

NOMINATION OF SUSAN ESSERMAN

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
SECOND SESSION
ON THE
NOMINATION OF
SUSAN ESSERMAN FOR THE OFFICE OF
DEPUTY U.S. TRADE REPRESENTATIVE

—————
SEPTEMBER 3, 1998
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Printed for the use of the Committee on Finance

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U.S. GOVERNMENT PRINTING OFFICE

55-955—CC

WASHINGTON : 1998

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-058373-X

5361-21

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CONTENTS

OPENING STATEMENTS

	Page
Roth, Hon. William V., Jr., a U.S. Senator from Delaware, chairman, Committee on Finance	1
Graham, Hon. Bob, a U.S. Senator from Florida	1

ADMINISTRATION NOMINEE

Esserman, Susan, nominated for the office of Deputy U.S. Trade Representative, Washington, DC	2
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ALPHABETICAL LISTING AND APPENDIX MATERIAL

Esserman, Susan:	
Testimony	2
Prepared statement	11
Biographical	15
Responses to questions from committee members	26
Graham, Hon. Bob:	
Opening statement	1
Prepared statement	37
Mack, Hon. Connie:	
Prepared statement	37
Roth, Hon. William V., Jr.:	
Opening statement	1

NOMINATION OF SUSAN ESSERMAN FOR THE OFFICE OF DEPUTY U.S. TRADE REP- RESENTATIVE

THURSDAY, SEPTEMBER 3, 1998

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

The hearing was convened, pursuant to notice, at 12:20 p.m., in room SD-215, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Also present: Senators Chafee, Grassley, D'Amato, Gramm, Moynihan, Rockefeller, Graham, and Moseley-Braun.

OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FI- NANCE

The CHAIRMAN. I will now call Ms. Esserman to please come forward to the witness table. We will now consider her nomination. She has been nominated to be Deputy U.S. Trade Representative.

It is a pleasure to welcome you here, Ms. Esserman. I know you have your family here, and I wonder if you would not like to introduce them.

Ms. ESSERMAN. Yes, I would, very much, Mr. Chairman. This is my husband, Andy Marks, and my three sons, Stephen, Clifford, and Michael. Thank you.

The CHAIRMAN. A very handsome family. It is a pleasure to welcome them here.

I would ask you to rise so I can swear you in.

[Whereupon, the witness was duly sworn.]

The CHAIRMAN. Please be seated. I know that my good friend from Florida would like to make some comments at this stage. I would also say that we have some comments from Senator Rockefeller, who is very concerned that he could not be here at this time.

OPENING STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM FLORIDA

Senator GRAHAM. Thank you very much, Mr. Chairman and Senator Moynihan. It is a great pleasure for me to introduce Ms. Susan Esserman for your consideration as the next Deputy U.S. Trade Representative.

Mr. Chairman, in deference to our time, I have a full statement which I would like to submit for the record.

The CHAIRMAN. Without objection.

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

Senator GRAHAM. I have also been asked by our colleague, Senator Mack, to submit on his behalf a statement in support of Ms. Esserman, which I would ask to also be included in full in the record.

The CHAIRMAN. Without objection.

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

Senator GRAHAM. Mr. Chairman, Ms. Esserman is about to assume one of the most critical positions within the U.S. Government. As Deputy U.S. Trade Representative, she will be responsible for negotiation and development of trade policy in the World Trade Organization, Europe, Russia, other nations of the former Soviet Union, the Middle East, and Africa. She is accepting this responsibility in the midst of economic turmoil on a global basis, particularly in areas of her responsibility.

This is an economic crisis that not only affects her region of the world, but also has caused significant spill-over effects on a broader basis.

She brings to this task significant experience, demonstrated leadership in a variety of areas, which give us confidence that she will carry out her new responsibilities with great distinction.

She is committed to developing and maintaining free, fair trade relations with the nations throughout the globe. I am confident that Susan Esserman is an exceptionally qualified individual who will meet the international trade challenges faced by the United States. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you for those opening remarks.

I would just like to point out, too, that Ms. Esserman has served ably as General Counsel at USTR, as Acting General Counsel and Assistant Secretary for Import Administration at the Department of Commerce. So, it is a pleasure to welcome you here. I would ask you at this time, to make any opening statement. If you would, keep it to 5 minutes. Your full statement will be included as if read.

STATEMENT OF SUSAN ESSERMAN, NOMINATED FOR THE OFFICE OF DEPUTY U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Ms. ESSERMAN. Thank you very much, Mr. Chairman and members of the committee.

It is an honor and a privilege for me to appear today as President Clinton's nominee for the position of Deputy U.S. Trade Representative. I would like to express my deep appreciation to President Clinton and Ambassador Barshefsky for their confidence in me, and also to the members of the committee and staff who have taken their time to be with me in the past few weeks.

I am very grateful for the opportunity to be in public service and to work with this committee. I believe my experience in government during the past 5 years provides an excellent foundation for the position of Deputy USTR, should I be confirmed.

As Assistant Secretary of Commerce, where I was responsible for enforcing the trade laws, I saw the importance of strong trade laws to the workers and industries of America and to the principles of open trade from which our country so greatly benefits.

Likewise, as General Counsel of USTR where I have focused on enforcement of our trade agreements and trade laws, I have seen firsthand the need to ensure that the agreements we negotiate are effective and enforceable, and that Americans receive tangible benefits from them.

Trade issues, today, are more important to the American people than they have ever been before. In just two decades, trade has grown from less than 10 percent of our economy to nearly 30 percent today.

In these years, the consistent bipartisan policy of expanded trade has meant higher living standards for families, better jobs for working people, better prospects for business, and higher incomes for farmers.

Our trade policy has also included a commitment to pursuing fair treatment from foreign companies and international trade institutions and, thus, trade policy has advanced our National interest in prosperity at home, and the rule of law abroad.

I will very, very briefly discuss our potential to advance these goals in the four areas for which I would have responsibility. First, the WTO. The creation of the WTO during through the Uruguay Round Agreement was one of the great bipartisan successes of U.S. trade policy generally, and of this committee, in particular.

Looking to the future, we can do more to improve our market access through WTO agreements, beginning with reducing remaining trade barriers to industrial products and through negotiations to begin soon on agriculture and services.

We must also ensure that new applicants to the WTO enter on commercially meaningful grounds. The entry on these terms can help to integrate them into the world economy, keep reform on the right track, and make the rules of the trading system apply on a broader basis.

The WTO must adapt to the technological revolution and it is imperative that the WTO address public concerns about its own openness and accessibility, as well as consider the relationship of trade to labor and the environment.

Second, on trade with Europe, the European Union, as you know, is our largest bilateral economic partner. Nonetheless, significant impediments to expanded trade with the EU remain.

Under the Transatlantic Economic Partnership, which we launched in May, we will seek to eliminate barriers and deal with some of the difficult problems between us, including in agriculture, as well as seek to cooperate at the WTO and third markets to promote our shared interests.

More broadly, in agriculture, where we confront our most difficult problems with Europe, we will use all available tools to ensure that the Europeans abide by their existing agreements, and we will give high priority to achieving reform in the WTO negotiations.

Third, trade with Africa. Here, we are working to promote reform, lower our trade barriers, and enhance the opportunities for

American goods and services in this continent of 600 million people. Let me state here my appreciation to this committee in passing the African Growth and Opportunity Act earlier this summer.

The final area, the Middle East. Here, our free trade agreement with Israel has established a strong foundation with our key ally in the region. Our trade policy builds on this to secure new opportunities for American exporters, promote inter-regional trade, and to support the peace process.

Finally, let me say that I believe strongly that in all of these areas, to succeed, trade policy must be bipartisan and must be the result of close cooperation between the administration and the Congress.

If confirmed, I would hope to work very closely with this committee to ensure that our policy reflects your views and advice and that its execution leads to direct benefits for the working people, farmers, businesses, and families whom you represent.

Thank you very much for this opportunity today, and I would be happy to answer any questions you might have.

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

The CHAIRMAN. Thank you, Ms. Esserman.

We have three standard questions we ask all nominees. First, is there anything you are aware of in your background that might present a conflict of interest to the duties of the office to which you have been nominated?

Ms. ESSERMAN. No, Mr. Chairman.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated?

Ms. ESSERMAN. No.

The CHAIRMAN. Third, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Ms. ESSERMAN. Absolutely.

The CHAIRMAN. Ms. Esserman, if confirmed, among the issues that you will have responsibility for are WTO sectorial negotiations in the area of agriculture and services. At this time, however, the President lacks fast-track authority. As a negotiator, what progress do you expect to make on an issue as sensitive as agriculture when the administration not only lacks fast-track authority, but has actively worked to delay consideration of this legislation by Congress?

Ms. ESSERMAN. The administration strongly supports fast track. We worked very hard last year in the Senate and in the House, and in particular worked very productively with this committee, on fast track. We commend you and the committee for your leadership in forging a consensus on this issue.

We continue to strongly support fast track. The administration does not believe, though, that sufficient support exists for passage of fast track at this time. We believe that the best approach is to move forward next year in advance of launching WTO negotiations.

I would like to say that we have made a great deal of progress, though, particularly in the area of agriculture and services, in en-

sure that WTO negotiations are launched in 1999 on an expeditious basis.

We were very pleased at the outcome of the WTO Ministerial, where we received an iron-clad commitment from all trade ministers—that means including Europe—on taking the necessary steps to ensure that we are prepared to proceed with negotiations beginning in 1999 on agriculture.

The CHAIRMAN. Well, I will just make a comment. I have to say I am very disappointed with the lack of leadership from the White House on fast track. It is the President whom we are trying to help out.

I was particularly disappointed to hear about a meeting that the White House called with a business group a few days ago in which it discouraged business from supporting fast track.

I just think that, in order to have any meaningful negotiations, particularly in the sensitive area of agriculture, fast track is absolutely necessary. There is no reason to believe that the situation will be such next year that it is going to be simpler to get enacted that it is this year. I just would hope that the administration would be supportive.

Let me turn to trade on agriculture, which is, of course, of tremendous importance to this country, as well as to me, personally. That is why I am concerned when initiatives such as the Transatlantic Economic Partnership exclude any fundamental reform of agricultural subsidies abroad.

It seems to me that this reform is probably among the most important, most sensitive issue in our trading relationship with the Europeans. How do you intend to make progress with the Europeans on fundamental reform of their agricultural subsidies?

Ms. ESSERMAN. Clearly, one of the biggest impediments to agricultural trade in Europe is the European's common agricultural policy. This is why one of our top priorities in the WTO is to achieve substantial reform of the cap. In fact, the government, led by the President, has placed a great deal of emphasis on the importance of launching agricultural negotiations promptly in 1999.

As I said earlier, we were very pleased with the outcome of the May Ministerial, where we secured full agreement from the ministers to make sure the necessary steps were in place so agriculture negotiations could be launched promptly in 1999.

At the May Ministerial, Ambassador Barshefsky and Secretary Glickman met with the Cairns Group to launch a comprehensive strategy, both tactical and substantive, to achieve substantial reform in Europe. We intend, in fact, to meet again with the Cairns Group to further these steps in Geneva later this month.

We are also working with some European countries who actually recognize the damaging effect of the cap on Europe, as well as on other countries. The combination of the multilateral pressure to reform the cap, along with the internal pressure arising from the enlargement of the EU, we think gives us a good opportunity to continue with these substantial reforms.

Just as to your comment about the Transatlantic Economic Partnership, that is a bilateral initiative, and there we are working in the agricultural area to reduce barriers on a bilateral basis. The

best way to proceed with a cap, is where you have multilateral pressure on Europe and that is how we intend to proceed.

The CHAIRMAN. Well, I cannot underscore too much the importance of addressing the problem of a common agriculture. I do think it will be hard to make any progress without fast track, notwithstanding what you say.

Let me turn to the question of WTO. The United States has had a great deal of success in dispute settlement proceedings. There have been some recent decisions that have caused some concern in the U.S. For example, the shrimp/turtle decision, which seems to subject our domestic environmental laws to unwarranted scrutiny by the WTO.

What comments do you have about that, and how would you assess the health of the WTO dispute settlement system, do you think it has served the American interest well?

Senator MOYNIHAN. Mr. Chairman, could I just ask, what was the shrimp/turtle decision?

Ms. ESSERMAN. It was a recent WTO decision which was taken against the United States shrimp/turtle law, which requires that shrimp be caught using turtle-excluder devices.

Senator MOYNIHAN. I see.

Ms. ESSERMAN. And the WTO recently ruled against the United States, and we are currently appealing that decision.

Mr. Chairman, let me emphasize that the WTO dispute settlement understanding is still very new. In fact, we have not used all of its provisions, and every day we are testing new provisions.

So, we are very pleased with the opportunity to undergo a review of the dispute settlement system, and we very much want to work with this committee to get your thoughts about how we can improve the system to better forward American interests.

Having said that, I really do believe that we are off to a good start in the WTO. I think the dispute settlement system has proved to be valuable in two key respects. First, it has been beneficial in securing tangible gains for a wide range of American industries. Second, and probably most importantly, the dispute settlement system is sort of a backbone of the WTO system. It is a deterrent.

Our trading partners know that the mechanism is ready and available to us if they are not fulfilling our obligations and, in fact, we have been aggressive in pursuing our rights.

In the WTO, we have been by far the most active user of the system. We have launched a third of the cases in the WTO, 41 complaints against 24 different countries, and, most importantly, we have been the biggest beneficiary of the WTO dispute settlement system.

Now, we cannot reasonably expect to win every case, although we certainly intend and wish we could. But I do believe that our record so far, nine favorable decisions and nine settlements, is quite, quite good.

But the most important thing that we need to think about is securing results for the American people. Here, I think the dispute settlement system has been most effective in the situation of settlement.

That is, that with binding dispute settlement, we have been able to secure results on an early basis because, through the threat of

filing a case, we have been able to achieve settlements, and then achieve results several years earlier.

We very much disagreed with the outcome in the shrimp/turtle case, which is why we have appealed the case to the appellate body. I think there have been a lot of interpretations of the case in the public, but I do think it is important for people to know that the panel went out of its way to explain that the report was limited to the specific facts of the case, and also the panel specifically acknowledged that environmental considerations are important for the interpretation of WTO agreements. Nonetheless, we are disappointed, and when we are disappointed, we seek to appeal.

The CHAIRMAN. Senator Moynihan?

Senator MOYNIHAN. Well, I am glad to learn that there is not some new creature called a shrimp turtle. [Laughter.]

Ms. ESSERMAN. I had the same question myself when I first heard of this case.

Senator MOYNIHAN. Could I just draw attention to one matter, and then make one comment. In your statement, Ms. Esserman, you say that, "The WTO must address public concerns about its own openness and accessibility to citizens and citizens groups. It must also consider the relationship of trade to labor and environment."

Here, I think we have an opportunity to do something creative with an organization we have been involved with from the very beginning, which is the International Labor Organization. In an address that he gave in December in Germany, Mr. Ruggerio, who is head of the WTO, said, as regard to labor standards, the International Labor Organization was the place that the world should work out these matters.

At the ILO conference in June, the annual conference, they came a long ways towards agreeing that there were five core labor standards, which just membership in the ILO indicate, if you commit yourself to.

Accordingly, they now have to address the question, will there be any inspections and adjudications, if you like. The ILO was founded, of course, in 1919. The first meeting was down here at the Pan American Union, and that was before the kind of intrusive inspection and litigation took place. But that is a potential, and I would hope we might see your office pursuing the matter with the Labor Department.

Ms. ESSERMAN. We would very much like to pursue the matter, Senator Moynihan. We thought what was achieved in June at the ILO was a very significant matter. The Department of Labor—

Senator MOYNIHAN. It did not get two sentences of press in the United States.

Ms. ESSERMAN. Well, a lot of important news related to trade seems to not get very many sentences in the press. But, no. It is a very significant achievement, and much credit goes to the Department of Labor for so intensely pursuing this issue. We are going to watch closely, work with the Labor Department, to make sure that the operation of the follow-up mechanism is a strong one, that there is good scrutiny of labor practices around the world. We think this is a very, very important development.

Also, we think the ILO can be useful in other ways to the WTO. The President, when he was in Geneva in May, called for closer collaboration between the ILO and the WTO, and called for a meeting between the two organizations. We are urging the organizations to conduct some joint research and studies to help us explore this issue.

Senator MOYNIHAN. It would be useful. For what it is worth, the WTO is now housed in the original building of the International Labor Organization. The ILO prospered and moved up to a marble palace, which no working man would dare go in except to fix the plumbing. But that is another matter.

I do want to reinforce the Chairman's statement of concern about this meeting with business representatives saying that fast track is off for this year. We do not think it. We passed it out of this committee 18 to 2, did we not, sir?

The CHAIRMAN. Yes.

Senator MOYNIHAN. There is a British phrase, of being too clever by half. I mean, either you are for fast track or you are not. We know the situation in the House. The thing to do, is get over there and change the situation in the House. But I just wanted to let you know that we are committed and the Senate is committed, and we could use more help, unlike this last meeting at the White House. You were not a part of it.

Ms. ESSERMAN. I am not aware of the particulars.

Senator MOYNIHAN. Well, go back and find out. All right?

Ms. ESSERMAN. I just wanted to assure you that we are strongly in favor of fast track. I think we share the same goal. We just have a concern about whether proceeding at this point would be counterproductive, and that is our fear, because the most important thing is to have a successful vote on fast track.

Senator MOYNIHAN. All right. Thank you.

Ms. ESSERMAN. Thank you.

Senator MOYNIHAN. Again, we thank you for all you have done, and all you will do.

Ms. ESSERMAN. Thank you very much, Senator Moynihan.

The CHAIRMAN. Senator Graham?

Senator GRAHAM. Thank you, Mr. Chairman. Before turning to the two questions that Senator Rockefeller has asked me to submit, I am pleased that there has been a focus in your comments, Ms. Esserman, on agriculture.

I believe this is a critically important issue of our overall trade policy and it is one that has received inadequate focus. It is also an important part of the political constituency if we are going to pass further expansions of trade.

Since the days of Thomas Jefferson, agriculture has been a supporter of free trade in the United States, but in recent years has become increasingly reluctant, I believe, in large part, out of concern as to whether trade agreements that were entered were effectively enforced.

I am pleased at your recognition of that, and your interest in seeing that agriculture gets proper attention, especially in our dealings with Europe. There is no way in which the administration would show its serious intent to pursue expanded, free, fair, and

enforceable trade policies than by an aggressive effort in the field of agriculture. I am glad you are going to be leading that effort.

Ms. ESSERMAN. Senator, I would just like to say that, as you know, we totally agree with that, and, in fact, we have appointed a special agricultural ambassador in recognition of the importance of this issue. But, in addition to pursuing reform, we also place great emphasis on the very thing that you raised, which is enforcement of our agreements. Nearly one-third of our WTO cases have been in the area of agriculture, and we have been quite successful in those cases.

Senator GRAHAM. Mr. Chairman, if I could, now, submit the two questions from my colleague, Senator Rockefeller.

The CHAIRMAN. Please proceed.

Senator GRAHAM. I am reading these as verbatim as I can, given the interlineations of Senator Rockefeller.

The first question. "The assault by foreign governments on our unfair trade laws is a subject of concern to this committee. The United States is now playing defense on this issue in the WTO Working Group on Trade and Competition, in the FTAA talks, in preliminary discussions on the WTO Millennium Round, and APEC, and elsewhere.

It worries me that we have not found an effective way of communicating to some of our trading partners that our trade laws are not for sale. Congress has been very clear on this point.

Fast track legislation, both the House and the Senate versions, instruct negotiators to strengthen, if possible, and avoid weakening in any way our existing antidumping and countervailing duty remedies. Congress could not accept accords that failed to meet this criteria. This leaves it up to our negotiators to change the subject.

There is too much to be achieved in other areas and nothing to be gained from the U.S. in, again, revisiting AD/CVD rules, rules that were comprehensively negotiated in the Uruguay Round and have yet to be tested since that time.

You were a principal implementer of the Round, so I know that you know how important this is to U.S. interests. Would you please assure that our trade laws will not be sacrificed in negotiations on your watch?"

That is the end of the first question. [Laughter.]

Ms. ESSERMAN. Well, I would like to assure Senator Rockefeller, and this committee, that we will absolutely stand firm against attempts—foreign government attempts—to weaken our laws.

I am, unfortunately, all too familiar, from my first position in the administration, with attempts by foreign governments to weaken the laws. We have been vigilant in our defense of the trade laws in every forum, in APEC, in FTAA, and in the WTO, and we will very much continue to be.

Senator GRAHAM. Thank you.

The second question from Senator Rockefeller. "I would like to ask about a WTO issue: the proposed accession of a huge, non-market country like China. As you know, dumping by producers in this country into the United States' market has become a major problem. Just as WTO accession would not eliminate this dumping, our remedies to offset such dumping must remain intact.

This means, among other things, reserving the Commerce Department's ability to employ a non-market economy, NME, antidumping methodology with respect to Chinese goods.

In fact, the accession agreements needs to specify that the United States and other WTO members may continue to use NME methodology. Accepting something less than explicit language would be damaging.

These are tough times in the markets in Russia and Asia. However, I do not believe that the universe of actions that the United States might properly take in support of economic recovery in these regions should include exemptions from our trade laws. Such an approach would force both manufacturers and farmers to bear a grossly disproportionate share of the burden."

Mr. Chairman, would you please count this over-time against Senator Rockefeller's future questioning period? [Laughter.]

The CHAIRMAN. Duly noted.

Senator GRAHAM. "The United States has insisted that an accession package must be 'commercially viable.' Can you assure us that this antidumping issue, the core element of any commercially viable accession package, in your view, will be accorded the high priority that it deserves in negotiations?"

Ms. ESSERMAN. I absolutely can assure this committee that this antidumping issue will achieve high priority, and we have been very clear to the Chinese government that we must retain the flexibility that we have under our antidumping law to treat them as a non-market economy country.

Senator GRAHAM. Thank you, Ms. Esserman. That completes my questions, and Senator Rockefeller's questions.

The CHAIRMAN. Your time has expired. [Laughter.]. Well, I think that completes the questioning for today. We will keep the record open so that members of the panel can submit questions until 5:30 tonight. We would ask that you and the other witnesses of today to answer those questions as promptly as possible.

Thank you very much for being here today. We will proceed expeditiously.

Senator MOYNIHAN. Thank you, indeed.

Ms. ESSERMAN. Thank you very much for holding this hearing.

The CHAIRMAN. The committee is in recess.

[Whereupon, at 12:51 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF SUSAN G. ESSERMAN

Mr. Chairman and Members of the Committee:

It is an honor and a privilege for me to appear today as President Clinton's nominee for the position of Deputy United States Trade Representative. I would like to express my deep appreciation to President Clinton and to Ambassador Barshefsky for their confidence in me, and also to the Members of the Committee and staffs who have taken the time to meet with me in the past few weeks.

I believe that my experience in the U.S. government during the past five years provides me with an excellent foundation for the position of Deputy United States Trade Representative, should I be confirmed. As Assistant Secretary of Commerce for Import Administration, the U.S. official responsible for trade law enforcement, I saw every day the central importance of strong trade laws to the workers and industries of America, and to the principles of open trade from which our country so greatly benefits. If we are to maintain the support of the American people for open trade, Americans must have the confidence that our trading partners will be subject to fair trade rules, and that they will be safeguarded against unfair trade practices at home and abroad. Likewise, as General Counsel of USTR, where I have focused on enforcement of our trade agreements, I have seen firsthand the need to ensure that the agreements we negotiate are effective and enforceable, and that Americans receive tangible benefits from them.

These issues are more important to America and the American people than ever before. In just two decades, trade has grown from less than 10 percent of our economy to nearly 30 percent today. In these years, the consistent bipartisan policy of expanded trade has secured higher living standards for families, better jobs for working people, better prospects for business and higher income for farmers. It has also included a commitment to ensuring fair treatment for Americans from foreign companies and international trade institutions. Trade policy has advanced our national interest in prosperity at home and the rule of law abroad.

Let me very briefly discuss our potential to advance these goals in some of the major areas for which I would have responsibility as Deputy U.S. Trade Representative.

First, the World Trade Organization. The creation of the WTO through the Uruguay Round Agreement was one of the great bipartisan successes of U.S. trade policy generally, and the Finance Committee in particular. Next year we will host the WTO's Third Ministerial Conference. And as we approach this event I see four major areas in which the WTO can be improved.

- With respect to market access, enormous gains have been made through the development of the GATT and the WTO. However, this work—reducing and eliminating tariffs and other trade barriers to industrial products—remains incomplete. Barriers are highest in fields like agriculture and services, in which the United States is most competitive. Next year negotiations will be launched in these and potentially other areas, which will move us toward a world more open to our exports.
- The WTO is also growing in membership. It now has 132 members, and 32 economies are applying to join. In each of these cases we will insist that accession be on commercially meaningful grounds. Subjecting these countries to WTO disciplines is in our interest, because it will further open world markets, create new job opportunities for Americans, and advance the larger vision of open trade as a contributor to a peaceful world which accepts the rule of law.

- The WTO will have to adapt to the technological revolution, through negotiations that recognize the speed at which the commercial world is changing; incentives for the development of beneficial technologies through lower trade barriers and stronger intellectual property protections and guarantees that global electronic commerce can reach its full potential.
- And the WTO must address public concerns about its own openness and accessibility to citizens and citizen groups. It must also consider the relationship of trade to labor and the environment. President Clinton stated his concerns about these issues at the Second Ministerial Conference and challenged our trading partners to agree to several concrete steps to open up the WTO and dispute settlement system.

Second, trade with Europe. The European Union is our largest bilateral economic partner: counting investment and two-way trade in goods and services, our bilateral economic relationship has grown to \$700 billion. Last year alone, our goods exports to the EU grew by \$13 billion—more than the total of our goods exports to China.

Nonetheless, significant impediments to expanding our trade with Europe remain. I would cite agricultural trade barriers in particular. The Transatlantic Economic Partnership, which we launched in May, will seek to address some of the key problems in US-European Union trade relations, and will find areas in which we can cooperate at the WTO and in third markets. Thus we will engage the EU pragmatically and constructively to achieve further market access, including agriculture; seek to head off disagreements before they become crises; and enter the next century with a further strengthened and mutually beneficial trade relationship.

The Transatlantic Economic Partnership initiative is of course only part of our efforts to address the serious problems with the European Union on agricultural issues. We will give high priority to the implementation of existing WTO commitments and aggressive preparation for and pursuit of WTO negotiations on agriculture, including on issues such as reducing tariffs, eliminating export subsidies, state trading enterprises, the Common Agricultural Policy, and other market access issues. In addition, we will continue to pursue our full dispute settlement rights at the WTO and other fora. It is imperative that the EU live up to its obligations in its pending disputes with the United States. We will not tolerate failure to comply with trade agreements or WTO panel rulings, and we will use our own laws and our rights at the WTO to ensure that American trade interests are respected.

Our continued challenge in trade policy with Russia is to promote stability and integration into world markets through commitment to recognized international trade disciplines. We also place high priority on improving trade ties with the new democracies of Central Europe and the former Soviet Union, seeking to ensure that U.S. companies maintain and increase their participation in Central European markets as they transition to full membership in the EU.

Third, trade with Africa. A majority of sub-Saharan Africa's 48 countries have adopted market-oriented economic and democratic political reforms in the past seven years. As a result, economic growth rates in Africa are rising, especially in contrast to the 1980's and early 1990's. Our exports to Africa are significant at \$6 billion in goods last year, but our market share is quite low. We are thus working to enhance the opportunities for American goods and services in this continent of 600 million people. The steps we are taking through the President's initiative and the African Growth and Opportunity Act, passed by the Committee earlier this summer, can create new export opportunities for Americans as well as help African countries grow through reform.

Of special importance for American companies and workers are the efforts of African governments to open their economies and lower trade barriers. The World Bank has estimated that in 1991, these barriers cost Africa as much as it received in foreign assistance. Our trade policies seek to encourage African countries to take on greater obligations in the WTO, accelerate the regional economic integration that is taking place in many parts of the continents and engage in a more intense dialogue with the United States on trade. We believe integrating African countries into the international trade system will lead to more economic development.

Fourth, the Middle East. Our Free Trade Agreement with Israel has established a very strong, and mutually beneficial foundation with our key ally in the region. Our trade policy builds on this to secure new opportunities for American exporters, promote intra-regional trade and to support the peace process. For example, Ambassador Barshefsky recently designated the first "qualifying industrial zone," an industrial park in the city of Irbid, Jordan, where Israeli and Jordanian companies working together will enjoy duty-free access to the United States.

As General Counsel, it has been my great privilege to work with the career officials of USTR. USTR is one of the smallest agencies in government, and its men and women face correspondingly high demands. They are some of America's best

public servants, and their work directly affects the well-being of American businesses, farmers and working people. It would be a great honor to continue this association should I be confirmed as Deputy United States Trade Representative.

Finally, let me say that I believe that to succeed, trade policy must be bipartisan and must be the result of close cooperation between the Administration and Congress. If confirmed, I would hope to work very closely with the Committee to ensure that our policies reflect your views and advice, and that its results benefit the working people, farmers, businesses and families whom you represent.

Thank you very much for the opportunity to appear before you today. I will be pleased to answer any questions you may have.

The White House,

JUN 26 1998

19

To the

Senate of the United States.

I nominate

Susan G. Esserman, of Maryland, to

be Deputy United States Trade Representative, with the rank

of Ambassador, vice Jeffery M. Lang, resigned.

William J. Clinton

DRAFT

DRAFT

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 26, 1998

PRESIDENT CLINTON NAMES SUSAN G. ESSERMAN AS DEPUTY UNITED STATES TRADE REPRESENTATIVE WITH RANK OF AMBASSADOR

The President today announced his intent to nominate Susan G. Esserman as Deputy United States Trade Representative, with the rank of Ambassador.

Ms. Susan G. Esserman, of Bethesda, Maryland, currently serves as General Counsel to the Office of the United States Trade Representative. Ms. Esserman has played an important role in the development of United States trade policies, including trade law and World Trade Organization enforcement strategies. Previously, Ms. Esserman held two senior posts at the United States Department of Commerce. She served as Acting General Counsel at the Department of Commerce, having been nominated for this position in August 1996. Between March 1994 and April 1996, she served as Assistant Secretary for Import Administration. As Assistant Secretary, she was responsible for enforcement and development of policy. Before her tenure in the Clinton Administration, Ms. Esserman was a partner in private law practice in Washington, D.C., where she specialized in international trade law. She began her career as a judicial clerk to U.S. District Court Judge Oliver Gasch.

Ms. Esserman received her law degree from the University of Michigan Law School, where she was on the Editorial Board of the Law Review. She graduated from Wellesley College with honors.

The Deputy United States Trade Representative is responsible for conducting trade negotiations and assisting the United States Trade Representative in developing and implementing international trade policy. The Office of the United States Trade Representative coordinates and formulates U.S. trade policy, negotiates trade agreements, and advises and speaks for the President on trade related matters. Ms. Esserman's portfolio will encompass negotiations and the development of trade policy in the World Trade Organization and other multilateral fora and Europe, Russia and the Newly Independent States of the Former Soviet Union, the Middle East and Africa.

30-30-30

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. **NAME: (Include any former names used.)**
Susan Gayle Esserman (Birth name: Gayle Susan Esserman)
2. **Position to which nominated:**
Deputy United States Trade Representative
3. **Date of nomination:**
June 26, 1998
4. **Address: (List current residence, office, and mailing addresses.)**

9513 Brooke Drive
Bethesda, Maryland 20817

Office of the General Counsel
U.S. Trade Representative's Office
600 17th Street, N.W. - Room 223
Washington, DC 20508
5. **Date and place of birth:**

June 20, 1952

Chicago, Illinois
6. **Marital status: (Include maiden name of wife or husband's name.)**

Married - Andrew H. Marks
7. **Names and ages of children:**

Stephen Matthew Marks
Age: 13

Clifford Michael Mark
Age: 10

Michael David Marks
Age: 6

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

University of Michigan Law School	8/74 to 5/77	Degree - J.D. 1977
Wellesley College	8/72 to 6/74	Degree - B.A. 1974
Williams College	8/72 to 8/73	
Miami Palmetto Senior High	8/68 to 6/70	High School Diploma
Homewood-Flossmoor High School (Flossmoor, Illinois)	8/66 to 6/68	

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Description of Job	Employer and Location	Dates of employment
Summer intern	Senator Lawton Chiles Dirksen Building Washington, DC	Summer 1973
Clerical/Paralegal	State's Attorney' Office Miami, Florida	Summer 1974
Law Clerk	Kelly, Black, Black & Kenney	Summer 1975
Summer Associate	Steptoe & Johnson 1250 Conn. Ave. NW Washington, DC	Summer 1976

Judicial Clerk	Honorable Oliver Gasch US District Judge US District Court John Marshall Place, NW Washington, DC	9/77 to 8/78
Associate	Stephoe & Johnson 1330 Conn. Ave. NW Washington, DC 20036	10/78 to 12/84
Partner	Stephoe & Johnson 1330 Conn. Ave. NW Washington, DC 20036	01/85 to 11/93
Special Advisor	U.S. Dept. of Commerce 14th & Const. Ave. NW Washington, DC 20230	12/93 to 3/94
Assistant Secretary for Import Administration	U.S. Dept. of Commerce 14th & Const. Ave. NW Washington, DC 20230	03/94 to 04/96
Acting General Counsel	U.S. Dept. of Commerce 14th & Const. Ave. NW Washington, DC 20230	05/96 to 2/97
General Counsel	U.S. Trade Representative Office 600 17th St. NW Washington, DC 20508	04/97 to present

10. **Government experience:** (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

Judicial Clerk for Honorable Oliver Gasch, U.S. District Judge for the District of Columbia (1977 to 1978)

Special Advisor, Dept. of Commerce (12/93 to 3/94)

Assistant Secretary for Import Administration, Dept. of Commerce (3/94 to 4/96)

Acting General Counsel, Dept. of Commerce (5/96 to 2/97)

General Counsel, U.S. Trade Representative (4-97 to present)

11. **Business relationships:** (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

I was previously a partner in the law firm of Steptoe and Johnson. I departed from the firm in November 1993 and formally resigned from the partnership in March 1994 upon my confirmation as Assistant Secretary of Commerce for Import Administration.

12. **Memberships:** (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

I am a member of the American Bar Association, District of Columbia Bar, Florida Bar, Washington Hebrew Congregation, Washington Wellesley Club, National Partnership for Women and Families, National Women's Law Center Network, Women's Bar Association, United States Holocaust Memorial Museum, Jewish Community Center of the District of Columbia (and previously the Jewish Community Center of Greater Washington), Palisades Swimming Pool Association, Inc., Bethesda Country Club, Bradley Boulevard Civic Association, Emily's List, Washington Chamber Symphony, Washington Opera Guild, Resident Associate of the Smithsonian Institute, and Friends of the National Zoo.

13. **Political affiliations and activities:**

- a. List all public offices for which you have been a candidate.

None

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

I am a member of the Democratic Party. I was a member of the Washington Steering Committee for the Clinton/Gore Campaign in 1992.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

To the best of my recollection, I made financial contributions to the following campaigns:

Clinton for President (1992, 1996); Kennedy for Senate Campaign (1994); Terry for Governor Campaign (1993); Democratic National Committee (1992); Moseley Braun for Senate Campaign (1992); Morella Campaign (1990);

Dukakis Campaign (1988); Democratic National Committee Victory Fund (1988); Sarbanes for Senate (1994); Feinstein for Senate (1994); Robb for Senate (1996); Don Mooers (1996); Ralph Neas (1998).

14. Honors and Awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

As Chair of the D.C. Bar International Law Section, I received the D.C. Bar Award for the most outstanding Section of the D.C. Bar (1989). I was a member as well as a senior editor of the Law Review of the University of Michigan Law School. I graduated from Wellesley College with Honors.

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

Co-author with Richard O. Cunningham a chapter on "Section 406 of the Trade Act of 1974: Relief From Market Disruption Caused by Communist Country Imports in the United States" in United States Regulation of International Trade (Oceana Publications, Inc. 1987).

Publication of Remarks at Court of International Trade Judicial Conference: (1) The Injury Standard -- The Courts' Influence on the ITC, 117 F.R.D. 185, 212 (Oct. 1986); and (2) Standing and Accuracy of Decisionmaking Under the Bifurcated Structure of the Antidumping and Countervailing Duty Laws, 137 F.R.D. 509, 599 (Oct. 1990). "Individual Rights Within the Public School Systems: Challenges to the Substantive Curriculum", 74 Michigan Law Review 1420-1447 (1976).

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

I have listed below, to the best of my recollection, the speeches I gave while I was Assistant Secretary of Commerce for Import Administration relating to administration of the trade laws. I did not prepare formal texts for these speeches.

- | | |
|----------|---|
| 09-94 | Committee on Pipe and Tube, Washington, DC |
| 10-94 | Practicing Law Institute, Washington, DC |
| 11-24-94 | American Bar Association, Breakfast at the Bar Speech, Washington, DC |

- 12-07-94 International Trade Commission, Washington, DC
- 1-12-95 Washington International Business Council - Washington, DC
- 2-28-95 National Association of Foreign Trade Zone - Luncheon
Speech, Washington, DC
- 3-15-95 American Bar Association/International Trade Administration,
Chicago, Il
- 4-6-95 American Iron and Steel Institute Symposium on Trade Laws and Steel
Trade under the North American Free Trade Agreement, Washington, DC
- 4-7-95 District of Columbia Bar, Changes to United States Trade Laws resulting
from the Uruguay Round, Washington, DC
- 05-95 Pro-Trade Group, Washington, DC
- 05-26-95 Federal Circuit Bar Association, Key Aspects of the Uruguay Round,
Washington, DC
- 6-19-95 The Institute for Interconnecting and Packaging Electronic Circuits,
United States Trade Laws, Washington, DC
- 6-29-95 Congressional Steel Caucus, General Agreement on Tariffs and Trade
Implementation, Washington, DC
- 10-02-95 French Embassy, Implementation of the Uruguay Round Agreements in
the United States, Washington, DC
- 10-11-95 Steel Wire Rope Association, Washington, DC
- 12-95 Association of Cold Rolled Strip Steel Producers,
Washington, DC
- 12-07-95 Ministers of Economic and Commercial Affairs of the Embassies in
Washington, DC
- 3-13-96 Customs and International Trade Bar, Washington, DC
- 3-21-96 Committee to Support United States Trade Laws,
Washington, DC

- 3-29-96 George Washington University, Department of Commerce International Trade Conference, Washington, DC
- 11-04-97 Testimony - Ways and Means Committee Subcommittee on Trade
- 6-18-97 House International Relations Asia-Pacific Subcommittee Hearing U.S. Vietnam Relations
- 3-04-98 Testimony - Senate Subcommittee on East Asian and Pacific Affairs.
- 3-25-98 Testimony - House International Relations Economic Policy and Trade Subcommittee

In addition, I have given speeches on dispute settlement, trade agreement enforcement and the Administration's trade policy in my capacity as General Counsel of USTR before the American Bar Association International Section, District of Columbia Bar, Non Group, U.S. Ambassadors to Latin America, the President's Interagency Council on Women, the Women's International Business and Legal Forum and National Association of Manufacturers. I did not prepare final texts for these speeches.

17. Qualifications: State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I believe that my work in government as well as in the private practice of law provides excellent experience and background for the Deputy USTR position to which I have been nominated.

I held two senior posts at the Commerce Department. As Assistant Secretary of Commerce for Import Administration, I administered the antidumping and countervailing duty laws. I was responsible for the Administration position on legislation implementing our Uruguay Round commitments in this area, including with respect to WTO dispute settlement. As Acting General Counsel of Commerce Department, I had the opportunity to see the broad range of trade policy, promotion and enforcement interests of the United States. As General Counsel of USTR, I have worked on a range of policy and legal issues relating to the WTO and to our trade agreements, including WTO dispute settlement and trade agreement enforcement matters.

In these capacities, I have participated in the development of trade policy and agreements from several different vantage points that would be valuable should I be confirmed for the Deputy USTR position.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

I have been working in the United States government for the past four and a half years. I severed connections with my former employer when I was confirmed as Assistant Secretary of Commerce for Import Administration in March 1994.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

I have no plans, commitments or agreements to pursue outside employment during my service with the government.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so provide details.

No commitment has been made to employ my services in any capacity after I leave government service.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes. If confirmed, I expect to serve until the next Presidential election.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

I was previously a partner in the law firm of Steptoe & Johnson. I departed from the firm

in November 1993 and formally resigned from the partnership in March 1994 upon my confirmation as Assistant Secretary of Commerce for Import Administration. Since I departed the firm more than four years ago, none of the past matters at the firm appear to present a conflict or potential conflict of interest with the proposed position of Deputy, United States Trade Representative. I will adhere scrupulously to the letter and spirit of all applicable federal conflict of interest laws and regulations as well as applicable bar obligations.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation affecting the administration and execution of law or public policy. Activities performed as a employee of the Federal government need not be listed.

Aluminum Company of America (Alcoa) --trade issues relating to NIS exports; market access to Japan; trade legislative and other miscellaneous matters

American Electronics Association --market access to Japan for a wide range of U.S. electronics products

American Restaurant China Council --tariff issues in Uruguay Round; GSP matters; miscellaneous trade policy and legislative matters

ASARCO --trade legislative matter; dispute settlement issues relating to U.S. - Canada Free Trade Agreement.

Canadian Sugar Institute --trade legislative matter. In connection with this matter, I registered under FARA and deregistered in 1991. This is the only matter for which I registered under FARA.

Harley-Davidson --Section 201 matters and ensuing relief and related policy issues; miscellaneous trade matters

Homer Laughlin China Company --miscellaneous trade issues

Motorola --market access to Japan for third party radios and cellular phones

Occidental Chemical Corporation --trade legislative matters

Virgin Islands Watch Assemblers --GSP matter

As an attorney practicing in the international trade field, I was also involved in on the record administrative and judicial proceedings related to the administration of the U.S. trade laws.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

I will consult with ethics officials of the Office of the United States Trade Representative and will continue to recuse myself from any matter creating a potential conflict of interest, or seek a conflict of interest waiver, as appropriate.

I am providing two copies of trusts established on behalf of my dependent children. See Attachment A. I am also enclosing two copies of the ethics undertaking letter I have submitted in connection with this nomination. See Attachment B.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

The USTR ethics official will be providing these to the Committee under separate cover.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

The only foreign government entity for which I provided any assistance was the Gouvernement du Quebec, in connection with on-the-record trade litigation, which was initiated by the U.S. pork industry. The work, which involved 20.5 hours and \$4,500 in revenues, was performed over a three month period (December 1990 and January - February 1991). The work involved research and analysis in support of the lawyers responsible for the litigation. Quebec was not my client. I never met or had any contact with the client. In addition, I never appeared on behalf of the client in any way.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other

professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No. An EEO complaint alleging discrimination on the basis of sex, age, and handicap was filed against Import Administration while I was Assistant Secretary. The Department of Commerce's Office of Civil Rights investigating the matter found against the complainant.

While I was not a party in any litigation, I was a witness on behalf of the Commerce Department (March 1997) in litigation before the U.S. Court of International Trade, NEC v. U.S. The Court ruled in favor of the U.S. in August 1997. The matter is currently on appeal.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. TESTIFYING BEFORE CONGRESS

If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

**Questions for Susan G. Esserman
Nominee for Deputy U.S. Trade Representative
Senate Finance Committee on Finance
September 3, 1998
Questions Submitted by Senator William V. Roth, Jr.**

Question No 1:

During your tenure in the General Counsel's office at the Department of Commerce, the Department was under subpoena from various congressional committees and subject to numerous Freedom of Information Act requests for documents related to two separate allegations -- (1) that then-Secretary Brown Department funded business promotion trips in John Huang engaged in unlawful campaign fundraising activities while employed as a Deputy Assistant Secretary at the Commerce Department. The Department was criticized for its lack of responsiveness and delay in providing that subpoenaed or requested documents. As Acting General Counsel, at what point did you become involved in the document production process and confirmed, will you respond to any requests put to the Office of the United States Trade Representative by the Finance Committee or any member of Congress, and any other requests for documentation put to your office under the Freedom of Information Act, in a fully responsive and timely fashion?

Answer #1:

The Freedom of Information Act lawsuit involving documents relating to Secretary Brown's trips had been ongoing for over a year prior to my tenure at the Office of General Counsel at the Department of Commerce, which commenced in May of 1996. The Department of Justice was handling the litigation of this matter. My role involved consultations with officials of the Department of Commerce and the Department of Justice attorneys and ensuring that directions of the Court and the Department of Justice attorneys representing the Commerce Department were followed.

With respect to the requests for information that were received during the ten months I was at the Office of General Counsel, the policy of the Department, led by Secretary Kantor and continued by Secretary Daley, was full and prompt disclosure consonant with applicable laws. Given the large number of requests that the Department received during a short period of time, it was an enormous undertaking to ensure that the policy of prompt disclosure was implemented. I worked with Department officials to develop a systematic approach to ensure that relevant offices within the Department were searched, that sufficient resources were devoted to address the requests, that the requests were given priority attention, and that all applicable laws were followed.

I am committed to full cooperation with Congress in regard to requests for information and other matters. If confirmed, I will continue to respond fully and in a timely manner to congressional requests for information, in consultation with Congress and consistent with applicable law. I am

also committed to complying with the letter and the spirit of the Freedom of Information Act, and I will respond fully in conformance with the law.

Question No 2:

While in private practice prior to your tenure as Assistant Secretary of Commerce for Import Administration, as part of your practice, you advised a number of domestic and foreign clients, including certain government-owned companies and private enterprises, in the context of agency proceedings under the U.S. trade laws, such as safeguard, countervailing duty, and antidumping actions. The position for which you are nominated, that of Deputy United States Trade Representative, is extremely sensitive in terms of the development of American trade policy. Your likely portfolio will include the operation of the World Trade Organization and its dispute settlement mechanism, ongoing negotiations with Europe, and planning for this coming year's WTO ministerial -- areas that may raise issues of interest to clients you represented while in private practice. What assurance can you give the Committee that your representation of clients while in private practice will not influence your views or actions if confirmed as Deputy United States Trade Representative? Did potential conflicts of interest arise in your prior government service and, if so, how were they addressed? How do you propose to address an appearance of conflict of interest in your new position?

Answer 2:

I am committed to the highest standards of ethics and will fully abide by all applicable ethics laws and regulations. In the nearly five years that I have been in government, I have avoided potential conflicts of interests by fully abiding by the applicable ethics laws and regulations and scrupulously following the advice of agency ethics officials and the Office of Government Ethics. Accordingly, where appropriate, to avoid potential conflicts of interest or the appearance of a conflict, I have undertaken recusals, divested financial interests or been granted limited waivers with respect to financial interests. My ethics undertaking letter for the position of Deputy USTR, which has been certified by the Office of Government Ethics and is part of my submission to the Committee, outlines my ethics commitments. I assure the Committee that I will work with the ethics officials at USTR, in consultation with the Office of Government Ethics, to ensure that all appropriate steps continue to be taken to maintain the highest standards of ethics and that any potential conflicts of interests are avoided with respect to my past representation of clients while in private practice.

**Questions for Susan G. Esserman
Nominee for Deputy U.S. Trade Representative
Senate Finance Committee on Finance
September 3, 1998**

Questions for the Record Submitted by Senator Alfonse M. D'Amato

Question No: 1

I have some concerns as it relates to the WTO. More and more it seems that the WTO is used as a forum by our trading partners to undermine certain U.S. trade laws. For example, Hong Kong, Japan and several other Members have joined in an effort to reopen the Antidumping Agreement and bring down the U.S. antidumping law. Also I am concerned about a recent, baseless, challenge to our countervailing duty laws based upon a "theory" that the Subsidies Agreement somehow limits our ability to countervail pre-privatization subsidies.

Could you describe what you plan to do in your new role to ensure that the WTO is not used by other countries to undermine the U.S. trade laws?

Answer #1:

If confirmed as Deputy U.S. Trade Representative, I will be in charge of our policy toward the WTO and its agreements. Thus, one of my major priorities will continue to be to ensure that U.S. rights and obligations under the WTO are fully implemented. As General Counsel, I have overseen the strengthening of USTR's monitoring and enforcement office, adding substantial new resources to our efforts to ensure compliance with agreements, including trade remedy provisions under U.S. statutes. My intention is to continue to take a multi-pronged approach to ensuring strong, effective support for our trade laws in the WTO.

First, I intend to continue communicating directly with the Director General of the WTO and his staff to affirm the integral role of effective trade remedies in the international trading system, as well as to engage our foreign counterparts when we believe that our interests are being challenged. Second, we have made a practice of raising our concerns and advancing our interests in the various Committees of the WTO responsible for administering agreements in the trade remedy area, particularly the Committees on Subsidies, Safeguards and Antidumping Practices. Third, we have been tireless in our efforts to ensure that the Singapore Working Group on Competition Policy stays focused and does not stray into a debate on the need for revisions to existing trade remedy provisions. Finally, I already have substantial experience in working closely both with our legal staff and our policy offices within USTR and with the Department of Commerce in building the strong defenses of our statutes and our decisions as well as in aggressively pursuing our rights when other countries inappropriately employ the trade remedy provisions. These are policies that I will continue to pursue as Deputy U.S. Trade Representative.

Question No: 2

It is my understanding that new Countervailing duty regulations are currently in the inter-agency process. I feel very strongly that laws against unfair trade must be enforced and used when necessary. I would like your assurance that you and the U.S. Trade Representative will do all that you can to maintain strong countervailing duty enforcement in the inter-agency process.

Answer #2:

I strongly agree that laws against unfair trade practices must be enforced vigorously. I pledge that USTR Barshefsky and I will be vigilant in ensuring strong countervailing duty law enforcement.

**Questions for Susan G. Esserman
Nominee for Deputy U.S. Trade Representative
Senate Finance Committee on Finance
September 3, 1998
Questions Submitted by Senator Charles E. Grassley**

Question No 1:

The steel company located in my state is being severely injured by a flood of imports from Asia. For instance, I am told that imports of cut-to-length steel plate are up over 800 percent. Much of this steel is coming into the U.S. at well below our production costs.

What has USTR done and what more can it do in the very near future to help the domestic steel industry before it is forced to conduct massive layoffs?

For instance would a section 301 action be appropriate? Do we need legislative changes to section 201 to provide more meaningful safeguard relief for domestic industry?

Finally, I understand that ministers from the European Union recently persuaded Asian nations to reduce their level of cheap exports or face quotas on their products. Does USTR have the authority, ability or will to take similar action?

Answer #1:

The Administration is very concerned with the effects of the Asian crisis globally and on the U.S. economy. In trade terms, the crisis has caused a substantial decline in U.S. exports to the region and an increase of imports, leading to the rise of the U.S. trade deficit. Steel imports from Asia are up sharply and at substantially reduced prices, putting pressure on U.S. producers which have expanded capacity in the last several years due to strong U.S. demand.

The Administration, in active consultation with U.S. industry and workers, and the U.S. Congress, has been actively monitoring these trends and promoting solutions.

The most effective way to deal with this problem in the medium- to long-term is by helping restore demand in affected economies. To that end, we have supported IMF funding, including inclusion and enforcement of a number of conditions for restructuring of the beneficiary economies. These conditions are also designed to ensure that international funds are not used to subsidize local industry. The Commerce Department, working with other agencies, our embassies, and the industry, has developed a program to monitor subsidies abroad with a view to ensure that international funds are not used for purposes for which they were not intended and that international obligations are not violated. Replenishment of the IMF funding remains a key Administration priority.

U.S. producers and workers have available to them U.S. trade laws to address import surges and unfair trade practices. Working closely with U.S. Congress, the Administration has supported passage of strong and effective antidumping and countervailing duty laws. Maintenance and effective enforcement of such laws has been U.S. steel producers' top trade priority. The industry has not in the past hesitated to seek remedies under these laws. The steel industry and workers must be the judge of whether and in what product lines imports are causing or threatening injury, and whether it is appropriate to file trade cases. The Administration will continue to enforce the law rigorously.

U.S. producers may also avail themselves of safeguard provisions under section 201 of the Trade Act of 1974. The Administration favors a domestic safeguard regime that affords an opportunity for meaningful relief to U.S. industries suffering serious injury from import surges, consistent with our international obligations. I would be pleased to discuss concerns you may have over the manner in which section 201 has operated.

With respect to the EU, it is my understanding that the EU has not to date approved a safeguards action concerning steel imports. While the EU has quotas on steel imports from CIS countries, we are not aware of any restraints on imports from Asian sources. We would be very concerned if the EU took any non-transparent or "gray-area" measures to discourage steel imports, and would want to examine evidence of any such steps to ascertain their consistency with the EU's international obligations.

Section 301 of U.S. trade law is also available should instances of specific "unfair" trade practices arise. By and large, however, increased imports are due to devaluations and reduced demand abroad and the continued strong demand in the United States. Traditionally Section 301 has been used primarily to address foreign barriers to U.S. exports.

In summary, rising imports of steel and other products and their effects on U.S. producers are a serious concern for the Administration. We are keeping a close eye on import and industry data and consulting regularly with U.S. producers and union representatives. We are committed to the vigorous enforcement of U.S. trade laws in appropriate cases.

Question No 2:

I understand USTR has been closely following the negotiations of the Biosafety Protocol under the Convention in Biological Diversity. The potential for this Protocol to disrupt trade, particularly in the agriculture and pharmaceutical sectors, is significant. The United States needs to do everything we can to influence the outcome of the negotiations to make sure this doesn't happen. Can you tell me what USTR has been doing in this area?

Answer #2:

The Administration is deeply committed to protecting Biodiversity, including a sound Biosafety Protocol. However, we share your concerns that there is a serious risk that the Biosafety

Protocol negotiations may lead to serious and unwarranted obstacles to U.S. exports of agricultural and pharmaceutical products involving biotechnology. The Administration is working hard to head off such an outcome. Unfortunately, the United States is operating under a serious disadvantage in the negotiations since we are not a party to the Convention on Biodiversity.

Since the outset of the protocol negotiations USTR has actively participated in the Administration's policy development process, which is ably led by the State Department, to help ensure that trade policy questions are thoroughly taken into account in achieving the environmental objective of the agreement. Our staff has participated in all negotiating sessions thus far and we have actively worked with trade officials in other governments to build understanding of the trade issues at stake and to encourage their direct participation in the negotiations.

The final negotiating session is scheduled to take place in mid-February 1999 and we will spare no effort in working towards an agreement that meets its environmental objectives without creating unwarranted barriers to trade.

Questions for Susan G. Esserman
Nominee for Deputy U.S. Trade Representative
Senate Finance Committee on Finance
September 3, 1998

Questions for the Record Submitted by Senator Orrin Hatch

QUESTION #1: ASIAN STEEL IMPORTS

Steel is one of several industries where the impact of the Asian crisis is having an immediate and profound effect.

I refer to the 800 percent increase in imports from Korea of cut-to-length steel plate, for example. Much of that steel is coming in at \$325 per ton, well below US production prices. There is further evidence that a single Korean company, Dong-kuk, which just built another mill in Korea adding to existing overcapacity, enjoys an indirect government subsidy. More specifically, Dong-kuk buys its steel slabs from POSCO, which makes no secret that its terrific growth over the past decade has come from government subsidies.

In addition, Korean line-pipe exports cost about the same price as the hot-rolled steel plates from which US pipe is made! And I suspect either dumping or unlawful subsidies are occurring here, too, especially since these imports have doubled during the same time period, from 1997-present.

And, there are still other problems for American steel. Hot-rolled plate from Japan has risen to 400 percent and plate from Indonesia is up 250 percent for the same period.

In a few words, the situation can only get worse for the near term, which is to say the next two years at least. The currencies of many of these countries are basket cases: Indonesia's rupiah has lost 300 percent, the Korean won is down 60 percent, and the Japanese yen is down 20 percent with continuing high volatility in all cases. The opportunity, as well as motivation, to dump steel, apply subsidies, and even engage in predatory practices in the global marketplace will be invitingly strong.

My question, then, is why isn't USTR expressing concerns over this situation and employing all of the statutory tools available to the USTR in investigating and resolving identifiable wrongs?

For example, I wrote you on July 22, 1998. I attach a copy of my letter for the record which addressed the Geneva Steel filing under the Anti-Dumping Act of 1916 against US importers of dumped plate from Ukraine, Russia and China. The letter remains unanswered, yet the EU has elected to challenge the use of the 1916 Act as non-compliant with the GATT national treatment provisions.

Secondly, besides needing USTR's strong commitment to defend our 1916 Act, it would seem that Section 301 actions are needed to address the subsidy issue I raised.

Finally, our Section 201 remedies seem stalemated by our own ITC. Achieving any form of meaningful safeguard relief under Section 201 is virtually nullified by the standards of injury used by the ITC. Yet, in the EU, the Section 201-type remedies work smoothly. I refer to the recent Italian filing of a safeguard case against several Asian nations. The effect was immediate, with the EU advising Asian trade ministers that exports must decline or quotas would be imposed.

I would welcome your comments on precisely what you would do in behalf of American steel industries.

Answer #1:

The Administration is very concerned with the effects of the Asian crisis globally and on the U.S. economy. In trade terms, the crisis has caused a substantial decline in U.S. exports to the region and an increase of imports, leading to the rise of the U.S. trade deficit. Steel imports from Asia are up sharply and at substantially reduced prices, putting pressure on U.S. producers which have expanded capacity in the last several years due to strong U.S. demand.

The Administration, in active consultation with U.S. industry and workers, and the U.S. Congress, has been actively monitoring these trends and promoting solutions.

The most effective way to deal with this problem in the medium- to long-term is by helping restore demand in affected economies. To that end, we have supported IMF funding, in particular inclusion and enforcement of a number of conditions for restructuring of the beneficiary economies. These conditions also are designed to ensure that international funds are not used to subsidize local industry. The Commerce Department, working with other agencies, our embassies and the industry, has developed a program to monitor subsidies abroad with a view to ensure that international funds are not used for purposes for which they were not intended and that international obligations are not violated. Replenishment of the IMF funding remains a key Administration priority.

With respect to the issue of Korean Government support for Hanbo Iron and Steel, over the past several months, the Administration has had intensive discussions with the Korean Government to reach the quickest and most effective solution for American steel workers and producers. In fact, President Clinton raised steel with Korean President Kim Dae-jung during his state visit in June. On July 1, Hanbo's hot-rolled plant, which was manufacturing the products at issue for our industry, was closed indefinitely. In addition, in August, we concluded an exchange of letters with Korea's Trade Minister to confirm the details of the sale, disposition, and operation of Hanbo. In this exchange, we confirmed that (1) Hanbo is to be sold using a reputable international agent -- Bankers Trust -- through an open and transparent, expeditious, and market-driven process; and (2) the Korean Government will not direct any financial institution to extend loans to Hanbo and the company will operate as a private concern.

I also can assure you that the Administration has responded forcefully to the European Community's (EC's) allegations that the U.S. Antidumping Act of 1916 is inconsistent with the WTO, and that we have taken, and will continue to take, all necessary steps to defend and demonstrate the consistency of this law with our international obligations. We responded to your inquiry on August 19 (attached), and we will continue to ensure that the Congress is kept abreast of these efforts.

U.S. producers and workers have available to them U.S. trade laws to address import surges and unfair foreign trade practices. Working closely with the Congress, the Administration has supported passage of strong and effective antidumping and countervailing duty laws. Maintenance and effective implementation of such laws has been U.S. steel producers' top trade priority. The industry has not in the past hesitated to seek remedies under these laws. The steel industry and workers must be the judge of whether and in what product lines imports are causing or threatening injury, and whether it is appropriate to file trade cases. The Administration will continue to enforce rigorously the law.

U.S. producers may also avail themselves of safeguard provisions under section 201 of the Trade Act of 1974. The Administration favors a domestic safeguard regime that affords an opportunity for meaningful relief to U.S. industries suffering serious injury from import surges, consistent with our international obligations. I would be pleased to discuss concerns you may have over the manner in which section 201 has operated.

With respect to the EC, it is my understanding that the EC has not to date approved a safeguards action request concerning steel imports. While the EC has quotas on steel imports from CIS countries, we are not aware of any restraints on imports from Asian sources. We would be very concerned if the EC took any non-transparent or "gray-area" measures to discourage steel imports, and would want to examine evidence of any such steps to ascertain their consistency with the EC's international obligations.

In summary, rising imports of steel and other products and the effects on U.S. producers are a serious concern for the Administration. We are keeping a close eye on import and industry data and consulting regularly with U.S. producers and union representatives. We are committed to the vigorous enforcement of U.S. trade laws in appropriate cases.

QUESTION NO. 2: DEFENSE OF US LAWS ON UNFAIR TRADE PRACTICES

This appears to be the season for foreign government assaults on US trade laws, many of which were untouched by previous multilateral trade negotiations, such as the 1916 Antidumping Act. We seem to be on the defensive everywhere, and I'm not convinced we should be. Yet, we're defending ourselves in the WTO working group on trade and competition; in the FTAA talks, in preliminary discussions on a WTO "Millennium Round"; and in APEC discussions, as well as elsewhere.

Something is missing in our negotiation style: our trading partners routinely use the same domestic laws that we, the US, now find ourselves compelled to defend. How can we

help you make known Congress' strong interest in ensuring that others know of the strong consensual support that exists here for, say, our anti-dumping statutes? I thought that we had done this quite effectively in our Fast Track bills which instruct negotiators, like yourself, to avoid weakening in anyway existing anti-dumping or CVD remedies.

Answer #2:

First, let me say that I, too, am a strong supporter of U.S. trade laws. Strong trade laws and vigorous enforcement of the laws are a critical element of this Administration's trade policy. This was my position when I was at the Department of Commerce; it is my position now as the General Counsel of USTR, and it will be my position as Deputy USTR if I am confirmed.

While we are called upon to discuss our trade laws in various fora, we have been unequivocal that our trade laws are a vital element of our trade policy and are anchored in the world trading system. In addition, we have repeatedly made clear to the Europeans our resolve in supporting the 1916 Act. We present our views from a position of strength, not weakness. This is due in significant part to the support that Congress has expressed for vigorous enforcement of U.S. rights under U.S. trade laws. The message to our trading partners is clear: our commitment to U.S. trade laws is not a passing trend, but instead is a fundamental aspect of U.S. trade policy, and that their attempts to weaken those laws are misguided. Moreover, I can assure you that the United States aggressively defends its rights when other countries attempt to misuse trade remedy statutes in their own countries.

We appreciate your strong support of U.S. trade laws. Continued congressional support will be vital to our efforts to keep our partners focused on strong trade remedy provisions for the benefit of the trading system.

QUESTION NO. 3 : NON-MARKET ECONOMY (NME) ANTIDUMPING METHODOLOGY

As important as the defense of our trade laws is the need to ensure that the accession of NME economies, like Russia and China, doesn't worsen the dumping problem for the US.

It seems to me a quick solution is the preservation of the Commerce Department's NME antidumping methodology regarding Chinese and Russian goods. I would urge therefore that our accession agreement specify that the United States and other WTO members may continue to use the NME methodology. Do you agree with this?

I know Russia, for one, is facing tough times, and I support the President's policy actions to help them. But I can't find any justification for US manufacturers and farmers bearing the burden for an accession that is supposed to be a commercially viable agreement for all parties.

Answer #3:

I fully agree that a commercially viable agreement must broadly benefit U.S. manufacturers and farmers, including preserving our ability to act effectively against unfair trade practices and surges in imports. In applying the antidumping law, the Commerce Department has found that both Russia and China are non-market economy countries warranting the use of the non-market economy methodology. We need to preserve the Commerce Department's right to use this methodology in its antidumping investigations.

QUESTION NO. 4: IMPORTS OF CERTAIN CATEGORIES OF WOOL FIBER

Important to the ultimate settlement of the Agreement on Textiles and Clothing was an administration commitment to the U.S. wool sector. The deal allowed a ten-year recovery window for U.S. wool growers, spinners and fabric makers in exchange for their consent to the deepest of any commodity tariff cuts.

Last month, this Committee adopted an amendment to the Trade and Tariff Act of 1998 that eliminates tariffs for 80-90 category wool fiber imports and reduces by half the tariffs on 60-70 quality wool. This action threatens a multi-billion dollar recovery and competitiveness plan put in place by the U.S. wool sector, while removing tariffs five years ahead of scheduled reductions. By the way, I believe the ATC called for tariff reductions, not the eliminations discussed here. In this sense, it goes beyond the scope of the ATC and, at least in U.S. contract law, could be seen as a breach.

Finally, the garment maker seeking cuts claim that they can't compete with wool suit imports from Canada. This, as you know, is also a problem of the USTR's making since USTR negotiated away the U.S. right to even re-open discussions on the use of foreign, non-NAFTA wool in Canadian suit imports.

I am dumbfounded by the silence of the USTR on the subject, and would appreciate a clear statement from you as to your position on the amendment that would allow the wool fiber import tariff eliminations and reductions discussed earlier. I must say, in all due respect, that I interpret this silence as a snub to the U.S. wool sector.

Answer #4:

USTR in no way intends to disregard the views of any party affected by a legislative proposal. Indeed, this Senate-initiated bill has provoked differing views from the wool fabric manufacturers on the one hand and wool suit producers on the other hand. The need for careful consideration of all views is one reason why the Administration has not taken a position on this provision.

PREPARED STATEMENT OF HON. BOB GRAHAM

Chairman Roth, Senator Moynihan, and members of the Finance Committee, it is with great pleasure that I introduce Ms. Susan Esserman for your consideration as the next Deputy United States Trade Representative.

Before I begin, I want to welcome Susan, her husband Andrew Marks, and their three sons, Stephen, Clifford, and Michael to this hearing. I am pleased that they are able to join us here today. Both Susan and Andrew were raised in the Miami area, and I am proud to say that Susan comes from an outstanding family that is held in high regard in our home community of South Florida.

Senator Mack has prepared a statement in support of Ms. Esserman's nomination—which I will submit on his behalf—and I would ask the Chairman to include the full text of Senator Mack's statement in the record.

Ms. Esserman is about to assume one of the most critical positions within the United States government—Deputy United States Trade Representative for the negotiation and development of trade policy in the World Trade Organization, Europe, Russia and the former Soviet Union, the Middle East and Africa. She is accepting this responsibility in the midst of turmoil in Russia's national economy—an economic crisis that is not only affecting Russia, but has also caused significant spill-over effects throughout the globe. In addition, Susan must provide the significant experience and leadership that will be demanded of the United States when we host the 1999 World Trade Organization Ministerial, especially in the critically important agriculture sector.

Throughout her career—as General Counsel to the Office of the United States Trade Representative, Acting General Counsel at the Department of Commerce, and as Assistant Secretary for Import Administration at Commerce—Susan Esserman has demonstrated a consistent standard of excellence on behalf of the Administration and the nation.

She has been praised for her work at both USTR and Commerce by numerous domestic industries. Often cited are her commitment and creativity in the advancement of U.S. commercial interests, and her demonstrated fairness in resolving trade disputes. Ms. Esserman's bi-partisan, consensus-building approach to her duties is well suited to address the diverse issues on our trade agenda.

Susan and I share a strong interest in developing and maintaining free, but fair, trade relationships with nations throughout the globe. I believe that Susan Esserman is an exceptionally qualified individual who can meet the international trade challenges faced by the United States.

PREPARED STATEMENT OF HON. CONNIE MACK

I am pleased to offer my support today for Susan Esserman, the nominee for Deputy United States Trade Representative. I have only recently learned that Ms. Esserman's distinguished career can be directly traced back to her high school years which she spent in Florida's Miami Palmetto Senior High School. Needless to say, I am proud to introduce a nominee with Florida ties.

After her high school years, Ms. Esserman went on to establish herself in the trade community, first as a partner with the law firm of Steptoe and Johnson, and then as a valued member of the current Administration's trade team.

In the Administration, Ms. Esserman has served in numerous trade related positions. The background she has gained in these positions has no doubt given Ms. Esserman invaluable insight into the global trade issues facing the United States, as well as the concerns of the Congress on trade policy matters.

It is clear that Ms. Esserman is intimately familiar with what I consider the key trade concern voiced again and again by Members of Congress—the monitoring and enforcement of trade agreements after they are adopted. I was pleased to learn that while Ms. Esserman was at the Commerce Department she initiated a plan to combine enforcement with compliance within the International Trade Administration (ITA). It is my understanding that this change will allow analysts most familiar with the pricing practices of various countries to follow a case from beginning to end, thus ensuring continuity.

I am confident that Ms. Esserman will continue to work toward coordinating the activities between the various trade agencies and ensuring effective communication between the agency charged with negotiating trade agreements and those which seek to enforce them. I support her nomination and look forward to working closely with her during the remainder of this Congress and through the next Congress.