners. It is counter-productive to your work to end illegal subsidies in order to level the playing field for U.S. companies. And, I fear, it is going to hurt the U.S. trade agenda in the long run.

*Won't the KC-30 award have a negative impact on our trade policy and hurt your ability to fight to end illegal foreign subsidies?*

United States Senate
Committee on Finance

Sen. Chuck Grassley · Iowa
Ranking Member

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**STATEMENT OF SENATOR CHUCK GRASSLEY**
**Finance Committee Hearing:**
**The Administration's 2008 Trade Agenda**
*March 6, 2008*

Thank you, Ambassador Schwab, for appearing before the Committee this morning. I think it's important that we jointly review the trade agenda at the beginning of each year, and this year especially so. One year ago, the Administration was engaged in earnest negotiations with congressional leadership to find a way forward on the trade agenda. That effort culminated in the May 10th bipartisan compromise, which was announced with much fanfare. It's now almost 10 months to the day, and yet the only progress we have to show is the enactment of legislation to implement our trade agreement with Peru. Pending trade agreements with South Korea and Panama may be side-tracked for the moment. But our pending trade agreement with Colombia is overdue for consideration. Congress recently enacted legislation extending our Andean trade preferences through the end of this year. It's my hope that our effort at bipartisan compromise has helped to foster additional goodwill so that we can proceed to take up the Colombia trade agreement in a timely manner. Given recent events in that region, it's even more critical that Congress demonstrate solidarity with such an important ally by implementing our trade agreement with Colombia.

This hearing is also timely given some of the recent criticisms we've heard from politicians about trade generally, and about the North American Free Trade Agreement in particular. This is an opportunity to remind the public that the primary purpose of our trade agreements is to break down barriers to U.S. exports. Our economy is largely open to imports already, and our trade agreements don't change that. Whether we have NAFTA or any other trade agreement, we'll still have minimal barriers to imports unless we start down a protectionist road. But that doesn't help U.S. exporters reach the 95 percent of the world's consumers who live outside the United States. Our trading partners aren't willing to unilaterally drop their barriers to our exports. So the only way we're going to eliminate tariff and non-tariff barriers is by entering into trade agreements. Many people rally to the cry for a level playing field for international trade. Yet that's just what our trade agreements do—they turn a one-way street into two-way trade. Just look at our trade agreement with the Dominican Republic and Central American nations, for example. Before we implemented CAFTA, we registered a trade deficit of over $1 billion dollars with those countries. In 2007, we turned that into a trade surplus of over $3.5 billion dollars. That's helping us to sustain good paying jobs here

in the United States. And consumers in those countries are benefiting from lower prices and more choices of high quality American products. While there may be specific sectors that are hard hit, the overall impact is that trade benefits each country. In the United States, we have trade adjustment assistance programs to help dislocated workers adjust. We need to reauthorize and improve our trade adjustment assistance programs, and I look forward to working with my colleagues to achieve that this year.

Today's hearing also affords the Committee a chance to review the Administration's efforts on trade enforcement. We're starting to see some significant results, particularly with respect to China, and I look forward to hearing Ambassador Schwab's assessment of those results and where we go from here. Finally, I look forward to getting an update on the status of the Doha Round negotiations in the World Trade Organization. A successful outcome means an ambitious outcome, and time is running out on those negotiations. But the flip side is that no agreement is better than a bad agreement. If we're going to agree to concessions, then we're going to have to be able to demonstrate to our constituents that U.S. farmers, manufacturers, and service providers will get meaningful new market access opportunities in exchange. Thank you again, Ambassador Schwab, I look forward to hearing your testimony.

**STATEMENT OF U.S. TRADE REPRESENTATIVE SUSAN C. SCHWAB**
**BEFORE THE**
**U.S. SENATE FINANCE COMMITTEE**
**THURSDAY, MARCH 6, 2008**

Mr. Chairman, Senator Grassley, members of the Committee. I appreciate this opportunity to discuss the 2008 Trade Agenda.

**The Importance of Trade**

Trade is a critical component of our economy. It is helping to sustain our economic growth. Last year, the growth of exports of U.S. goods and services made up more than 40 percent of our economic growth. At greater than $1.6 trillion in 2007, goods and services exports reached almost 12 percent of our GDP, their highest level ever.

Therefore, our trade agenda is clear – we need to help move this economy forward by opening markets to for American businesses.

To do this, we will work to:

1. Approve our pending free trade agreements with Colombia, Panama and South Korea, and
2. Reach a successful conclusion of the Doha Development Round of multilateral trade negotiations.

We will also work with congressional leaders to reform and reauthorize Trade Adjustment Assistance. Finally, we will to continue to aggressively enforce existing agreements. We accomplished a great deal last year and, working together, we can accomplish even more in 2008.

As 2007 was drawing to a close, we were able to catch a glimpse of what could and should be the rebirth of a bipartisan pro-trade coalition on Capitol Hill, when both Houses approved the Peru Trade Promotion Agreement by strong bipartisan margins. Everyone had to a give a little to get there – witness last year's May 10 bipartisan accord – but these strong votes must be the basis for our work going forward to secure passage of the remaining FTAs and renewal of Trade Promotion Authority.

Now more than ever, it is vitally important to break down the walls that impede American businesses from trading with the other 95 percent of their potential customer base – the rest of the world.

Anyone who doubts the positive impact of agreements like the Doha Round and the three pending FTAs need look no further than the Uruguay Round and the North American Free Trade Agreement. The collective impact of those two agreements is felt today by the average American family of four – to the tune of a boost to annual income of $1,300 to $2,000.

In fact, compared to the period prior to these two agreements, the decade-plus that followed their enactment was characterized by stronger U.S. economic growth, higher manufacturing output, and lower unemployment.

As a result of the success of our existing FTAs, our trading partners, including Canada and Mexico, are among our most pro-trade allies in Doha. They understand that trade-liberalizing agreements contribute to growth in trade, which in turn contributes to economic growth and prosperity for the vast majority of our people.

Our FTA partners are also among the most rapidly growing markets for our exports. In fact, U.S. exports to the 11 FTA countries implemented since NAFTA have grown nearly 80 percent faster than U.S. exports to the rest of the world

As we move forward with our busy trade agenda this year, I am confident that by working together we can accomplish a great deal. This committee, under your leadership Chairman Baucus, and yours, Senator Grassley, has always ensured that trade policy remains a bipartisan issue.

I still believe that we can achieve a cooperative approach to economic engagement and leadership in the world that transcends party, president, and Congress. Democrats and Republicans have managed to work closely together for more than 70 years on trade issues.

The mission of opening markets, spurring development, and keeping the United States at the forefront of a rules-based trading system must go beyond party affiliation. We all have a responsibility to deliver results for the American people.

**The FTAs**

Those who say they want a more level trade playing field need look no further than the two pending Latin American FTAs. These agreements with Colombia and Panama will provide a level playing field by transforming one-way free trade with those nations into two-way free trade.

Both the House and Senate voted twice in the last 15 months to continue giving virtually all Colombian exports tariff-free access to the United States under the Andean Trade Preference Act – and they were right to do so. In addition, the vast majority of Panamanian exports currently enter the United States duty-free under the Caribbean Basin Initiative.

I ask the Senate to now vote to give American businesses the same preferential treatment when they export to both of these markets. The only way to do that is by approving these FTAs.

As for the U.S.-Korea (KORUS) FTA, it would be the most commercially significant FTA the U.S. has concluded in the past 15 years.

A "no" vote on any of these FTAs is a vote against U.S. exporters – manufacturers, service providers, and agricultural producers – including more than 20,000 small and medium size businesses who currently export to these three countries.

A "no" vote has critical implications for U.S. competitiveness and for our leadership in the world economy.

A "no" vote is akin to sitting on the sidelines as the rest of the world sprints by.

**Colombia**
First on our trade agenda is the Colombia Trade Promotion Agreement.

The Government of Colombia and the vast majority of Colombians realize the difference between temporary preferences and the exchange of permanent commitments through an FTA between sovereign nations.

With labor and environment issues addressed in our bipartisan agreement of May 10, critics of this agreement now claim that their opposition is rooted in Colombia's inability to corral systemic violence – including that which has impacted some of the country's union members. They question the Colombian government's commitment when it comes to bringing these perpetrators to justice.

Yet, the reality on the ground paints a very different picture.

Thanks to the Colombian Government and to Plan Colombia – a bipartisan initiative launched by the Clinton Administration – the progress on the ground is heartening, inspiring, and represents real results.

One recent study shows that levels of violence have been reduced substantially, with the murder rate at its lowest level in over a decade, and with kidnappings down more than 80 percent since 2002. In fact, since 2002 the homicide rate has dropped by 40 percent, and homicides of unionists have dropped more than twice as fast.

In addition, more than 31,000 paramilitary members have demobilized collectively under the Justice and Peace process, and over 10,000 former guerilla members have demobilized individually.

And the criminal drug threat, while still a monumental challenge, is being met head-on by Colombian authorities who are making steady progress working with us to bring drug kingpins to justice in record numbers.

And it is not a coincidence that the country has succeeded in dramatically reducing homicides, violent crime and kidnappings as the government has reclaimed authority over parts of the country previously controlled by terrorist groups like the FARC.

The Colombian government has also made extraordinary efforts to protect vulnerable populations. In 1999, the Colombian government established a special program to protect labor union leaders and their families, as well as other vulnerable groups. Today, more than 9,400 people are protected by that program, of which almost 2,000 are union members.

Since 2002, the Colombian government has increased the annual budget of the judicial branch and the Office of the Prosecutor General by 75 percent. A special unit was created within the Office of the Prosecutor General to address 187 priority cases of violence against labor unionists – cases identified by Colombia's three leading labor unions – as well as the case backlog. New judges have been hired and are dedicated specifically to addressing these cases.

I want to point out that all of these efforts were launched before our Free Trade Agreement negotiations began. They reflect strongly held commitments on the part of the government of Colombia to the people of Colombia.

You've heard the phrase: "Past performance is not indicative of future success"? The opposite is the truth here. Past performance is the single best indication of future success. President Uribe has a track record as a transformational leader. His commitments really count.

Perhaps the best measure of the success that Colombia's President Uribe can claim for bringing enhanced stability and prosperity to his country lies with the clear vote of confidence of the Colombian people – a Gallup poll taken in January showed that President Uribe enjoys an 80 percent approval rating.

The fact is, Members of Congress who have joined Administration officials on recent visits to Colombia have found a country completely transformed. A mere eight years ago, this nation teetered on the edge of becoming a failed state.

Every recent study that has been done on violence in Colombia shares a common thread – they all show that the trend line is moving firmly in the right direction. Yes, there is more to be done. But we must ask ourselves: When will we not only acknowledge, but reward, the Colombian's commitment to a just and secure state and their multi-year record of unequivocal success?

The time is now.

The FTA will serve to ensure an active U.S. role in fostering stability and security in a region of critical interest to our national security – a region that is home to some who loudly advocate a different path than the pro-market, pro-growth, pro-U.S. stance adopted by Colombia's current leadership.

Colombians rightly believe this FTA will lead to greater economic growth. The government has made great strides in turning people away from violence, but they need to be able to provide alternatives – namely more jobs.

And we have an historic opportunity to help by providing the certainty that comes with taking temporary preferences and making them permanent. By implementing the Colombia FTA, we can also contribute to further success. By delaying its consideration, or voting it down, we accomplish nothing. Or worse.

Their struggle is our struggle, and it is our duty to support the courageous Colombians who are dedicated to furthering the causes of democracy and prosperity in this strategically vital region.

Events of the past week make clear the importance of doing everything we can to help the Government of Colombia keep its economy growing, and to create jobs and opportunities for Colombia's poor. This agreement will support the people of Colombia who want to see a prosperous, inclusive Colombia, a Colombia with a strong representative democracy and growing open economy.

Make no mistake about it, how we deal with the Colombia FTA will be widely viewed as the proxy for how we treat our friends in Latin America. In conversation after conversation with leaders in the Americas, the outcome of the Colombia FTA is clearly seen as symbolic of the United States' attitude toward the entire continent.

This Administration will not yield in our efforts to persuade the Congress to do the right thing – and approving the Colombia FTA is most assuredly the right thing.

**Panama**

Panama is not only economically important, but also geo-politically important. It is part of a strategic bridge between the United States and Latin America.

The FTA, which we signed last June, represents an historic development in our relations with Panama and responds to Congress' objective, as expressed in the Caribbean Basin Trade Partnership Act. It is the appropriate next step in our long bilateral relationship.

The FTA will create significant new opportunities for American workers, farmers, businesses, and consumers by eliminating barriers to trade with Panama. Approximately 88 percent of U.S. exports of consumer and industrial goods, and more than half of U.S. farm exports, will become duty-free immediately when the FTA enters into force.

The FTA will also 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. It will also help ensure a stable legal framework for U.S. investors in Panama.

The FTA ensures that 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, which is expected to begin this year and to be completed in 2014.

And, of course, the FTA includes labor and environment provisions which fully reflect the May 2007 bipartisan agreement on trade between the Administration and Congressional leadership.

**South Korea**

The KORUS FTA is the most commercially significant FTA the United States has concluded in the past 15 years. This agreement will open a growing market of 49 million consumers to the full range of U.S. goods and services, from autos to telecommunications services. In fact, the U.S. International Trade Commission estimates that the reduction of Korean tariffs and tariff-rate quota provisions on U.S. goods alone would pump $10-12 billion annually into our economy.

In addition, the KORUS FTA contains state-of-the-art protections for intellectual property rights, including for the digital products and emerging technologies that are crucial for advancing U.S. prosperity in the 21st Century.

More broadly, the KORUS FTA is a powerful symbol of the United States-South Korea partnership, augmenting our longstanding bilateral security alliance, and strengthen our relations with one of our most important and reliable allies in Asia.

The KORUS FTA will serve as a powerful demonstration of the United States' economic engagement in and commitment to the Asia/Pacific region, strengthening the U.S. presence in the most dynamic and rapidly-growing economic region in the world.

Failure to approve and implement the KORUS FTA in a timely manner will result in the loss of new and important access to the Korean market in the manufacturing, agricultural, and services sectors. It would also put U.S. exporters at a competitive disadvantage, as Korea's other free trade partners will receive preferential treatment in Korea's market while the United States does not.

In addition, inaction on the FTA will undermine the United States' leadership and credibility in promoting open markets and fair competition, not only in Korea, but globally, setting back vital U.S. geostrategic goals and undercutting U.S. global economic competitiveness.

**Partnering for FTA Passage**

From my personal interaction, I can confirm that many members of both the House and Senate want to work with us to approve these FTAs, as they did with the Peru agreement. They realize that these trade deals are in America's best interest and the approval of the remaining three FTAs would advance the standards of trade set by our groundbreaking, bipartisan agreement with the House last May.

Now is the time to approve these remaining agreements, beginning with the Colombia FTA. The legislatures of Colombia and Panama have already approved their FTA agreements, and South Korea's legislature is expected to act in the near future.

**Doha/WTO**

The Doha Round is the President's highest trade negotiating priority. He is committed to concluding an ambitious Doha Round this year that will increase economic growth and development, and alleviate poverty by generating new trade flows in agriculture, manufactured goods, and services.

These three areas form the market access core of the Round. Forging a strong result in each area remains the key to achieving a breakthrough that would propel the negotiations toward the finish line.

We are committed to do everything possible to successfully conclude Doha, short of signing off on an unambitious deal.

The only agreement worth doing is one that creates new and real market access worldwide—particularly in key emerging markets that are becoming major players in the global economy. Such an agreement would give a strong boost to American interests, and it is also the only kind of agreement that meets the development promise of Doha.

The central focus of intense ongoing work in Geneva is the latest revised draft negotiating texts from the chairs of the Agriculture, Non Agriculture Market Access (NAMA), and Services negotiating groups. We are not alone in our concern about the serious potential erosion of ambition evident in the most recent Ag and NAMA texts.

Despite our disappointment, the Agriculture and NAMA texts remain broad enough that we can see the potential for various combinations of options that would still benefit U.S. businesses and American consumers – as well as contribute significantly to development and the alleviation of poverty abroad. It is on that basis that we are continuing to work in Geneva.

The Services text also needs additional work, but we feel that it also has potential. In the past few weeks, we've been successful in raising the energy level in these critical negotiations and have pointed them toward a path forward. We must now move beyond the first iteration of the Services text to one where members make commitments to bind current levels of market access and to create new market access.

We have also begun efforts – working with some key partners – to renew a bilateral and plurilateral consultative process on Services market access among developed and major developing countries. These efforts are aimed at culminating in minister-level engagement in parallel with the Agriculture and NAMA negotiations.

We are there at the table in Geneva and every bit as committed to a successful outcome to Doha as we were when our leadership helped launch the Round in 2001. It was U.S. leadership that put the pieces back together after the Cancun breakdown, and it was our efforts that brought about the resumption of negotiations in 2005 and after the 2006 suspension. We are committed to provide the leadership necessary to bring the Doha Round to a successful conclusion.

We seek an agreement that will create real market openings. We know we need to do our share when it comes to tariff peaks and trade distorting subsidies. We also know that there can be no successful Doha Round unless our developed and advanced developing country trading partners also make meaningful contributions.

The Doha Round is likely to be a critical agreement for America and the world – particularly the developing world – with important implications for global economic growth, capacity building, and the use of trade to promote positive outcomes in the environment. We have a window of opportunity and we will use it wisely.

**Enforcement**

Enforcement of our trading partners' WTO commitments remains a top priority. We will continue to use dialogue with our partners to try to resolve problems on a bilateral basis.

However, where dialogue is not successful, we will not hesitate to use WTO dispute settlement, whenever appropriate.

Let me turn for a moment to China as an example. In terms of dialogue, we have been forceful with China about our concerns on the direction taken by several ministries to support national champions and protect non-competitive industries; to use standards to limit competition from imports; and to pursue trade-distortive export policies. We have also used dialogue to encourage those outward-looking, entrepreneurial forces and thinkers within China.

When dialogue has failed, we have not hesitated to use the tools at our disposal to enforce China's WTO commitments. We have been the most active member in seeking to resolve disputes with China at the WTO, having launched six cases since 2004 – including a new case on financial information services which was filed on Monday.

We were able to reach favorable settlements with China in two cases, including recently with their elimination of a dozen export and import substitution subsidies. We expect the WTO to hand down decisions this year in the three remaining cases – on auto parts, intellectual property rights enforcement, and market access.

We hope the Chinese and others will take note that when it comes to our enforcement efforts more generally, because we have won or successfully settled 96 percent of the cases this Administration has taken to the WTO. When it comes to defending cases brought against us, we still can boast wins or productive settlements almost half the time. We are ready and willing to settle these disputes with China in a businesslike manner if the Chinese Government wishes to do so.

When it comes to enforcement of existing trade agreements, this Administration will continue to employ the continuum of tools at our disposal to restore our rights and, if necessary, litigate, to ensure our rights are protected.

**Investment**

In addition to our work on FTAs and in the Doha Round, we are pushing an investment policy agenda that seeks to open markets to investment and create strong protections for investors in those markets.

Through our bilateral investment treaty (BIT) program, which USTR co-leads with the State Department, we are seeking to negotiate binding international agreements to promote and protect investment flows.

**Climate/Environment**

I would like to touch briefly on another emerging issue. A lot has been said in the past about trade and the environment, but today it has the potential to take on a whole new meaning – both good and bad.

It is high time we played up the important benefits trade can bring to environmental stewardship. One example I want to highlight is the proposal that we and others presented recently in advance

of the meetings on climate change in Bali. We proposed to eliminate worldwide tariff and non-tariff barriers on trade in environmental technologies and services.

In the initial stage of our proposal, we propose to use a negotiation in the NAMA segment of the Doha Round to grow trade – and presumably use – in climate-friendly technologies by an impressive 7-14 percent annually.

We have already put forward in the Doha Round an unprecedented proposal to eliminate or cut back dramatically on subsidies that result in the devastating over-fishing that threatens our oceans and the individuals whose very livelihoods depend on them.

When two dozen or so trade ministers met in Bali to discuss the nexus between trade and the environment, we also largely agreed that nations should avoid using the environment and climate change as an excuse to impose trade restrictions.

Attempting to force others to act on climate change through trade saber-rattling carries enormous risks. These threats to the global trading system cannot be ignored or glossed over.

The unilateral imposition of restrictions can lead to reprisals, and could dramatically impact economic growth and markets worldwide – while possibly accomplishing nothing, or worse, when it comes to advancing environmental objectives.

I urge those who are responsible for trade policymaking – both internationally and in our own Congress – to carefully review the implications and risks of some of the trade ideas being drawn up by those who lay claim to authority over environmental issues. We can and should be a part of laying out the roadmap on how to advance trade and environmental objectives in a mutually supportive manner.

**Conclusion**

Our nation is in the midst of an economic transition – exports are now playing a larger role than ever before in sustaining U.S. economic growth. Therefore, anything that encourages export growth – like approving our three pending FTAs and successfully concluding Doha – will only serve to boost our economy further.

So add it all up – the economic and commercial; the political and strategic; the shared value and shared values. It makes sense. Now is the time to act.

# # #

**QUESTIONS FOR THE RECORD**
**Hearing on**
**"The Administration's 2008 Trade Agenda"**
**March 6, 2008**

**QUESTIONS FOR AMBASSADOR SUSAN SCHWAB**

**QUESTIONS FROM SENATOR ROCKEFELLER**

**Question 1:**

As the Administration is aware, there is great concern on the Committee about the dispute settlement decisions in trade remedies which have been upsetting the balance of rights and obligations negotiated by the United States in the Uruguay Round. While there have been many problem decisions that are steadily attacking U.S. trade remedies, there is obviously great concern about the efforts to limit the ability of the United States to capture 100 percent of the dumping found. We appreciate the Administration's pursuit of a clarification of the Antidumping Agreement in the Rules negotiations. We also concur with the position the U.S. recently has taken in the government of Mexico's appeal of the panel decision in the stainless steel case. Certainly, restoring the balance that existed at the end of the Uruguay Round -- including the use of zeroing -- is critical if a Rules package is to be acceptable. The Administration has taken the position, as reflected in your 2008 Trade Policy Agenda and Annual Report for 2007, that the Draft text released on November 30, 2007 by the Chairman of the Rules Committee was disappointing to the U.S. From what my office has heard from domestic industries that follow the negotiations and have needed to use trade remedies here in the United States, there are several problematic provisions in that Draft text that would substantially weaken U.S. trade remedies. This is the case despite the Draft text's partial restoration of rights on the zeroing issue. Concern has been raised on the sunset provisions, on additional standing burdens, on the causation standard and many other critical issues.

**Question 2:**

I would like to ask you about the ongoing WTO Doha Round negotiations – and in particular about the Rules negotiations. As you know, this is an area of concern that has been highlighted by myself and many of my colleagues in the Senate. The draft Rules text that has been released by the Chairman of that negotiating group is clearly not acceptable from the standpoint of the United States and the negotiating objectives that have been set out by Congress. It includes numerous provisions that would significantly weaken our fair trade laws – including measures that would require the mandatory "sunset" of trade orders after 10 years (even where it is demonstrated that unfair trade will continue), that would require the International Trade Commission to consider the purported benefits of buying dumped and subsidized products, and that would make it far more difficult to bring antidumping and countervailing duty cases. To my knowledge, there is little or nothing in the text that would strengthen the law vis-a-vis where we were

at the end of the Uruguay Round. Needless to say, this is not consistent with the guidance Congress has given in terms of ensuring that nothing in the Doha agreements serve to weaken our fair trade laws. I believe that any agreement along the lines of what has been put forward would be dead on arrival in Congress. My question is what do you intend to do in terms of the Rules talks to ensure an outcome that is acceptable to the United States? Have you made clear that the United States will not agree to the provisions in this draft text that weaken our laws? Can you assure us that the Administration will not agree to these types of provisions in an effort to conclude the Round or to gain concessions in other areas of the talks? In general, given the current dynamic in the talks and the clear unacceptability of the draft text, how do we possibly get to an outcome that could be accepted in Congress and by the American people? What is being done to rebalance the Draft text so that, in fact, it will maintain the ability to pursue unfair trade practices aggressively here at home? What can you point to in the Draft text or the Dispute Settlement negotiations that correct the serious problem of the Appellate Body creating obligations not agreed to in the negotiations and certainly not reflected in the text of the agreements?

Answer to questions 1 and 2:

Like you, we believe that strong and effective remedies against unfair trade practices, including those against dumping and subsidies, are essential to the integrity of the multilateral trading system. The United States has put forward a series of proposals to strengthen trade remedies, including developing stronger rules against circumvention and abuse of new shipper reviews; improving transparency and due process; addressing issues arising out of past adverse WTO dispute settlement findings on AD/CVD issues, including proposals to address issues such as zeroing, causation and facts available; and strengthening subsidies disciplines.

As to Chairman Valles' draft text, at the meetings of the WTO Rules Group, we have raised, and continue to raise, our concerns with respect to a number of specific aspects of the text, such as the provisions relating to sunset reviews and the failure to address zeroing in all contexts in investigations. On subsidies, we expressed disappointment that the text does not reflect our full proposal to expand the prohibited category of subsidies.

As you know, we have voiced our strong disagreement with the Appellate Body reports on zeroing. We have emphasized that the role of the Appellate Body is to interpret agreements, not to create rights and obligations. The United States tabled a proposal in the Rules negotiations to provide clear, precise rules in the Antidumping Agreement expressly permitting the use of zeroing, and delivered a strong message to other WTO Members on the critical importance of this issue. Chairman Valles' text addresses an important aspect of our zeroing proposal by permitting zeroing in reviews and in both targeted dumping and transaction-to-transaction comparisons in antidumping investigations. However, as we have stated, the text is deficient because it does not permit zeroing in calculations based on average-to-average comparisons in investigations, as set out in our original proposal. We will work in the upcoming negotiations to address this flaw.

We note that the text does take on board a number of additional U.S. proposals, including improvements to transparency and due process. While we are not fully satisfied with how the text addresses many of our proposals, improving transparency and due process so that U.S. exporters are treated fairly in foreign antidumping proceedings has been and will remain a key priority for the United States.

**Question 3:**

The now expired trade promotion authority contained in the Trade Act of 2002 enunciated a number of important trade negotiating objectives for trade remedies, including addressing the longstanding problem of differential treatment of tax systems and enhancing subsidy discipline. There is nothing in the Chairman's Draft text on either topic. What steps are being taken to ensure that these important issues are provided for to our satisfaction in any final package?

Answer:

As a general matter, the Chairman of the Rules Negotiating Group has made it clear that his text is only a first draft and that additional drafts can be expected as the work of the Group continues. Therefore, there will be continued opportunities to have other issues included in the final text. Since the beginning of the negotiations, the United States has made numerous subsidy proposals to address the different treatment of direct and indirect taxes, and to strengthen the WTO's subsidy disciplines more generally. Pursuant to the Trade Promotion Authority negotiating objective to address the tax issue, we submitted a paper to the Rules Negotiating Group in March 2003 identifying the differing treatment of direct and indirect taxes under the WTO rules as an issue that needed to be addressed. The Chair's text does not address the issue. We have expressed our disappointment to the Chair and have continued to raise the issue in the review of the Chair's draft text and in the context of related proposals made by other WTO Members. In addition, as we go forward, we will need to be cognizant as to how any change in the rules might affect indirect taxes in the United States, such as state sales and federal excise taxes that, like value-added taxes, are not imposed on export sales.

In addition to the issue of direct and indirect taxes, the United States made a wide range of proposals to clarify, improve and strengthen the existing subsidy rules. While the Chair's text does not reflect all of our proposals, it does include, among other things, strengthened rules on "dual pricing," an issue of long concern to the United States, and lending from state-owned banks, which is prevalent in nonmarket and transition economies. Moreover, the Chair's text includes U.S. proposals with respect to subsidy benefit calculation methodologies. Agreement on these methodologies, which are consistent with U.S. countervailing duty practice, would be an important step forward in the historical development of the general subsidy rules and potentially provide guidance to WTO dispute settlement panels examining industrial and agricultural subsidy issues. Although the Chair's text does not reflect other U.S. proposals to enhance the current subsidy rules, we are continuing to examine how the Chair's text can be revised to

clarify, improve and strengthen the existing disciplines. Finally, it should be noted that due to strong opposition from the United States and other developed countries, the Chair's text does not include a myriad of "special and differential" proposals made by developing countries that would result in the weakening of the existing subsidy rules.

**Question 4:**

Ambassador Schwab, last week the WTO issued two new Dispute Settlement Panel decisions that continue the very disturbing trend of undermining the U.S. trade laws by imposing commitments on the United States that we never agreed to. These two cases were brought by Thailand and India and relate to initiatives by the U.S. Customs Service to ensure collection of legitimately imposed antidumping duties. Customs was responding to a serious problem – in some cases more than 90% of owed antidumping duties have gone uncollected due to various circumvention schemes. Customs' response was measured and reasonable – it required that certain importers obtain an enhanced bond to better ensure payment of actual duties owed. Importers also are provided an opportunity to demonstrate that they are not a risk to avoid payment of such duties and as such have the amount of the bond reduced. Despite Customs adopting a reasonable approach to a serious problem, the WTO has ruled yet again against the United States. Further, in the Thailand decision, the WTO Panel again ruled against the United States in its use of zeroing in its antidumping calculations. These and other similarly misguided decisions are undermining U.S. confidence in the WTO by imposing new rules and obligations that the United States never consented to in negotiations. I believe it is essential that these most recent WTO Panel decisions be appealed and that your office takes every measure possible to reverse these decisions. Can you advise me how you intend to respond to these decisions specifically and, more broadly, to the ongoing problem we have with the WTO Dispute Settlement process? What concrete proposals has the Administration offered to address that problem? Is there any modification contained in the Rules Chairman's Draft text?

Answer:

We are in the process of reviewing the February 29, 2008 reports carefully. Thank you for your views on this, we will consider this carefully before deciding what action to take. Thailand, India, and the United States have the option of appealing the reports. Customs' bonding policy is also the subject of ongoing domestic litigation. In November 2006, the Court of International Trade issued a preliminary injunction prohibiting Customs from imposing the same bonding requirement at issue in the WTO dispute for certain importers of shrimp.

With respect to bonding, the panels disagreed with the United States that Customs' bonding policy as applied to imports of shrimp from Thailand and India constituted "reasonable security" under the GATT. However, on an important point of principle, the panels agreed with the U.S. and rejected the claim that the imposition of an additional bonding requirement for antidumping and countervailing duties was "as such" inconsistent with U.S. WTO obligations.

The panels also agreed with the U.S. by rejecting India and Thailand's claim that Customs' bonding policy breached other provisions of the Antidumping Agreement.

With respect to zeroing generally, as you know, we have voiced our strong disagreement with the Appellate Body reports on zeroing. In addition, the United States tabled a proposal in the Rules negotiations to provide clear, precise rules in the Antidumping Agreement expressly permitting the use of zeroing. Chairman Valles' text reflects some aspects of this. We will work in the upcoming negotiations to address the remaining flaws in the Chairman's text.

However, with respect to the particular type of zeroing used by Commerce in the shrimp investigation, i.e., model zeroing, the Department of Commerce announced in February 2007 that it would cease using this type of zeroing in investigations using weighted average calculations. Thailand's challenge raises many of the same issues regarding the use of zeroing as the Shrimp dispute with Ecuador. In that case, Commerce's redetermining the results of the antidumping duty investigation on shrimp from Ecuador made the issue moot.

As for the Dispute Settlement negotiations, the United States has proposed a number of changes to the WTO dispute settlement system to help ensure that the system is working to resolve disputes applying the agreements as negotiated. With respect to the Doha Rules negotiations generally, I would refer you to my response to Question 2, which addresses these systemic issues in greater detail.

**QUESTIONS FROM SENATOR BINGAMAN**

**Question 1:**

ILO monitoring programs: Madame Ambassador, as you know, the International Labor Organization has engaged in a highly successful program in Cambodia whereby it directly monitors the compliance of Cambodian factories with Cambodian labor law. Cambodia now has over 90% compliance with minimum wage laws applicable to regular workers. I think we should expand this experiment to other countries, and I plan to introduce legislation soon to do so. Would the administration support the establishment of a monitoring program in Peru or Colombia? Wouldn't a program like this do much to counter Hugo Chávez's influence in Latin America?

Answer:

Under the Cambodia model, if Cambodia improved working conditions and made progress in respecting workers' rights, Cambodian firms were allowed to sell more apparel in the U.S. market through additional quota under the Multi-Fiber Agreement (MFA). This model was successful because it involved an industry-based voluntary program limited to the apparel sector where apparel was a large part of the country's

growing economy. However, the MFA expired at the end of 2004, so granting additional quota access is no longer an option as an incentive to improve working conditions in apparel factories.

The ILO continues to monitor conditions in apparel factories in Cambodia and produce widely available reports on compliance that are used by U.S. brands in their sourcing decisions. The ILO also is currently developing monitoring and verification schemes in other countries, namely Jordan, Vietnam, and Lesotho, tailored to the specific conditions in each country and the U.S. Government supports these efforts. These programs are in different stages of development, but are currently all limited to the apparel sector. The program in Jordan, called "Better Work Jordan," is the furthest along in development, and the U.S. Government is supporting the project with a $2.7 million grant from USAID. The project is industry-based with participation from interested apparel buyers.

Both Peru and Colombia have much larger and more diverse economies than Cambodia, and several factors would seem to mitigate against effectively expanding the Cambodia model to Peru or Colombia. Such a model might well prove cost prohibitive and logistically impossible for application across broad export sectors in Peru or Colombia. Additionally, third party monitoring of labor conditions may divert from their governments' focus on enforcing their own labor laws and efforts to improve the capacity of their labor ministries to undertake that responsibility. The Cambodia model depended on the interest of a limited collection of apparel buyers (principally from the United States and Europe) to choose to do business in Cambodia based on the reports of a third party monitor, something which would be much more difficult involving all sectors and a global array of investors in larger economies. Any direction concerning the use of limited resources for addressing labor issues in those or other countries in the region should maintain maximum flexibility in order to fully take into account the varying circumstances of each country.

The FTA labor provisions provide strong support for ensuring respect for labor rights in Peru and Colombia – as negotiated with the Congress as part of the May 10, 2007 bipartisan agreement. If either country were to fail to maintain the fundamental labor rights in its law or fail to effectively enforce those laws, the United States could take action under the FTAs. The FTAs also include "Labor Cooperation and Capacity Building Mechanisms," under which compliance initiatives, including monitoring programs, as well as other cooperative efforts intended to assist the countries in meeting their FTA labor obligations, could be undertaken. These cooperative programs will be crucial in ensuring that our trading partners can meet their obligations and we support that adequate resources be devoted for these efforts, including through USAID and other relevant agencies.

**Question 2:**

Russian Suspension Agreement and the trade deficit: Madame Ambassador, as you know, the Department of Commerce and the Russian Ministry of Atomic Energy recently signed an amendment to the 1992 agreement suspending anti-dumping duties on low-

enriched uranium. These amendments allow Russia to sell low-enriched uranium directly to U.S. utilities for the first time. The sales are subject to specified quotas until 2021. However, sales that are structured as SWU contracts (i.e., those where the end user takes possession of the uranium before it is enriched) are not subject to the quotas. They are exempt thanks to the EURODIF court case, which establishes that enrichment is a service, not a good, and therefore not subject to anti-dumping law.

I understand that the administration favors legislation introduced by Senator Bunning, which would statutorily overrule EURODIF and classify enrichment as a service, rather than a good. U.S. nuclear utilities generally oppose this legislation because it will make uranium supplies subject to duty and therefore more expensive.

I have some questions about how this legislation would affect the trade deficit. According to the Bureau of Economic Analysis, the U.S. imported approximately $182 billion of crude oil in 2005, $225 billion in 2006, and $245 billion in 2007. These figures represent 10.9% of our total imports in 2005, 12.1% in 2006, and 12.6% in 2007. That is, crude oil imports are one of the single biggest drivers of the trade deficit. In terms of decreasing the trade deficit, will decreased crude oil imports from oil producing countries outweigh increased low-enriched uranium imports from Russia? Put differently, will greater use of imported uranium as a substitute for imported crude oil make an appreciable dent in the trade deficit?

Answer:

Because trade flows are subject to so many variables, and these variables are so interrelated, there is no reliable method to predict whether the substitution of low-enriched uranium for petroleum imports would have an appreciable effect on the aggregate U.S. trade balance. Although it might be possible to estimate the extent to which such a substitution would take place, and the corresponding net impact on the U.S. trade deficit, such an estimate would depend on many factors particular to the markets for petroleum, low-enriched uranium, and related products, and executive branch expertise in this area largely resides at the Department of Energy.

As representatives of the Departments of Energy and Commerce testified before the Senate Energy Committee on March 5, 2007, however, the Administration was prompted to support the amendment that Senator Bunning has proposed, as well as seek Supreme Court review of the *Eurodif* decision, because of the serious implications of that decision for U.S. national and energy security, as well as for the effective enforcement of U.S. trade remedy laws. As those officials noted, that decision threatens the viability of the highly-successful HEU Agreement with Russia, under which Russia committed to convert approximately 40% of its nuclear stockpile into non-weapons-grade low-enriched uranium by 2013. The *Eurodif* decision also threatens operations of the sole domestically-owned uranium enrichment supplier, which are essential for the production of the fuel needed to sustain our nuclear weapons program. Commerce Department testimony also noted that, if allowed to stand, the *Eurodif* decision could effectively exempt imports from the scope of U.S. trade remedy laws whenever import purchase agreements are structured in the form of service contracts. In the light of these important

concerns, the Administration looks forward to working with you and your colleagues to secure speedy passage of the legislation Senator Bunning has proposed.

**Question 3:**

Beef industry exports: Madame Ambassador, as I understand it, Mexico's border is once again open to U.S. dairy cows, but since 2003, no live breeding bulls have been exported to Mexico.

Moreover, this week, the State of Texas announced it would stop Canadian cattle from passing through the state's export facilities into Mexico until Mexico begins to accept U.S. breeding cattle.

What is the status of your and USDA's negotiations with your counterparts in Mexico to reopen the border to exports of live U.S. breeding bulls to Mexico?

Answer:

In October 2006, the United States negotiated a protocol and health certificate that allowed U.S. dairy breeding heifers 24 months of age or less entry into Mexico. In January 2006, the United States also negotiated a protocol and health certificate that allowed U.S. dairy bulls for artificial insemination purposes entry into Mexico.

In May 2007, the World Organization for Animal Health (OIE) determined that the United States was "controlled risk" for BSE. With regard to BSE, we believe this decision supports the existing scientific justification for the safe trade of all U.S. beef and beef products from animals of all ages, as well as trade in animals born after the "effective enforcement" of a country's feed ban. At the same May 2007 OIE General Session meeting, Canada was also determined to be "controlled risk" for BSE. Mexico has just been recommended for "controlled risk" status, which will be voted upon at the May 2008 OIE General Session. Pursuant to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, countries are obligated to base their sanitary and phytosanitary (SPS) measures on science and international standards, where appropriate to achieve their desired level of protection. We have been pressing all our trading partners, including Mexico, to base their import requirements for U.S. beef and beef products and live animals, including all breeding bulls, on OIE guidelines for BSE.

In the last several months, U.S. Trade Representative (USTR) and U.S. Department of Agriculture (USDA) officials have raised this issue in several different meetings. On January 10, 2008, it was raised at the sub-cabinet level with Mexican officials at the U.S.-Mexico Consultative Committee on Agriculture (CCA) meetings held in Mexico City. At the CCA meeting the United States and Mexico agreed to establish a Working Group on Livestock and Animal Products to work on, among other things, full OIE-consistent access for U.S. beef and beef products and live cattle. This Working Group met the week of March 24. In addition, on March 10, USTR and USDA officials met with Canadian and Mexican counterparts and agreed to a trilateral discussion later this month with the

objective of achieving OIE-consistent import requirements for beef and beef products and live cattle within North America.

**Question 4:**

Selection of FTA partners: Madame Ambassador, if this Congress were to extend fast-track authority, with which countries would you seek to negotiate trade agreements? How would you select them? Should the U.S. think about negotiating a Transatlantic Free Trade Area with the European Union?

Answer:

USTR's primary mission is to increase opportunities for American farmers, manufacturers, and service providers to export to the 95 percent of the world's customers who live outside the United States. Bilateral trade agreements are a means to create new market access for American exporters. USTR, in consultation with the U.S. Congress and other stakeholders, seeks to negotiate agreements that will be of economic benefit to Americans and with those countries that are able and willing to undertake the rigorous commitments required by our comprehensive trade agreements. A briefing to you or your staff could be arranged to discuss particular prospective FTA partners.

Our trade, investment, and overall economic relationship with the European Union is the largest and most complex in the world. At the April 2007 U.S.-EU Summit, leaders launched the Framework for Advancing Transatlantic Economic Integration (Framework), with the goal of fostering cooperation and reducing trade and investment barriers through a multi-year work program in such areas as regulatory cooperation, intellectual property rights, investment, secure trade, financial markets, and innovation. Normally, we engage in a detailed consultation process with our trading partners prior to deciding whether to launch negotiations for a free trade agreement to determine whether it is possible to find common ground on the difficult issues, such as market access for agricultural and industrial goods, access for each Party's service suppliers, and on other issues such as investment, transparency, and competition policy.

**QUESTIONS FROM SENATOR LINCOLN**

**Question 1:**

Cotton Specific: Madame Ambassador, I have deep concerns about the cotton specific provisions contained in the draft modalities text. In fact I joined nine (9) of my colleagues in conveying those concerns in a letter delivered to you last September, which I now ask be made a part of the record. I would also note that Senators Hutchison and Cornyn sent a similar letter. I realize that, in an effort to ensure the Doha Round continued to move forward, U.S. negotiators agreed in Hong Kong that cotton support programs would be reduced more and quicker than called for by the general formula cuts.

Now, I see a draft modalities text that calls for cotton cuts of 82% beyond whatever general formula is agreed, treats cotton differently than other commodities in almost every aspect of domestic support, and essentially tells the United States it must end its cotton program. The Hong Kong text doesn't remotely suggest this level of additionality.

Going back to that prior agreement – it seems to me that cotton, almost by necessity, cannot be decided until the complete terms of the general formula cut are in place, including implementation periods. It also seems to me that any level of additionality for cotton, whether 1 percent more and 1 day earlier would comply with the obligations of the United States.

U.S. officials have stood before Congress and Ambassador Portman stood before the WTO and stated that the African countries' complaints against the US cotton program are not well-founded and that the extraordinary treatment of cotton they are calling for will not solve their economic problems.

I would like to know your thoughts and there are several parts to this question.

- Isn't it time for US negotiators to get serious about these outrageous demands and refuse to allow these 4 countries to hold the Doha Round hostage? Isn't it time for U.S. negotiators to refuse to allow the WTO to blame U.S. farmers for the waste and inefficiency of the West African monopolies that control all aspects of cotton production and marketing in those countries?
- Are you willing to return here with a draft modalities text, that punishes U.S. cotton farmers for impacts your office has agreed they did not cause, does not provide them with significant increases in market access to important markets like China, and otherwise undermines the efficacy of cotton production in the United States in order to get an overall agreement?
- I am seeking your commitment that you will not give these African countries what they want just to prevent them from stalemating the negotiations. You are moving toward a Doha Agreement that slashes existing ceilings on U.S. domestic support. It does not seem supportable to argue that there should be significantly higher U.S. cotton cuts.

<u>Answer:</u>

We share your concern about the language in the draft text concerning cotton support programs. U.S. negotiators immediately expressed our strong disagreement with the text on cotton in initial discussions on Ambassador Falconer's text in July. We again expressed these concerns during the recent WTO meetings on agriculture in Geneva. Based on these interventions, we believe that our trading partners clearly recognize the language in the text is not acceptable to the United States.

The Hong Kong Ministerial Declaration does call for "trade-distorting domestic subsidies for cotton production to be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable." Our longstanding view has been that, to address the cotton-

specific commitments of the Hong Kong Declaration, one must first understand the effects of the general commitments on cotton relative to other commodities to properly consider the magnitude of additional commitments. We also believe that it is important to have better clarity in the market access provisions, including those affecting cotton, to assess the overall impact.

At an appropriate time, we will need a viable alternative to the language in the current text. We hope that all stakeholders interested in the outcome on cotton will assist in this effort, so we are not in the position of developing such a proposal in a vacuum.

**Question 2:**

Brazil Case – Compliance: I want to thank your office for moving forward with an appeal in the Brazil cotton case. I find it incredible that the price of cotton on U.S. futures markets today is over 90 cents a pound yet the United States has to go to Geneva and convince a WTO panel that the U.S. cotton program is not suppressing the world price of cotton. We have the highest prices for cotton we have seen in about 20 years.

In addition, expenditures under the U.S. marketing loan program have fallen to zero and other expenditure levels are dramatically decreasing. But low or no spending by the United States on cotton along with high world cotton prices do not seem to satisfy Brazil or the WTO.

I understand now that Brazil is changing its position at this late stage to argue that subsidy payments don't really matter, but the WTO should find the cotton program itself is in violation – even if it is making small or no subsidy payments to producers that distort production. By putting the *structure* of our agricultural safety net on trial, Brazil is asserting that the ceilings on expenditures you are negotiating in Doha are meaningless.

I would hope the United States would vigorously oppose this new tactic being advanced by Brazil. I would also hope the United States will ensure that recent changes in world prices, the amount of U.S. subsidies, and U.S. production patterns are fully debated within the WTO dispute settlement process before we allow this particular compliance dispute to end.

Answer:

We appreciate your support, and we look forward to consulting with members of the Senate as we move forward with our appeal at the WTO.

The United States has appealed the compliance panel's report to the WTO Appellate Body because we believe that the legislative and regulatory changes made by the United States brought its programs into full compliance with the WTO's recommendations and rulings in the original *Cotton* case. We were very disappointed with the compliance panel's findings.

Brazil claimed in the compliance proceeding that U.S. marketing loan and counter-cyclical payments made after the United States' implementation deadline caused serious prejudice to Brazil by significantly suppressing the price of upland cotton. When analyzing this claim, the compliance panel was required to examine present conditions at the time of the compliance proceeding, which began during marketing year ("MY") 2006. The United States demonstrated that conditions at that time did not support a finding of significant price suppression, any more than the current conditions could support such a finding now. The compliance panel, however, disagreed, and found that our marketing loan and counter-cyclical payments led to significant price suppression in the world market for upland cotton during the time period examined by the panel. We have appealed that finding, and we will defend vigorously our position at the WTO.

As part of the compliance proceeding, Brazil has argued that the WTO's recommendations and rulings in the original *Cotton* proceeding applied with respect to the marketing loan and counter-cyclical payment *programs*. The compliance panel, however, accepted the U.S. argument that they applied only to *payments* made in MY 1999-2002. The compliance panel was correct in this and we will vigorously explain that on appeal. Indeed, the current conditions in the cotton market demonstrate why Brazil is wrong to argue that our cotton *programs* as such cause adverse effects.

**Question 3:**

U.S. Position – Quality of the Draft Modalities: Chairman Falconer's most recent draft modalities contain cuts in overall U.S. agricultural support that are between $10 and 13 billion higher than the U.S. proposed in October 2005. Along with those added cuts to domestic support, this text greatly reduces the level of market access for agriculture demanded by the United States and demanded by U.S. agricultural interests. Further, the exceptions to real market access included in the text would possibly allow developing countries to not only reduce tariffs less, but also exempt up to 20% of their tariff lines from the standard cuts – maybe exempting many of them from any increase in market access at all.

In short, it is clear from this text the U.S. will give far more on domestic support and get far less in market access than the U.S. demanded in October 2005. I recall that in the summer of 2006 most of the U.S. agricultural community called on the U.S. to stand by that critical balance of cuts and access and you agreed at that time.

Do you believe this new text is balanced across domestic cuts and increases in market access? Hasn't the U.S. abandoned the position it took as recently as the summer of 2006 as to what was needed by U.S. agriculture for this negotiation to be a success?

Answer:

In 2006 we refused to accept an unbalanced deal that would have delivered subsidy reform but not real improvements in market access. The greatest benefits, not only to

U.S. agriculture, but also the global economy and the development goals of the Doha Round, will be as a result of market access gains – that is, new trade flows. This is why in our discussions with trading partners since 2006, we have stood firm in our insistence on an ambitious, comprehensive and balanced agreement that includes meaningful market access commitments.

The current draft agriculture text contains potential outcomes on market access ranging from real new trade flows to merely skimming off of bound tariff rates. One important issue is to ensure that the use of Sensitive and Special Product flexibilities do not negate the market-opening purposes of the Round. As you note, the current draft text raises the possibility of less-than formula cuts on many Special Product tariff lines, including excluding some of those lines from any tariff cuts. Some countries also seek protective duties under the Special Safeguard Mechanism to be constructed in a way that would result in more, rather than fewer, agricultural barriers. We have, and will continue, to join other like-minded trading partners in seeking increased market access opportunities for the U.S. and other exporters.

The individual cuts on overall "Amber", "Blue" and "*de minimis*" support required of the United States in Chairman Falconer's text are consistent with the levels of the U.S. October 2005 proposal, i.e. maximum allowable levels for the United States of $7.6 billion for amber, $4.9 billion for blue and 2 ½ percent of the value of production (also about $4.9 billion) for each of product-specific and non-product specific supports. The Falconer text does contain ranges that imply larger cuts in the summation of all these elements, the overall trade-distorting supports (OTDS), than was contained in our October 2005 proposal.

In the spirit of trying to seize this historic chance to create new opportunities for U.S. farmers, ranchers, workers and consumers, and to help tens of millions of people in developing countries, we have signaled our willingness to do more on trade-distorting subsidies, but only if significant, new agricultural market access offers are on the table.

These are going to be tough calls, but they are manageable, and, with sufficient determination, reason and creativity, they are also doable.

**Question 4:**

South Korea FTA: With regard to the pending Free Trade Agreements (FTAs), I would like to commend your team for negotiating a good agreement with Colombia. The Colombia FTA will provide for increased market access for US rice and includes provisions for quota rents that will benefit the US industry during the tariff phase out period under the agreement. However, I continue to be dismayed at the willingness of the Administration in the Korea FTA to accept an agreement that completely excluded rice. This was a key priority for me and many of my colleagues, yet at the 11th hour an agreement was made that would exclude any benefits for our US rice producers. Not only is this bad negotiating, this is a bad precedent that I fear will continue to plague our

negotiators in future agreements. Do you see any opportunities as the Korea FTA is being debated and potentially implemented to help rectify this unfair situation?

Answer:

We pushed extremely hard for additional market access for rice from the beginning to the very end of the negotiations. President Bush personally raised the issue with former Korean President Roh. It became clear that due to the extraordinary political sensitivity of rice in Korean society, Korea's negotiators would walk away from a deal rather than include rice. So the choice we ultimately made was to take the very good deal that was on the table, rather than walk away because the perfect deal was unattainable.

The outcome on market access for rice in the Korea FTA is not a precedent for future FTAs. We have already made this clear to our trading partners and will continue to do so. Moreover, while it is true that there is no additional market access for rice resulting from the KORUS FTA, U.S. rice exporters – unlike the other U.S. commodity groups – do currently benefit from the rice agreement that the United States negotiated with Korea in 2004 under the auspices of the WTO.

Under this agreement, U.S. exporters enjoy guaranteed market access for 50,000 metric tons of rice annually under a country-specific quota in Korea's tariff schedule. U.S. exporters are also able to compete for additional quantities under the global/general portion of Korea's rice quota. Under this global quota, Korea purchased an additional 21,600 metric tons of U.S. rice in 2007 –bringing total sales of U.S. rice to Korea in 2006 to nearly 72,000 metric tons (valued at $52 million), the highest level of U.S. rice exports since Korea assumed its WTO minimum market access obligations in 1995. The 2004 agreement also requires that Korea distribute a growing share of U.S. rice to consumers instead of selling it all for industrial uses, which had previously been its practice, and Korea has been on track to meeting this requirement. For example, in 2007, Korea purchased more than 16,000 metric tons of U.S. rice to be auctioned in Korea as table rice.

Clearly, these statistics show that the 2004 rice agreement is working for U.S. producers and Korean consumers. We continue to work with Korea to increase our exports and ensure that our rice trade under this agreement functions smoothly. For example, last fall we urged Korea to republish a tender that Australia failed to fill due to its drought. As a result, U.S. exporters won a tender for an extra 2,109 MT of table rice. That was a modest step, but one that shows Korea's commitment to improving market access for U.S. suppliers. Upon enactment of the US-Korea FTA, the U.S.-Korea trade relationship will strengthen further, providing additional opportunities for U.S. suppliers among a wide range of agricultural products, including rice under its WTO commitments.

We are continuing to push for greater access to Korea's rice market in the Doha Round negotiations. In addition, the 2004 rice agreement will expire in 2014, at which time we will have another opportunity to negotiate additional access for U.S. rice into the Korean market.

**Question 5:**

Cuba: Another subject that is of key importance to our rice producers in Arkansas is the huge export market potential that exists in Cuba. Cuba was once our number one export market for rice prior to the embargo. Today, we are meeting a small percentage of their demand for rice.

Industry estimates put the potential size of the Cuban market for US rice at 600,000 metric tons annually at a minimum. We could easily achieve this market potential if not for the undue restrictions that are placed on trade with Cuba.

Given the recent developments in Cuba, I hope there are discussions underway in the Administration to rethink the policy toward Cuba going forward. Are such discussions occurring or are you at least reassessing the situation in Cuba?

Answer:

The United States is the largest food supplier to Cuba. In 2007, the United States exported $431 million in agricultural products to Cuba, a 34 percent increase from 2006.

The resignation of Fidel Castro changes the face of the Cuban dictatorship, not the dictatorship itself. Fidel Castro's resignation of all the positions he holds could mark the end of a long and difficult chapter in Cuban history. We hope this presents an opportunity for Cubans to build a prosperous and democratic future. The most productive way to open trade and increase opportunities with Cuba is for Cuba to become a democracy.

Not until there is verifiable progress toward a democratic transition in Cuba that guarantees political freedom and economic opportunity -- as evidenced by free and fair elections -- will Cuba be regarded as a reliable trading partner.

**QUESTIONS FROM SENATOR STABENOW**

**Question 1:**

Import safety: Thousands of Michigan residents have contacted my office to demand that the federal government act to stop dangerous products from coming into the United States. They're tired of hearing about pet food, toys and auto parts that are filled with poisonous and dangerous substances. The Consumer Product Safety Commission reform bill, which the Senate just passed, addresses some of the problems. But we need to do more to prevent imports of all dangerous and counterfeit products, including the ones, like auto parts, that are not regulated by the CPSC.

What is USTR doing to improve import safety-related agreements with foreign governments, and to make sure that product safety is a key part of any pending and future agreements?

Answer:

In 2007, the President announced a broad review of steps that exporters and exporting countries, U.S. importers, and federal, state, and local governments can take to make sure that we are doing all we can to ensure the safety of imported food and other products. The Administration is committed to protecting Americans from unsafe products.

Last summer, the President established a Working Group on Import Safety, chaired by Health and Human Services (HHS) Secretary Leavitt, which included an array of Federal agencies, including USTR. In September 2007, the Working Group issued a Strategic Framework that outlined several key principles for improving import safety. The Strategic Framework advocates a science-based, risk-based strategy that shifts the primary emphasis for import safety from intervention to prevention with verification. In November 2007 the Working Group issued an Action Plan detailing 14 recommendations and 50 specific steps – both long- and short-term – to implement the Strategic Framework.

HHS and other federal agencies are taking the lead on implementing these recommendations and action steps, and USTR is actively participating in the Working Groups in areas where we have expertise. Two concrete steps recently taken by the Administration were HHS's negotiation of agreements on food safety and drug safety with China, signed in December 2007. USTR actively supported and assisted HHS in negotiating these two important agreements.

In addition to participating actively in the Working Group's activities, USTR has worked hard to ensure that our global, regional, and bilateral trade agreements leave the United States free to protect the public from unsafe imports while encouraging other governments adopt the science-based approach to product safety that we employ in this country. One way we have accomplished this objective is by inserting provisions in our free trade agreements (FTAs) -- including those signed with Colombia, South Korea, and Panama – that seek to ensure that food safety measures are based on science and risk-based assessment in order to ensure that such measures cannot be used as disguised protectionist barriers to American farm products. At the same time, the provisions also ensure that the U.S. maintains the right to exclude unsafe imports under FDA and USDA regulations. We have also provided for our FTAs to establish inter-governmental committees that will work to enhance bilateral or regional cooperation and consultation on food safety matters, assist participating governments in better understanding each other's food safety requirements, and identify appropriate areas for capacity building and technical assistance. We have also undertaken consultations on food safety issues with other key governments, such as India and China.

The United States is also actively engaged in the Asia-Pacific Economic Cooperation Forum's (APEC) work on food and product safety, and was successful in spearheading efforts to include language highlighting the importance of this issue in both the Ministers' Statement and Leaders' Declaration in September 2007. In both the Statement and the Declaration the 21 APEC economies agreed to deepen cooperation, improve current standards and practices, and strengthen scientific risk-based approaches with respect to food and consumer product safety in a manner that both facilitates trade and ensures the health and safety of consumers. The United States is working with other APEC economies to implement this mandate and is advancing region-wide food and product safety initiatives in APEC, including capacity building programs to supplement the work of international bodies, such as the World Health Organization on food safety.

**Question 2:**

Trade enforcement: The USTR has filed cases against China before the WTO in only a few of the areas where that country completely disregards international trade rules. For instance, I was pleased that the WTO ruled in the United States' favor against China's unfair restrictions on foreign auto parts.

But, the WTO process takes a long time. In the two years it took for the panel to publish its initial finding in the auto parts case, six of our nation's largest auto suppliers declared bankruptcy. That's just one of the reasons why Michigan's economy is suffering now. We cannot afford to have more American companies go under as we wait for other countries to fix their unfair behavior.

In addition to bringing cases before the WTO, what are you doing to enforce trade agreements? Please describe the funds, staff and other resources devoted to enforcement. Also, I'd like to know what proportion of your resources is spent on enforcement versus negotiation of new trade pacts.

Answer:

USTR constantly works to secure the benefits that have been agreed as part of international trade agreements or to otherwise secure increased market access or trade. We are committed to aggressively using every tool in the U.S. trade arsenal to ensure a level playing field for American manufacturers, service providers, farmers, ranchers, and workers. As such, all USTR regional and sectoral staff (in addition to our General Counsel's office) are responsible for enforcement of existing trade agreements for which they have jurisdiction in whole or in part. These tools include bilateral consultations (including technical discussions); negotiations (including free trade agreements); monitoring mechanisms (including those within trade agreements and those within domestic law, such as Special 301); and formal dispute settlement cases.

Based on various internal estimates, USTR devotes more than a quarter of its time and resources to monitoring and enforcement activities. As a portion of the budget, in FY 2007, monitoring and enforcement activities accounted for about $11.6M of USTR's

$44.5M budget. With respect to personnel, monitoring and enforcement activities accounted for 67 FTEs (Full time equivalents) in 2007.

USTR has secured resolution of a number of issues using these tools. For example, with respect to China, in addition to the five WTO dispute settlement cases that we have filed in the last two years (more than any other WTO Member), USTR has:

- In one of these WTO cases, achieved China's elimination of significant export/import subsidies to settle the dispute.
- Persuaded China to drop its unfair antidumping duties on a U.S. paper product (kraft linerboard) after we informed China that the United States was about to initiate WTO dispute settlement proceedings.
- Persuaded China to require pre-loading of legal operating system software on all computers produced or imported into China, as well as requiring government agencies to purchase computers with pre-loaded software.
- Persuaded the Chinese government to take action against 14 factories producing illegal optical disks to help combat piracy of films, music and software.
- Persuaded China to suspend implementation of a border testing regulation that would have produced additional testing and inspection redundancies targeted exclusively at imported medical devices and to eliminate remaining redundancies in its testing and certification requirements for medical devices.

Examples with respect to other countries include the following:

- In the context of WTO accession, Russia, Ukraine and Vietnam agreed to reduce export duties on certain metals and Ukraine removed a ban on non-ferrous scrap.
- In the context of FTA negotiations, USTR reached a separate agreement with Peru in which Peru agreed to accept imports of beef and poultry products from the United States consistent with OIE food safety standards. Peru also undertook to apply to imports of U.S. rice standards no less favorable than those applied to domestically produced rice.
- We reached agreement with the EU on compensation for tariffs raised when 10 new member States joined the EU in May 2004. The deal opened and expanded EU quota access for several dozen U.S. agricultural products, including pork, corn gluten, and fructose; additional EU tariff reductions also will ease market access for U.S. exports of fish and industrial goods.
- We also reached agreement with the EU to compensate the United States for the increase of the EC tariff on husked rice imports. The agreement enhanced and strengthened market access opportunities for U.S. husked rice exports into the European market.

- USTR obtained improvements in intellectual property protection and enforcement through the Special 301 process, including the annual Special 301 review, Out-of-Cycle Reviews, and the Special 301 Initiative. Examples include aggressive actions taken by Brazil against piracy and counterfeiting; improvements by Canada on pharmaceutical data protection; and improvements in Bulgaria on IPR enforcement and legislation.

- After the Philippines increased its auto tariffs by five percentage points, USTR strongly expressed U.S. concerns in consultations and the tariff increases were removed after having been in force for only one year.

- In the context of WTO accession, USTR obtained commitments from Vietnam for the removal of its import ban on large engine motorcycles

- In the context of FTA negotiations, obtained a pledge for Colombia to address a longstanding market access barrier, its high licensing fee for international long distance service. Colombia removed the $150 million license fee in July 2007, replacing it with a fee of less than $1,000.

- Worked with India to reform licensing conditions in its newly liberalized telecommunications market, facilitating market entry for two U.S. operators in 2007.

- Worked with Japan to ensure their telecom ministry licensed mobile broadband services on a technology-neutral manner, permitting a major U.S. company [Intel] to enter the market in December 2007.

Question 3:

TAA: In Michigan, Trade Adjustment Assistance helps 15,000 workers and dozens of businesses hurt by trade. Although funding is far too low, TAA nonetheless helps workers access job training and affordable healthcare, and provides small businesses the resources they need to succeed in the global economy. But this program desperately needs to be reauthorized, reformed, and expanded.

President Bush, in his State of the Union address, proclaimed the benefits of TAA.

I am proud to cosponsor the Trade and Globalization Adjustment Assistance Act of 2007, or S.1848. In addition to reauthorizing TAA, it would make the programs more efficient and accessible to American workers and companies. What is your position on the bill?

Answer:

The President is committed to reauthorizing and reforming Trade Adjustment Assistance as stated in his State of the Union speech. We are committed to working with Congress

to ensure that the TAA program meets the needs of workers adversely affected by trade, and are engaged in discussions to this end.

**Question 4:**

Korea FTA: I cannot support the U.S.-South Korea free trade agreement in its current form because it puts American automakers and their workers at risk. Korea has a long history of protecting its auto manufacturers at foreign competitors' expense. It uses an unfair tax structure, constantly changing safety and emissions regulations, and government-directed marketing campaigns to discourage Korean consumers from buying imported vehicles. Given all this, it's not surprising that Korean automakers control about 40 percent of the U.S. auto market, but American vehicles make up just 3.5 percent of theirs. Clearly, this is neither free nor fair trade.

U.S. automakers are right to demand that South Korea show hard evidence of true, long-lasting reform before we open our markets even further to them. How is USTR making sure that South Korea changes its ways and abandons these non-tariff barriers that are keeping American car manufacturers out of its market?

Answer:

We understand well the challenges that U.S. auto manufacturers have encountered over the years in the Korean market, and share your concern. Korea has a 4.8 percent share of the U.S. passenger vehicle market, while U.S. companies have only a 0.9 percent share in the Korean market. In fact, concluding an FTA with Korea that would level the playing field for U.S. auto manufacturers in that market was one of our top priorities in these negotiations.

We worked closely with U.S. industry throughout the negotiations to identify the tariff and non-tariff barriers that would need to be addressed in an FTA to improve access in the Korean market.

In the end, we concluded a very strong deal for this vital sector of our economy. The package of commitments that are included in the KORUS FTA related to the automotive sector addresses each of the tariff and non-tariff barriers that U.S. industry identified as impeding its access to that market.

As GM stated in their assessment of the automotive-related provisions in the FTA, "the KORUS Agreement concluded on April 1 has addressed the auto industry's concerns."

Specifically, under the Agreement:

- First, Korea will eliminate its 8 percent tariff on almost all U.S. automobiles, immediately after the FTA enters into force.

- Second, Korea will overhaul its automotive taxation system by significantly reducing its existing tax rates and eliminating the discriminatory aspects of its system for taxing cars based on "engine displacement". Korea has also committed not to impose any new engine displacement taxes and to maintain non-discriminatory application of the existing taxes.

- Third, Korea committed to address specific emissions and automotive safety standards to ensure that they do not prevent U.S. automotive manufacturers from accessing the Korean market.

  - The Agreement also establishes an Automotive Working Group that will serve as an early warning system to allow us to address regulatory issues with the Korean Government before they become new barriers to that market.

- Fourth, the FTA will prohibit Korea from adopting new automotive regulations that create unnecessary obstacles to trade.

- Fifth, to address concerns regarding government-directed campaigns to discourage Korean consumers from buying imported vehicles, Korea expressly affirmed that it is not its policy to discourage the purchase or use of goods or services of the United States through either formal or informal means.

- Sixth, since it is critical to ensure that we have the strongest tools possible to effectively enforce these commitments; we secured in the Agreement an innovative and unprecedented process for resolving disputes on automotive-related measures on an expedited basis that will serve as powerful deterrent against any FTA violations in this area.

  - This enhanced dispute settlement process includes a "snap-back" provision that would allow the United States to reinstate the tariff on Korean passenger cars if Korea is found to have taken a measure affecting motor vehicles that violates, nullifies, or impairs an automotive-related FTA commitment.

- It is our strong conviction that this innovative package of commitments included in the KORUS FTA related to the automotive sector, which go well beyond what we have achieved in previous FTAs in this area, will achieve the objective that we both share: to level the playing field for U.S. automotive manufacturers in the Korean market.

- In fact, the U.S. International Trade Commission concluded in its September report on the potential effects of the KORUS FTA that exports of U.S. autos to Korea could experience a large percentage increase as a result of the agreement.

- Without the KORUS FTA, U.S. auto manufacturers will continue to face the same tariff and non-tariff barriers that exist today in the Korean market. With the KORUS FTA, American automakers will obtain important access to the Korean automotive

market through the elimination of a wide range of tariff and non-tariff measures, enforceable under a unique and effective dispute settlement mechanism.

**Question 5:**

WTO rules on taxes: As you know, one of the specific negotiating objectives that were set out by Congress in the last trade promotion authority bill – and indeed in many prior "fast track" bills – was to rectify the current inequity faced by American manufacturers in terms of WTO rules on direct and indirect taxes. As things currently stand, foreign manufacturers in countries that rely on VAT taxes, which include most of our major trading partners, get an enormous advantage over U.S. producers. They can sell here largely tax free (with their VAT taxes rebated and picking up none of our income taxes) – while our manufacturers are essentially double taxed when selling abroad because they are subject to both the foreign VATs and our income tax. This whole framework makes no economic sense but has somehow been enshrined in WTO rules.

What have you done and what are you doing now to fix this problem? More broadly, what is the United States doing to deal with the major structural unfairness facing our manufacturers – ranging from these unfair tax rules, to currency manipulation in Japan, China and elsewhere, to massive subsidies and unfair trade from many of our trading partners?

Even if we are successful in gaining some meaningful tariff concessions on industrial products (which appears uncertain at the moment), won't our manufacturers and workers still be at an enormous disadvantage if we fail to address these types of structural issues?

Answer:

Since the beginning of the Doha Round Rules negotiations, the United States has made numerous subsidy proposals to address the different treatment of direct and indirect taxes, and to strengthen the WTO's subsidy disciplines more generally. Pursuant to the Trade Promotion Authority negotiating objective to address the tax issue, we submitted a paper to the Rules Negotiating Group in March 2003 identifying the differing treatment of direct and indirect taxes under the WTO rules as an issue that needed to be addressed. However, the current text of the Chairman of the Rules Negotiating Group does not address the issue. We have expressed our disappointment to the Chair and have continued to raise the issue in the review of the Chair's draft text and in the context of related proposals made by other WTO Members. As we go forward, however, we will need to be cognizant as to how any change in the rules might affect indirect taxes in the United States, such as state sales and federal excise taxes that, like value-added taxes, are not imposed on export sales.

In addition to the issue of direct and indirect taxes, the United States made a wide range of proposals to clarify, improve and strengthen the existing subsidy rules. While the Chair's text does not reflect all of our proposals, it does include, *inter alia*, strengthened

rules on "dual pricing," an issue of long concern to the United States, and lending from state-owned banks, which is prevalent in nonmarket and transition economies. Moreover, the Chair's text includes strong proposals with respect to subsidy benefit calculation methodologies. Agreement on these methodologies, which are consistent with U.S. countervailing duty practice, would be an important step forward in the historical development of the general subsidy rules and potentially provide guidance to WTO dispute settlement panels examining industrial and agricultural subsidy issues. Although the Chair's text does not reflect other U.S. proposals to enhance the current subsidy rules, we are continuing to examine how the Chair's text can be revised to clarify, improve and strengthen the existing disciplines. Finally, it should be noted that due to strong opposition from the United States and other developed countries, the Chair's text does not include a myriad of "special and differential" proposals made by developing countries that would result in the weakening of the existing subsidy rules.

**Question 6:**

Climate Change: You've said that attempting to make other countries reduce their greenhouse gases through trade is "saber-rattling." Climate change is a global problem. The United States must show leadership, but we cannot solve the problem alone. According to the Dutch Environmental Assessment Agency, China surpassed the United States in carbon dioxide emissions in July 2007.

How can we trust China to clean up its factories and control its greenhouse gases when it won't live up to current international laws?

Answer:

The Administration agrees that climate change is a global problem, and one that requires a global response through a new international arrangement. The President has pointed out that such an arrangement can be effective only if it entails solid commitments by all major economies, both developed and developing. The United States is already showing leadership in advancing a post-2012 framework through the Major Economies Process and through follow-up on the Bali Action Plan. Through the Major Economies Process, we are engaging at the highest levels with China and other key developing countries to press them to take meaningful commitments to address greenhouse gas emissions. As specified in the Bali Action Plan, developing countries must consider measurable, reportable and verifiable action to limit their emissions. The Kyoto Protocol has not required such action.

We believe that trade restrictions are not the right tool to get China and other developing economies to limit their emissions of greenhouse gases in the future or to get them to commit to do so through a new binding United Nations agreement. As noted by the Pew Center on Global Climate Change in its submission to the House Energy and Commerce Committee, trade restrictions, such as those contained in S. 2191, represent "a risky, potentially counter-productive approach that does not effectively address either competitiveness concerns or developing country action." Gary Clyde Hufbauer of the

Peterson Institute for International Economics provided an additional perspective that trade restrictions "the United States imposes on imports, citing climate change as justification, can just as easily be imposed by other countries on U.S. exports."

USTR is looking forward to working with the Congress to respond to concerns about competitiveness and ensuring that major developing countries do their part to respond to climate change. As far as how trade policy figures in this calculus, we assert that positive measures, such as trade liberalization on climate-friendly technologies as proposed jointly by the United States and the EU in the WTO, represent a better approach than action that can lead to reprisals by our trading partners. A recent World Bank study on climate and clean energy technologies suggests that the removal of tariffs and non-tariff barriers to key technologies, such as envisioned by the U.S. and EU proposal, could increase trade by an additional 7-14 percent annually while making an important contribution to global efforts to address climate change and energy security.

**QUESTIONS FROM SENATOR HATCH**

**Question 1:**

Ambassador Schwab, it was great to see you the other night at the ECAT awards dinner. I, for one, am appreciative of all of your hard work. I guess that my first question for you may be more appropriately directed at my colleagues in the other body but they are not here and you are. I am very eager to quickly pass the three remaining Free Trade Agreements – Colombia, Panama, and Korea – and have been operating with the understanding that the deal that was struck on May 10th of last year would allow for a vote on all pending trade agreements. Was this your understanding of that deal – and if your recollection is different than mine, would you please tell me what your understanding of the May 10th deal was?

Answer:

As I stated at the time, the May 10th deal created a clear and reasonable path forward for congressional consideration of the Free Trade Agreements with Peru, Colombia, Panama, and Korea. The provisions of the May 10th deal would be applied to all four FTA's, although each FTA would travel on a different path to consideration. The Colombia FTA is next up. It includes the labor and environment provisions included in the May 10th deal. Colombia has been able to demonstrate concrete evidence of sustained results in dealing with the issues of violence and impunity. As the President stated earlier this month, the time for Congress to consider this agreement is now, with action on the remaining FTAs as soon as practicable.

**Question 2:**

Ambassador, you and your team worked incredibly hard to secure concrete commitments on protecting intellectual property rights from the Russian government as part of its

bilateral WTO accession package. As we see talks moving into the multilateral forum and the possibility of Russia acceding to the WTO, I wanted to learn from you how Russia is making progress in meeting those IPR commitments? If they are not, what can we do to ensure that we see the progress that our IP-based industries here in the United States need to see?

Answer:

This Administration strongly promotes intellectual property protection and enforcement around the world, and Russia remains one of our top priorities. On November 19, 2006, the United States and Russia signed a strong bilateral agreement setting forth obligations for Russia to address piracy and counterfeiting and improve protection and enforcement of intellectual property rights (IPR). We continue to seek further progress from Russia on IPR issues through the multilateral negotiations on Russia's WTO accession, including passage of improved IPR legislation in Russia's Duma. Our position remains firm that implementation of the commitments on IPR in the November 19 agreement will be essential to completing the final multilateral negotiations on the overall WTO accession package.

Although Russia did not fulfill all of its IPR commitments by the June 1, 2007 deadline in the November 19 agreement, Russia has made some notable progress since the agreement was signed. For example, in 2007 Russia reportedly closed 11 out of 16 licensed optical disc plants that had been operating on government-controlled property. Russia reported an increase in 2007 of the number of raids of optical disc plants. Russia reported shutting down 242 pirate websites, including the notorious website allofmp3.com. Russia reported that it is preparing amendments to Part IV of its Civil Code, its Law on Medicines, and other measures in line with our bilateral agreement. Russia is also working on issuing regulations associated with Part IV of the Civil Code, which came into effect on January 1, 2008.

During the most recent meeting of the U.S.-Russia IPR Working Group in February 2008, my staff made clear to Russia that we expect to see more progress on IPR in order for Russia to meet its obligations in the November 19 agreement. We still have concerns regarding enforcement, particularly in areas such as Internet and optical disc piracy, the overall need for follow-up prosecutions and deterrent sentences, and IPR legislation that must be passed in the Duma. We are urging Russia to make further progress on these and other IPR issues in the coming months.

I continue to expect Russia to do what it has agreed to do, and I have conveyed the need for timely progress to my Russian counterparts. Our next U.S.-Russia IPR Working Group is scheduled for later in the spring of 2008 in Russia. We will be working with other WTO Members to obtain further progress through the multilateral negotiations on Russia's accession to the WTO. In short, the Administration continues to use all available tools to press Russia for strong action on this very important issue.

**Question 3:**

Ambassador, would you please outline for the details of the various intellectual property rights initiatives that are currently underway at USTR?

Answer:

IPR protection is a high priority for this Administration and USTR strongly promotes intellectual property and innovation around the world. Key parts of this mission include the following:

**Free Trade Agreements**: USTR works with countries to strengthen their IPR laws through the negotiation, implementation, and monitoring and enforcement of free trade agreements (FTAs). The completed free trade agreements with Colombia, Panama and South Korea and the Peru free trade agreement recently approved by Congress all contain world-class IPR provisions.

**Anti-Counterfeiting Trade Agreement:** The Anti-Counterfeiting Trade Agreement (ACTA) is a leadership initiative, announced in October 2007, to negotiate a new IPR enforcement agreement with a number of key trading partners who share our ambition and commitment to stepping up the fight against global counterfeiting and piracy.

**World Trade Organization:** The multilateral structure of WTO agreements provides opportunities for USTR to lead engagement with trading partners on IPR issues, in several contexts including accession processes for prospective members like Russia; the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS); and dispute settlement.

**Special 301 and Generalized System of Preferences (GSP) reviews:** USTR uses the "Special 301" process to encourage specific trading partners to address key IP problems. Each April, USTR issues a Special 301 Report setting out specific IPR concerns in countries worldwide. In addition, one of the criteria the President must consider before designating a country as eligible to receive GSP benefits is whether that country provides adequate and effective IPR enforcement; USTR leads that process.

**Bilateral and Regional Dialogues and Cooperation:** USTR leads or is a significant participant in the IPR component of a wide range of other trade and economic policy dialogues with trading partners. A few of the many examples include the Asia-Pacific Economic Cooperation forum; the U.S.-China Strategic Economic Dialogue; the U.S.-China Joint Commission on Commerce and Trade; the U.S.-EU Summit; the U.S.-Russia IPR Working Group; and the Security and Prosperity Partnership.

**China.** China remains a top IPR enforcement concern. We have communicated unequivocally to our Chinese counterparts that significant and measurable reductions in counterfeiting and piracy are needed to preserve balance in the U.S. trade relationship with China. We have also pressed China to recognize that IPR protection must go hand

in hand with full and fair access to China's market. We will continue to use all of our trade policy tools – including our ongoing WTO dispute settlement actions – to achieve progress on these issues.

**Russia.** Russia, like China, is a top priority. I have described the status of our efforts in response to your separate question on IPR issues in Russia.

**Trade and Investment Framework Agreements:** IPR issues feature prominently in many of our Trade and Investment Framework Agreement discussions.

**Supporting Pharmaceutical Innovation:** USTR seeks to eliminate market access barriers faced by U.S. pharmaceutical companies in many countries, and to promote affordable health care today, while supporting the innovation that assures improved health care tomorrow. Free Trade Agreements and many of the other efforts described above contribute to these activities.

**Coordination of U.S. IPR and Innovation Trade Policy:** USTR leads the interagency IPR trade policy coordination process through mechanisms created by Congress. We consult with stakeholders, including through numerous advisory committees. USTR provides trade policy leadership and expertise across the full range of interagency initiatives on IPR and innovation policy, including executing the Administration's Strategy Targeting Organized Piracy (STOP) initiative to combat piracy and counterfeiting. USTR also prepares recommendations for the President in Section 337 investigations.

As these efforts indicate, USTR continues to work on many fronts – using existing tools, engaging our trade partners on the multilateral and bilateral levels, enhancing our efforts within USTR and across the U.S. Government, and partnering with other countries to achieve more effective IPR enforcement.

**QUESTIONS FROM SENATOR SNOWE**

**Question 1:**

Softwood Lumber: Discrepancies have emerged in Canada's own figures concerning the primary export taxes that it is obligated to collect under the 2006 Softwood Lumber Agreement between the United States and Canada. While I understand that experts from both governments have met periodically to review this data to determine what accounts for this discrepancy, I am concerned that this process, which has yet to even reach a conclusion as to the first quarter of 2007—the first full quarter the agreement was in effect— is not being done with the appropriate urgency by both sides. At a time when the U.S. lumber industry is facing its greatest crisis in years, its government must either work to explain this discrepancy in a timely manner, or admit that Canada may be—again—in violation of its obligations under the agreement.

When will the Administration be able to definitively explain the discrepancy in Canadian figures relating to primary export tax collection under the agreement, and what steps will it take to enforce the agreement if that discrepancy cannot be explained?

Answer:

Initial, uncorrected Canadian public data indicates that there is a notable and consistent difference between export permit value data released by the Canadian Department of Foreign Affairs and International Trade (DFAIT) and export charge data released by the Canada Revenue Agency (CRA). On first examination, this would suggest the possibility of under collection of the export charge by Canada. However, further and closer scrutiny has yielded no additional evidence of such under collection. United States Customs and Border Protection (USCBP) officials have engaged in extensive and intensive reconciliation work in cooperation with DFAIT and CRA over the course of the past year, and this work continues. Most recently, on March 11-13, 2008, USCBP officials traveled to Ottawa to meet with DFAIT and CRA officials. USCBP concluded that there is no evidence, to date, to suggest that Canada is failing to properly collect the export tax. Additionally, Canada's level of cooperation and commitment to resolve the data discrepancies and identify any possible understatement of export value has been far above and beyond what is required by the Softwood Lumber Agreement. Regrettably, it remains the case that the only data publicly available are the initial, uncorrected data that first suggested the existence of a problem. Relying solely on this data, however, would give one a mistaken impression that there is a problem with under collection. We continue to work to put information sharing procedures in place that will result in revised, corrected Canadian volume and value data being made public on a regular basis. We hope that this will put to rest any concerns about under collection, and we hope we can begin releasing such data in the near future.

**Question 2:**

Modalities in the Doha Round and Rubber Footwear: The manufacture of non-rubber footwear, which was once a great American industry and which provided employment in many Maine factories, has virtually disappeared due to the attraction of Far Eastern low wages. Many rubber footwear plants have been able to resist this migration because of the level of tariffs on the rubber footwear industry. New Balance, for example, employs about 1000 people in three Maine communities.

The threat to domestic rubber footwear production by import competition has been such that neither the Kennedy, Tokyo nor Uruguay Rounds resulted in any cuts in the duties of the industry's core products.

As the Doha Round proceeds in discussions of modalities which would govern the negotiation of tariff reductions, may I have your assurance that there will be sufficient flexibility in those modalities to allow for exceptions from tariff reductions which, as in

the case of rubber footwear, would otherwise result in the shift of production from the United States to the Far East?

Answer:

We understand the concerns of our rubber footwear manufacturers and keep these concerns in mind as we negotiate trade agreements.

We have worked to provide rubber footwear with the most guarded treatment during trade negotiations. For example, in past FTA negotiations, the duties on these products are the last to implement full tariff concessions.

In the Doha Round, the U.S. position on industrial tariffs is a comprehensive one that reflects the Administration's belief that open markets will generate greater economic growth, higher standards of living and consumer benefits in the United States and world-wide. WTO Members agreed in 2004 to use a formula for NAMA tariff cuts that requires all developed countries and most developing countries to make the largest cuts on their highest tariffs. Rubber footwear tariffs will nevertheless remain among the highest tariffs in the U.S. NAMA schedule when the results of the Doha Round are implemented. While the emphasis at this stage of the NAMA negotiations is on a tariff-cutting formula that will deliver new market access for U.S. exports, reflecting our exporters' interest in an ambitious outcome, we also anticipate using traditional tools such as staging of tariff reductions to address our sensitivities at a later point in the negotiation.

**QUESTION FROM SENATOR BUNNING**

**Question 1:**

I appreciate your work and the work of your office to bring to a successful conclusion the recent WTO banana case. However, I am concerned, based on past history, that the European Union may again seek to avoid its obligations. What enforcement steps will you take to promote substantial, permanent relief for the United States and our Latin American neighbors? How can Congress help to assure this case is fully resolved?

Answer:

The United States brought this dispute back to the WTO because we believed the EU did not fulfill its commitment to us and the WTO membership to put in place by January 1, 2006, a tariff-only import regime for bananas. As press reports have indicated, the United States prevailed in the dispute. Assuming these findings are adopted by the WTO, we would expect the EU to abide by the panel's findings and amend its banana import regime accordingly.

The final report by the WTO panel has not yet been circulated to the WTO membership. Therefore, the question of what steps the EU will take to bring itself into compliance, and what steps, if any, we would need to take to promote compliance is premature. Nonetheless, USTR officials have recently reminded senior Commission officials of the importance the U.S. government continues to attach to a fair and prompt settlement of the bananas issue. We have urged the Commission to negotiate immediately and in good faith with all Latin producers to find a definitive, comprehensive market-based solution to this long-running dispute.

The U.S. complaint against the EU in this case centered on the continued existence of a preferential tariff rate quota available only to banana exporters from the ACP group of countries. Latin American banana exporters have stressed that the future level of the EU's MFN banana tariff is the issue of greatest importance to them. Enforcement of WTO rules relating to the EU's MFN banana tariff is principally a matter for the EU's MFN banana supplying countries, i.e., various Latin American exporters. The United States does not export bananas to the EU.

The United States will continue to urge the EU and its Latin American banana suppliers to come to a mutually acceptable solution that will protect all sides' interests to the greatest extent possible.

**QUESTIONS FROM SENATOR CRAPO**

**Question 1:**

For U.S. specialty crops, a successful international trade agenda must include a strong commitment to removing phytosanitary market access barriers around the world.

In 1995 the U.S. submitted a pest list to China along with a market access request for USA pears. I understand that last week China and the U.S. met to discuss their respective plant health issues, including access to China for USA pears. Unfortunately, it appears no progress was made for USA Pears. Pear producers in the Pacific Northwest are strong supporters of USTR's trade agenda. They now need your help to obtain access to China. With the plant health discussions unable to show progress, what can USTR do to help?

Answer:

USTR will continue to work with China to address this serious trade concern of access to the Chinese pear market through bilateral discussions as well as through our activities at meetings of the World Trade Organization in Geneva. As you know, under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, countries have the right to take sanitary and phytosanitary (SPS) measures that are necessary to protect human, animal, or plant life or health, so long as those measures are based on science and an assessment of the risks involved. Such SPS measures would include those relevant to food safety. We have concerns regarding whether China's current measure for pears are

based on scientific principles and a proper risk assessment. As such, we will continue to work with the Chinese to gain market access for pears from the Pacific Northwest and additional plant commodities awaiting access to China.

While the plant health bilaterals led by USDA have been a useful venue for pursuing export opportunities, USDA has informed us that the most recent meetings were disappointing. We understand that USDA remains committed to gaining access to the Chinese market for Pacific Northwest pears, and we will continue to support those efforts. USTR can and will also make additional approaches to China on this issue. We believe that our continued insistence on a demonstration of measureable progress based on scientific evidence will result in access for Northwest pears in the near future.

**Question 2:**

Also, along the same lines, as the Administration negotiates additional trade agreements and looks at proper implementation of existing agreements, I urge you to identify ways to deal with perceived phytosanitary issues that are blocking U.S. exports, such as potato exports to Mexico. In March 2003, the U.S. and Mexico signed a market access agreement that allowed for the export of fresh potatoes from all 50 states limited to a 26 kilometer border region of Mexico. The agreement included a commitment by Mexico to allow U.S. fresh potato shipments expanded access and a discussion of access to the entire country. However, such expansion has not occurred due to phytosanitary barriers.

I urge you to work with the U.S. Department of Agriculture and others in the Administration to address this issue. With the limited market access to Mexico for fresh potatoes, Mexico is now the second largest importer of U.S. fresh potatoes behind Canada, and Idaho ranks second among states in the volume of exports of fresh potatoes. There is significant market potential for U.S. potatoes should barriers be removed.

Answer:

Our two NAFTA partners, Canada and Mexico, are the United States' top two markets for U.S. table stock potatoes and accounted for $81.1 million and $22.5 million respectively of total exports of $127.5 million in 2007. We have faced market access issues on potatoes with both countries, one of which was resolved in November 2007 with the announcement by the United States and Canada of the "Technical Arrangement Concerning Trade in Potatoes."

The U.S. Department of Agriculture (USDA) and the Mexican Secretariat for Agriculture, Livestock, Rural Development, Fish and Food (SAGARPA) negotiated the March 2003 "Export Protocol for U.S. Table Stock Potatoes to Mexico" (Protocol), pursuant to which Mexico agreed that after one year it would remove its prohibition on the sale of U.S. potatoes outside a 26-kilometer border zone. The Protocol also authorized access to seven northern Mexican States in the second year and access to all of Mexico during the third year pending negotiations and "assuming a successful shipping program in year one and two." However, Mexico suspended action on allowing access to

the seven northern Mexican states, citing multiple interceptions of nematodes, bacterial ring rot, and other pests in U.S. potato shipments from multiple U.S. states. In March 2006, following a spike of pest interceptions on U.S. potatoes, the United States established procedures to pre-screen potato shipments to Mexican standards and pest findings by Mexico have subsequently dropped. In May 2007, SAGARPA agreed to revisit its import restrictions because of the declining rate of pest detections and agreed to share its interception data in a timely manner to help identify the source of non-compliant potato shipments and determine if the interception data could be used to identify and detect any trends that would support a relaxation in Mexico's current import restrictions.

USTR is working with USDA to achieve the full implementation by Mexico of the March 2003 Protocol, and we will continue to pursue this issue at both the technical and policy levels. Most recently, USTR and USDA officials raised this issue at the sub-cabinet level with Mexican officials at the January 10, 2008, U.S.-Mexico Consultative Committee on Agriculture (CCA) held in Mexico City and pressed Mexican officials to resolve this issue as soon as possible.

**Question 3:**

I share your disappointment with this week's London Court of International Arbitration tribunal ruling regarding the 2006 U.S. – Canada Softwood Lumber Agreement. I commend the Administration for pursing arbitration. However, this mixed decision is unfortunate in regards to ensuring compliance with the agreement and highlights the importance of reviewing and pursing additional methods beyond arbitration to ensure the Softwood Lumber Agreement is fully enforced and Canada adheres to its terms.

Unfortunately, there are many outstanding compliance issues, including the mis-certification of Canadian companies as independent remanufacturers and new subsidies that have to be resolved in order for the agreement to function properly. Both the U.S. and Canadian industries are continuing to face extreme challenges, and Canada has and may take additional steps to provide assistance to Canada's lumber industry in violation of the Softwood Lumber Agreement. So far, the arbitration process has not curbed these violations.

The U.S. simply must pursue all options to ensure that Canada upholds its part of the agreement. Your press release indicates that you will be consulting with the stakeholders on options going forward. What real enforcement actions do you plan to take to bring about compliance with the Agreement?

Answer:

The Administration is committed to the full enforcement of the SLA, and we have taken a number of actions to ensure Canadian compliance. As you know, a tribunal issued its award in a dispute brought by the United States under the SLA on March 4. The tribunal agreed with the United States that Canada violated the SLA by failing to properly adjust the quota volumes of the Eastern Canadian provinces in the first six months of 2007. We

will be proceeding to the remedy phase as expeditiously as possible in order to obtain a remedy for Canada's past breaches of the Agreement. While it is disappointing that the tribunal did not find that the adjustment applies to British Columbia and Alberta, one consequence of this decision is that British Columbia and Alberta will not receive the benefit of an upward adjustment should U.S. consumption of softwood lumber rapidly increase in the future. Also, those provinces continue to face a 15% export tax, the maximum provided under the SLA, due to current depressed market conditions. We have requested a second arbitration over several Canadian provincial subsidy programs. The LCIA recently appointed the tribunal in that dispute and we expect a decision later this year.

We agree that we must look beyond the arbitration process to ensure effective enforcement of the SLA. The Administration anticipates implementing in the spring a new Canadian Softwood Lumber Import Licensing System to track lumber imports into the United States. The Department of Commerce has developed expertise in the management of such a licensing regime by tracking cement and steel imports and we believe collecting just-in-time data concerning softwood lumber imports is critical to the effective enforcement of the SLA. This will complement Administration efforts already underway to ensure full collection of the export tax administered by Canada, on which we have made substantial progress since a discrepancy in publicly released data raised concerns early last year.

Complementing these efforts, we have reacted quickly to actions in Canada that raise compliance concerns. Immediately after the Government of Canada announced a C$1 billion Community Development Trust to fund initiatives to help the manufacturing and forestry sectors, I expressed to my counterpart in Canada in the strongest terms possible my concern that any monies be disbursed in a manner fully consistent with the SLA. Canada quickly provided assurances on this point, and we will continue to follow the implementation of the program.

In addition to these activities, USTR and the Department of Commerce continually monitor federal and provincial policy changes that may be inconsistent with the SLA, many of which are brought to our attention by U.S. producers.