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# THE OPERATION, IMPACT AND FUTURE OF THE U.S. PREFERENCE PROGRAMS

## HEARING

BEFORE THE

## COMMITTEE ON WAYS AND MEANS
## U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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# THE OPERATION, IMPACT AND FUTURE OF THE U.S. PREFERENCE PROGRAMS

**TUESDAY, NOVEMBER 17, 2009**

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:08 a.m., in Room 1100, Longworth House Office Building, the Honorable Sander Levin [chairman of the subcommittee] presiding.

[The advisory announcing the hearing follows:]

# *HEARING ADVISORY*

FROM THE COMMITTEE ON WAYS AND MEANS

## Trade Subcommittee Chairman Levin Announces a Hearing on the Operation, Impact, and Future of the U.S. Preference Programs

November 10, 2009

*By (202) 225–6649*

Ways and Means Trade Subcommittee Chairman Sander M. Levin today announced the Trade Subcommittee will hold a hearing to evaluate the operation and impact of the U.S. preference programs to date, as well as opportunities for improvement moving forward. **The hearing will take place on Tuesday, November 17, 2009 in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from the invited witness only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

**FOCUS OF THE HEARING:**

Preference programs provide unilateral market access to developing countries and are seen as central to U.S. trade and development policy, as well as an important foreign policy tool. Over the years, Congress has maintained active oversight of these programs, repeatedly revising and expanding them to better meet the goal of spurring economic growth and development. With two key preference programs nearing expiration in December, this hearing provides a timely opportunity to continue this critical oversight.

Specifically, the hearing will focus on evaluating the operation and impact of the U.S. preference programs to date, to understand the lessons learned from the circumstances where the preference programs have been successful and to identify opportunities for improvement in areas where challenges remain.

**BACKGROUND:**

Since the 1970s, the United States and other major developed countries have viewed preference programs as an important policy tool to spur economic growth and counter poverty. The United States developed the Generalized System of Preferences (GSP) on this basis, as well as later regional programs for the Caribbean Basin (*Caribbean Basin Economic Recovery Act, Caribbean Basin Trade Partnership Act,* Haitian *Hemispheric* Opportunity through Partnership Encouragement, CBERA/*CBTPA*/HOPE), sub-Saharan Africa (AGOA), and Andean (ATPA/ATPDEA) countries.

In the decades since their inception, the U.S. trade preference programs have made significant strides. Currently, over 130 developing countries can benefit from one or more of the U.S. programs. And the programs have provided critical benefits in some of the world's poorest and most vulnerable countries (including the so-called "least-developed countries"). For example, trade preferences for Haiti (known as HOPE), contributed to an increase in Haitian apparel exports to the United States of 30 percent in 2009, contributing to critical job creation in a country with nearly 70 percent unemployment.

The United States Trade Representative (USTR) has reported that imports from sub-Saharan African countries under AGOA/GSP have increased six-fold from 2001, the first full year of AGOA, to 2007 (to $51.1 billion). Non-oil exports from sub-Saharan Africa have doubled over the same period. Imports under the Andean preference program also grew significantly, from approximately $97 million in 1992, the first full year after enactment of ATPA, to more than $17 billion in 2008.

The preference programs have been important for U.S. businesses and workers as well. For example, the Andean trade preference arrangement has helped to develop an important export market for U.S. textiles. Similarly, U.S. companies rely heavily on GSP to obtain raw materials, parts, and equipment necessary for their manufacturing operations in the United States.

At the same time, many important stakeholders believe that challenges remain and the preference framework can be improved. One concern that has been raised is that relatively few countries and relatively few products dominate the preference programs, in particular the regional preference programs. Stakeholders have argued that Congress should take a hard look at such factors as the product coverage of the preference programs, the rules of origin regimes, the frequency of expiration of the programs, and the linkages between the programs and trade capacity-building assistance to see whether improvements can be made to improve utilization and diversification.

Other stakeholders have argued that the U.S. preference programs—in particular, the more generous market provisions of the regional programs—should be extended to all of the world's poorest countries. At present, least-developed, low-income countries like Bangladesh, Cambodia, Laos and others do not have such access.

Still others have urged Congress to review the extent to which the preference programs establish other incentives for development. For example, each of the preference programs has eligibility criteria designed to promote development (e.g., on respecting internationally-recognized labor rights, promoting rule of law, protection of intellectual property, etc.). Important questions have been raised about the extent to which these criteria have been effective and whether (and how) they might be improved.

This hearing provides an opportunity to explore these important questions and arguments. In announcing the hearing, Chairman Levin said, "The preference programs have been an important part of the effort to expand and shape trade so that its benefits can be more broadly spread. We need to make sure that the framework of these programs plays a role in promoting economic growth and development."

## DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

**Please Note:** Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, http://waysandmeans.house.gov, select "Committee Hearings". Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, complete all informational forms and click "submit" on the final page. ATTACH your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business Tuesday, December 1, 2009. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

## FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supple-

mentary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://waysandmeans.house.gov*.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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Chairman LEVIN. If everyone will be seated then we will start.

We tried to organize this hearing, as you all know if you have seen the agenda, there are four panels, and there is also a Democratic caucus at noon, so Mr. Brady and I and are staffs have talked about how we will organize this important hearing.

[Interruption to proceedings.]

Chairman LEVIN. One way we will organize is by turning off all cell phones. "We are in the hearing, I will call you later." If it is the President——

[Laughter.]

Chairman LEVIN. Family. And if everybody else would like to do the same, it would help.

So there are four panels, and we thought we would proceed this way, with the panel of our three colleagues first, and they, I think, have been informed and I think they are pleased about this, that we will very much look forward and hear their testimony, but since we see all of you on the floor later on, we will withhold our questions and bombard you on the floor during quiet moments there.

So that should, in a half an hour or so, allow us to go on to the second panel of government people from the administration. And we would have the testimony and try to finish that, if we could, by noon or shortly thereafter, and then take a 45 to 50 minute break so some could go to the caucus and everybody could grab a bite to eat.

And then we would start the third panel at around—say between 1:00 and 1:15, at the latest, and we are notifying everybody on the third and fourth panels that they will come here after lunch, unless they would like to be here before that.

So let's start, and Mr. Brady and I will give our brief opening statements. But before we do that, I would like very much if Mr. Brady joins me in welcoming—not welcoming, but glad with your schedule, Mr. Chairman, that you could be here for this important hearing, and ask for you to kick this off.

Chairman RANGEL. Well thank you Chairman Levin, and Congressman Brady. I am just overlooking—looking over, rather, my opening prepared remarks, and I think I would like to set it aside, because when we first got a chance to have the leadership, former Congressman McCreary and I tried to find out, judging the political atmosphere that exists, whether this committee could work towards a bipartisanship since our subject matters seemed, at that time, less partisan than some of the other committees.

And even though it looks as though the political situation will not lend itself to much bipartisanship, to my deep regret—and I'm certain that most all of the Members of the Committee feel that strongly—still, there comes a time when our country has to come together, and basically it has to be what is for our country and the world, and basically the conditions of poverty and the fiscal crisis will dictate our agenda.

Having someone like you, Mr. Levin, who has dedicated such a large part of your life in trying to make our country more prosperous and stronger and at the same time increasing the standards of people all over the world and recognizing this is one of the major roles that we have think in terms of traveling to avert war. Especially at a time when nuclear power seems to be so common with so many countries, and so many poor countries that should be more concerned with how to feed themselves and trade rather than how to prepare for war.

And I had a wonderful educational time and traveling with Mr. Brady, with you, and learning so much from him and from the trip in general, which allows me to believe that even partisanship can't take away from facts that we have inherited from our communities, our country, and from the world. And I am so optimistic to have somebody like Jim McDermott whose ideas came "What about Africa?" and as a result of that and putting together our minds, we realized what a fortunate country we are and continue to be, but also how much more there is to be done.

And we are blessed that we have an opportunity to help the poorer countries, especially in our hemisphere, and Haiti has proven to be the height of the challenge here that we face, but there is so much more that can and should be done.

Lastly, I would think and would hope that everyone comes to Congress wanting America to be perceived, and in reality, be the hope that they would want to achieve. It is hard to think of any challenge that we have that is more spiritual in nature, that involves the patriotic will to protect our country, but at the same time to help other countries.

So I know that you are sorry that you asked me to say anything, but you asked for it and you got it. I yield back, Mr. Chairman.

Chairman LEVIN. Never sorry. With all of your deep involvement in these issues going back many, many years, and some of these programs, Mr. Rangel, would not be in place if it weren't for you.

Chairman RANGEL. Thank you.

Chairman LEVIN. So let me just briefly summarize. I have an opening statement, and I think there are copies if anybody would like to take a look at it.

This is indeed an important hearing, and the Senate Finance Committee is holding a hearing on this, on preference programs, on Thursday. Not as extensive hearings as we are having, but of course you would expect that from the House, that we would have more extensive hearings.

These issues really reflect—relate to the overall trade challenge that we face in this new century, and that is how to craft sound trade policies that reflect both the need for expanding trade, and also to shape its course, to do both, in order to maximize its benefits and to address adverse consequences. So within that general framework of a modern trade policy in favor of its expansion, but on terms that spread its benefits, we turn today to the preference programs that focus in on developing nation's in our relations with them in trade.

This committee and Subcommittee, under your leadership and your predecessors on both sides of the aisle, have been really devoted to this issue. It has crossed party lines with your leadership, Mr. Chairman, Phil Crane's leadership—we should remember that—and the leadership of many others, including our colleague, Jim McDermott.

So out of this has developed these programs of preferences, they are called, additional access to our markets for the Caribbean under CBI, the Andean nations, of course, under ATPA, AGOA for sub-Saharan Africa, and the HOPE program for Haiti. And these programs have achieved real results. I won't go into a lot of detail this morning. It is in my opening statement, and our witnesses are going to comment on this. But, for example, under AGOA there has been a substantial increase in non-oil exports since its inception. CBI has seen, since the early years, '84, a very major growth, from 576 million at first to almost 5 billion. And the same with ATPA, the Andean Trade Preference Act and recently with the HOPE program.

And it is also important to understand that these programs support U.S. economic interests, and our exports to these various countries have been growing rather substantially. And also what is sometimes forgotten, and that is a substantial portion of the imports from GSP countries help to sustain U.S. manufacturing raw materials, parts, components, and machinery and equipment.

It is also—and we are going to be discussing this today—it is important to remember that there has been an increasing effort to shape the terms of trade based on the principal that I very much believe is true, that it is not enough to expand trade. You have to expand it in ways that are mutually beneficial. Trade isn't an end in and of itself, after all, it is a means to the end to help people come out of poverty and help people move up the ladder. And so as a result, we have placed criteria in preference programs, and they include respective rule of law, respect for fundamental labor rights, and others, including rules against corruption.

Increasingly, we have put into place provisions regarding labor rights, and not because they are social issues. They are indeed economic issues, and the notion is that in order for the benefits of expanded trade to be spread and to work, one of the elements is that workers need to have their basic international rights. And indeed to help workers in developing countries join the middle class, and

that is mutually beneficial for those countries and for us, for those countries, as they develop the strength to come from middle class growth, and for us having middle classes in other countries to buy our goods.

So today we will be discussing those issues, and I finish with this, and I think Mr. Brady you agree, that preference programs are an important part of the constellation of our trade agenda. But no one says they are perfect. There is room for improvement, and indeed there are, as would be expected from expanded trade, some issues that need to be addressed. So what we are doing today is looking at the past, looking at the present, and also looking at the future. And we are going to hear a variety of points of view on the past record, the present situation, and also some issues relating to changes or improvements in our programs.

As we sit here, I am not sure of the result of this. I feel strongly—the administration does, I think it is true in the Senate—that the programs that have deadlines at the end of the year, that there need to be extensions. The purpose of this hearing is to give us the information so that we can make some decisions regarding extensions and improvements and changes, and how they mesh.

So, Mr. Brady, if you will take over, and then we will turn to our three distinguished colleagues.

Mr. BRADY. Well thank you Mr. Chairman, and Chairman Rangel.

International trade is a powerful engine for economic growth and job creation, as our experience here at home demonstrates. One out of every five American jobs depends on trade, and as our U.S. trade representative Ambassador Kirk notes, jobs supported by exports pay higher wages than other jobs, and for that reason I commend you for holding this hearing. This global economic downturn has hurt workers all over the world. International trade will be a vital tool for promoting economic recovery and creating jobs everywhere.

The indisputable benefits of trade liberalization are why I strongly support open markets both here in the United States and abroad. The trade preference programs we are discussing today can be a key tool to help developing countries break into the international market.

As you and Chairman Rangel have noted, Congress has worked on a bipartisan basis to develop preference programs that provide a vital economic boost to many developing countries. Congress has also demonstrated its willingness to regularly revisit our programs to make them more effective. Congress has amended the African Growth and Opportunity Act several times to spurt the creation of thousands of jobs in Africa without creating adverse affects on U.S. workers here at home. The benefits have provided U.S. consumers with better prices and more choices.

Effective trade preferences are one stop on a country's journey to becoming a full player in the international market, but trade preferences cannot be an end unto themselves. In fact, a truly successful trade preference program is one that makes itself ultimately obsolete. For example, Malaysia and South Korea successfully used GSP as a tool for economic development, exceeding the need for continued benefits and thriving once those benefits were removed. Chile, Singapore, the CAFTA countries, and Peru all graduated

from trade preferences into permanent bilateral trade agreement relationships, showing that trade preferences are a stepping stone to full engagement in the international market.

These trade agreements offer advantages for both parties over a trade preference relationship. Partner countries achieve full, permanent, duty-free access to the U.S. market, a significant benefit over the partial, temporary access provided by preferences. This relationship also sends a strong signal to track investment and capital. The capacity building and enforceable labor commitments help improve standards significantly. For the United States, the benefits are obvious. American workers and businesses finally enjoy a level playing field because these markets are open to our exports, supporting more American jobs.

When Chile, the CAFTA countries, and Peru went from a one way preference relationship to a two way free trade relationship, the United States went from a trade deficit to a trade surplus with these countries. In the case of CAFTA, we saw our deficit of over $1.2 billion shift to a trade surplus of over $6 billion, and American workers have benefitted. These examples demonstrate the importance of having developing countries become full partners in the international market. We can quickly realize similar benefits by implementing the free trade agreements with Colombia and Panama, two countries anxious to move from a one way relationship to a permanent, mature relationship, leveling the playing field for U.S. workers.

There are many countries that aren't yet ready to move from preferences to a free trade relationship. For these countries, effective trade preference programs are the right policy. To that end, we must design our preference programs to ensure that developing countries can take full advantage of them, assuming they meet certain key conditions. That means having eligibility criteria that challenge countries to improve their laws, but at the same time encourage investment. After all, a developing country can have the best labor laws in the world, but that won't make any difference if there aren't any jobs.

The eligibility criteria currently enshrined in our preference programs provide the right balance and incentives. As the GAO has noted, we have successfully used these criteria to prompt improvements. And even for the least developed countries, our preference programs must not become a disincentive to take that next critical step to becoming full members in the international market through enthusiastic participation in the Doha Round. The ultimate goal of duty-free, quota-free access to the U.S. market for the least developed through the Round will provide incentives for those countries to push the emerging developing countries to make the concessions we need to bring the Round to a successful close.

And I will close with this. Engagement in the international market is a key development tool. Many countries have benefitted from this engagement, and U.S. trade preference programs can help countries take advantage of opportunities to export their goods, create jobs, and eventually join the global market.

With that, Mr. Chairman, I yield back and look forward to hearing from our witnesses.

Chairman LEVIN. Well thank you very much, and I think your reference to Doha is very apt, because it is supposed to be a development round, and here are we are having some discussion this morning about our relations with the developing countries.

So that is a good segue to our distinguished panel, two members of our committee and an important member of the Committee on Foreign Affairs. Jim McDermott—I don't know. I don't think I have to laud you all too much. Your credentials speak for yourselves. Jim, your interest in this area goes back many, many years, and Linda, as a newer member here, you have been dedicated to digging into these issues, really particularly effectively. And Elliot has used his position in foreign affairs matters to be interested not only in kind of the first glances of foreign affairs, but digging beneath the surface. So we look forward to your testimony.

Jim, are you going to go first? Representative McDermott and then Representative Sanchez, and then Representative Engel.

**STATEMENT OF THE HONORABLE JIM McDERMOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON**

Mr. MCDERMOTT. Mr. Chairman, thank you, and the Committee for inviting me to testify on my views for this preference review. The excellent group of witnesses you have called today to work with us will cover very important issues that confront our trade policy, and I look forward to crafting a policy with the Committee.

In difficult economic times like these, developed countries sometimes pull back. They pull back from international engagement, and pull back from thinking long term, and that is quite understandable. But I think that in these times and in this globalized economy, now is the time to push forward on improving trade with the poorer countries of the world.

Our preference programs have important issues that need addressing, but while we think about all the things we need to fix, we should also keep in mind that our preference programs have done enormous good for the poor of the world and for America. They provided jobs that have fed and clothed millions of the poor, and been a boon to the American businesses. We shouldn't forget that.

I think it is also important to keep in mind that our work is far from over. As Congressman Brady mentioned, when we passed AGOA in 2000 it was not perfect, and it was a big step forward, but we have amended it sequentially since then. In the 9 years, the Africans have made huge progress in growing trade. But we know that for development to really accelerate, we need to get more countries involved in trading more products.

We know that the trade capacity building is as important as extending more preferences. It is not simply enough to open the door. We know that with sustained, long term help we can make a difference. I don't think we are close to the finish line on that, I think we are just beginning. The Members of the Committee have worked hard on encouraging development through trade, and I think we should focus on a few things in particular.

While there are details to work out, I think there is broad agreement that our trade programs need to be stable, they need to be simplified, they need to be more effective, and they need to help more people. First, I think we need to agree that the stability of our programs is essential to them being effective. Our largest program, GSP, is weeks away from expiring. Other agreements partially expire in 2012, and others in 2015. When we extend our programs, sometimes we do it for only a few months or for a year. No one who has ever run a business would want to invest in a climate that is so unstable. Our programs need to be long term.

Second, our programs are too complicated and too hard to use. Our rules of origin prevent common sense business from happening. We impose regulations that poor countries cannot meet without our help. We need to fix this. Simplifying our programs and doing more to help partners meet the important standards we set are keys to the success.

Third, we need to address the capacity building program. We all know the wisdom of trade, not aid. But I think we need to make aid for trade an equally large part of our programs.

Different countries face different challenges with trading with us. They need functioning ports, better roads, permission to fly directly to the United States, help with energy and more technology. They need training. Now we can do this in a targeted way. Preferences have helped our trading partners quite a bit, but without thoughtful capacity building, we can only help so much. With over 24 federal agencies giving out foreign aid, we don't always coordinate our efforts. We need to pull these efforts together to help poor countries grow, and to give American business more customers.

Finally, we need to find a way to strengthen the programs we have while at the same time helping more people. Trade is not a zero sum game. We can strengthen our current programs while also helping other desperately poor countries who right now get no benefits. We can help different countries like Lesotho, the Philippines, and Cambodia at the same time.

As we all know, the Andean Trade Preference Act and the GSP are expiring next month. We need to extend these programs immediately, in this coming year and in the Congress, and push forward, not pull back. It is the moral thing to do for the poor of the world. It is good for American business and consumers, and we know it is good for America's security.

I want to thank you for your time.

[The prepared statement of Mr. McDermott follows:]

**Prepared Statement of The Honorable Jim McDermott, Representative of the State of Washington, U.S. House of Representatives**

Mr. Chairman I want to thank you and the Committee for inviting me to testify here today and to offer my views on Preference Reform. The excellent group of witnesses you have called to work with us today will cover very important issues that confront our trade policy. I look forward to helping with this effort.

In difficult economic times like these developed countries sometimes pull back. They pull back from their international engagement and pull back from thinking long term. It's understandable. But I think that in these times and in this globalized economy now is the time to push forward on improving trade with the poorer countries of the world.

Our Preference programs have important issues that need addressing. But while we think about all of the things we need to fix, we should also keep in mind that our preference programs have done enormous good for the poor of the world and for

America. They have fed and clothed millions of the poor and been a boon to American businesses. We can't forget that.

I think it is also important to keep in mind that our work is far from over. When we passed AGOA in 2000 it was a big step forward. In only 9 years the Africans have made huge progress in growing trade. But we know that for development to really accelerate we need to get more countries involved in trading more products.

We know that trade capacity building is as important as extending more preferences. And we know that with sustained long-term help we can make a big difference. I don't think we're close to the finish line—I think we're only just beginning.

The Members of the Committee have worked hard on encouraging development through trade and I think we should focus on a few things in particular. While there are details to work out, I think there is broad agreement that our trade programs need to be stable, they need to be simplified, they need to be more effective, and they need to help more people.

First I think we agree that the stability of our programs is essential to them being effective. Our largest program, GSP, is weeks away from expiring. Other agreements partially expire in 2012 and others expire in 2015. When we extend our programs sometimes we do it for only a few months or a year. No one who has ever run a business would want to invest in a climate that is so unstable. Our programs need to be long-term.

Second, our programs are too complicated and too hard to use. Our rules of origin prevent common sense business from happening; we impose regulations that poor countries cannot meet without our help. We need to fix this. Simplifying our programs and doing more to help our partners meet the important standards we set are keys to their success.

Third, we need to address the capacity building problem. We all know the wisdom of "trade not aid". Well, I think we need to need to make "aid for trade" an equally large part of our programs. Different countries face different challenges when trading with us. They need functioning ports, better roads, permission to fly directly to the United States, help with energy, and more technology. They need training.

Now, we can do this in a targeted way. Preferences help our trading partners quite a bit, but without thoughtful capacity building we can only help them so much. With over 24 federal agencies giving out foreign aid we don't always coordinate our efforts. We need to pull these efforts together to help poor countries grow and to give American business more customers.

Finally, we need to find a way to strengthen the programs we have while at the same time helping more people. Trade is not a zero-sum game. We can strengthen our current programs while also helping other desperately poor countries who right now get no benefits. We can help different countries like Lesotho, the Philippines, and Cambodia at the same time.

As we all know the Andean Trade Preference Act and GSP are expiring next month. We need to extend these programs and in this coming year, in this Congress, push forward, not pull back. It's the moral thing to do for the poor of the world, it is good for American business and consumers, and we all know it's good for America's security.

Thank you for time and your efforts.

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Chairman LEVIN. Thank you.

Ms. Sánchez, welcome.

## STATEMENT OF THE HONORABLE LINDA SÁNCHEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. SÁNCHEZ. Thank you Chairman Levin and ranking member Brady for allowing me the opportunity to testify today regarding our trade preferences policies, and their effect on working families. The hearing today, I think, is an important opportunity to examine what works about our trade preferences policies, as well as what really doesn't.

As many of you may know, I have been a long time advocate for a new trade model, because I feel that too often our approach fails working families both here and abroad.

Our preferences programs have a very laudable goal, to assist developing countries in their efforts to build up domestic industry, increase exports, and alleviate poverty. And, in some cases the preferences appear to have been wildly successful. As Mr. Brady mentioned, some countries, including South Korea, Singapore, Bahrain, and Slovenia have graduated from the GSP program and no longer qualify for preferences.

In other cases, however, the preferences have been less successful, at least from the point of view of working families. A case in point is the Republic of Philippines, a beneficiary of the General System of Preferences. According to a petition filed with the United States Trade Representative, the government of the Republic of Philippines has engaged in policies that deny workers the freedom of association, as guaranteed under International Labor Organization ILO Convention 87, and has undermined the ability of workers to form and join unions, in violation of ILO Convention 98. The petition also accuses the Philippine government of involvement in extra-judicial killings and abductions of union leaders, members, organizers, and supporters through elements of the armed forces of the Philippines, the Philippine national police, local police forces, and private security forces.

Given these reports, which are not limited to the Philippines, I strongly believe that it is appropriate and necessary to re-examine our approach to preference system creation and renewal. Encouraging and rewarding such abhorrent human rights policies with trade benefits is contrary to what America stands for, and not only harms families abroad, but also those struggling to make a living here at home.

Ecuador is another nation in which our trade policies may be leaving working families behind. Chevron may have approached some of you before this hearing to ask that you consider limiting or eliminating altogether benefits for Ecuador under the Andean Trade Promotion and Drug Eradication Act. This effort arises from a private lawsuit between thousands of indigenous Ecuadorian peasants and Chevron. The plaintiffs, some of whom suffer from cancer, physical deformities, and multiple miscarriages, allege that Chevron is responsible for illegally dumping billions of gallons of toxic oil waste into rivers and streams, causing extraordinary environmental and human damage.

Texaco, now Chevron, began its oil operations roughly 40 years ago in a once pristine region of the Amazon. Today, this region, which is roughly the size of Rhode Island, struggles to deal with an environmental and humanitarian crisis. More than 1,400 residents have died from cancer, birth defects are prevalent, and the region still suffers from water contamination, rain forest deforestation, and ecosystem degradation. The inhabitants of the region still drink and bathe in the polluted water. There are innumerable stories that I could share from the 230,000 people who live along the oil fields in northern Ecuador.

Thick pools of oil dot the landscape where Chevron dumped oil waste into unlined or improperly lined pits. Water tests of one local

farmer's land revealed oil contamination at 20,000 percent above safe water consumption levels. Too many children have cancer, and as a result, too many parents have to experience the ultimate heartbreak, which is the death of a child.

Instead of allowing this case to come to a conclusion in a court of law, embarking on cleanup efforts, or even seeking mediation, Chevron has engaged in a lobbying effort that looks a little bit more like extortion. Apparently because it can't get the outcome that it wants in the Ecuadorian court system, Chevron wants to use the U.S. government to deny trade benefits until Ecuador cries "uncle." This turns the goal of trade preferences on its head.

Trade preferences should be used as a hand up to provide needed help to families of developing nations, not a paddle to punish governments who refuse to succumb to the demands of multi-billion dollar corporations. As a private entity, Chevron certainly has the right to take action to advance its own interests. However, it is Congress' job to take a wider view. It is well past time to reform our trade policies so that they will work for working families.

As we re-examine our trade preference system, I urge the Committee to explore options for holding nations accountable for protecting the rights of working families. I hope we also consider whether to add environmental standards, and to reform investor protection provisions, and examine which criteria, like private lawsuits, we should avoid.

We must examine our trade preferences with a focus on shared prosperity. We should encourage development with dignity. We should shape preferences programs to promote labor rights and a clean environment without dictating the outcome of cases pending in the civil justice systems of developing nations.

Finally, I think we have to abandon the naive view that free trade alone is the only economic development strategy that we should pursue. As we have seen with other nations with whom we have completed trade accords, like Jordan, lowering tariffs is simply not enough to improve the working lives of impoverished families. We must staunchly defend the right to work with dignity, to freely associate and, to organize for safer working conditions, better wages, and a secure retirement. Trade preferences can be combined with other forms of assistance that will help countries sustain themselves and develop the infrastructure and capacity they need to fully take advantage of trade preference programs the U.S. offers, as well as, the world market at large.

I thank you for your patience in hearing my alternate perspective, but I really think now is the time that we should be looking at what works and what doesn't with trade preferences in crafting a long-term trade strategy. Thank you so much.

[The prepared statement of Ms. Sánchez follows:]

**Prepared Statement of The Honorable Linda Sánchez, Representative of the State of California, U.S. House of Representatives**

Chairman Levin and Ranking Member Brady, thank you so much for allowing me the opportunity to testify today regarding our trade preferences policy and its effect on working families.

The hearing today is an important opportunity to examine what works about our trade preferences policy as well as what doesn't. As many of you know, I have been a long time advocate for a new trade model. Our current approach too often fails working families, both here and abroad.

Our preferences programs have a laudable goal: to assist developing countries in their efforts to build up domestic industries, increase exports, and alleviate poverty.

In some cases, the preferences appear to have been wildly successful. Some countries, including South Korea, Singapore, Bahrain, and Slovenia have graduated from the GSP program and no longer qualify for preferences.

In other cases, the preferences have been less successful—at least from the point of view of working families.

A case in point is the Republic of the Philippines, a beneficiary of the General System of Preferences.

According to a petition filed with the United States Trade Representative, the government of the Republic of the Philippines has engaged in policies that deny workers freedom of association as guaranteed under International Labor Organization (ILO) Convention 87, and has undermined the ability of workers to form and join unions in violation of ILO Convention 98.

The petition also accuses the Philippine government of involvement in extra-judicial killings and abductions of union leaders, members, organizers, and supporters through elements of the Armed Forces of the Philippines, the Philippine National Police, local police forces, and private security forces.

Given such reports, which are not limited to the Philippines, I strongly believe that it is appropriate to re-examine our approach to preference system creation and renewal.

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This effort arises from a private lawsuit between thousands of indigenous Ecuadorian peasants and Chevron. The plaintiffs, some of whom suffer from cancer, physical deformities, and multiple miscarriages, allege that Chevron is responsible for illegally dumping billions of gallons of toxic oil waste into rivers and streams, causing extraordinary environmental and human damage.

Texaco, now Chevron, began its oil operations roughly 40 years ago in a once pristine region of the Amazon rainforest.

Today, this region, the size of Rhode Island, struggles to deal with an environmental and humanitarian crisis. More than 1,400 residents have died from cancer, birth defects are prevalent, and the region suffers from water contamination, rainforest deforestation, and ecosystem degradation. The inhabitants of the region still drink and bathe in polluted water.

There are innumerable stories I could share from the 230,000 people who live along the oil fields in northern Ecuador. Pools of thick oil dot the landscape where Chevron dumped oil wastes into unlined or improperly lined pits.

Water tests of one local farmer's land revealed oil contamination at 20,000 percent above safe water consumption levels. Too many children have cancer and, as a result, too many parents have to experience the ultimate heartbreak—the death of a child.

A group of Ecuadorians originally filed suit in the U.S., but the case was dismissed when Chevron successfully argued that Ecuador was a better forum.

The case was refiled in Ecuador seeking damages, and experts have estimated that damages in this case could be as high as $27 billion.

Instead of settling with the plaintiffs, embarking on clean-up efforts, or even seeking mediation, Chevron has engaged in a lobbying effort that looks like little more than extortion. Apparently, if it can't get the outcome it wants from the Ecuadorian court system, Chevron will use the U.S. government to deny trade benefits until Ecuador cries uncle.

This turns the goal of trade preferences on its head! Trade preferences should be used as a hand up to provide needed help to the families of developing nations, not a paddle to punish governments who refuse to succumb to the demands of multibillion dollar corporations.

As a private entity, Chevron certainly has the right to take action to advance its interests. However, it is our job to take a wider view.

It's well past time to reform our trade policies so that they work for working families.

As we re-examine our preference systems, I urge the Committee to explore options for holding nations accountable for protecting the rights of working families.

I hope that we also consider whether to add environmental standards and to reform investor protection provisions and examine which criteria, like private lawsuits, we should avoid.

We must examine our trade preferences with a focus on shared prosperity. We should encourage development with dignity. We should shape preferences programs to promote labor rights and a clean environment without dictating the outcome of cases proceeding through the civil justice systems of developing nations.

Finally, we must recognize that trade alone is not a development policy. Trade preferences must be combined with other forms of assistance that will help countries to sustain themselves and develop the infrastructure and capacity they need to fully take advantage of the trade preferences programs the U.S. offers.

Thank you for allowing me to testify.

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Chairman LEVIN. Thank you very, very much. You raise issues that clearly have been part of the dialogue on preferences in TSP, and I am confident will continue to be.

So after that excellent testimony, the Honorable Eliot Engel will take over. Eliot, welcome. You have been to this room before. We are glad to see you again.

**STATEMENT OF THE HONORABLE ELIOT ENGEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. ENGEL. Well thank you Mr. Chairman, Chairman Levin, ranking member Brady, Chairman Rangel, and other distinguished members of the Trade Subcommittee. Thank you for the opportunity to testify at today's hearing on U.S. trade preference programs.

Through Democratic and Republican administrations and Congresses, the Andean Trade Promotion and Drug Eradication Act, or ATPDEA, has been one of the cornerstones of U.S. policy toward Latin America, providing the United States with the opportunity to make a real difference in the politically and economically fragile Andean region.

As chairman of the Western Hemisphere Subcommittee of the House Foreign Affairs Committee, I have seen firsthand the benefits of ATPDEA. In Ecuador, for example, I met with producers of flowers, broccoli, coffee, and cacao. Without the Andean free trade preferences, workers in these sectors would undoubtedly lose their jobs, leaving them with little outside option other than the illegal drug trade or illegal immigration to the United States.

Unfortunately, too often ATPDEA has been extended for only short time periods, creating uncertainty and an unstable investment climate in the beneficiary countries. To make a real impact, I believe we must immediately extend ATPDEA for at least two years.

As this subcommittee considers the renewal of the Andean trade preferences and future trade preference reforms, I also urge you to add Paraguay as an ATPDEA beneficiary country. In April I introduced H.R. 1837, the U.S.-Paraguay Partnership Act of 2009, which would do just that. My bipartisan bill would be a catalyst for economic development in Paraguay while also supporting essential U.S. geopolitical goals.

Paraguay is the second poorest country in South America. 30 percent of Paraguayans live in poverty, and according to the 2008

world development indicators, 14 percent of Paraguayans live on less than $1 per day. Paraguay's inclusion as an Andean trade preference beneficiary country would be fundamental in helping to reduce these poverty levels.

But the U.S.-Paraguay Partnership Act of 2009 is about much more than poverty reduction. My bill will also strengthen the already robust relationship between our two countries. I visited Paraguay and president Fernando Lugo in Asuncion last November, and he expressed to me his interest in a strong relationship with the United States.

Paraguay is a small, landlocked country that is often left out of discussions of U.S. policy toward Latin America, but it is a critical partner in so many areas. According to the State Department's February 2009 international narcotics control strategy report, in 2008 Paraguay's national anti-drug secretariat seized a record 172 metric tons of marijuana. Paraguay also works closely with the U.S. and its neighbors, Argentina and Brazil, in the three plus one process to curb illicit activities in the so-called tri-border area where the borders of Paraguay, Argentina, and Brazil meet. And by the way, that is also, we believe, a source of terrorism funding as well, so it is an important place.

The U.S.-Paraguay Partnership Act of 2009, as I said which I have introduced as a bipartisan bill, which I introduced with my good friend Congressman Dan Burton of Indiana. There is also a bipartisan companion bill in the Senate, S780, introduced by Senator Nelson of Florida and Senator Cornyn of Texas, and my bill is supported by an extremely wide ranging number of organizations, including Oxfam, the National Foreign Trade Council, the Washington Office on Latin America, and the American Apparel and Footwear Association.

Mr. Brady mentioned before in this opening statement that international trade is an engine of economic growth and job creation. I agree. I also want to add that it enhances good feeling and good relationships with the U.S., so it is good policy for us, and good politics as well.

In April, I led the official Congressional delegation to the Summit of the Americas in Trinidad and Tobago. At the summit, President Obama pledged "a new chapter of engagement that will be sustained throughout my administration." That is a quote. In less than a year, the President has made impressive strides in enhancing hemispheric relations.

As chairman of the Western Hemisphere Subcommittee, I believe it is crucial for Members of Congress to support the President in re-engaging the hemisphere. This hemisphere is so important to us. It is right in our backyard. The U.S.- Paraguay Partnership Act of 2009 will do just that and will be extremely positive for both of our countries. Again, it is good policy and it is good politics. It helps these countries to become closer to us, and that is the way we win back the hemisphere from Chavez and the others that would go in a different direction.

I would thank you again for the opportunity to testify today.

[The prepared statement of Mr. Engel follows:]

**Prepared Statement of The Honorable Elliot Engel, Representative of the State of New York, U.S. House of Representatives**

Chairman Levin, Ranking Member Brady and distinguished Members of the Trade Subcommittee, thank you for the opportunity to testify at today's hearing on U.S. trade preference programs.

Through Democratic and Republican Administrations and Congresses, the Andean Trade Promotion and Drug Eradication Act (ATPDEA) has been one of the cornerstones of U.S. policy toward Latin America, providing the United States with an opportunity to make a real difference in the politically and economically fragile Andean region.

As Chairman of the Western Hemisphere Subcommittee, I have seen first hand the benefits of ATPDEA. In Ecuador, for example, I visited with producers of flowers, broccoli, coffee, and cacao. Without the Andean trade preferences, workers in these sectors would undoubtedly lose their jobs, leaving them with little option outside of the illegal drug trade or illegal immigration to the United States.

Unfortunately, too often, ATPDEA has been extended for short time periods, creating uncertainty and an unstable investment climate in the beneficiary countries. To make a real impact, we must immediately extend ATPDEA for at least two years.

As this Subcommittee considers the renewal of the Andean trade preferences and future trade preference reforms, I also urge you to add Paraguay as an ATPDEA beneficiary country. In April, I introduced H.R. 1837—the U.S. Paraguay Partnership Act of 2009—which would do just that. My bipartisan bill would be a catalyst for economic development in Paraguay, while also supporting essential U.S. geopolitical goals.

Paraguay is the second poorest country in South America. 30% of Paraguayans live in poverty. And, according to the 2008 World Development Indicators, 14% of Paraguayans live on less than $1 per day. Paraguay's inclusion as an Andean trade preference beneficiary country would be fundamental in helping to reduce these poverty levels.

But, the U.S.-Paraguay Partnership Act of 2009 is about much more than poverty reduction. My bill will also strengthen the already robust relationship between our two countries. I visited Paraguayan President Fernando Lugo in Asunción last November, and he expressed to me his interest in a strong relationship with the United States. President Lugo is the first Paraguayan president to be elected not from the country's Colorado party in 60 years, and he is already a good friend and important ally of the United States.

Paraguay is a small, landlocked country that is often left out of discussions of U.S. policy toward Latin America. But, it is a critical partner in so many areas. According to the State Department's February 2009 *International Narcotics Control Strategy Report,* in 2008, Paraguay's National Anti-drug Secretariat (SENAD) seized a record 172 metric tons of marijuana. Paraguay also works closely with the United States and its neighbors Argentina and Brazil in the "3+1 process" to curb illicit activities in the so-called tri-border area where the borders of Paraguay, Argentina and Brazil meet.

The U.S.-Paraguay Partnership Act of 2009 is a bipartisan bill which I introduced with my good friend, Congressman Dan Burton (R–IN). There is also a bipartisan companion bill in the Senate—S. 780—introduced by Senators Bill Nelson (D–FL) and John Cornyn (R–TX). And, my bill is supported by an extremely wide-ranging number of organizations, including Oxfam, the National Foreign Trade Council (NFTC), the Washington Office on Latin America (WOLA), and the American Apparel and Footwear Association (AAFA).

In April, I led the official Congressional Delegation to the Summit of the Americas in Trinidad and Tobago. At the Summit, President Obama pledged a "new chapter of engagement that will be sustained throughout my administration." In less than a year, the President has made impressive strides in enhancing hemispheric relations. As Chairman of the Western Hemisphere Subcommittee, I believe it is crucial for Members of Congress to support the President in re-engaging the hemisphere. The US–Paraguay Partnership Act of 2009 will do just that, and will be a win-win for both of our countries.

Thank you again for the opportunity to testify today.

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Chairman LEVIN. Thank you very much. And as stated at the beginning, we will be in close touch with all of you with a lot of

back and forth. We won't do it today, but we will do it on the floor, and as we work on decisions as to extension and as to reforms.

I know I speak on behalf of all of us here to thank you for your critical involvement in these issues. So thanks again, and if any of you want to come up here, feel free to do that.

And we will now go on to the second panel, and we will ask the four witnesses to come forth.

Let me add, as they are joining us, we also have a written statement for the record from the Department of State. It hasn't arrived yet, but I guess I should ask, without objection, we will enter it into the record—any objection?—once it arrives. And of course it will be distributed.

[The statement follows:]

Department of State Statement before the House Ways and Means Subcommittee on Trade, Hearing on Hearing on the Operation, Impact, and Future of the U.S. Preference Programs
November 17, 2009

Chairman Levin, Ranking Member Brady and distinguished members of the Subcommittee on Trade: The Department of State appreciates the opportunity to comment on the operation, impact, and potential of U.S. preference programs.

Preference programs are an important vehicle for creating new economic opportunities for developing countries around the world. This committee has been a strong supporter of critical programs such as the Generalized System of Preferences (GSP) and the Andean Trade Preference Act (ATPA), which help anchor our trade policies toward the developing world and to our partners in the Andean Region, respectively. As you know, both of these programs expire on December 31, 2009. The Department of State urges Congress to renew these programs before that date. Allowing them to lapse would create uncertainty and potential hardships for U.S. businesses that have established partnerships through these programs. It could also strain our relationships with our trading partners whose economies could be adversely affected.

In the longer term, we look forward to working with Congress to address the broader issue of preference reform.

Preference programs help to advance U.S. foreign policy. They promote such key goals as the promotion of labor rights, protection of intellectual property, and development of the rule of law.

Even countries that do not yet have a significant trading relationship with the United States are eager to become preference program beneficiaries. Granting beneficiary status to a country is an affirmation that it is striving to meet internationally recognized standards in a variety of areas. Corporations are more willing to do business in countries which are part of our preference programs. International organizations and non-governmental organizations recognize the role that preference programs play in providing incentives for developing countries to undertake reform.

President Obama and Secretary Clinton have made a commitment to the reduction of poverty through sustainable economic growth. Preference programs open an avenue for trade to the least developed and developing countries that would otherwise not be available. In 2008, beneficiary countries exported over $110 billion dollars in goods duty-free to the United States. Our government's efforts to alleviate poverty are an investment that ultimately helps the United States achieve its policy goals.

Preference programs can also contribute to meeting our national security objectives. The Administration has been actively working with Congress in one such case: the establishment of Reconstruction Opportunity Zones (ROZs) in Afghanistan and designated areas in Pakistan. We view this legislation as an integral part of our comprehensive strategy in Afghanistan and Pakistan. By spurring economic growth and investment while protecting worker rights, ROZs will provide legitimate job opportunities in high-unemployment, high-poverty areas that are currently fertile recruiting grounds for the Taliban and al-Qaeda. We look forward to working with Congress to pass a final version of this legislation into law as soon as possible.

We understand and encourage the debate over how our preference programs can be reformed to make them more effective. While reviewing and reforming trade preference programs is a complex undertaking, it is important nevertheless in order to ensure our programs are achieving their objectives. The challenges are many, as the wide variety of existing programs has led to a confusing array of benefits and criteria. Reform options must take into account competing objectives that must be balanced when considering eligibility requirements, expansion of product coverage, and graduation criteria.

Trade preference programs are an important policy tool. The programs benefit both developing countries and U.S. businesses, so any changes to the programs should consider potential effects on both. The Department of State stands ready to offer its assistance and support as you and your staff continue your deliberations.

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Chairman LEVIN. We welcome all of you, a distinguished panel. Some of you have been very much here before. I think your involvement here does symbolize how with this administration there is a determination that there be the fullest back and forth between the executive and Members of Congress, and that's going to be true as to all trade policy issues, so your presence really is important.

Let me go from left to right and introduce, and then you'll take over. Tim Reif is now General Counsel of USTR, and as all of you know served here with total distinction as chief of the trade staff for the now majority, and earlier for the minority.

Sandra Polaski has a long career in government, is now Deputy Under Secretary in the U.S. Department of Labor, the Bureau of International Labor Affairs, and as I said brings years of background on work with developing nations, was with Carnegie before she agreed to join the administration as she has been in previous administrations, so Ms. Sandra, welcome to you.

And Mary Ott, Dr. Ott, is a Deputy Assistant Administrator for USAID, the Bureau of Economic Growth, Agriculture and Trade. When I was in AID years ago there was no such bureau. It was differently constructed, and now we have the nomination of a new administrator of AID, and will welcome the forward movement of AID, and look forward to your testimony.

And then finally, Burnham (Bud) Philbrook, who is Deputy Under Secretary for the Department of Agriculture, the Farm and Foreign Agriculture Services, and I think we all know the absolutely indispensable role that Agriculture plays in work with developing nations. This goes back 50, 60 years, anyway.

So each of you has five minutes. I think you know the rules, which we would like to adhere to if possible, that you enter your statement in the record, and then do as you wish. If you wish to follow your statement, do so, if you would like to summarize, if you would like to pick out key issues that you know will be of interest. As you can see there's a lot of interest here among the members in moving ahead in delving into these issues.

So Tim, we'll call you Tim. Mr. Reif, the General Counsel Reif—Reif, I should say. Tim, take over.

**STATEMENT OF TIM REIF, GENERAL COUNSEL, OFFICE OF THE U.S. TRADE REPRESENTATIVE**

Mr. REIF. Thank you, Mr. Chairman. Congressman Brady, Chairman Rangel, good morning. I would like at the outset to express on behalf of my agency and Ambassador Ron Kirk our great appreciation to you for convening this important hearing on this vital subject.

U.S. trade preference programs are a critical component of both U.S. trade and development policy. U.S. trade preference programs have helped to spur economic growth and provide benefits to countries that need them the most. Each of you joined by your colleagues and predecessors on the subcommittee and the committee has played a central role in maintaining and enhancing the strength of these programs to the lasting benefit of both developing and least developed countries around the world, and to American workers, farmers, ranchers and businesses.

In addition, on a personal note, this is a subject on which I was privileged to spend many enjoyable, challenging and productive hours working with your majority and minority chief counsels over the last decade. I had the good fortune to learn a great deal from both of them, and I am not telling you anything you don't know to say that you are very fortunate to have them at your side as you examine ways to improve these programs even further in the coming months.

My statement for the record addresses 10 subjects. I would like to briefly address 5 points. First, the conduct and expansion of U.S. trade preference programs over the last 35 years, and particularly

over the last decade has been a bipartisan, bicameral Congressional executive collaboration success story. As the chart before you shows, in the last 10 years alone, Congress has passed and the executive has signed into law on 23 separate occasions improvements, expansions and extensions to the 5 pillar U.S. trade preference programs.

This track record is remarkable and reflects the strong and sustained commitment of this committee, the House, the Congress and the executive to expanding economic opportunity for developing countries and least developed countries, and in the United States through these programs.

As we face the challenging issues ahead, we can take particular confidence that we will meet them successfully based on this strong track record.

Second, U.S. trade preference programs have achieved and continue to achieve important successes to expand trade, boost economic growth and reduce income inequality, thereby providing people living in developing and least developed countries with greater hope and confidence for their economic futures.

My testimony contains a number of examples, from Afghan exports of dried plums and prunes and figs and gold jewelry, to Tunisian exports of sauces and condiments and electrical switching apparatus, to Georgian exports of jams and jellies. I'm getting hungry.

At the same time—not for the electric switching apparatus. At the same time, these programs are a major source of imports and products for U.S. business, and in particular small and medium-sized companies, and provide important partnership opportunities between U.S. workers and businesses, and workers and businesses in developing countries.

Third, the administration strongly supports the immediate renewal of the GSP program, set to expire just six weeks from now on December 31st. The administration is, of course, aware of the range of issues that is under discussion and the voices for reform, a number of whom you will be hearing from later in the hearing. We stand ready to work with the members of this committee, others in Congress and interested stake holders to address these issues. For now, we urge the speedy renewal of GSP and stand ready to work with you.

Fourth, the second preference program that expires at the end of the year is the Andean Trade preference program, as you know. This program has continued to achieve a key goal established at its creation in 1990 by President Bush, provide sustainable economic alternatives to drug crop production and form a key element in U.S. counter narcotic strategy. The administration supports an extension of this program and looks forward to continuing to work with you on how best to use the program and to respond to the specific circumstances presented by each of the Andean countries.

My statement also addresses the critical role that AGOA, CBI and HOPE are playing for those critical regions and countries to promote development and economic growth. I won't dwell on that now, but would be happy to answer any questions you may have.

In closing, for more than 30 years, Republican and Democratic administrations and Republican and Democratic Congresses have

worked shoulder to shoulder and tirelessly to craft and implement preference programs that will promote development and economic growth in developing countries, in turn providing a stronger multilateral trading system by expanding opportunities for American workers, farmers, ranchers and business. Your collective efforts have resulted in a strong and steady growth in trade with our developing country trading partners, in good measure thanks to these preference programs. This growth in turn has benefitted those countries and their workers, as well as U.S. business and families. While much work remains to be done, much has already been accomplished.

Thank you again for convening this important hearing and for inviting USTR and the administration to testify before you.

[The prepared statement of Mr. Reif follows:]

**Prepared Statement of Tim Reif, General Counsel, Office of the U.S. Trade Representative**

Good morning, Chairman Levin and Congressman Brady. I would like at the outset to express, on behalf of my agency and Ambassador Kirk, great appreciation to you for convening this hearing on this vital subject. The optimal design and functioning of U.S. trade preference programs is a critical component of both U.S. trade policy and U.S. development policy.

U.S. trade preference programs have helped to spur economic growth and provide benefits to countries that need them the most. Each of you, joined by your colleagues and predecessors on the Subcommittee and Committee, have played a central role in maintaining and enhancing the strength of these programs over the last decade—to the lasting benefit of both American workers, farmers, ranchers and businesses, and developing and least-developed countries around the world.

This morning, I would like to address 10 subjects.

**1. *Bipartisan, Bicameral, Congressional-Executive Collaboration Success Story***

First, the conduct and expansion of U.S. trade preference programs over the last 35 years, and particularly over the last decade, is a bipartisan, bicameral, congressional-executive collaboration success story. In the last 10 years alone, Congress has passed, and the Executive has signed into law on 23 separate occasions, improvements, expansions and extensions to the five pillar U.S. preference programs: the U.S. Generalized System of Preferences (GSP); the Caribbean Basin Initiative (CBI); the African Growth and Opportunity Act (AGOA); the Andean Trade Preference Act (ATPA); and the Haitian Hemispheric Opportunity Through Partnership Encouragement Act (HOPE). See chart.

This track record is remarkable and reflects the strong and sustained commitment of this Committee, the House of Representatives, the Congress and the Executive, to expanding economic opportunity in the United States and developing countries through these important programs. These efforts have never been easy; little that is worthwhile is. However, as we face the challenging issues ahead, we can take particular confidence that we will meet them head-on and successfully based on this strong track record.

**2. *Economic Development in Developing and Least-Developed Countries***

Expanded trade with the world's developing countries is critical to boosting their growth, reducing income inequality, and providing people living in these countries with greater hope and confidence for their economic future. Our preference programs have achieved important successes in helping to improve lives and generate greater opportunities and to advance these indicia of economic development.

In 2008, the total value of U.S. imports under our preference programs was $110 billion, up 21 percent from 2007. Imports under our preference programs in 2008 held a 5.3 percent share of total U.S. goods imported for consumption, up from 4.7 percent in 2007. The 21 percent growth rate in imports under these programs compares to a 7.6 percent increase for total U.S. imports from the world over the same period.

There are many individual success stories behind these larger numbers. For example, Afghanistan's agricultural and artisanal exports to the United States have increased substantially since we strengthened outreach on the duty-free export op-

portunities available to the country's producers. In 2007, only dried apricots and a small amount of dried berries were exported to the United States under GSP. In the first nine months of 2009, however, gold jewelry and six additional types of agricultural products, including dried plums, prunes, figs, dried peas, and dried fruit mixtures, have begun to enter under GSP.

In October 2008, USTR worked with the Departments of State and Commerce to provide a series of GSP educational seminars and industry meetings in three Tunisian cities. Since that time, imports of many of the products discussed have increased, notwithstanding that total imports from Tunisia have dropped. These products include sauces, condiments, and other food preparations (which have increased by 268 percent); electrical switching apparatus (which have increased by 76 percent); and dates (which have increased by 39 percent). Small and medium-sized enterprises benefit from these increases.

Similarly, in September 2008, USTR sponsored a joint outreach effort to Georgian producers and exporters. In the intervening year, exports from Georgia's agricultural and processed food sectors—which were emphasized during the USTR outreach seminars because of their benefit to rural Georgians—have increased substantially, even as its overall exports to the United States under GSP have decreased. For example, imports of jams and jellies have increased by 600 percent, imports of sweetened mineral waters have increased by 126 percent, and imports of prepared or preserved vegetables have increased by 100 percent.

The GSP program provides duty-free access for many items produced by small- and medium-sized businesses, including in rural areas, such as wooden jewelry boxes, rattan basketwork, string instruments, and certain national flags. Exports of these flags by least-developed countries Cambodia and Haiti in 2009 have grown by over 4000 and 9000 percent, respectively, compared to the same time period in 2008.

**3. *Generating New Economic Opportunities in the United States***

As noted earlier, our preference programs help not only beneficiary developing countries, but also U.S. businesses and families. These programs are a major source of imports and products for U.S. businesses, including small- and medium-sized companies, and include important partnership opportunities between U.S. workers and businesses, and workers and businesses in beneficiary developing countries.

Imports under these programs lower costs for U.S. consumers and producers. For example, in 2008, duty-free treatment under GSP resulted in a total savings of approximately $850 million.

In 2005, according to the U.S. Chamber of Commerce, 75 percent of U.S. imports entering duty-free under GSP were raw materials, components or equipment used by U.S. companies to manufacture goods either for domestic consumption or export. The Chamber also found that GSP is particularly important to U.S. small businesses, many of which rely on the program's duty savings to compete with much larger companies. Maintaining lower costs for our small- and medium-sized enterprises is particularly important as companies struggle to recover from the economic downturn.

**4. *Eligibility Criteria***

From the outset, eligibility criteria have been a critical component in Congress' design of U.S. preference programs, and in their operation, to ensure that they are achieving their stated goals and are functioning as Congress and the Administration intended. In this regard, three points are key.

First, the criteria were intended to and have achieved four core goals: (1) strengthened the rule of law in beneficiary countries; (2) provided incentives for sensible policies and policy reforms; (3) promoted development; and(4) improved the operating environment for U.S. exporters in the beneficiary countries. There are numerous examples:

- In response to a GSP review, Swaziland ratified a new constitution and amended its Industrial Relations Act to strengthen labor rights.
- In response to GSP and AGOA reviews, Uganda enacted comprehensive labor reform, established a new industrial court to address labor issues, and has undertaken to assign labor inspectors in every district in the country.
- To have GSP reinstated in 2006, Liberia repealed a decree that prohibited strikes and invited the International Labor Organization (ILO) to assist in bringing its laws and practices into conformity with international standards.
- The April 2009 Special 301 report announced among other things that USTR would review the IPR practices of beneficiaries, including The Bahamas, as part of its biennial review of the operation of the Caribbean Basin Economic Recovery Act. Following a meeting with U.S. officials and industry representatives in August 2009, the government of The Bahamas announced that it

would implement changes to its Copyright Act to restore copyright protection for U.S. pay television content. Those changes went into effect last month.

- Similarly, increased protection and enforcement of intellectual property rights have occurred in Ukraine and India. Following the suspension of its GSP benefits, in July 2005, Ukraine passed legislation that strengthened its licensing regime and enforcement efforts to stem the illegal production and trade of CDs and DVDs, and its GSP benefits were restored. Also in 2005, India's GSP benefits were restored after it adopted legislation that strengthened its patent protection of pharmaceutical and agricultural chemical products.

Second, the Administration by statute and practice engages in two types of reviews to ensure that the statutory criteria are being met. In the first type of review, by statute, USTR is required to conduct annual reviews of the AGOA and ATPA programs, and biennial reviews of the CBI program. We solicit information from stakeholders in each of these reviews and publish reports as required by Congress. An interagency team is currently conducting the regular reviews under AGOA, ATPA and CBI.

The second type of review, established by regulation for the GSP program, is petition-driven. Under this approach, every year the interagency team requests petitions from stakeholders regarding the eligibility of beneficiary countries and regarding possible modifications to the list of products eligible for duty-free treatment. Our reviews of beneficiary eligibility focus on issues that interested parties, including unions, NGOs, and industry groups, raise in petitions. Our interagency team, led by USTR, responds to these petitions by examining the issues, raising concerns with the foreign governments, and encouraging reforms. We also conduct in-country visits where appropriate.

Between 2001 and 2009, the interagency group evaluated 61 petitions concerning thirty-four beneficiaries under the GSP program. Progress is frequently achieved in these cases without limiting or revoking benefits. We were able to close fifty-one of these cases without modifying benefits. One case during this time period (Ukraine) resulted in a complete suspension of benefits. However, we were subsequently able to restore Ukraine's eligibility, as well as the eligibility of three countries (Liberia, India, and Pakistan) whose benefits had been revoked prior to 2001.

Third, we are aware that both the criteria and the ways in which they are applied and made effective are subjects that the Committee and others in Congress are interested to discuss moving forward. We stand prepared to answer questions about the operation of the criteria and reviews currently and to date, offer technical advice and engage with you on policy issues as you advance in your deliberations.

**5. *Renewal of the Generalized System of Preferences***

GSP is the oldest and most broadly based of the U.S. preference programs, first enacted by Congress in the Trade Act of 1974. Today, 131 developing countries are beneficiaries, with forty-four countries receiving additional benefits as least-developed beneficiaries. All GSP beneficiaries receive duty-free treatment for nearly 3500 tariff lines, and least-developed countries receive duty-free treatment for an additional 1400 tariff lines.

In 2008, U.S. imports under the GSP program were valued at $31.7 billion, an increase of 2.6 percent over 2007. To put this in perspective, in 2008, the GSP program provided duty-free treatment to significant percentages of U.S. imports from individual beneficiary countries. For example, 76 percent of all U.S. imports from Paraguay, nearly 60 percent of U.S. imports from Georgia, and over 40 percent of U.S. imports from Fiji, Lebanon, and Macedonia received duty-free treatment under the GSP program. Total U.S. imports under GSP through September 2009 have amounted to $14.7 billion.

The GSP program has been a substantial success. For example, between 2002 and 2006, there was an average 17 percent annual increase in imports under GSP. GSP imports from least-developed countries grew by an annual rate of 26 percent. In addition, individual countries such as Afghanistan, as noted above, have been able to diversify their exports under GSP.

We are, of course, aware of the range of issues that have been under discussion in recent years and the voices for reform of the program within Congress and in the private sector, from all perspectives.

There are a number of important questions that deserve careful deliberation and analysis in considering possible modifications to GSP and the other programs. Among other issues, questions have been raised related to country graduation, harmonization of U.S. preference programs and rules of origin, and possible modifications to eligibility criteria. In view of the very short time remaining before the program expires on December 31, 2009, we would propose to continue to work with all interested Members, and private sector stakeholders, to address these and any other

concerns. However, for now, the Administration urges speedy renewal and stands ready to work with Congress to achieve this as quickly as possible.

In regard to the length of an extension, the recent past indicates that Congress provided a one-year extension in 2008, a two-year extension in 2006, and a five-year extension in 2002. The Administration is aware that there may be differences of view now as there were at the time of these earlier renewals on the most appropriate length of a possible extension. The Administration is also aware of—and welcomes and looks forward to participating in—efforts to reform this and other trade preference programs. The Administration favors an extension at this time that is consistent with the sound, efficient and predictable operation of the program. Recognizing that discussions are ongoing in Congress on both immediate extension and reform, we stand prepared to work with you and with all those interested to secure an extension of the program as quickly as possible.

**6. *Renewal of the Andean Trade Preference Program***

The second preference program that expires at the end of the year, as you know, is the Andean trade preference program. This program was proposed by President Bush in 1990, and enacted into law as part of the Andean Trade Preference Act (ATPA) of 1991, and amended and expanded in 2002 through the Andean Trade Promotion and Drug Eradication Act (ATPDEA). A major goal of the ATPA/ATPDEA is to help defeat the scourge of drug trafficking in the Andean region by providing sustainable economic alternatives to drug-crop production, forming a part of our overall counternarcotics strategy.

As demonstrated in a report USTR submitted to Congress in April of this year, the ATPA/ATPDEA program has continued to achieve this goal. For instance, it has created employment for displaced persons in the flower farms and textiles factories of Colombia and has provided jobs for female heads of household in Ecuador's tuna factories.

Approximately 90 percent of U.S. imports from ATPA/ATPDEA countries enter the United States duty-free under ATPA/ATPDEA, GSP or most favored nation. Significantly, all twenty leading imports from the region were eligible for duty-free treatment in 2008. Over the past five years, U.S. imports from the region increased 144 percent, and U.S. exports grew even faster, increasing by 203 percent.

In fact, the United States is the leading source of imports and the leading export market for the ATPA/ATPDEA beneficiary countries. The current ATPA/ATPDEA beneficiary countries collectively represented a market of about $21.1 billion for U.S. exports in 2008, and were home to about $13 billion in U.S. foreign direct investment in 2007. Thus, the ATPA/ATPDEA has benefitted both the Andean region and the United States. The Administration encourages Congress to extend the program when it expires at the end of this year.

In recent years, as the circumstances of the original ATPA/ATPDEA beneficiary countries have changed, we have been working to implement the program in a way that addresses these changes. For example, as a result of the President determining that he was not able to certify by June 30 of this year that Bolivia was meeting the program's eligibility criteria, Bolivia is no longer eligible for ATPA/ATPDEA benefits. In the same report to Congress, the President flagged concerns regarding Ecuador, particularly its investment policies, and said that he would monitor all of the concerns. Meanwhile, we need to work with you and review the implications of the February 1, 2009, entry into force of the United States-Peru free trade agreement for Peru's status as an ATPA/ATPDEA beneficiary country. Colombia has negotiated an FTA, but the Administration is still working with Colombia to address labor-related issues. As Congress considers an extension of the ATPA/ATPDEA, we look forward to continuing to work with you on how best to use the program to respond to the specific circumstances presented by each of these countries.

**7. *The African Growth and Opportunity Act***

The African Growth and Opportunity Act (AGOA) is another important U.S. trade preference program. Enacted in May 2000, AGOA was designed to expand U.S.-sub-Saharan African trade and investment, stimulate economic growth, promote a high-level dialogue on trade and investment-related issues, encourage economic integration, and facilitate sub-Saharan Africa's integration into the global economy. AGOA builds on GSP by eliminating duties on an additional 1800 products for beneficiary sub-Saharan African countries, of which there are currently 40. Beneficiary countries must meet eligibility criteria based on "best practices" policies, thereby supporting African efforts to liberalize trade, implement economic reforms, establish the rule of law, reduce poverty, and strengthen labor and human rights.

Congress passed significant enhancements to AGOA in 2002, 2004, 2006, and 2008. AGOA's current authorization ends in 2015, and its special third-country fabric provision is scheduled to end in September 2012.

Over the last nine years, AGOA has helped to increase both the volume and diversity of U.S. trade with sub-Saharan Africa. U.S. imports under AGOA totaled $66.3 billion in 2008, more than eight times the amount of AGOA imports in 2001, the first full year of the program. While much of this increase is attributable to oil, non-oil AGOA imports more than tripled during this period, reaching $5.1 billion in 2008. Thanks in part to AGOA, in recent years more than 98 percent of African exports to the United States entered duty-free, either under AGOA, GSP or zero-rate MFN duties.

Most of those familiar with AGOA are aware of the success stories involving African apparel exports to the United States—such as the great strides that small, landlocked Lesotho, a least-developed country, has made in becoming the leading African exporter of AGOA apparel. Less well known is that AGOA has also helped to spark significant increases in African exports of transportation equipment, footwear, cut flowers, and a wide range of farm and food products, including processed agricultural goods.

The Annual U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum—better known as "the AGOA Forum"—provides an opportunity for high-level dialogue between officials of the United States and AGOA beneficiary countries, as well as the American and African private sectors and civil society. Most recently, Ambassador Kirk, Secretary Clinton, and Secretary Vilsack led the U.S. delegation to the 2009 AGOA Forum in Nairobi, Kenya in August.

After several years of growth, trade between the United States and sub-Saharan Africa has slowed considerably in 2009, largely as a result of the global economic crisis and declining oil and commodity prices. During the first eight months of 2009, total imports under AGOA declined by 61 percent over the same period in 2008. This is obviously of concern to us and only underscores the importance of helping African countries to continue to build their trade capacity.

One of the biggest challenges we face with respect to AGOA is how best to help African countries to make the most of the program. Many AGOA beneficiary countries have yet to export any significant amount of products under the program as a result of poor or insufficient infrastructure and limited productive capacity. Continued trade capacity building assistance will be crucial to helping African countries to take advantage of AGOA trade opportunities.

**8. *The Caribbean Basin Initiative and HOPE***

The U.S. trade preference programs for the Central American and Caribbean region, known collectively as the Caribbean Basin Initiative (CBI), continue to generate important benefits for beneficiary countries. Expansion of CBI benefits through enactment of the Caribbean Basin Trade Partnership Act (CBTPA) in 2000, and the provisions included in the Trade Act of 2002, the HOPE Act of 2006 and the HOPE II Act of 2008, represents an important affirmation of the ongoing U.S. commitment to economic development in the Caribbean Basin, by expanding duty-free access to the U.S. market for CBI goods.

The CBTPA provisions are being extensively used by CBI exporters and U.S. importers. The total value of U.S. imports from CBI countries in 2008 was $19.6 billion, an increase of $56 million from 2007.

U.S. exporters have also benefitted from the trade expansion fostered by the CBI program. Total U.S. exports to the CBI region, having reached $25.1 billion in 2008, made the CBI region the 14th largest market for U.S. exports.

The HOPE program allows duty-free access to the U.S. market for certain Haitian-made apparel and other articles, with the goals of fostering stability and economic development in Haiti. As I am sure you are aware, Haiti is the poorest country in the Western Hemisphere, with 80 percent of the population living in poverty and 54 percent in abject poverty. The economy has recovered in recent years, but four tropical storms in 2008 caused nearly $1 billion in damages, killed over 800 people, and severely hurt the transportation infrastructure and agricultural sector.

U.S. economic engagement under the HOPE program has boosted apparel exports and investment in Haiti. HOPE II has further improved the environment for the apparel sector by extending preferences to 2018. The first international buyers' forum in Haiti took place in October, with senior USTR officials in attendance. USTR continues to work with various agencies to help Haitian and U.S. businesses take full advantage of the benefits under HOPE and HOPE II. We remain hopeful that the HOPE program can help to improve conditions across Haiti.

**9. *Trade-Related Development Assistance***

Expanded trade under the right framework of rules is a necessary condition for sustainable economic development. At the same time, trade alone cannot be expected to be the solution to issues of economic development. Expanded trade must be accompanied by the right mix of policy efforts on the part of the host country and various effective forms of technical and development assistance. Trade expansion is essential for the smallest and poorest developing countries to access markets of sufficient size and with sufficient demand to support rapid expansion of production, employment and incomes.

The Obama Administration has an aid strategy integrated within our overall development assistance framework. U.S. trade-related assistance helps developing countries to achieve sustained and broad-based economic growth through three program approaches: (1) development of well-functioning markets; (2) enhanced access to productive activities; and (3) strengthening the international framework of policies, institutions and public goods, which provide benefits for many. Expanded rules-based trade is a key component of each of these elements.

Second, the most effective form of trade-related development assistance in a given instance is likely to vary widely. For example, providing to African countries more staff qualified in U.S. sanitary and phytosanitary standards (SPS) can help those countries' governments and businesses to understand better U.S. SPS legal requirements and procedures. In this way, exporters in those countries have a greater opportunity to satisfy U.S. legal requirements and to export products that American consumers can enjoy. Similarly, improving infrastructure and modernizing customs administration can better enable beneficiary countries to access more fully the benefits of trade. One size does not fit all.

Third, the goal of the Administration is to work with Congress, countries and the private sector to improve the aid dimension. Our goal is to provide the most effective assistance to maximize the benefits provided and the synergies between that assistance and fully enabling beneficiary countries to take advantage of the opportunities afforded by the world trading system. For this reason, U.S. trade-related assistance focuses on country-based bilateral and regional programs, thereby ensuring that programs are flexible and can respond in a timely way to local needs and opportunities.

Another example of trade-related assistance is our Millennium Challenge Corporation (MCC) programs. These programs enhance economic growth in a way that delivers tangible benefits to the poor. MCC partner countries have prioritized Aid for Trade in their proposals. More than half of all the funds MCC has obligated from 2005–2008 fall within Aid for Trade. From 2005 to 2008, total U.S. trade-related assistance was almost $6.4 billion. In fiscal year 2008 alone, the total annual trade related assistance was $2.24 billion, 60 percent higher than in 2007.

**10. *Challenges Ahead***

For more than thirty years, Republican and Democratic Administrations and Republican and Democratic Congresses have worked closely together and tirelessly to craft and implement preference programs that will promote development and economic growth in developing countries, in turn providing a stronger multilateral trading system by expanding opportunities for American workers, farmers, ranchers and businesses. Our collective efforts have resulted in a strong and steady growth in trade with our developing country trading partners, in good measure thanks to these preference programs. This growth in turn has benefitted those countries and their workers, as well as U.S. businesses and families.

The success of our preference programs provides a strong foundation on which to build and ensure that U.S. trade policy toward developing countries and U.S. preference programs leads to even more effective economic integration with developing and least-developed countries as well as new opportunities for American workers, farmers, ranchers and businesses. We recognize the importance of the continued success of these programs. We know that more work lies ahead and are fully committed to and prepared to engage in this effort.

Here at home, there are questions about the best ways to ensure that we maintain the most effective framework and structure for these programs and achieve the broadest possible utilization of them by all countries. Much has been achieved, but much remains to be done. We look forward to working with you as we work to address the many and important challenges ahead.

Thank you again for convening this important hearing and for inviting USTR and the Administration to testify this morning.

Chairman LEVIN. Thank you. It's a special welcome to see you, Tim.

Sandra Polaski is next. We look forward to your testimony.

**STATEMENT OF SANDRA POLASKI, DEPUTY UNDER SECRETARY, U.S. DEPARTMENT OF LABOR, BUREAU OF INTERNATIONAL LABOR AFFAIRS**

Ms. POLASKI. Chairman Levin, Ranking Member Brady, Chairman Rangel, distinguished Members of the Subcommittee. On behalf of the Secretary of Labor, Hilda Solis and the Bureau of International Labor Affairs at the Department of Labor, I thank you for the opportunity to testify here today. As you, the leaders of the subcommittee have already said, and Chairman Rangel as well, the trade preference programs were created by Congress in order to contribute to economic growth and development by providing new trade opportunities for developing countries.

At the Department of Labor we focus on helping to ensure that this additional access to the U.S. market created by the preference programs should translate into broad opportunities for the workforces of those countries, so that the benefits of trade are broadly shared and gradually contribute to poverty alleviation and the growth of a middle class. This is one of the key channels through which preference programs can achieve the broad goal of development for which Congress created them.

In addition to benefitting development, the effort to broadly distribute the benefits of trade is also one of the most promising paths to expand markets for U.S. exports. My testimony goes into detail on those issues, but I would like to focus here on the labor criteria of the preference programs, which constitute one of the key mechanisms through which the increased market access can lead to this broad based distribution of opportunities that arise from trade.

Those criteria are meant to ensure that children are kept in schools, rather than toiling on plantations or in factories, that the labor that goes into export products is free of coercion, such as debt bondage or prison labor, that workers can choose freely to join unions and engage in collective bargaining, and that the conditions of work in export sectors are acceptable and don't offend human decency. These criteria contribute both directly and indirectly to the broader distribution of the benefits and opportunities of trade. They help to put the recipient countries on a virtuous "cycle" of sustainable development.

It is important that our preference programs include these criteria because labor markets in many developing countries are characterized by numerous shortcomings or market failures. For example, economic power is often highly consolidated with large segments of the population and workforce excluded. The institutions that would allow workers to claim their rights under law are often very weak. This may include weak labor inspectorates or weak or nonexistent protections for the rights of workers to take action on their own behalf, for example, through collective bargaining. In some countries these problems are compounded by pervasive corruption. Under such conditions the likelihood that trade preferences alone will translate into significant and sustained benefits for workers and their families is unfortunately low, therefore the

labor criteria that Congress has created can provided a needed balancing force.

As I mentioned earlier, the effect is also good for U.S. workers and firms, because the broader distribution of gains through the economies of our trading partners spurs their domestic consumption and global aggregate demand. In addition, by helping to build a more level playing field in the global economy the programs shore up support for free trade both at home and in the recipient countries.

We have numerous examples of success in achieving progress on labor rights through our application of the labor eligibility criterion. For example, the U.S. accepted for review a petition from the public to remove Uganda's eligibility for GSP benefits based on alleged serious shortcomings of Ugandan labor law and enforcement. Following high level U.S. government engagement on the issues, Uganda committed to expedite passage of a long overdue labor law to improve the situation and with their legislature followed through.

In this and many other cases we were able to make progress on labor rights through the review process and engagement with the relevant governments without interrupting benefits. Indeed, the goal of a country labor eligibility reviews is not to remove benefits, but rather to encourage compliance, analogous to labor inspections in our own country. That is why where engagement did not produce positive involvement we did occasionally remove eligibility.

For incentives in our preference programs to be effective, they must be credible, just as our own domestic law enforcement must be credible. Over the years we have suspended eligibility 12 times due to failures by beneficiary countries to address abuses of worker rights. Trade preferences have also been used to provide additional incentives to countries to make improvements in worker rights. This approach has great potential because it can closely align the incentives that face the private export sector with the public goal of improving worker rights and living standards.

An excellent example of this is the 1999 Textile Agreement with Cambodia that offered additional textile quoted to Cambodia on an annual basis in response to improvement in worker rights and working conditions. More details of the success of that program are in my testimony and I would be happy to answer questions on it. The program was so successful that the Cambodian government and garment sector decided to continue it even after the expiration of the multi-fiber agreement. We are now implementing similar programs in Haiti and we are launching a similar program in Lesotho.

Thank you again for inviting me to participate in this hearing, Chairman Levin, Ranking Member Brady and distinguished Members of the Subcommittee. At the Department of Labor we share your goal of making preference programs more effective tools for development and poverty alleviation, and we stand ready to provide any assistance that we can offer. Thank you.

[The prepared statement of Ms. Polaski follows:]

**Prepared Statement of Sandra Polaski, Deputy Undersecretary, U.S. Department of Labor, Bureau of International Labor Affairs**

Chairman Levin, Ranking Member Brady and distinguished Members of the Subcommittee on Trade: on behalf of the Department of Labor, thank you for the opportunity to discuss how to ensure that U.S. trade preference programs are achieving their goals.

As you know, U.S. trade preferences were created in order to spread economic growth and development through new trade opportunities for developing countries. Secretary Solis and I support this goal. The Secretary has made the overarching goal for the Department of Labor, "Good Jobs for Everyone." In the Department's Bureau of International Labor Affairs (ILAB), which I lead, we support this goal by working to ensure that workers and their households are able to share in the benefits of trade—both in developing countries and here at home. This goal is also an essential component of the President's broader vision for international growth and development that broadly benefits the people of the world.

Today I would like to focus on one essential aspect of preference programs—the labor component. I will discuss the role that labor provisions play in preference programs, and why they are indispensible in achieving the development objectives of preference programs. I will also share some observations on the functioning of the preference programs, particularly areas where Congress may want to consider whether the programs could be improved.

*Trade, Labor and Economic Development*

When Congress authorized the first U.S. trade preference program—the Generalized System of Preferences (GSP)—through the 1974 Trade Act, the goal was to provide greater access to the U.S. market for developing countries. The purpose was to create additional export opportunities which would attract investment, develop new industries, create jobs, and thereby foster growth and development. Since then, Congress has expanded U.S. trade preferences roughly each decade, through the Caribbean Basin Initiative (CBI) in 1983, the Andean Trade Preference Act (ATPA) in 1991, the African Growth and Opportunity Act (AGOA) in 2000, and the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act in 2006 and 2008. Each of these new programs modified the original GSP model to incorporate the knowledge and experience gained about how best to stimulate development using market access incentives.

One of the key ways in which the preference programs evolved over these last 35 years was through the program eligibility criteria that beneficiary countries must meet in order to receive unilateral duty exemptions. Congress gradually included eligibility criteria in the programs—covering matters as diverse as treatment of investors and treatment of workers—that reflected the understanding that without a positive policy framework, greater access to the U.S. market alone would not lead to broad-based and sustained development.

The labor requirements of preference programs first emerged in 1984, when Congress and then-President Reagan negotiated the addition of *internationally recognized worker rights* to the GSP eligibility criteria. This innovation reflected the understanding that fundamental labor rights were an essential component of broad-based economic development in low and middle income countries, just as they were an essential component in our own economic development. Labor markets in many developing countries are characterized by numerous short comings. Economic power is often highly consolidated and the institutions that would allow workers to claim their rights under law are often very weak. In some countries these problems are compounded by pervasive corruption. Under these conditions, the likelihood is low that trade preferences alone will easily translate into significant and sustained benefits for workers and their families. However, if workers share in the benefits of trade and have effective means of addressing their exclusion, then the economic growth that comes from expanding trade may help address existing inequalities. It should increase the incentives for employers and workers to upgrade productivity and skills, rather than encouraging cost-cutting through disregard of national labor laws and international labor standards. When labor is free from coercion, when children are kept in schools rather than factories, and when workers are able to freely organize and bargain for their interests, the economic opportunities that come through trade are more likely to create widespread prosperity and put the beneficiary country on a virtuous upward cycle.

By protecting the most basic human and workers' rights and ensuring a broader distribution of gains throughout an economy the labor provisions of trade preference programs also spur global aggregate demand, which is good for U.S. workers and

firms. And by helping to build a more level playing field in the global economy, they shore up support for free trade both at home and in recipient countries.

*Improvements in Worker Rights*

By adding the labor eligibility provisions on *internationally recognized worker rights* to the U.S. preference programs, Congress created both a requirement and an opportunity for developing countries to improve their labor standards. As we have utilized these provisions in the past, they have led to positive changes in workers' lives.

For example, in August 2005 the U.S. government accepted for review an AFL–CIO petition to remove Uganda's eligibility for GSP benefits. The petition alleged serious shortcomings in Ugandan labor law and enforcement, including a requirement that a minimum of 1,000 workers were needed to form a union. Following high-level U.S. government demarches on the issues raised in the petition, Uganda committed to expedite passage of long-overdue labor legislation to improve the situation. The legislation, which the International Labor Organization (ILO) reviewed, addressed each of the main problems cited in the petition and was ultimately passed and enacted in May 2006. The government also undertook measures to fund and begin operations of a new industrial court for labor issues and posted labor inspectors in each district of the country.

On occasion, benefits have actually been withdrawn when countries did not make progress addressing worker rights and other eligibility criteria. For example, Liberia's benefits were suspended in 1990 because of worker rights concerns. However, following two decades of war, Liberia's new President, Ellen Johnson Sirleaf, made improving worker rights a high priority. This included repealing a decree that prohibited strikes and inviting the ILO to assist Liberia in bringing its laws and practices into conformity with its ILO obligations. In 2006, Liberia's GSP eligibility was reinstated.

Trade preferences have also been used to provide additional incentives for countries to make concerted improvements in worker rights. In 1999, the U.S. negotiated a textile agreement with Cambodia that offered additional textile quota annually to Cambodia when worker rights criteria were met based on factory-level monitoring reports. I was closely involved in the creation and implementation of that agreement and believe that certain lessons from that experience continue to be instructive today.

First, the agreement aligned the market incentives facing the government, investors, international buyers, employers, and workers. Since improvements in working conditions were tied to a positive incentive—increased textile quota—both the private sector and the government benefitted when workers benefitted. Because the quota determinations were made annually, there was a close temporal relationship between improvements on the factory floor and greater market access. The result of the program was significant growth in trade, employment, and incomes for apparel workers in one of the world's poorest countries. From 80,000 apparel jobs in 1998,[1] before the agreement took effect, employment increased to over 350,000 jobs by the end of 2008.[2] As the industry and employment were growing, the labor rights of Cambodian workers and their working conditions also improved. It is important to note that even after the Multi-Fiber Agreement ended at the end of 2004—and with it the quota incentives that were used at the beginning of the program—the country continued its efforts to improve worker rights.

A second element of the Cambodia program that deserves close attention is the way the factory conditions were monitored and the information was transmitted. The program introduced an innovative design that combined transparency and integrity to overcome limited market information and lower costs for producers. The ILO was asked by the U.S. and Cambodian governments to carry out a monitoring program, known as the *Better Factories* project that monitored factories and made the results public. This provided transparency about the conditions in all the export firms to international buyers, consumers and other factories, as well as to the governments and the labor force. This information helped buyers make better sourcing decisions and rewarded the factories that were improving, while channeling business away from factories with a record of labor abuses. Since the monitoring was conducted by a credible outside entity, buyers were able to reduce or eliminate their

[1] Independent Final Evaluation Report (covering the period February 2003–December 2005), *Ensuring that Working Conditions in the Textile and Apparel Sector in Cambodia Comply with Internationally-Recognized Core Labour Standards and the Cambodian Labour Law,* Luis Reguera & Christopher Land-Kazlauskas, P.7, Oct. 2007.

[2] *Twenty-Second Synthesis Report on Working Conditions in Cambodia's Garment Sector,* Better Factories Cambodia, International Labor Organization, April 30, 2009, p.5 (graph 3).

own inspections of their supplier factories. Since factories pay for these buyer-required inspections, the program reduced factory costs and eliminated redundant monitoring. Estimates show the Cambodia monitoring program cost factories about $3 per worker per year, compared to third-party monitoring costs of up to $50 per worker per year.

A third element in the success of the program was the decision by the Cambodian government that all firms benefitting from the market access should participate in the Better Factories project. This ensured that factories that complied with the national labor laws and internationally recognized worker rights were not at a disadvantage compared to factories not in the program. This sector-wide participation avoided creating perverse incentives in which factories joining the program would be subject to greater transparency than factories outside the program, which would free ride on the reputation of the industry and program benefits. It also avoided the risk that the reputation of Cambodia and its apparel industry could be damaged by media exposes of poor labor practices by non-compliant factories outside the program.

In sum, preference programs can be effective tools to both promote economic development and improve labor standards, so that economic development is broad based and sustainable. Our preference programs work best when economic incentives are aligned in a way that produce optimal results for overall growth of exports, employment generation, and improved respect for workers' rights. That is when we are most likely to see broad distribution of the benefits from preferential access to our market.

*Observations on Existing Preference Programs*

Since the original inclusion of internationally recognized worker rights in the GSP statute, the United States has included labor provisions in every subsequent preference program and virtually every free trade agreement. However, Congress created the preference programs over time and our current system is made up of varying levels of benefits, eligibility criteria, and eligibility reviews. These variations provide insight into how the incentives created by the programs work in practice.

*Incentives*

Congress has authorized the preference programs to provide benefits to countries that meet the eligibility criteria and to remove benefits when these criteria are not being met. The objective of the labor provisions of the programs is to align the incentives facing government, employers, and workers. When we have been able to effectively operationalize this alignment, we have been able to make significant and lasting progress.

Regarding the incentives, I want to make an important point. The goal of reviewing a country's eligibility is not to remove benefits, but rather to encourage compliance. It may be helpful to think of the analogy to enforcement of U.S. labor laws. The goal of enforcement is not to impose penalties, but rather to create effective deterrents in order to elicit voluntary compliance. For the incentives in our preference programs to be effective, they must be credible, just as our domestic enforcement must be credible.

The purpose of eligibility reviews—whether for worker rights or other program criteria—is to examine whether a country is failing to meet the criteria, engage with them to help them come into compliance, and—failing that—determine whether eligibility should be revoked. Eligibility for U.S. preference programs has been removed in the past at least 12 times due to failure to address abuses of worker rights, but nearly all of the actions were taken in late 1980s and 1990s. There have been several occasions when countries responded to U.S. engagement, through the petition and review process, to make positive changes to come into compliance with eligibility criteria. When this happens, this is a win-win situation: improvements are made and benefits are retained.

There has also been one worker rights case under the GSP program, involving Pakistan, in which benefits were withdrawn for some, but not all, eligible tariff lines. Under the HOPE Act, benefits can be withdrawn for particular firms that fail to meet the programs' requirements, but benefits are maintained for rest of the country. As currently authorized, preference programs provide duty-free access for eligible goods; but if eligibility is revoked, then rates revert to the normal trade relations duty rate.

*Transparency*

Transparency helps provide better information to all stakeholders and can lead to desirable outcomes with efficiency and speed. President Obama has called on the Federal Government to improve the transparency of decision making. In administering the preference programs, the interagency representatives regularly meet

with petitioners, government officials, and other stakeholders to discuss the process and specific allegations when they are raised in a petition. Public hearings are also held to gather information. At the conclusion of the review process, a decision is made public on whether to close the review, continue the review, or remove benefits. However, additional consideration could be given to how the process can be made further transparent.

*Standards*

Over time, our definition of labor rights has evolved. The definition of *internationally recognized worker rights* found in the GSP statute in 1984 preceded the development of the ILO's 1998 Declaration *on Fundamental Principles and Rights at Work,* a consensus definition which the U.S. supports. U.S. preference programs include the following labor rights:

- freedom of association and the right to organize and bargain collectively;
- a minimum age with respect to children;
- the elimination of the worst forms of child labor,
- freedom from compulsory labor, and
- "acceptable conditions of work" with respect to minimum wages, hours of work and occupational safety and health.

The ILO's 1998 Declaration includes these labor rights except for acceptable conditions of work. The Declaration also includes freedom from discrimination in the workplace as an additional right, which is not included in U.S. preference programs. The most recent U.S. free trade agreements combined the Declaration labor rights with acceptable conditions of work.

*Petitions versus Systematic Reviews*

Another area where preference programs vary is on the trigger for eligibility reviews of beneficiary countries. For example, the GSP and ATPA programs have a petition-driven process, while AGOA has an annual self-initiated review. It should be noted that both systems have advantages and are not mutually exclusive. Petitions can serve to highlight, in a timely way, where significant labor abuses are occurring. These petitions are usually filed by stakeholders and organizations "on the ground" that have real-time knowledge and also may bring the capacity to collaborate on solutions to the problems identified.

However, there are also cases in which third party petitions are not received simply because such stakeholder groups do not exist or because information is strictly controlled by the government and organizations that typically would file petitions are constrained from doing so. In these cases, regular, systematic reviews by the U.S. may better identify countries that are failing to meet the eligibility criteria of the preference programs. For example, the AGOA annual eligibility review examines every beneficiary country against each criterion every year and makes a recommendation to the President on eligibility. This has the benefit of applying the criteria universally and regularly each year. The review is completed at a certain date and decisions on individual countries are rarely extended. In contrast, some GSP petition reviews remain open for several years. While this allows for greater discretion and engagement with the beneficiary country to address the concerns raised in the petition, it may also lesson the incentive for countries to act expeditiously. As a practical matter, though, I should mention that the GSP program has approximately 140 eligible countries and a full annual review process would be resource intensive. It may be preferable to effectively target resources at the most significant or strategic cases.

*Conclusion*

Thank you again for inviting me to participate in this hearing, Chairman Levin, Ranking Member Brady, and distinguished Members of the Subcommittee. I believe we share the common goal of making preference programs more effective tools for development and poverty alleviation. Secretary Solis and I believe that the labor provisions of the preference programs are an essential component in meeting these goals. The Bureau of International Labor Affairs and the Department of Labor stand ready to provide any assistance or support to you and your staff as you continue in your deliberations.

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Chairman LEVIN. Well, and a special thanks.

So Dr. Ott, take over, if you would.

**STATEMENT OF MARY OTT, PH.D., DEPUTY ASSISTANT ADMINISTRATOR, U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID), BUREAU OF ECONOMIC GROWTH, AGRICULTURE AND TRADE**

Ms. OTT. Chairman Levin, Ranking Member Brady, Chairman Rangel, and distinguished Members of the Subcommittee on trade, on behalf of the U.S. Agency for International Development, I thank you for the opportunity to present our experience in implementing trade capacity building programs. I ask that my written statement be included into the record and will take this time to highlight some of the key points of my statement as to how effective trade capacity building assistance activities can advance both the objectives of our trade preference programs and the long term developments needs of our developing country partners.

Although the levels of trade and investment have increased rapidly over the past 20 years, global economic integration remains incomplete. The world's least developed countries hold 12 percent of the world's population, but account for less than 1 percent of global trade. Expanding trade with and among developing countries is a critical driver of economic growth and poverty reduction, and can work to encourage entrepreneurship, human resource development, technology transfer, technological innovation and good governance.

We see the relationship between trade and development all the more clearly today, as reduced trade flows due to the global economic downturn have contributed not only to less jobs in the United States, but also to rising poverty in developing countries. Trade capacity building assistance is a priority of USAID's work to promote rapid, sustained and broad based growth in developing countries.

Since 2001 USAID has provided more than $3.9 billion in assistance for trade capacity building programs. This assistance has been focused on helping more than 110 developing countries to implement trade commitments, reduce both the time and cost of exporting and importing goods and to improve business and commercial practices. USAID's on the ground presence in developing countries is an essential component of our trade capacity building support. TCB programs help to promote other USG development objectives, including agricultural development and food security, and even improved health. USAID currently provides TCB assistance to countries in all regions of the world. We support implementation of free trade agreements, trade and investment framework agreements, trade preference programs such as AGOA and HOPE, and regional economic integration and trade.

I would now like to provide some brief examples of USAID trade capacity building programs supporting trade preference programs in Latin America and Africa. In Africa, the African Growth and Opportunity Act trade preferences have been an important stimulus to development of viable export enterprises across Africa. Trade preferences alone, however, cannot achieve their maximum benefit due to the many physical, procedural and administrative barriers affecting African trade with the United States. USAID has worked hard to help countries take full advantage of the AGOA trade preferences. Support for the AGOA preference program largely has been provided through activities carried out by four USAID funded

regional hubs based in Botswana, Kenya, Ghana and Senegal, complemented by activities implemented by USAID's bilateral missions.

For example, USAID worked with government partners along the Trans-Kalahari transport corridor in southern Africa to implement a single administrative document which allows transit consignments to pass through all border posts using one customs document. Transport through the corridor is now faster, more efficient and cheaper.

In the western hemisphere, regional preference programs and related USAID trade capacity building activities date back to the establishment of the Caribbean Basin Initiative in 1983. In Haiti, USAID is helping local producers and workers take advantage of the opportunities presented by HOPE by improving the quality of the apparel industry's sourcing production and marketing. For example, USAID is providing financial and technical assistance for an apparel industry training center in Port-au-Prince in collaboration with the government of Haiti and the textile industry.

USAID has gained significant experience and knowledge of best practices for trade capacity building. First, TCB projects should seek large and systemic impacts. Implementing programs directed toward enabling just a few firms to export to the U.S. is not sufficient to achieve the objectives of our preference programs.

Second, TCB efforts produce better results in reform-minded partner countries. Support for trade policy improvements requires partnerships with reform-minded governments willing to tackle corruption that benefits from the status quo.

Third, there is no single model for effective delivery of trade capacity building. USAID provides effective TCB activities on a bilateral basis through regional trade hubs, through regional associations and through multi-lateral fora. The particular technical assistance model selected will vary according to country capacities and needs.

Fourth, successful TCB requires close inter-agency coordination. USAID programs are coordinated closely with our colleagues at USTR where USAID has established a detail position. Specialized technical advice is also coordinated with our colleagues at the Departments of Agriculture, Labor and Commerce and many other departments and agencies.

Thank you again for inviting me to participate in this hearing Chairman Levin, Ranking Member Brady, Chairman Rangel, and distinguished Members of the Subcommittee. USAID stands ready to provide any assistance or support to you and your staff as you continue in your deliberations.

[The prepared statement of Ms. Ott follows:]

**Prepared Statement of Mary Ott, Ph.D., Deputy Assistant Administrator, U.S. Agency for International Development (USAID), Bureau of Economic Growth, Agriculture and Trade**

Chairman Levin, Ranking Member Brady and distinguished Members of the Subcommittee on Trade: on behalf of the U.S. Agency for International Development (USAID), I thank you for the opportunity to present our experience in implementing trade capacity building (TCB) programs. I hope to provide the Committee insight into how effective TCB assistance activities can advance both the objectives of our trade preference programs and the long-term development needs of our developing country partners.

Although the levels of trade and investment have increased rapidly over the past twenty years, global economic integration remains incomplete. The world's least developed countries hold 12 percent of the world's population, but account for less than one percent of global trade. Expanding trade with and among developing countries is a critical driver of economic growth and poverty reduction and can work to encourage entrepreneurship, human resource development, technology transfer, technological innovation and good governance. We see the relationship between trade and development all the more clearly today, as reduced trade flows due to the global economic downturn have contributed not only to lost jobs in the United States, but also to rising poverty in the developing countries.

TCB assistance is a priority of USAID's work to promote rapid, sustained, and broad-based growth in developing countries. TCB activities represent a significant portion (approximately 12%) of USAID' total economic growth assistance, which was approximately $3.3 billion in FY08. Since 2001, USAID has provided more than $3.9 billion in assistance for TCB programs. This assistance has been focused on helping more than 110 developing countries to implement trade commitments, reduce both the time and cost of exporting goods, and improve business and commercial practices. In FY08, USAID funding for TCB totaled $385 million across 75 countries. These programs included $118 million for trade facilitation (speeding the movement of goods across borders), $62 million for trade-related agriculture, $36 million for financial sector development and good governance, $32 million for environmental issues, $27 million for physical infrastructure development, and $25 million for human resources and labor standards.

USAID's on-the-ground presence in developing countries is an essential component of our TCB support, as is our decades-long experience in implementing these programs across a wide variety of countries and regions. TCB programs also promote other USG development objectives, including agricultural development and food security, access to microfinance and even improved health.

USAID currently provides TCB assistance to countries in all regions of the world in support of a variety of shared USG and developing country trade objectives. USAID supports implementation of Free Trade Agreements (e.g., DR–CAFTA, Jordan, Peru, Morocco), trade and investment framework agreements and bilateral investment treaties, trade preference programs (such as AGOA and HOPE), and regional economic integration and trade. We also provide TCB support through organizations such as ASEAN and APEC. In addition, USAID's TCB helps developing countries to effectively integrate into the global multilateral trading community. For example, USAID has assisted more than 25 countries in the WTO accession process over the last 10 years.

**USAID TCB Initiatives in Africa in support of AGOA**

The United States' trade policy demonstrates our nation's strong interest in assisting African countries to advance economically and improve living standards for their citizens. The African Growth and Opportunity Act trade preferences have been an important stimulus to development of viable export enterprises across Africa. Trade preferences alone, however, cannot achieve their maximum benefit due to the many physical, procedural and administrative barriers affecting African trade with the U.S. USAID has worked hard to help African countries take full advantage of the AGOA trade preferences.

Support for the AGOA preference program largely has been provided through activities carried out by four USAID-funded Regional Hubs—based in Botswana, Kenya, Ghana, and Senegal—complemented by activities implemented by USAID bilateral missions. The sub Saharan African region is unique in being subdivided into 48 independent countries, the overwhelming majority of which are small economies. Therefore, USAID decided to pursue a regional Trade Hub model to concentrate resources and technical expertise in regional centers of excellence, to support the ongoing efforts at regional integration, and to recognize the reality that a large number of land-locked countries are dependent on regional trade corridors to participate in international trade. The Trade Hubs have helped African countries to expand and diversify their exports to the United States, as well as increase the value of intra-regional trade for targeted commodities.

An example will illustrate how USAID TCB supports AGOA trade preferences. USAID's Southern African Trade Hub assisted a chili production company with a new farming investment in Mozambique. With our support, the company is increasing its production of chili mash for Tabasco, an internationally known brand distributed both in the United States and globally. In addition, the new production in Mozambique will be used as raw ingredients into South African processed food products, providing another regional outlet for a high-value agricultural crop. The new

investment in Mozambique will provide much needed employment to farmers in the area, and expand both regional and AGOA-related trade from Mozambique.

In this way, the Trade Hubs have worked extensively to promote exports under AGOA, via direct firm and sector-level assistance, buyer/seller linkages, and participation in trade fairs. They have successfully generated tens of millions of dollars in exports to the U.S. (more than $50 million in FY08). As in the case just described, an important lesson from our TCB programs has been that when our assistance is focused on increasing overall export competitiveness and awareness, significant results are also reflected in exports to other important markets beyond the United States.

Along with company, industry, and sector-level assistance, the Trade Hubs also support regional economic communities in their integration efforts, and trade facilitation efforts designed to reduce the time/cost to move goods along transit corridors and through customs and ports. For example, USAID has worked with government partners along the Trans-Kalahari transport corridor to implement a single administrative document which allows transit consignments to pass through all border posts using one custom document. Transport through the corridor is now faster, more efficient and cheaper. Implementing this type of reform in Africa and elsewhere is increasingly important because reducing the internal costs of conducting business in countries with difficult business environments and pervasive corruption can be accomplished unilaterally by the countries themselves and can foster greater benefits than what tariff reductions alone can provide. TCB programs in Africa will be particularly useful in supporting food security objectives.

**USAID TCB Programs in Latin America**

Regional preference programs in the Western Hemisphere date back to the establishment of the Caribbean Basin Initiative (CBI) in 1983. Much has changed since then. The U.S. Government recognizes the vital link between our trade policy agenda and trade capacity building programs.

*HOPE*

Implementation of the HOPE II legislation illustrates much of the policy evolution that has taken place since the Generalized System of Preferences (GSP) and CBI were first put in place. Building on the AGOA model, and tailoring our assistance to the Haiti context, USAID is helping Haiti take advantage of the opportunities presented by HOPE. With USAID support, Haiti is adapting to HOPE II opportunities by improving the quality of the apparel industry's sourcing, production and marketing. For example, USAID's program with a leading garment manufacturer showed results in the first seven months of 2009. The firm attracted three new clients, created 375 skilled, semi-skilled, and administrative jobs, and saved an additional 200 jobs that otherwise may have been filled in one of the highly competitive Asian countries. Workforce development programs have trained young adults in basic industrial sewing, with 50 trainees finding long term factory jobs, and 60 more currently enrolled. USAID is also providing financial and technical assistance for an apparel industry training center in Port-au-Prince, in collaboration with the Government of Haiti and the textile industry. Additional USAID support to the export sector consists of providing technical assistance for the development of a garment sector strategic plan to enable firms to take advantage of trade preferences; and supporting the Investment Facilitation Center (CFI).

*Caribbean Basin Initiative*

Prior to HOPE, USAID experience with regional trade preference programs included CBI, which laid the foundation for several beneficiary countries in the region to prepare for, and successfully negotiate, a free trade agreement with the United States. Now USAID and USTR lead the interagency process to coordinate TCB provision to the CAFTA–DR countries and Peru, and other potential FTA countries (Panama and Colombia).

The CAFTA–DR agreement elevated TCB into a standing committee of the bilateral agreement—a similar model has been followed for Peru and is proposed for Colombia and Panama, while preserving the need to be flexible within the country context. The committee serves as a forum for trade partners to present their TCB needs and report on country progress, with donor support, in meeting those needs.

USAID's support for the USG trade agenda played a critical role in the negotiation of these FTAs and was instrumental in preparing the countries to negotiate, informing the public on the opportunities of trade, identifying and targeting areas to help implement specific aspects of the trade agreement, and transitioning these developing economies to expand the benefits of the agreement through longer-term development efforts in rural diversification and small business growth. Our work gave the Central American countries greater confidence and fostered their ability

to negotiate, implement the terms of the agreement, and target policy reforms, investments, and capacity building to expand the benefits of trade to a larger segment of the population. Complementing the negotiation of a FTA with the provision of TCB assistance demonstrated the importance of linking aid to trade.

Elsewhere in the Caribbean region, assistance under the Bridgetown Accords (1997) and subsequent negotiation of a multilateral agreement (the Free Trade Area of the Americas, which was never completed) helped countries to address several trade-related issues ranging from sanitary and phytosanitary (SPS) measures, customs reforms, and competition policy. Currently, in the Eastern Caribbean, USAID activities aim to help the region meet its requirement to participate in open trade regimes, reduce business constraints, and leverage market opportunities. USAID works through a public-private alliance that leverages private sector resources to train selected farmers and exporters to use sound market intelligence, agronomic and production technology packages, and integrated pest management systems for selected specialty crops for export to North America and regional markets.

**Principles for Effective TCB Assistance to Support U.S. Trade Preference Programs**

*Producers and investors need a long-term planning horizon.* USAID's TCB activities support a wide range of U.S. trade policy objectives from trade preference programs to implementation of fully-fledged free trade agreements. One constant concern articulated by investors relates to the stability and predictability of some of these programs. Participants have noted that preference programs' utility is affected if they are subject to frequent changes or expiration dates.

*Both bilateral and regional programs are needed to achieve USG goals for TCB.* An important lesson from the LAC region is the need to recognize when TCB should be delivered bilaterally instead of regionally. For example, in the CAFTA–DR countries and in the Andean Region, USAID regional programs provided support to meet obligations in such areas as SPS measures, customs reform and trade facilitation, and intellectual property rights. Bilateral programs focused their attention on agricultural diversification, small business development, improving the "doing business" environment and fostering competitiveness.

*TCB projects should seek large and systemic impacts.* Implementing programs directed toward enabling a few firms to export to the U.S. is not sufficient to achieve the objectives of our preference programs. Finite resources and large TCB needs demand prioritization of activities based on a targeted aid-for-trade agenda that emphasizes TCB investments with the highest returns—specifically those reforms associated with trade policy and regulation. For example, the Trade Hub model has evolved to focus on regional trade facilitation issues and to expand its scope beyond AGOA exports to a broader concept of trade competitiveness, including through developing the capacity of African producers to export regionally and to other markets such as the European Union and Middle East.

*TCB efforts produce better results in reform-minded partner countries.* There is strong evidence that improving trade facilitation—for example better port and information infrastructure, more rapid customs clearance times, and regulatory reform to remove duplicative technical requirements on imports—has a positive impact on trade performance. The opportunities presented by U.S. trade preference programs can be a powerful catalyst for motivating these reforms. Nevertheless, support for trade policy improvements requires partnerships with reform-minded governments willing to tackle corruption and the vested interests that benefit from the status quo. This would suggest greater returns by focusing assistance on countries prepared to undertake reforms.

It is important to note that as average import tariffs worldwide have dropped significantly over the past 50 years, other trade barriers such as onerous border procedures have become the primary obstacles to trade for developing countries. USAID has funded research to calculate the tariff equivalents of time lost to export delays and found that they significantly exceed tariffs faced by exporters in all developing country regions with the exception of East Asia and the Pacific. Reform steps to reduce such delays will go far to assist developing countries to expand their trade; indeed, trade facilitation may represent the greatest potential return on investment for USG TCB activities. Trade facilitation is an area in which USAID TCB programs have shown significant success. For example, successful programs over the last four years in Georgia, Macedonia, Afghanistan, Egypt, Guatemala, and Ghana, have cut the average time to ship, process, and deliver shipments from buyers to sellers by an average of 31 days. (Reduction of a single day can reduce costs by one percent or more depending on the type of good).

*TCB investments need not be large to have significant impacts.* The median bilateral TCB program implemented by USAID during FY 08 was approximately $1.75

million. Modest resources can be translated into highly significant results when focused on key policy issues in countries whose governments are committed to implementing reforms. For example, USAID provided extensive technical assistance for the U.S.-Vietnam Bilateral Trade Agreement (BTA), and later for Vietnam's full accession into the World Trade Organization (WTO). With its effective implementation, investment and bilateral trade have surged. This relatively small activity supported trade-facilitating laws related to the labor code, credit institutions, standards, arbitration, consumer protection and regulations affecting imports, investment, and exports, including intellectual property rights. USAID assistance also supported the Prime Minister's sweeping initiative to reduce, simplify, or eliminate the costly and risky burdens on business/trade caused by tens of thousands of outdated administrative procedures and cumbersome regulations.

*There is no single model for effective delivery of TCB.* USAID provides effective TCB activities on a bilateral basis, through regional Trade Hubs, through regional associations, and through multilateral forums. The particular technical assistance model selected will vary according to country capacities and needs, the extent of regional integration efforts, and the technical capacity of our bilateral Missions to deliver assistance. For example, while a Trade Hub approach may be appropriate to Africa, the same approach would not be as effective for the Andean region where countries have significant variations in their level of development and where regional economic integration is not advancing with the same level of political commitment.

*Over time, TCB has become more closely integrated with trade preference programs.* Recent experiences with both AGOA and HOPE when compared with earlier programs such as GSP and CBI, demonstrate how TCB activities have evolved to become increasingly connected with the implementation of U.S. trade preference programs. Coordination between U.S. trade and development objectives has improved; moreover, our developing country partners themselves now find integration into global markets as essential to their economic and social aspirations. USAID prioritizes strategic investments in TCB in support of these initiatives without the need for legislation requiring or mandating TCB assistance. Mandating specific levels of TCB assistance for beneficiaries of preferential tariff programs could prove counter-productive in cases where developing countries' leadership does not place a priority on undertaking the needed trade policy reforms.

*TCB objectives may be different across regions.* Measuring success is not a straightforward exercise. TCB activities are not uniform and different metrics are needed to evaluate different programs due to their varied goals. For example, TCB in Latin America has focused more intently on issues related to ensuring compliance and enforcement of the free trade agreements, particularly in relation to labor, environment, and protection of intellectual property rights. Such activities are not designed to cause direct increases in exports to the United States and should not be measured by that metric. TCB activities will also differ depending on the relative emphasis between the objective of supporting greater trade with the U.S., and other worthwhile objectives such as facilitating more inclusive trade with a greater focus on poverty reduction. If the objective is inclusive trade, TCB programs will target small and micro firms.

*Successful TCB requires close coordination with USTR and other USG agencies.* Successful implementation of TCB efforts reflects a "whole of government" approach. USAID programs are coordinated closely with our colleagues at USTR—where USAID has established a detail position to improve coordination and collaboration. Specialized technical advice is closely coordinated with our colleagues at the Departments of Agriculture, Labor, and Commerce, Customs and Border Protection, the Federal Trade Commission, the Security and Exchange Commission, and many other departments and agencies.

Thank you again for inviting me to participate in this hearing, Chairman Levin, Ranking Member Brady, and distinguished Members of the Subcommittee. USAID stands ready to provide any assistance or support to you and your staff as you continue in your deliberations.

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Chairman LEVIN. Well, thank you and we look forward to your involvement with the naming of a new—I'm not sure the title these days.

Ms. OTT. Administrator.

Chairman LEVIN. Administrator. It's still the way it was when I was there. We look forward to intensified work with you. How long have you been there?

Ms. OTT. In USAID? Since 1984.

Chairman LEVIN. Have you?

All right, Mr. Philbrook, take over. We're anxious to hear about your work.

**STATEMENT OF BURNHAM (BUD) PHILBROOK, DEPUTY UNDER SECRETARY, U.S. DEPARTMENT OF AGRICULTURE (USDA), FARM AND AGRICULTURAL SERVICES**

Mr. PHILBROOK. Thank you, Mr. Chairman and Ranking Member Brady, Chairman Rangel and Members of the Committee. I'm pleased to appear before you today to discuss U.S. trade preference programs. In particular, I'll focus on the United States Department of Agriculture's perspective on the African Growth and Opportunity Act.

Trade preferences support the administration's goal for improved food security in Sub-Saharan Africa. USDA, both in Washington and abroad, plays an important role in accomplishing AGOA's objectives of expanding U.S. Sub-Saharan African trade investment, stimulating economic growth and facilitating Sub-Saharan Africa's integration into the global economy. USDA is committed to providing capacity building, technical assistance and training and research programs that will enhance Africa's ability to trade in agricultural products.

Since AGOA's implementation in 2001 this assistance has contributed to a $100 million increase in U.S. imports of agricultural products from Sub-Saharan African countries. Products imported include fruits, nuts, coffee, wines, fruit juices, cocoa products, prepared vegetables, cut flowers and prepared seafood. However, before we can permit the import of agricultural products into the U.S. from any country, USDA's Animal and Plant Health Inspection Service must complete an extensive analysis of the pest and disease risks associated with those products.

To expedite the import approval process APHIS published a final rule in 2007 that has been used to allow the import of products such as baby carrots and baby corn from Kenya, currants and gooseberries from South Africa and peppers, eggplant and okra from Ghana. With that said, it's important to note that even if APHIS determines that the pest and disease risks associated with the import of these products can be appropriately mitigated, this does not mean that export of these products to the United States will begin immediately.

Recognizing these challenges, USDA, working in concert with the U.S. Agency for International Development, continues to assist African host countries in strengthening their sanitary and phyto-sanitary safeguarding capacity. Together USAID and USDA have positioned SPS advisors at three USAID funded Africa trade hubs. These advisors work with their African counterparts to implement SPS improvement activities that are critical to building the institutional regulatory capacity necessary to facilitate trade.

Since AGOA was enacted USDA has conducted training on phyto-sanitary issues for more than 35 Sub-Saharan countries.

USDA has several flagship programs that provide technical training and research opportunities for policy makers, scientists, private sector representatives, university professors and other agricultural professionals. These programs include the Cochran fellowship program, the Borlaug International Agricultural Science and Technology fellowship program, the faculty exchange program and the scientific cooperation research program.

Successes include a Cochran fellow who doubled milk production on his small Kenyan farm, and also implemented marketing strategies that improved the prices he gets for milk.

A successful Borlaug initiative is our public private partnership with the World Cocoa Foundation. This partnership helps cocoa producing countries learn state of the art modern production and processing techniques to improve overall quality and increase exports of high quality cocoa and cocoa products worldwide.

Agriculture is not only a basis for achieving AGOA's objectives, it is the heart of the administration's food security strategy. Our food security strategy employs a whole of government approach under the leadership of the State Department and in cooperation with USAID, and this strategy will link all pertinent U.S. government agencies together as well as partners in the private sector, non-governmental, private voluntary and international organizations, civil society and small holder farmers.

The administration is committed to assisting Sub-Saharan African and food insecure countries globally to achieve food security. USDA is striving to assist countries to develop the capacity to capitalize on the beneficial terms provided by AGOA, and I look forward, Mr. Chairman, to your comments and questions, and thank you very much.

[The prepared statement of Mr. Philbrook follows:]

**Prepared Statement of Burnham (Bud) Philbrook, Deputy Under Secretary, U.S. Department of Agriculture (USDA), Farm and Foreign Agricultural Services**

Mr. Chairman, Members of the Committee, I am pleased to appear before you today to discuss U.S. trade preference programs. In particular, I will focus on the U.S. Department of Agriculture's perspective on the African Growth and Opportunity Act (AGOA).

**Introduction**

U.S. trade preferences, such as AGOA, support the Administration's goal for improved food security in Sub-Saharan Africa. USDA, both in Washington and overseas, plays an important role in accomplishing AGOA's objectives of expanding U.S.-sub-Saharan African trade and investment, stimulating economic growth, and facilitating sub-Saharan Africa's integration into the global economy. Nearly 20 USDA personnel are located at American embassies and trade hubs on the sub-Saharan African continent. Since agriculture accounts for one-third of sub-Saharan Africa's gross national product and employs two-thirds of its workers, it forms the basis on which the continent can reach its full potential.

**AGOA Successes**

USDA is committed to providing capacity building, technical assistance and training, and research programs that will enhance Africa's ability to trade in agricultural products. This assistance has contributed to a $100-million increase in exports of agricultural products—including non-traditional and value-added products—from Sub-Saharan countries to the United States since 2001, AGOA's first full year of implementation. Products imported include fruits and nuts, coffee and tea extracts, wines, fruit juices, cocoa products, prepared vegetables, cut flowers, and prepared seafood.

Before we can permit the import of agricultural products into the United States from any country, our Animal and Plant Health Inspection Service (APHIS) must complete an extensive analysis of the pest and disease risks associated with those products and determine if and how those risks can be mitigated to allow for safe importation. Under the AGOA initiative, APHIS has completed several pest risk analyses from potential trading partners in sub-Saharan Africa. To simplify and expedite the regulatory process for approving new fruit and vegetable imports and pest-free areas, APHIS published a final rule in July 2007 that has been used to expedite the imports of several types of agricultural products including those from Africa, while still providing pest risk assessments for public comment. This new process has been used to allow the import of products such as baby carrots and baby corn from Kenya; currants and gooseberries from South Africa; and peppers, eggplant, and okra from Ghana. We have also permitted the import of certain commodities under our traditional approval system, including blueberries from South Africa; and baby squash from Zambia.

However, it is important to note that, even if APHIS determines that the pest and disease risk associated with the import of these products can be appropriately mitigated, this does not mean that export of these products to the United States will begin immediately. USDA efforts at analyzing risk and granting import approvals are more effective if infrastructure is in place to take advantage of exporting opportunities. A country or industry may not have the ability to take the steps needed to mitigate the pest and disease risk associated with its products, or may not have the transportation or marketing infrastructure in place. For example, APHIS approved the import of peppers and eggplant from Ghana; however, the country's irradiator is not currently functional. Ghana needs to overcome this technological hurdle to treat fruits and vegetables to mitigate pest and disease risk.

Recognizing these challenges, USDA, working in concert with the U.S. Agency for International Development (USAID), continues to assist African host countries in strengthening their sanitary and phytosanitary (SPS) safeguarding capacity. Together, USAID and USDA have positioned SPS advisors at three USAID-funded Africa Trade hubs. These advisors work with their African counterparts to implement SPS improvement activities that are critical to building the institutional regulatory capacity necessary to facilitate trade. In Swaziland, USDA supported the initiation of a honeybee pest surveillance program to meet requirements for regional trade. In Mozambique, USDA and the Ministry of Agriculture collaborated to design and implement a national fruit fly surveillance program that is required to maintain market access for Mozambican fresh horticultural exports.

Since AGOA was enacted, USDA has conducted training on phytosanitary issues for more than 35 sub-Saharan countries. USDA has several flagship programs that provide technical training and research opportunities for policymakers, scientists, private sector representatives, university professors, and other agricultural professionals. These programs include the Cochran Fellowship Program, the Borlaug International Agricultural Science and Technology Fellowship Program, the Faculty Exchange program, and the Scientific Cooperation Research Program.

Successes include a Cochran fellow who has doubled milk production on his small Kenyan dairy farm and implemented marketing strategies that improved the prices he gets for milk, while also helping hundreds of fellow farmers by conducting on-farm training and contributing to a farm radio talk show. A woman Cochran graduate from South Africa now owns her own company and is leading industry efforts to improve product quality and expand the range of soy food products throughout Southern Africa.

A successful Borlaug initiative is our public-private partnership with the World Cocoa Foundation. This partnership helps cocoa producing countries learn state-of-the-art modern production and processing techniques to improve overall quality and increase exports of high quality cocoa and cocoa products worldwide. Currently, nine Borlaug fellows from six African countries are receiving training in organic production and marketing management in the United States that will facilitate collaboration between the U.S. organics industry and African producers, leading to increased incomes and improved food security for small-scale sub-Saharan African farmers. Recognizing the important role that women play in agricultural production in Africa, USDA is hosting three African Borlaug Women in Science fellows who are currently receiving water resource and livestock disease management training at the University of Florida. This training will also help increase incomes and promote food security.

In addition, USDA's two food assistance programs—the Food for Progress (FFPr) and the McGovern-Dole International Food for Education and Child Nutrition (McGovern-Dole) Programs—contain unique, long-term developmental aspects. Our FFPr program is benefitting 72,000 smallholder livestock owners in Ethiopia by de-

veloping the animal feed industry through activities that strengthen feed distribution channels and improve feed formulation and manufacturing and feedlot management and forage production. In Tanzania, the FFPr is empowering rural women entrepreneurs by developing their leadership skills and providing micro-credit loans that help them increase their incomes, allowing them to obtain better medical services, food and education. The McGovern-Dole program in Senegal has extended health services to more than 58 maternal and child health sites in vulnerable communities so that mothers, pregnant women, and children benefit from health services in their villages.

**Administration's Food Security Strategy**

Agriculture is not only a basis for achieving AGOA's objectives, it is the heart of the Administration's food security strategy. Achieving a food-secure Africa is a major goal of this Administration.

The U.S. food security strategy is based on the principles laid out in the July 2009 G8 Joint Statement on Global Food Security. USG efforts must be long-term. As part of a whole of government approach under the leadership of State and USAID, we are focusing on the entire spectrum of food security beginning with helping countries develop strategies to increase crop output by adopting the latest seed technology and land management techniques, appropriately applying fertilizer, linking small producers to markets and strengthening post-harvest infrastructure, as well as national and regional trade and transportation corridors.

Our food security strategy employs a whole-of-government approach that links all pertinent U.S. Government agencies together and increasingly partners in the private sector, non-governmental, private-voluntary, and international organizations, civil society, and the poor themselves.

USDA will use its resources to work with the U.S. Department of State and USAID to focus on three key principles of food security: availability, accessibility, and utilization. USDA is tapping into its network of U.S. land-grant universities, research institutions, extension experts, trade associations, private voluntary and non-governmental organizations, and other non-profit organizations and private companies across the country to provide capacity building, technical assistance and training, and research and food assistance programs.

**Conclusion**

The Administration is committed to assisting sub-Saharan Africa, and food insecure countries globally, to achieve food security. Full utilization of AGOA trade preferences is a critical piece of the puzzle. USDA is striving to assist countries to develop the capacity to capitalize on the beneficial terms provided by AGOA. I look forward to your comments and questions. Thank you.

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Chairman LEVIN. Well, thank you. All right, let's go. Oh, just take a couple minutes and then we're going to go down the line. So let me just ask you as we shape this hearing to—the four of you help us list what some of the outstanding issues are as we proceed. And these will come up with future—with the further panels, but I think you can help us from the point of view of your agencies, illuminate what the present issues are as we expand, extend and expand perhaps and reform the preference programs.

From the point of view of USTR, I know you're not in a position yet to necessarily comment on these issues, but Tim, if you would start, just list what you think the key issues that the committee and the administration face as we proceed, in addition to keeping the programs alive while we're reforming, expanding, et cetera. You want to help us? We'll go down the row in a few minutes.

Mr. REIF. Sure. Thank you, Mr. Chairman. So I think the—among the key issues would be are the programs serving the goals of development amongst developing countries and particularly in the least—amongst the least developed countries, are the criteria that are established in the programs functioning well and smooth-

ly, and in particular serving the objectives that Congress established in regard to those criteria over the last 30 years?

Chairman LEVIN. Those criteria include——

Mr. REIF. These are the eight or twelve criteria related to investment, intellectual property rights, labor standards and the other elements that relate to both country eligibility and products. How does the functioning of the trade preferences today fit with other elements of U.S. trade and development policy? So those would be a few of the issues I might flag as you go forward.

Chairman LEVIN. And you'll participate in the discussion of which countries will be subject to renewal, right? USTR will participate in that, the issues relating to Bolivia, Ecuador——

Mr. REIF. We will participate very actively. We have been in discussions with the committee and with others and we will continue to be, very much so.

Chairman LEVIN. And discussion of perhaps the expansion of the preferences and how that expansion would interact with for example, the present preferences for AGOA and for Haiti, in other words the dynamics as you talk about expanding some preferences, how they impact the present status of preferences for certain countries?

Mr. REIF. Yes sir, very much so. The proposals, including Mr. McDermott's proposal, past and I understand future relating to those issues, and the question of how they interact with our existing programs, their impact on workers and businesses in the United States. Those will very much be a part of our discussions with you.

Chairman LEVIN. Okay. Sandra Polaski, do you want to add from your perspective, just so we have the challenge in front of us?

Ms. POLASKI. I do, Chairman Levin, thank you. I think first of all, we would pose the question of whether we are utilizing the full potential of the preference programs to achieve this broadening of the opportunities of trade that I talked about in my testimony, and I think there are things that we're looking at in the Department of Labor about ways that we can improve this and obviously we'll be engaging in the inter-agency process, but we will be very open to be in a dialogue with your committee, with your subcommittee, to discuss ways of utilizing the full potential, particularly in our case of the labor conditionalities to achieve real development, really broad based growth in the beneficiary countries.

And the second area that I think I would point to is that we have a sort of natural experiment among the different preference programs. Each of the preference programs has some of its own characteristics. The conditionalities are somewhat different in the different programs, the level of benefits, the particular shape of the programs. Can we look at this natural experiment of different approaches and draw out the lessons that have been the most effective, that have created the most growth, the most development, the most broad distribution of opportunities, the most employment creation and use that to inform whatever the committee, the House and the Senate decided to do in preferences going forward? Thank you.

Chairman LEVIN. And you have before you a petition on Guatemala, and also there have been discussions about conditions in Jor-

dan implementing the Jordan Free Trade Agreement and worker conditions there, right? So there are also specific petitions or issues in front of you.

Ms. POLASKI. That's correct, Chairman Levin, and it's an issue that we are devoting very significant attention to, to be sure that we get it right, so to speak, that we look at the problems and that we find, working with those governments to the maximum extent possible, ways to go forward so that we actually provide this protection for worker rights, that we actually do improve living conditions and living standards in those countries.

Chairman LEVIN. Thank you. Dr. Ott, briefly.

Ms. OTT. Thank you, Chairman Levin. USAID also shares the concern regarding countries' ability to reach the full potential implicit in the preference programs. Namely, are we supporting beneficiary countries' efforts to take advantage of the preferences, which can be quite a complex undertaking? It involves perhaps policy change, certainly building government capacity, building capacity within the private sector, and helping producers to have the information and the services they need to expand their exports. This implies a role for trade capacity building programs to support the preference programs and ensure that countries take full advantage. Certainly we want to be sure that trade is part of a broadly based growth strategy in the countries that we are extending preferences to. We like to see not just the three largest companies in the capital city—take advantage of the preference programs, but to see farmers and small and medium business benefit from the trade opportunities they represent. Thank you.

Chairman LEVIN. Thank you.

Mr. Philbrook.

Mr. PHILBROOK. Yes. Mr. Chairman, in addition to the other issues that have been raised, I think the question is how do trade preferences fit into overall rural development in developing countries? 85 percent of all the farms in the world are less than 5 acres, and half are an acre or less. 70 percent of all the farmed labor is generated by women, oftentimes the least educated among the rural population. So a question is how do trade preferences work with or facilitate human and economic development at the village level, knowing that that requires a comprehensive approach to be successful. That's what I would pose.

Chairman LEVIN. All right, thank you very much.

Mr. Brady.

Mr. BRADY. Thank you, Mr. Chairman. Mr. Philbrook, I would note Doctor Norman Borlaug is a hero of mine. Had the opportunity to become friends and work with him while representing Texas A&M University and while, with his recent death, he'll be missed, his research and ideas will live I think ultimately forever in a very good way.

Mr. Reif, first let me congratulate the President on the announcement this week in Singapore on moving forward with talks with the Trans-Pacific partnership. It's a move that has broad bipartisan support here in the House and the Senate. Depending on its composition, finally it could be, I think, a major access to new customers in that region, signals our engagement over there in a

region that's literally blowing and going economically, and look forward to the talks as USTR proceeds.

Also, I think it's critical too that we prepare a South Korea trade agreement for consideration for Congress, and I'm anxious in regards to this hearing for Colombia and Panama to complete their transition from a one way preference program to two way full trade relationship, to level the playing field for our workers as we try to sell goods and services into that region.

In panels after this we'll probably look more closely at specific preference programs, but could you, because of your knowledge and position at USTR, can you sort of look at the bigger picture for us? Obviously completion of a successful Doha Round is critical for the world and for us, but as U.S.—we want to provide preference programs to these developing countries to help them move forward into the global marketplace. At the same time giving away our preferences for free also reduces the incentive for them to participate fully in Doha and to help craft ultimately a successful round.

From your perspective, how do we find that balance as we go forward?

Mr. REIF. Well, thank you, Mr. Brady, and it's an important question. As you know, the United States is engaged as we speak in important negotiations leading up to an end of the month summit relating to the Doha negotiations. Those are enormously important for our country, they're enormously important for developing countries and hold the potential to be the largest source of economic growth out of trading agreements. And so that is an important priority in the area of trade and development, for us and for others.

There are also fitting in with those, part of my answer to Chairman Levin's question was that as we look forward, look in the future towards the development of our preference programs and fitting into our overall policies is an important component of that. So how preference programs fit into our ongoing negotiations over Doha where we are continuing to press particularly more advanced developing countries with respect to market access issues, in the NAMA area and the agricultural area, certainly also in services. And at the same time the preference programs have had a particular purpose for all developing countries and in particular the least developed, to help them climb onto the escalator that enables them to move ahead in the context of multi-lateral trade, as well as you note in bilateral trade contexts.

Mr. BRADY. Do our trading partners, preference partners understand that this is not a free pass, that we expect, you know, full participation, we want their input and commitment through the Doha Round?

Mr. REIF. I think our trading partners understand very clearly and have for some time that the United States is seeking important market access throughout particularly the more advanced developing countries in the developed world. And those negotiations have been ongoing for some time and I think they are intensifying at the current time.

Mr. BRADY. Do you think—I'm just watching Europe change its strategy. They're moving away from preference programs and more

to economic partnership agreements, our equivalent of trade agreements. How does that impact our U.S. interests?

Mr. REIF. Well, the economic partnership agreements are still a work in progress for the European Union and their partner countries. They are in different stages of acceptance and different stages of development, as I understand it. But they have several approaches, as do we, with respect to our trading regime. We have the multi-lateral, we have our bilateral agreements and then we have our other programs, and they are roughly in parallel, albeit with some distinctions.

Mr. BRADY. Great. Thank you, Mr. Reif, appreciate it. Thanks, panel.

Chairman LEVIN. Thank you.

Mr. MCDERMOTT. He was just here.

Mr. Rangel.

Chairman RANGEL. All of you have some general idea about the outstanding trade agreements that we have with Panama, Korea and Colombia. I'm trying to get a—some kind of a status report as to where they are with the new Administration.

Mr. Reif.

Mr. REIF. Yes, sir. Thank you, Mr. Chairman. With respect to Panama, there are ongoing conversations with respect to two outstanding issues, one in the labor area and one in the tax area, to—hope to resolve those as quickly as possible, and there have been some recent conversations with the government of Panama about that.

With respect to Colombia, the President has indicated his strong support for the Colombia FTA and the need to continue to work on the labor rights issues in that context. There were bilateral meetings three times this summer, I believe in May and June. In July and August USTR sent down a fact finding mission to Colombia to work further on those issues, so our contact with the government of Colombia as well as with the Congress and with stakeholders is very active and ongoing.

Also, with respect to Colombia the USTR solicited public comment in September and received a large range of views with respect to that.

With respect to the Korean agreement, the public comment also was completed in September and we are continuing to review and to work on the outstanding issues there that include access to the manufacture sector and in the automobile sector, also some issues in agriculture.

Chairman RANGEL. Now what kind of group did you send to, say, Colombia in order to take a look at what progress was being made in providing safety to the workers and to the union of workers? Who would be sent from where?

Mr. REIF. In the fact finding group it was a broad based administration trip. USTR participated, and I believe there were representatives of other agencies, the Department of Labor, State and others, to both establish facts and understand better what the situation is on the ground, as well as to begin to understand better how to move forward and achieve particular goals collectively.

Chairman RANGEL. Well, you're right with these countries, so how would you judge their performance has been in the last four

years as it relates to these issues of safety, worker safety? I'm trying to get a feel about what—could you tell me, what does a group look for and basically what do they come back and say? Because it's been the same problem that I've heard for years, and I don't know what the reports are or if there's any solution.

Mr. REIF. Well, the efforts both domestic with the Congress, as well as with interested private sector groups, and with the government of Colombia have focused on the different ways that the issue of—the issues of prosecution and impunity, and the questions of addressing the violence issue going forward as well as the labor standards issue within Colombia have attempted to address different parameters, where it would be possible to understand better whether there was a sufficient framework in place or an ability to measure where things stand and where they were going.

Chairman RANGEL. Their criminal justice system, can it be compared to ours so that we know what we're trying to find out there?

Mr. REIF. Well, there are—with respect to the criminal justice system, a number of things have been done, and a lot of it has related to fact gathering. There are as——

Chairman RANGEL. To what?

Mr. REIF [continuing]. In our own federal system divisions of labor.

Chairman RANGEL. What's it related to?

Mr. REIF. Pardon me?

Chairman LEVIN. It's related to—you said that the system is related to—Mr. Rangel didn't hear. The gathering, you said?

Mr. REIF. Oh. A lot of work in respect to the criminal justice system in Colombia has related to fact gathering.

Chairman RANGEL. Okay.

Mr. REIF. And to understanding the way their system—there are divisions of labor and responsibility in terms of the issue of prosecution, for example, between centrally and federal conducted work and work that's done outside of the federal purview. So there has been an effort to understand how that division of labor functions and what is exactly being accomplished, and how it may be accomplished in the future.

Chairman RANGEL. Do you think that we can find some way of removing this problem ever, since it's so subjective under—using our standards, with their standards and the different cultures? Is this something that you think professionally can be resolved as to what the issue is, so that we can determine with some degree of accuracy whether they are cooperative or whether they are part of the problem, that is, the government?

Mr. REIF. Sir, I can tell you that from all perspectives, from the perspective of the administration, from the perspective of those here that we work with in the Congress, from the perspective of the government of Colombia, there is a hard effort. It is a good faith effort, and—to understand exactly what the parameters of the problem are and ways that it could be addressed successfully.

Chairman RANGEL. Well, you said there's a good faith effort, but I asked you do you think that we will be able to resolve the problem?

Mr. REIF. Sir, I am an optimistic person by nature and I'm hopeful that we're—we will be able to do so. The President has indicated that he is supportive of this FTA and that if we can resolve these issues, he would like to move forward on it.

Chairman RANGEL. It's that bad, huh? Thank you.

Chairman LEVIN. Let's see. I guess next will be Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman. Mr. Reif, has USTR been able to use the eligibility criteria and U.S. preference programs to prompt countries to improve their labor IPR investment policies, and can you elaborate on some examples of the success. And in particular I'd like you to comment if you think Colombia's progress in the last 20 years has been rated—you would rate that as a success.

Mr. REIF. Well, sir, we have been able use the criteria and the preference programs on a number of different occasions. With respect to both labor and IPR are the two that are most active. Under AGOA, for example, most recently Uganda, Swaziland; these are countries where we were able to utilize the criteria there to seek improvements in those countries' regimes.

During the 1990s and the 1980s, a number of different examples in both the IPR and the labor standards area in Central America, where countries were able to take additional steps in these particular areas. And in the case of Colombia, there have also been steps taken under both of those elements.

Mr. DAVIS. The reason I'm kind of curious is the Colombians have made massive progress. I have first-hand experience in this area since the late 1980s, early 1990s, and I did find it somewhat ironic that the Colombian labor organizations came up here to lobby on behalf of the passage of the Colombia FTA eventually. And I know that we're not talking about FTAs, but as a bridge, I think there's been a tremendous good faith effort. And in particular the context of a lot of these questions we deal with labor standards in particular. I think there's a common goal to move in this area. But anytime we seek to impose standards, I think it's important that we keep it in context of progress that's being made and walking in the correct pattern versus achieving perfection overnight. And I think when, you know, I think it's been something like a 90 percent drop in violence.

And I keep hearing the word "violence" come up in reports from the administration or other organizations, but in fact the Colombians have a somewhat different perspective in the very organizations that are allegedly being protected. I receive a huge amount of feedback in the national security arena of other countries being very fearful that this FTA being stalled for American domestic politics principally is potentially going to lead to conflict in Latin America that may end up dragging us in because we're unwilling to do that, considering the extremely aggressive moves of Chavez and others. And I think economic growth is key to that.

This does have implications in the direction that we go. I guess—Ms. Polaski, in your testimony, you note that the purpose of labor eligibility criteria is not to remove benefits, and you provide quite a number of good examples in which the United States was able to remove—or to improve labor rights without revoking benefits. Do you agree that it's more effective to engage in a collaborative, in

a consultative process with the beneficiary country to improve their policies instead of revoking their benefits outright?

Ms. POLASKI. Yes sir, I absolutely agree with that point. And in fact, it's our normal modus operandi. So if we initiate ourselves a review of a country because of reports or information we become aware of that suggests a problem or if we receive a submission from the public, a petition to review eligibility, our first step after we investigate and learn the facts will be to engage with that government and to try to find the ways that we can move forward to engage them on many levels. And most often, the overwhelming number of cases, we make progress through that engagement process.

I did flag the fact that sometimes we have gone on, perhaps even for several years, trying to make progress and simply not finding the political will in the partner country to address the issues. And in those limited cases, we revoke the benefits in order to preserve the credibility of our programs and their conditionality.

But overwhelmingly, we engage with the governments. We usually go to the country. I mean, I will go myself. My senior staff will go. We'll look for every avenue to try to solve the problems. We'll bring in the International Labor Organization, we'll bring in the business community, the unions, et cetera, because the purpose really is not to revoke the benefits. The purpose is to solve the problems.

Mr. DAVIS. I appreciate your answer. I just think the one thing that I would throw out here as a point of thought as we discuss this, I think we agree that these preference programs work in collaboration but we can't impose an unreachable, or unreachable short-term standard on these nations. And one of the things that concerns me in this growing global economy is we stand a potential right now as a nation to wall ourselves out of many, many markets by setting unreasonably high standards.

And looking particularly with what the EU and China especially has done in taking a generational approach to investment and developing markets basically so it can consume their products in the long term, I'm concerned that if we set these standards too high, we're going to find ourselves in second or third place behind either the European Union or East Asia coming in, whereas in fact Colombia being a perfect example of an FTA gone awry. The GSP worked tremendously well over time. And in fact, we've let it languish now for two years and have a potential to have significant setbacks in that region.

So with that, Mr. Chairman, I yield back the balance of my time.

Chairman LEVIN. Let me just say as we keep the focus of this hearing, the standards that we're talking about are the basic international standards that the countries have agreed to. They're not American standards. They're the basic ILO standards. And that's what we're applying. And these aren't local political issues. They're the question of whether as we proceed with trade agreements we're going to build in standards that are basically international standards, and whether it isn't mutually beneficial for us to do so.

Mr. BRADY. Mr. Chairman, if I may, I think the point being made is that our goal, shared goal, is to reach those international core labor standards. How we achieve it, incrementally or in other

ways, is the question. I think again, the great reason why this preference hearing is being held is to explore some of those issues.

Chairman LEVIN. Exactly. Exactly. And we've been working these. There are State Department reports and other reports relating to each of these. And for a number of years under GSP, there was a relaxation of efforts to try to implement the standards that we built into GSP. And the recent discussions we've had with Jordan, there we have an FTA, and the evidence came out very clearly that there was a major default in their implementation of what they agreed to. And it wasn't an American standard. It was the international standard that they agreed to.

Mr. BRADY. I think perhaps the point is because we have an agreement with them, we can address these issues as partners with equal stakes and a good outcome for it, so those are good tools.

Chairman LEVIN. That's the purpose. That's the purpose. Okay. Mr. Doggett.

Mr. DOGGETT. Mr. Chairman, thank you, and I certainly want to subscribe to the view you just mentioned that it is important in this area of trade preferences as well as our other trade agreements that we operate competitively but on a level playing field and we don't see unfair competition such as with the use of child labor. And I think that's the kind of standard that you're focused on here and in our other trade agreements.

Let me ask you, Mr. Reif, I gather from your written testimony that you feel our preference system as it works today has had a very positive effect on labor laws, working condition laws. I believe you cite Swaziland, Uganda and Liberia, and on intellectual property protection in Ukraine and India. Do I read your testimony correctly?

Mr. REIF. Yes sir.

Mr. DOGGETT. And that in fact, but for our GSP provisions, probably some of these laws might not have been changed in these other countries. The positive impact appears to be directly related to what we've done through GSP.

Mr. REIF. That's correct.

Mr. DOGGETT. With reference to the petition process, are there any petitions pending at USTR at present that deal with working conditions or labor conditions?

Mr. REIF. There are some petitions pending at this time in those areas, yes sir.

Mr. DOGGETT. And do you have—I know you have been making improvements to your website. Do you post on your website when a petition comes in, what it's concerned with and when you resolve it?

Mr. REIF. I don't know if that's on our website at this current time. I'm happy to figure that out and get back to you, sir.

Mr. DOGGETT. Great. Because I know one of the concerns, and you've only been there of course a few months, is that some of these petitions seem to languish as long as some decisions do at the courthouse. Haven't there been some petitions that have been filed there that have lingered there for a couple years?

Mr. REIF. Well, sometimes petitions do what we call, we hold them over from one year to the next. There are a variety of rea-

sons, sir, as you probably know. We're working on it. We receive incremental progress. We're not ready to close the file, so we maintain it open. There are different reasons that the USTR keeps these petition files open on occasions.

Mr. DOGGETT. Well, and in some cases they just don't get resolved very promptly, do they, when you look back over prior years of petitions at USTR?

Mr. REIF. In some cases they move more slowly than we would like, that's true.

Mr. DOGGETT. I think it would be helpful to be able to see since so much of our understanding of the way government operates here in Congress and in the executive agencies is over the web to see when a petition comes in, what it concerns, and when USTR disposes of it or decides to carry it forward, as you said.

Given the success you feel you've had in the labor standard area, and given the many times that President Obama has said that our trade policy going forward needs to be concerned with both labor and environmental standards, I don't see anything in your testimony about environmental standards. Is there any reason that as we renew GSP we consider that legislation? That we shouldn't, at a minimum, include the kind of requirements that were in the Peruvian free trade agreement concerning adherence to multilateral environmental agreements of a global nature, such as the trade in endangered species, and requiring our trading partners who get these preferences to enforce their own environmental laws and not denigrate them?

Mr. REIF. Yes sir. That's a very important question. And it goes to—my testimony addressed in part the question of reform efforts, different kinds of proposals that are being made now, including proposals like that with respect to modifying the criteria of our preference programs. And we are—we stand ready to engage with you and with the committee and others, to discuss that proposal and others with respect to the criteria that govern our trade preference programs.

Mr. DOGGETT. Well, there have been—since it's about time to renew these, I think at the end of the year, are you—do you expect in connection with this renewal to have recommendations for us to follow the approach that was taken in the Peruvian free trade agreement?

Mr. REIF. I don't expect to have recommendations in the short—the six-week timeframe that we have with respect to renewal of GSP and ATPA. However, with respect to those broader questions, we are anxious to engage with this committee and with others in the Congress that are looking at broader questions of reform. I suspect, you know, that the issue you're raising will be a part of that discussion as will a number of other issues that are in play.

Mr. DOGGETT. Well, this is very important legislation to renew, and it would seem that there's no better time than the present to implement these provisions if they work well in the working condition area, as you've indicated, they ought to be included, and we—though some of us might question the adequacy of the model, we have a model that even the Bush administration agreed to—you were actively involved in those negotiations—to say at a minimum,

global multilateral environmental agreements and enforcement and nondenigration of your own laws.

Let me just say in closing on an unrelated matter, I want to be sure—you've seen the communication I forwarded to you concerning the very troubling report that USTR was involved in trying to weaken the ban on foreign—on federal contracts for corporations that have reincorporated overseas in order to dodge their tax responsibilities. That would seem to be totally inconsistent with what President Obama has said on the issue of corporate tax avoidance, and I hope you will review that and cease any effort in the Senate since the House did not take any action on this in the financial services area, cease any action that would undermine the existing statute and will respond promptly to my inquiries to you about that. Thank you.

Chairman RANGEL. Will the gentleman yield?

Mr. REIF. Yes sir.

Chairman RANGEL. Would you cc me when you respond on that issue?

Mr. REIF. Yes sir, absolutely, of course.

Mr. DOGGETT. Thank you.

Chairman LEVIN. Okay. Mr. Reichert.

Mr. REICHERT. Thank you, Mr. Chairman. Appreciate you holding this hearing today and the opportunity to talk about our, as you said in your opening statement, the constellation of our trade program extensions, improvements and graduation from preferences.

Mr. Reif, I'm very pleased to hear you talk about bipartisanship and your ability to work with both sides and both staffs, both sides of the aisle, as we look at shaping our U.S. preference program policy. However, I tell you that I am disappointed that the administration has yet to present a robust trade agenda. We're still waiting for that.

I had an opportunity to meet with Ambassador Kirk just a couple of weeks ago and ask how the FTA process was moving forward as those who have graduated from the preference programs, Korea, for example. And he said that the holdup was that the nation is so divided on this issue that it's difficult to bring forward. I find that as a pretty weak excuse. The nation is divided on health care, yet we don't have a problem bringing that forward. The nation is divided on cap and trade, yet we don't have a problem bringing that forward.

I think it's time that we hear from the President about a robust trade agenda. I want to focus on and I want to associate myself with the comments made by Mr. McDermott. It's time to push forward, not pull back. I associate myself with comments made by Ms. Sánchez that this really—trade is very key not only to jobs but to security, the environment, labor rights, shared responsibilities and liabilities and all those things, the cultural exchanges, all those things that trade agreements bring.

So my question to you is, looking at—Mr. Rangel focused on Colombia. My question is more toward, since being from Washington State, Korea is our fourth largest trading partner and it's absolutely essential that we have an agreement with Korea for Washington State job growth, when will that come to the floor for an

agreement? When will Korea be graduated from—and we've graduated from this preference agreement to a full trading partner with the United States of America? When will that come to the floor for a vote?

Mr. REIF. Thank you, sir. You, if I might start, you mentioned with respect to generally the administration's trade policy. And as you know, the President just announced a few days ago the movement towards working on the Trans-Pacific partnership.

Mr. REICHERT. I'm aware of that and give him props for that, I guess is what they say in today's world. But when will the Korean agreement come to the floor for a vote?

Mr. REIF. And there's been extensive work also on all the three FTAs. With respect to the KORUS and the KORUS FTA, extensive work is ongoing.

Mr. REICHERT. Do you have an estimated date maybe when that might come to the floor?

Mr. REIF. I can't offer you a date. I can offer you what has been going on since the administration took office. Ambassador Kirk has said that the——

Mr. REICHERT. What's the holdup with the Korean agreement?

Mr. REIF. Well, the agreement was not—there was not a basis for presenting the agreement successfully to the Congress when the administration took office, and we have been working on that to see if we can achieve that kind of both substantive, addressing the——

Mr. REICHERT. Can we look forward to next year? I know it's not going to happen this year, even though we'll be here till almost Christmas, but.

Mr. REIF. I can assure you that we are working hard with respect to the outstanding issues to see if there is a basis for an agreement.

Mr. REICHERT. Is it your hope that it come to the floor next year?

Mr. REIF. Pardon me, sir?

Mr. REICHERT. Is it your hope that it comes to the floor next year?

Mr. REIF. I would rather not focus on a particular date, but rather on the work that we are doing, we're doing with the Congress, with our private sector, to see if we can resolve these issues so that the agreement can move forward successfully and on a bipartisan basis.

Mr. REICHERT. Well, Mr. Reif, I'm just going to say I'm very disappointed in your answer and that you're not able to answer the question. Mr. Chairman, I yield back.

Chairman RANGEL. Could I ask the gentleman to yield?

Chairman LEVIN. Yes. I mean, I would just recognize you.

Chairman RANGEL. Thank you. Don't we have some idea that the problem with the Korean agreement concerns the trade in automobiles?

Mr. REIF. That is a core problem, the largest problem, yes.

Chairman RANGEL. Okay. And what is the difference in trade of automobiles? How many automobiles do we import annually from Korea?

Mr. REIF. It varies between 600 and 700 thousand.

Chairman RANGEL. And how many do we export to Korea?

Mr. REIF. That is about 5 or 10 thousand.

Chairman RANGEL. That's the problem.

Mr. REICHERT. Will the gentleman yield?

Chairman RANGEL. Yes.

Mr. REICHERT. I have a question too. How long has Korea been graduated from the preference program? How long have we known about the automobile trade imbalance, and how long does it take to address an issue like that?

Chairman LEVIN. Let me answer that. You've raised it. I'll answer it.

Mr. REICHERT. Yes sir. Thank you.

Chairman LEVIN. And I will send you the material. It goes back three years, sir, in our discussions with the administration. Korea has essentially kept out American manufacturing products throughout its modern economic history, in its automobiles, its refrigerators. Whirlpool can't sell their major refrigerator in Korea. They can sell their refrigerator into any place in this country. They can export their cars here without any—any hesitation from us.

Essentially, we've had one-way trade. And we told the previous administration that these issues had to be addressed in the Korean free trade agreement. They did not address the beef issue, and they did not address the manufacturing issue. And as a result, and they were pre-warned if they did not do so, there would not be support within this institution for proceeding, despite the fact that there were major improvements in other areas. They went ahead and signed the agreement anyway without effectively addressing the tax restrictions, the regulation restrictions, and the failure to have a dispute settlement system while we gave up the tariffs that we had on their cars, and also phasing out the tariff on trucks.

President Obama when he was a candidate made clear he had problems regarding the Korea free trade agreement. This was already clear. Since then, this new administration has been talking to the Koreans. Mr. Rangel and I have met with the trade minister, with the ambassador, and suggested to them that there needs to be some serious discussion about revisions in the Korea free trade agreement—I use the word revision—we don't have to worry about the technical term—to meet their having essentially a history of one-way trade when it comes to manufacturing that means jobs in America.

Mr. REICHERT. Mr. Chairman, if I——

Chairman LEVIN. So I'll be glad to send you the history of this.

Mr. BRADY. Well, I'd like to get in on this debate as well if we've got time. Because I disagree with some of those characterizations.

Chairman LEVIN. Okay. We'll do that some other time.

Mr. BRADY. That's a deal.

Chairman LEVIN. This is a hearing on preferences. You raised, and I urged you at the beginning to have a hearing on preferences.

Mr. REICHERT. Mr. Chairman, if I could respond. I mean, I see the two, as you mentioned in your opening statement, this is a constellation of trade—of program, which includes preferences and graduating to a full trade agreement. I don't know how you can hold a hearing on preferences and not connect trade agreements to it. They're interconnected. And so when you talk about Korea and

the fact that Korea has graduated to this preference status, the only natural follow-up question then, sir, is when will it finally become a full trade agreement?

Chairman LEVIN. I'll tell you. The answer is when the Korean government agrees to sit down with the United States and address the issues that are outstanding——

Mr. REICHERT. So, sir, if I may, would you yield?

Chairman LEVIN. And then we will proceed with the agreement.

Mr. REICHERT. Well, it's taken three years so far.

Chairman LEVIN. I know, because they for three years have refused to sit down and discuss revisions in the agreement.

Mr. BRADY. Well, that's not exactly true.

Chairman LEVIN. Okay.

Mr. BRADY. Mr. Chairman, I know we have Mr. Etheridge and Mr. Herger who do want to question the administration.

Chairman LEVIN. Okay. Look, we can take this up. Mr. Rangel and I had a meeting just a month ago with the Koreans on this very subject, and it's been publicized by them, an unwillingness to sit down and discuss. They say the agreement is the agreement. They're not willing to change it. That's not an acceptable position. We want to proceed. There are positive elements in the free trade agreement. We all acknowledged that in services, in other areas. Now in agriculture, at least temporarily. We need to resolve the outstanding issues on a mutual basis.

Chairman RANGEL. Will the gentleman yield? Maybe you two can help us, because at the last meeting we had with the minister of trade, he made it abundantly clear that as far as he was concerned, his government had signed off on an agreement. And we cannot argue with what position he takes. We also take the position just because we change presidents doesn't mean that we change policies. But he was really offended when the chairman brought up the question of can we look over these areas that are holding the agreement up with our USTR?

So I know, Mr. Brady, that you're saying that you differ with the facts. If you differ with the fact as it relates to the Korean government considering that agreement completed and not going to be reopened, you can help our country by meeting with them and telling them that it has to be reopened.

Mr. BRADY. Chairman, I would be glad to sit down with you. I know I visited with them in Singapore and, you know, their position is a contract is a contract and they've moved forward. But I do think there's room for discussion on autos and beef that could prepare this agreement for consideration by Congress. I think that's the goal.

Chairman LEVIN. Okay. Let's leave it at that, because I met with the gentleman in Korea in Singapore. Let's leave it at that. If there's a willingness to sit down and discuss these issues, we can move forward.

Mr. REICHERT. Thank you, Mr. Chairman.

Chairman LEVIN. Until now there has not been. Mr. Etheridge is next.

Mr. ETHERIDGE. Thank you, Mr. Chairman, and let me thank you for holding this hearing on trade preferences. I think it's important. But that being said, Mr. Reif, let me ask you a question

because there's some other things swirling. I'm one who really believes in fair trade and that we need to enforce the agreements we make. And I've supported an awful lot of them, but I get more and more concerned that we don't enforce them once we make them, and we fail to go back and find out what we didn't do right or some others didn't.

But my question is a little more pointed, because there are rumors and pushes for Bangladesh and Cambodia. My question is, if they're granted free quota access to the U.S. market, and I'm particularly concerned about the hearing we're having today about textile products that will impact not only my state but the whole Southeast where many plays unemployment is now at 15 percent or higher.

What effect do you believe that trade diversion from the African region in CAFTA will result? And secondly, do you think this will have a negative impact on the stability of these markets? Because that's certainly what we are talking about today.

Mr. REIF. Yes sir. Thank you, Mr. Etheridge. The question of whether and how to expand our preference programs, including in Southeast Asia, it is very closely related to an assessment of how it would impact existing preference programs as well as our own domestic industry.

Secondly, as these programs have been crafted over the last decade or so, great attention has been paid to potential synergies between our own industry, particularly in the textiles area, and the apparel industries in Africa and particularly obviously the CAFTA countries and in the Caribbean. So those will continue to be important considerations for us to ensure that we have partnerships in ways that both Americans and our developing country partners can benefit from these programs.

And lastly, we have issues of enforcement where we are seeking to make sure that the issues of transshipment, the provisions, the particular rules of origin that are built into these agreements that are there to ensure that they operate the way that the Congress intended and the way the executive intends, are being taken care of.

That is not a perfect track record, sir. There are areas where we still have a lot of work to do, but I can tell you that we are focused on those and seeking to do better in these areas.

Mr. ETHERIDGE. See if I understand your first answer. It was that you're evaluating it, but there's no answer?

Mr. REIF. That's with respect to these new proposals?

Mr. ETHERIDGE. Yes sir.

Mr. REIF. Yes sir, those are under consideration.

Mr. ETHERIDGE. I would be interested in that because obviously they are closer to one of the major markets of China that would be able to trend—than they are now. And I'd be interested in those numbers, because it seems to me you would wind up moving all these markets to another marketplace.

Next question in that same area, assuming we were to give new duty-free benefits to Bangladesh and Cambodia, what impact would that have on U.S. negotiating leverage power I guess or the leverage we're trying to get, during the upcoming Doha negotia-

tions? How would that impact that negotiations? Or those negotiations.

Mr. REIF. Yes sir. The question of expanding the preference programs is something I suspect this committee and others in the Congress will engage in a robust dialogue with, and together with the administration in the coming months, and I'm certain that both Members of Congress and the administration will be mindful of the impact in a number of different directions, including the impact on the Doha negotiations.

Mr. ETHERIDGE. That means we haven't reached a position on it yet?

Mr. REIF. Well, we haven't reached a position on the specific proposals, and as I understand it, new proposals are coming out every day, including tomorrow, that we will have to take and understand the specifics of. But with respect to the broader question of preference reform, we are engaged with the Congress on that, and one consideration as we engage with you on that will be the impact on other parts of our trade, trade policy, including the Doha negotiations.

Mr. ETHERIDGE. Mr. Chairman, thank you, and I look forward to that dialogue, because that is I think very important to what we're talking about today in terms of years we do have preference and what an expansion would do in a very negative impact not only on that but on jobs that are now here in the United States tied to those areas that have been built up over the last number of years.

Thank you, Mr. Chairman. I yield back.

Chairman LEVIN. I just want to assure you that that will be done. Trade issues aren't simple. They interact, and the notion of expanding preferences for some can affect the preferences of others. And the discussion that we've had about Korea is an illustration of how you need to do trade policy, understanding the interactions and the need to look at them in a complete way and not just take one piece.

So you can be assured, I think, the administration and I hope on a bipartisan basis, as we look at the expansion potentially of preference programs, we will consider what it means if we expand to some countries the impact on those with whom there are now preference agreements, and the impact on businesses and workers in the United States of America.

Mr. ETHERIDGE. Thank you, Mr. Chairman. I look forward to it. Thank you, sir.

Chairman LEVIN. Mr. Herger, you're next.

Mr. HERGER. Mr. Chairman, I want to thank you. Chairman Rangel, Chairman Levin, for having this hearing. These hearings are so important on trade, and they're so important to our districts, they're so important to jobs, particularly at this time when our economy is down. I would urge the chairmen that we might continue with these hearings and have more of them, that we can work through the disagreements or the misunderstandings that we have.

Because while we here in the United States, at least currently are not moving forward with these agreements, the rest of the world—nations are, as we know. And we just can't afford to be los-

ing these jobs and losing these trade opportunities to other countries. So again, I want to thank you, want to specifically thank you.

It's great to have you with us, Mr. Reif, and as you've mentioned, trade has historically been bipartisan. And we need to do whatever we can to make sure it continues to be that way, whatever that is, because there's too much at stake for it not to be.

But I'd like to follow up on the questioning that Mr. Etheridge had, and while we're not asking the least developed countries to make any market access commitments at the Doha round because of their special status, I think we all agree that the market access being offered by the more advanced developed countries is insufficient.

And, Mr. Reif, I'd like you to discuss your thoughts on whether the United States should implement duty-free, quota-free access for the least developed countries before the conclusion of the Doha round negotiations in terms of how it will affect the positions of the more advanced developed countries.

And could providing these duty-free, quota-free access reduce the incentives that the least developed countries now have that push the more advanced developed countries like China, India, Brazil, to make more concessions so we can have a more ambitious Doha outcome? And isn't this similar to the USTR's rationale in opposing the long-term extension of unilateral tariff benefits through the miscellaneous tariff bill because it could complicate the Doha round negotiations?

Mr. REIF. Good morning, Mr. Herger, it's good to see you again, sir. With respect to duty-free, quota-free, it is envisioned, it was envisioned at the Hong Kong Ministerial to be concluded together with the completion of the overall Doha negotiations, and that's currently where we stand with respect to that.

With respect to the more advanced developing countries, as well as others, our negotiators are pressing for these market access issues in Agriculture, NAMA as well as in services, so those are being hard pressed. I'm not sure I understood the question on the miscellaneous tariff bill, sir.

Mr. HERGER. Well, again, if we grant these—if we grant this to, in the miscellaneous tariff bill, to these countries in advance, aren't we taking away the pressure that they might be applying to the rest of the countries, like Brazil and China, to give concessions that they might not have given otherwise?

Mr. REIF. Yes sir. Typically, the provisions of the miscellaneous tariff bill are ones that are developed in a noncontroversial basis. The administration reviews them at a policy level on a case-by-case basis to ascertain whether they would meet the criteria that we have for the bill. And so if there were issues with any particular proposal with respect to the MTB, the administration would have the opportunity to discuss that with you as you are putting together the bill.

Mr. HERGER. Well, I thank you. And again, I just want to emphasize, because it's so important to all of our friends, I think this is something, whether it be the labor movement or whoever it is it's in, and we obviously have some disagreements in certain areas. We have some areas that we need to work out, but I think it's so important for everyone, for labor, for those employees, for those in-

dividuals that are out of work, wherever they might be, that we work together. We have to move forward. We just absolutely—I think it's imperative for the betterment of our nation.

So, Mr. Chairman, again, I thank you.

Chairman LEVIN. Ms. Sánchez. And then in this order, Mr. Pomeroy and Mr. Crowley.

Ms. SÁNCHEZ. Thank you, Mr. Levin. I want to start with Dr. Ott. And I want to preface my question with the statement that I frequently make, which is that there seems to be sort of this naive belief that—in my opinion—in terms of trade policy that all trade is good and that if we just trade with developing countries or impoverished countries, that somehow that's magically going to alleviate the disparities between those who have and those who don't in those countries, and that somehow magically that's going to pull them out of poverty and make them an industrialized development nation.

And I don't dispute the fact that trade can be a part of that. But I do dispute the notion that simply passing preferences or trade agreements is going to magically have that happen. And I wanted to ask you a question about your written testimony. You noted that the median bilateral trade capacity building program implemented in 2008 was $175 million. Is that correct?

Ms. OTT. $1.75 million.

Ms. SÁNCHEZ. Right. Do you think that that kind of an investment really can help a nation build a reliable road system or a modern port or customs facility or other infrastructures which might be necessary to compete with more developed nations? Does that sound like it's commensurate with the need in some of these countries?

Ms. OTT. I thank you for posing such an interesting question. Having worked in development for quite some time, I would observe that there are no magic bullets. And you're quite correct in questioning whether trade is a magic bullet to development and to lifting standards of living.

Trade is, however, an important component of that effort, and trade liberalization and greater access to trade, greater involvement of the private economy and trade bring many benefits to developing countries, some more apparent than others. Certainly trade helps create income opportunities, whether for small farmers, whether for micro-entrepreneurs, or for workers.

Ms. SÁNCHEZ. I understand, but——

Ms. OTT. Trade also brings often more transparency, better governance——

Ms. SÁNCHEZ. I don't dispute that, but my point being that if you have small farmers that suddenly can export to the United States but they have no road to get their products to the port to export to the United States, are they really reaping the benefits of these trade preferences programs? And my point simply being, and again, I don't dispute that trade can be one part of that, but in and of itself, I believe liberalizing trade in and of itself solely is not an economic development strategy necessarily for these countries, and that perhaps when paired with other types of assistance, it might be even more effective in doing all of the lovely things that you're

talking about that trade can potentially do in these countries. Would you agree with that?

Ms. OTT. I do agree with that. Certainly in many of the countries where we implement trade capacity programs there are infrastructure issues, there are power issues, and our programs and programs of other U.S. government agencies that support trade and programs of other donors address, whether it's road construction, road repair and other needs to get products to markets and facilitate the reaping of the benefits from trade.

Ms. SANCHEZ. Thank you. Mr. Reif, is the USTR making any effort to sort of more broadly incorporate other development objectives like infrastructure development and education and skill trainings into our preferences program, or USTR is just concerned with liberalizing trade and not really the whole picture?

Mr. REIF. No. We have an office specifically of trade and development that works closely with Dr. Ott's agency and with others to try to promote these other objectives.

I think it's the administration's position very strongly that trade is a critical part of—a component of development, but that these others—excuse me—these other issues, including infrastructure development, whether it's making cell phones available to small farmers or making a road available to a small farmer, improving a port so that individual can export their products is a critical component of the successful functioning of the preference program.

Ms. SANCHEZ. So there is a recognition that trade in and of itself is not going to be the magic bullet, so to speak?

Mr. REIF. There is a recognition and also——

Ms. SANCHEZ. Thank you.

Mr. REIF [continuing]. Recognition of the other components.

Ms. SANCHEZ. Ms. Polaski, you said that in these preferences that there are some labor standards in these preferences and if I heard your testimony correctly, that you think that those need to be maintained?

Ms. POLASKI. Yes, Ms. Sánchez. All of the preference programs do have labor standard requirements so that the developing countries that benefit from the preference programs must be taking steps to implement the internationally recognized core labor standards and to maintain acceptable conditions of work in the sectors that are affect. So that's in all of the programs.

Ms. SANCHEZ. Okay. Are there any environmental standards in the preferences programs?

Ms. POLASKI. I don't believe in any of the preference programs. I'll defer to my colleagues.

Ms. SANCHEZ. Mr. Reif, are there any environmental standards in the preference programs?

Mr. REIF. No ma'am, there are no environmental standards.

Ms. SANCHEZ. And with respect to the labor standards, does the USTR conduct any onsite inspections, or is it pretty much petition-driven process for review of some of the standards that are going on?

Mr. REIF. There's both. There is onsite verification.

Ms. SANCHEZ. How often does that occur?

Mr. REIF. Well, it varies from country to country.

Ms. SANCHEZ. Can you give me a rough idea, a rough estimate?

Mr. REIF. I could look into it. I don't—not off the top of my head I'm afraid.

Ms. SANCHEZ. Okay. Because my understanding is that it's basically petition-driven, and if workers don't have the rights to free association or to collectively bargain for better wages, and in some countries, like, for instance, Colombia, where there is threats, harassment and intimidation, it might actually discourage workers from filing petitions when they have working conditions that are substandard or less than those that meet the requirements of the preferences.

And I'll just close by saying this. That I would seriously consider or ask you to consider thinking about perhaps a GSP-plus tier, which would be certain preferences, enhanced preferences for countries who guarantee certain labor rights in their countries because as we've seen with Jordan and the Philippines and other countries, I know that you guys are really keen about talking about the successes and how you move people towards better labor standards, but I would still allege that there are plenty of failures that need to be addressed. And with that, I will yield back my time and thank the chairman for his indulgence.

Chairman LEVIN. Mr. Pomeroy.

Mr. POMEROY. I second the questions asked by my colleague Sánchez, particularly relative to trade capacity building, which I do not believe has had sufficient focus and attention by our country as we have hoped for. I believe more development and more progress in the lives of people in the preferenced areas than has occurred, just with the preferences, themselves.

Mr. Philbrook, USDA, has got a part of this and I thought your testimony was very interesting. I was very encouraged in visiting with Dr. Shah, the Undersecretary at USDA, prior to, now I understand he's, new direction, coming over to USAID. I actually think this could be a very exciting new period in both agencies' lives as we look at devoting ourselves more to production building and hopefully the production building in these places will also have an eye on making optimal use of their trade opportunities.

Mr. Philbrook, would you talk about that, and Dr. Ott, I'd like your comments on that.

Mr. PHILBROOK. Well, Mr. Chairman and Mr. Pomeroy, let me just say, I am absolutely delighted that Dr. Shah is going to USAID. I'm deeply disappointed that he's leaving USDA. He and I have had the opportunity to work together over these last few months and enjoy a deep friendship. He brings to this job an enormous understanding of issues that relate to agriculture and food security and it's my view that he will be able to assist, as USAID and USDA try to work more together, that he will be able to assist that remarkably well.

Mr. POMEROY. You know, I'm on the agriculture committee, I've been very involved in the farm bill legislation, but I believe it's a fair statement that USDA's central thrust in responding to a hungry world has been looking at commodity support we might provide to them. I'm for that. But, in the end, in the honor of Dr. Bullock, we want to continue to raise production capacity in these places. And I believe maybe we've taken our eye off the ball in that regard.

Dr. Ott, there's some very disturbing statistics relative to the diminishing number of personnel in USAID with expertise in food production. Can you speak to that?

Ms. OTT. Thank you. Thankfully, the distressing number regarding our expertise in agriculture and other areas is being turned around through the development leadership initiative. And we have made it a priority to expand our staff of agriculture experts who will be deployed in the field so that we have a robust capacity to address food security efforts and other efforts related to agricultural development. We are recruiting and hiring skilled agricultural officers for our foreign service as fast as we can.

Mr. POMEROY. I'm delighted to hear that. My visit with Dr. Shah involved cross leveraging other production experts in our country, including the land grant universities. And I hope that as he comes from USDA over to USAID, we'll be able to really have a level of collaboration not seen before in these agencies, in this area. We really took our eye off the ball. People eat every day. You've got to produce food every season. And yet, to have the dwindle, it is a fraction of the sheer number of employees that we had dedicated in this area. We need to reverse that. Dr. Ott, I'm glad to hear you saying that we are reversing it.

Final question to Mr. Philbrook. The foreign ag service, USDA officials in these embassies across the world, is there capacity there to assist and perhaps, in a more robust way, work with USAID at expanding food production capacity and commensurate trade building capacity as a result?

Mr. PHILBROOK. Well, we certainly hope so, Mr. Pomeroy. Many of the agricultural attaches' background is in agricultural economics, not agricultural development. Although, we do have some. The gentleman, our attache in Peru, for example, in Lima, has a development background, having served both in USAID and others. And there's a handful around the world. We're trying to encourage them, I suppose is the word, to work in countries in Sub-Sahara Africa. We've expanded the number of ag attaches in sub-Sahara and Africa.

But I don't think it's reasonable to expect that if they have a macro-agricultural economic background that they're going to be able to immediately do the kind of work that's necessary at rural village development. But, we're working toward that. And we're actually thinking of creating a, I don't know what the term is, I haven't been in government long enough to know what all these terms are, but to create a cadre of attaches that have development backgrounds and to hire people to fulfill that role.

Mr. POMEROY. I'm excited to hear that. Thank you.

Chairman LEVIN. Mr. Pomeroy, Mr. Crowley's next. Mr. Pomeroy, do pursue this issue. When I had the privilege of being the assistant administrator of Ag, in our bureau we had a rural development entity and we did the kinds of things that you mentioned. And there's been a dismantling of that capacity within AID and I hope there can be a rejuvenation. Mr. Crowley?

Mr. CROWLEY. Thank you, Mr. Chairman. Thank you to you, Mr. Chairman and the Chairman of the full committee as also ranking member for allowing me to participate.

Chairman LEVIN. No, no, you're fully, you just come at the end, but we're so glad you're here.

Mr. CROWLEY. Glad to be here, so thank you. I just have a quick question, a couple of quick questions as it relates to the LDCs again. I know Mr. Herger had mentioned, made some reference to it, as well. And in particular, a country that I have a particular concern about, and that is Bangladesh. Currently, Bangladesh ranks 146th out of 182 countries in the UN Human Development Index, the HDI, with almost half of its population living on a $1.25 or less per day.

I've traveled to Bangladesh on several occasions and I've seen for myself the dire poverty of the Bangladeshi people. Even though Bangladesh is already a participant in the GSP program, I believe it could and should benefit from the same types of programs authorized by regional preference programs. Bangladesh has the capacity to take advantage of preferences if we only give them that chance and the opportunity.

How can we move forward on including the least developed countries, which are not beneficiaries of regional benefits, into a position where they can take advantage of preference programs? If there is not room for full participation, are there other measures that we could take to make them more fully participatory?

Mr. REIF. Thank you, Mr. Crowley. And as you know, I think you know, the basic talking points on this issue. So, maybe I'll try to go beyond those. It's not a simple question. As you state, Bangladesh is very far down in terms of least developed countries. It's also our third largest supplier of textiles and apparel. It competes up the chain to our first and second largest suppliers of textiles and apparel and it also competes down the chain towards the others. Those are all considerations that will factor into our discussions with you and with others and the Congress about how to move forward in this particular area.

There are issues of, there are problems there that would probably manifest themselves in terms of meeting the criteria of any new program that Bangladesh might participate in. In the worker rights area and other things. So, it's not a simple equation, sir, but it is one that I think, happily, will be given very careful and thoughtful attention in the coming months as this committee and others begin to work on this subject.

Mr. CROWLEY. I appreciate that response. Let me just point out, just for the record that, particularly for women in Bangladesh, their advancement has been linked intrinsically to their advancement on trade, particularly in the garment sector. And I think that's something we all ought to, if we don't, support.

Let me just go back to what Ms. Sánchez in her line of questions to Dr. Ott, which I thought was important. And I agree with her that not enough is done in trade building capacity. Going back to Bangladesh though, in particular, they have invested a great deal of resources per capita in improving the infrastructure of their country in order to make them a more effective exporter.

Yet this committee staff, ways and means committee staff, appointed, and this is an interesting statistic, that Bangladesh currently pays $570 million in duties on $3.7 billion of exports to the United States. By contrast, our ally, Great Britain, the United

Kingdom, only pays $400 million on $58 billion in exports. That seems strikingly out of balance and a steep penalty for a country that lives in dire poverty. Is there any reason that the Bangladeshis and other poor countries should have to pay such steep prices for market access here? Is it Dr. Ott or Tim? Either one can? Dr. Ott, you can take it first.

Ms. OTT. On the trade policy aspect of your question, I would defer to my colleague from USTR.

Mr. CROWLEY. But, the question to you, in terms of the investment that country's making itself in infrastructure improvements, a good deal of that money that's being spent right now, could come from monies that they're paying to the U.S. on duties. Would you agree with that? Does a country like Great Britain have the same issues that Bangladesh has in terms of capacity?

Ms. OTT. Well, certainly to the extent there's more economic activity in Bangladesh and it's taxed and there would be the opportunity for additional investments in infrastructure or other areas.

Mr. CROWLEY. Mr. Reif.

Mr. REIF. Sir, just a point of clarification. The duties are actually paid by the businesses that are exporting to us, so that it's not actually money coming out of the government's pockets. But the point is——

Mr. CROWLEY. No, what it does do, it would create more opportunity for business to be done here and that money derived from that can be spent on infrastructure back in their country.

Mr. REIF [continuing]. Well, and what it points out, certainly, is that there is clustering of reasonably high tariff levels in some particular product categories that Bangladesh and some other countries specialize in. Similarly, back on this end of the equation that there are individuals working and there are businesses working in those areas. That's another difficult piece to the equation that we're going to have to work on if we're going to look in this area.

Mr. CROWLEY. Thank you. Thank you, Mr. Chairman.

Chairman LEVIN. We'll finish it. Mr. Crowley, it's so important that you be here and as we go forth with this, we hope all will participate. I think your last question does show the complexity, but the need to tackle these complexities. I think the basic answer is that the product that have come in from the country that you mentioned are not as complementary, if you want to put it with an e, not an i, as the products that come from Great Britain. And it's a reason for the higher tariffs. But, as we look at this issue, and it also relates to Doha, we need to look at expanded trade and its impact on jobs in the United States.

Another reason we want to try for developing nations to develop middle classes so they can buy our products. It's all, I think, interrelated and that's why, as we go forth with this issue of preferences, we'll try to look at all of the aspects, including trade capacity. Sandra Polaski is an expert on this. They're working on this issue. And so, we're glad all of you are here; we say good luck to AID and Ag, as there's new leadership there, and to you, Ms. Polaski, for coming, and to you, Tim Reif, we are exceptionally glad you are where you are, although we miss you.

With that, we will stand adjourned until 1:30. Then the third and fourth panels will go right into it.

[Recess.]

Chairman LEVIN. I think we'll start, I'm sorry, we're a few minutes late. Just waiting for Mr. Brady. Mr. McDermott's here. Okay. Thank you, very much. And Mr. Brady and Mr. McDermott and I very much appreciate your patience. I think others will be joining us. There are now other areas of business in this place, but many will try to be back. So, this third panel, again, is a very distinguished one. Going from left to right, is Mr. Karangizi, who is the Assistant Secretary General of the Common Market for Eastern and Southern Africa. Welcome, sir.

And His Excellency, Cham Prasidh, who is the Senior Minister and Minister of Commerce for the Kingdom of Cambodia. Welcome, Your Excellency. Glad you could make it.

And also, David Hastings, who's the President and Chief Executive Officer of Mt. Vernon Mills from Mauldin, South Carolina? Where's Mauldin? Okay.

And Paul O'Brien, who is Vice President of Policy and Advocacy for Oxfam.

So each of you, if you would take five minutes. Your statements will be fully reviewed in the record.

Oh, hi. That's right. I was told you weren't feeling well, but we're especially pleased that you're here, Ambassador Tomás Dueñas. Can you hear us?

Mr. DUEÑAS. Yes. I can hear you.

Chairman LEVIN. Modern technology, which isn't perfect, but I think it will be good enough. And you're the former Ambassador of Costa Rica to the U.S. and you're Chief Executive Officer of ESCO.

I think all of you might agree, Mr. Dueñas, are you able to stay with us for the next half an hour or so? Is that okay?

Mr. DUEÑAS. Yes, I will, of course.

Chairman LEVIN. All right, then, why don't we do this, we'll start, we'll go down the line and then you'll go last Mr. Dueñas, but then we'll see if there are any questions of you, so you could take them right away, okay?

Mr. DUEÑAS. Yes.

Chairman LEVIN. Thank you very, very much.

Mr. DUEÑAS. You're welcome.

Chairman LEVIN. So, Mr. Karangizi, why don't you take your five minutes? And again, we welcome all of you.

**STATEMENT OF STEPHEN KARANGIZI, ASSISTANT SECRETARY GENERAL, THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA (COMESA)**

Mr. KARANGIZI. Thank you, Chairman Levin, ranking member Brady, and distinguished members of the sub-committee. It gives me great pleasure to express our appreciation, as COMESA, for the invitation from your sub-committee to participate in hearings to assist the performance of U.S. preference programs and potential opportunities for improvement. It is fitting to be here today to discuss AGOA's future, as well.

I remember that this is the committee where proposals for AGOA were conceived and without the dedicated work of Chairman Charles Rangel, and other long serving members, Sandy Levin, Jim McDermott and Ed Royce, we would never have had AGOA. In the

case of COMESA, fourteen out of nineteen member states of COMESA, are currently full beneficiaries of AGOA and I'll focus my comments on this preference program.

Suffice to note that, this comes at an appropriate time, when in the case of our region, efforts are being undertaken to expand integration with the proposal to have a larger free area covering three regional organizations of 26 countries, otherwise known as the Tripartite arrangement.

In addition, other efforts have been undertaken to deepen the participation of the private sector with the establishment of an African cotton textiles industries federation and other private sector organizations in spearheading the role of the private sector in increasing the opportunities in AGOA.

I will turn to the main issues regarding the future of the trade preferences in relation to our region. Over the past few years, following the end of the multi-five agreement, we've seen a decline in the exports from our region and AGOA. We believe that this decline is likely to continue especially, considering that our region faces more challenges. Despite the availability of the AGOA regime, there are still challenges in relation to capacity for the private sector to supply imports for garments in the textile sector and its difficulty in attracting investment in that area, and of course, the cost of doing business.

This particular year, we've also had the opportunity of having another AGOA forum, the 8th AGOA forum in Nairobi, Kenya, where Ambassador Kirk extended the interests of the U.S. government to continue with AGOA and to seek ways in which it can be enhanced.

Our overriding proposal, of course, is that AGOA could become permanent and its specific provisions, including the right to incorporate third country fabrics in garment exports, are made permanent.

Other more specific trade policy proposals, which we believe would be beneficial in strengthening AGOA, include agriculture, and the elimination of tariff reduction quotas on all agriculture products with the exception of sugar, which would generate agriculture trade. For a number of countries, the trade generated could exceed their current trade levels.

Secondly, another major impediment to new exports of agricultural products from the region is sanitary and phyto-sanitary measures, particularly, pest risk assessments. At the moment, they are expensive, require lengthy time periods to conduct and often aren't successful. We believe that this is an area where particular attention could be harnessed if addressed.

In line with the AGOA forum recommendations, we also believe increased U.S. assistance in enhancing and strengthening of institutional capacity to meet those SPS measures through training of national competencies in Sub-Saharan countries would go a long way in addressing this. And of course, the need for fast-tracking the pest risk analysis process for approval of Sub-Saharan exports to the U.S. would assist.

Thirdly, we also believe that there is a need to provide substantial resources for capacity building in the agricultural sector, particularly in the areas of research, training and agriculture infra-

structure. With respect to infrastructure, generally, we also feel that paying greater attention to infrastructure in our region and supporting the outcomes of the current WTO aid for trade excise in Geneva would greatly support the enhanced capacity of our private sector to increase their access to the AGOA market.

With respect to the eligibility criteria, we remain concerned, of course, that while we appreciate the establishment of conditions for eligibility, some of our member states have not been able to move away from their non-eligibility criteria, hence the difficulty in their access to the market.

We have a number of ideas for improving country eligibility requirements which we think would go a long way in enhancing AGOA. These include the U.S. should take into account the results of African peer reviews, which are ongoing. Secondly, the need to provide U.S. decision makers more flexibility by allowing non-trade sanctions for violations of eligibility conditions.

U.S. laws include measures targeting the perpetrators of anti-democratic actions such as denying visas and access to overseas financial assets, which we believe would be more favorable than trade sanctions.

Thirdly, we believe the designation of regional groups would be more beneficial and rather than one country falling out of conformity with the requirements, which affects regional integration, the groups can monitor each of its members if eligible, and maintain regional designation.

With respect to trade policy, one of the most appealing aspects of AGOA is that of allowing designation of all African countries, irrespective of classification. We believe this is an area which could be strengthened, particularly giving consideration under WTO to generalizing the waiver to all such donor preferences.

Secondly, in terms of trade policy, we believe under the Doha round of negotiations, it would be more favorable if concessions are not necessarily sought from the non-LCD countries, as this would affect in the long term, the establishment and strengthening of customs union in our region.

And of course, we join all our members in terms of urging a prompt, balanced, and ambitious outcome of the round which has been articulated. With respect to textiles, it is obvious that Sub-Saharan textiles have difficulty in competing with manufacturers, particularly from the far east, as they have less competitive edge in terms of their production costs and so on.

AGOA has a unique origin rule for garments, which has allowed it to maintain a small but significant share of the market. As signaled above, we've heard of the proposals for extending the MFA to other countries, particularly Bangladesh, although Bangladesh is the second largest exporter to the U.S. and has seen its imports increase while Sub-Saharan imports have declined. Thus, we argue that duty free treatment cannot be accorded to Bangladesh apparel exports if one hopes to maintain the most significant success story of AGOA, the growth of the garment industry in Sub-Saharan Africa.

We have alternative proposals, for instance, the U.S. could consider a proposal for an end import allowance program, which has been used in some other forms as enumerated in my testimony. We

also plea that the U.S. extend the AGOA third country fabric beyond 2012 as I have expressed in the testimony with more details.

With respect to origin rules, donor countries have a very wide variety of origin rules which makes it difficult for African producers to export and for African authorities to administer the program. We would hope that the WTO would be tough with developing common standard origin rules for all donor countries. One area where a special rule could be developed is canned tuna, due to the uniqueness of this rule, it is almost impossible at the moment for fish caught in African waters to meet origin criteria.

Finally, we also think that the market access alone is not sufficient. While we have had some successes, there are opportunities in the non-trade area to improve AGOA. These were clearly highlighted at the AGOA forum and I have attached a summary of them as stipulated by the chairman of the Africa group at that forum, which include issues relating to development and investment. I have highlighted some of them in my testimony including: incentives for U.S. investment in the region, flexibility of and providing original mandate for the Millennium Challenge Corporation, the OPEC, U.S. export/import bank, assistance in the infrastructure projects, particularly with reference to the Aid for Trade agenda under WTO, support to industries where the region has competitive advantages, and of course, a clear option of time, trade and investment policies.

We believe that addressing all these would greatly enhance the capacity of Sub-Saharan countries to be able to benefit fully from the AGOA provisions extended to them.

We thank you, Mr. Chairman, and the other distinguished members for inviting us once again. Thank you.

[The prepared statement of Mr. Karangizi follows:]

# Prepared Remarks of Stephen Karangizi
# Deputy Secretary General of the Community of Eastern and Southern Africa (COMESA) before the Trade Subcommittee of the House Ways and Means Committee Hearings on the Operation, Impact, and Future of the U.S. Preference Programs

**November 17, 2009**

## SETTING THE STAGE

### Introduction

Chairman Levin, Ranking member Brady and distinguished members of the Subcommittee on Trade: on behalf of COMESA, I greatly appreciate the invitation by the Trade Subcommittee of the House Ways and Means Committee to participate in hearings to assess the performance of US preference programs and potential opportunities for improvements. Since 14 of its 19 members states are currently full beneficiaries of the African Growth and Opportunity Act (AGOA), I will focus my comments on this preference program.

It is fitting to be here today to discuss AGOA's future. We remember that this is the Committee where proposals for AGOA were conceived. Without the dedicated work of long-serving House members such as Chairmen Charles Rangel and Sandy Levin, Jim McDermott and Ed Royce, we would never have had AGOA.

### COMESA Background:

COMESA is a 19 member-state Regional Economic Community (REC) having attained the status of a Free Trade Area (FTA) in 2000; and launched a Customs Union in June 2009.

To achieve its objective of deepening integration, COMESA has established a number of trade and investment supporting specialised institutions such as the COMESA Court of Justice, the COMESA Reinsurance Company (ZEP-RE), the Clearing House for Eastern and Southern African Trade and Development Bank (PTA Bank), the Leather and Leather Products Institute (LLPI), the COMESA Regional Investment Agency (RIA), and the African Trade Insurance Agency (ATI), among others.

To enable the region to attract greater and sustainable levels of investment, a COMESA Common Investment Area (CCIA) was established. Its goal was the creation of an internationally competitive investment area, which allows for free movement of capital, labor, goods and services across the borders of member-states.

However, to meet the aspirations of the founding fathers of the African Union (AU) as expressed at the dawn of independence in the 1960's, RECs must come together to form extra-regional groupings. In addition, since many eastern and southern African countries belong to more than one regional economic community, amalgamation is required to overcome overlapping memberships.

On 22nd October 2008 the first ever COMESA, Southern Africa Development Community (SADC) and East African Community (EAC) Tripartite Heads of State Summit was held in Kampala, Uganda. An agreement was reached to merge and form a single regional economic community. A Tripartite Task Force was mandated to draw a regional Road Map which will include the formation of a single Free Trade Area, Customs Union and then eventually merge into a single economic community. This will bring 26 countries with a population of over 530 million people and with a GDP of over US$ 700 billion. This will form a wide area for the unfettered flow of goods across borders thus making it a more attractive area for increased investment and marketing.

**US-COMESA Cooperation:**

COMESA welcomes and appreciates the technical assistance which has been provided by the United States of America towards COMESA's integration efforts, including assistance on: trade and World Trade Organization (WTO) matters; capacity building for institutional strengthening of key management systems within the COMESA Secretariat; identification of barriers to investment and development of regional solutions; private sector capacity building; telecommunications harmonization; and the study of rules of origin as related to the WTO, World Customs Organization, SADC, and other organizations.

Furthermore, the establishment of the African Cotton and Textiles Industries Federation (ACTIF) as a regional industry association (which was made possible with the support of the US Agency for International Development (USAID) and which includes countries such as South Africa and Tanzania which are not COMESA member-states) has made it easier for COMESA to interact with industry players in the cotton and textile sectors across the region, as indeed in other sectors, in order to work together in a coherent and cohesive manner to achieve maximum results. Other institutions which were established with USAID support include: the East and Southern Africa Dairy Association, (ESADA), the East African Grain Council (GC), and the East and Central African Coffee Association (ECAFA). Within this holistic framework, the industries and private sector associations, trade support institutions (TSIs), the COMESA Business Council (CBC) and the Federation of COMESA Women in Business, (FEMCOM - a COMESA Institution for Women in Business), in the COMESA region will benefit from a Pan-African Program (involving the three RECs: COMESA, Economic Community of Central African States -ECCAS, and the Economic Community of Western Africa States -ECOWAS) for building African Capacity for Trade (PACT) funded by the Canadian International Development Agency (CIDA) and which will be jointly implemented with the US International Trade Commission (USITC).

The United States signed a Trade and Investment Framework Agreement (TIFA) with COMESA in 2001 to promote regional integration. The most recent US-COMESA TIFA Council meeting was held two weeks ago and focused on US-COMESA trade and investment, AGOA implementation, trade capacity building, investment, trade-related infrastructure, and the WTO's Doha Round negotiations. At the August AGOA Forum, US Trade Representative (USTR) Ambassador Kirk mentioned the importance of addressing obstacles in the SSA region to US exports as a prerequisite for maintaining Congressional support for AGOA. TIFA has and can continue to provide a forum for not only addressing obstacles to US exports to the Sub-Saharan Africa (SSA) region but also for addressing those impeding SSA exports to the United States.

**Cotton and Textiles:**

The textiles and apparel exports into US markets from COMESA member-states, which increased tremendously in the first half of the decade 2000 - 2004, have been falling mainly as a result of the end of multi-fiber agreement (MFA) in 2005. Apart from Madagascar and Ethiopia, whose exports increased by 3% and 73% respectively between 2005 and 2007, most other exporting member-states saw declines in their textile exports. This trend is forecasted to continue as a result of the expiry of the safeguard quotas under the WTO which expired last year 2008.

It should be noted, that all top five exporters of apparel products to the US under AGOA/GSP (Generalized System of Preferences) except Lesotho are COMESA member-states. These are Kenya, Mauritius, Madagascar and Swaziland. All these countries are eligible to source inputs under the third-country provision; and with the declining trend of the textiles and apparel exports, the investments into the textiles and apparel inputs which are coming into the region will lose out.

There is diversification to non-apparel exports under AGOA. This, again, could be as a result of the challenges faced by the textiles and apparel exporting companies facing increased competition as a result of apparel exports from China, Bangladesh and other suppliers to the US market being liberalized since the expiration of both the MFA and the special safeguards on Chinese exports to the US. This results in crowding out the investments in the textiles and apparel inputs.

**Demand for the textiles and apparel inputs in the COMESA region:**

Between 2000 and 2008, the total COMESA imports of inputs into the textiles and apparel sectors excluding zippers stood at US$1,094.35 million while total COMESA exports of inputs into the textiles and apparel stood at US$125 million. This signifies a large demand in the region, although the trend has been on the decline due to the expiry of the multi-fiber agreement. These figures underscore that the COMESA region does not have the capacity to supply the inputs for the garments and textiles sector; hence, the need to attract investment and improve the cost of doing business.

Mandated by the directives of the Heads of States and Council of Ministers to develop a regional industrial strategy and in order to respond to the challenges and to improve the competitiveness of the cotton, textiles and apparel sector, COMESA, with the assistance of the International Trade Centre (ITC) and working in partnership with the African Cotton and Textile Industries Federation (ACTIF), developed a regional industry strategy for cotton, textiles and clothing (cotton-to-clothing) focusing on promoting regional industry linkages, value addition and specialization. The expectations in this regard are very high as this is a directive of the COMESA Heads of State and Government

The strategy has highlighted sources of inputs into the cotton-to-clothing sector as a main area of focus for the development of the sector. It has also put in place recommendations as how to overcome the challenges of sourcing inputs in order to make the sector more competitive.

**Current Challenges:**

The decision of the Subcommittee to hold hearings at this time is particularly timely since it comes within months of the Eighth (8th) AGOA Forum and the Seventh (7th) Corporate Council on Africa (CCA) Business Summit as well as the Fourth (4th) US-COMESA Trade and Investment Framework Agreements (TIFA) meeting. Each of the meetings demonstrated the success of AGOA in evolving US-Sub-Saharan Africa (SSA) relations into a true *partnership*. Each side felt it appropriate to discuss strengths and weaknesses of the relationship. My statement today will reflect these points in an effort to improve AGOA. We have included as an attachment to this presentation, specific measures identified by Kenyan Trade Minister Amos Kimunya in his concluding remarks made on behalf of SSA participants at the 8th AGOA Forum.

Our belief is that AGOA can still be improved. Instead of anecdotal successes, it can become a true transformational program. Reductions of trade barriers under AGOA alone cannot transform economies especially when the preference-giving country, the United States, has a trade regime with low most-favored nation (MFN) duties averaging about 2-3 percent. However, it could become transformational if AGOA represented an agglomeration of trade, development and investment policies.

**POTENTIAL OPPORTUNITIES FOR TRADE POLICY IMPROVEMENTS**

One overriding proposal is that AGOA be made permanent and its specific provisions including the right to incorporate third-country fabrics in garment exports are made permanent. Other more specific trade policy proposals can be divided as follows:

**Agriculture:**

1. Elimination of Tariff-Reduction Quotas (TRQs) on all agricultural products, with the exception of sugar, would greatly help to generate agricultural trade. For a number of countries, the trade generated could exceed their current trade levels. Examples of such products are ground nuts or peanuts (once the market stabilizes), tobacco and sweetened cocoa.

2. A major impediment to new exports of agricultural products from the region is Sanitary and Phyto-Sanitary (SPS) measures, particularly pest risk assessments. They are expensive, require lengthy time periods to conduct and often are unsuccessful. We understand that every country has the right to protect its citizens. Yet, we do not understand why European Union (EU) standards are more amenable to African exports than the US, especially since the US has many complaints against EU standards for being protectionist.

   We thus suggest that AGOA includes provisions focusing on those barriers judged to be the most trade restrictive. Although one cannot be sure of success, one could agree to focus official and private sector resources, including academic and research institutes, to carry out pest risk assessments. Only then can one increase products exported from SSA countries which do not threaten the health of animals and plants grown in the United States.

   The 8th AGOA forum urged the US to assist in the enhancement and strengthening of institutional capacity to enable the sub-Saharan countries to meet US SPS measures through training of national competencies in sub-Saharan Africa. In addition, a system of mutual recognition of standards should be established. The US should undertake the necessary measures to fast track the pest risk analysis process for approval of SSA exports to the US.

3. There is a need to provide substantial resources for capacity-building in agriculture, particularly in the areas of research and training, agricultural infrastructure, productivity, marketing and technology transfer.

**Infrastructure:**

Greater attention should be given to supporting practical outcomes of the current WTO Aid-for-Trade exercise in Geneva. There has been ample attention paid to definition and classification but very little to practical outcomes. An important exception was an Aid-for-Trade conference on the creation of a North-South development corridor encompassing the Tripartite Group of regional economic communities (RECs): COMESA, the East African Community (EAC) and the Southern Africa Development Community (SADC). We need more attention to practical results.

The COMESA-EAC-SADC Tripartite arrangement has also identified and is working on other important transport and development corridors for targeted Aid-for-Trade support. These include: the central corridor from Dar Es Salaam (Tanzania) to the Eastern DRC (Democratic Republic of Congo); the northern corridor from Mombasa, Kenya to the Eastern DRC and to Southern Sudan; the new proposed corridor from a new Lamu port in Kenya through Ethiopia to Southern Sudan; and finally, the corridor from Djibouti to Ethiopia, among others.

**Eligibility Requirements:**

COMESA members understand the objectives of the US in establishing conditions for eligibility in AGOA. However, it is not sure that failure to designate or action to remove countries for single-actor or minority actors' actions may be counterproductive to the attainment of these objectives. For example, failure to designate four potential COMESA members has done little to promote the goals of the program but may have lost opportunities to create interests favorable to reform.

There are a number of ideas for improving country eligibility requirements. I am not in a position to state an official COMESA view but perhaps they should be considered by the subcommittee as it analyzes potential modifications of AGOA.

1. The US should take into account the results of African peer reviews.

2. Provide US decision-makers more flexibility by allowing non-trade sanctions for violations of eligibility conditions. For example, in cases of coups, trade sanctions may have little effect while non-trade sanctions targeted at coup leaders may be more effective.

3. Designate regional groupings when each of its members is eligible and maintain regional designation unless one country falls out of conformity with the requirements. In that case, the groupings themselves will put pressure on individual countries to adhere to conditions since it would mean that group designation would be withdrawn.

**Trade Policy:**

1. AGOA does not treat least-developed countries (LDCs) and non-LDCs of the same REC differently since it allows for the designation of all SSA countries. Other donors have not followed this policy. The EU denies access to non-LDCs under its unilateral Everything But Arms (EBA) preference programs. China and India also deny access for SSA non-LDCs under their preference schemes being implemented under the Duty-Free, Quota Free (DFQF) initiative.

   AGOA has been able to designate all countries without a WTO problem through gaining a World Trade Organization (WTO) waiver. Consideration could be given to generalizing this waiver to all such donor preference schemes which would recognize the overriding need for the African region to integrate its economies.

2. COMESA has joined its members in urging a prompt, balanced and ambitious outcome to the Doha Round. It notes that the region will benefit from significant reductions of agricultural subsidies and enhanced Aid-for-Trade and business facilitation assistance.

**Textiles:**

SSA textiles can only hope to compete against Far East manufacturers if there is a reduction in the external costs of energy, water and transportation. As we stated above, this issue is outside of the jurisdiction of the committee but is mentioned at the end of this submission.

1. AGOA has a unique origin rule for garments which has allowed it to maintain a small but significant share of the market. However, there are proposals under discussion in Congress which would extend this benefit to competitive Far East LDCs, specifically Bangladesh.

   As signaled above, the expiration of the MFA has advantaged Bangladesh. Bangladesh is currently the second largest exporter to the United States and has seen its imports increase while SSA imports have declined. Thus, we argue that duty-free treatment cannot be accorded to Bangladesh apparel exports if one hopes to maintain the most significant success story of AGOA, the growth of the garment industry in Sub-Saharan Africa.

2. One could assist Bangladesh as well as the SSA region, if one considered a proposal for an Earned Import Allowance Program (EIAP) which has been used in some form in the Dominican Republic/ Central America Free Trade Agreement (DR/CAFTA) and Haiti. Under this proposal, importers increasing their purchases for the SSA region would be given the right to import duty-free, the same amount of apparel from Bangladesh and Cambodia. In order to encourage vertical integration, the credit could be multiplied by two or three times for garments imported from Africa that are made from African-origin fabric.

3. The US should extend the AGOA Third-Country Fabric Provision beyond 2012 and include other eligible AGOA beneficiary countries that currently do not benefit from this provision. However, care should be taken not to disadvantage lesser developed, beneficiary SSA countries in extending this provision.

**Potential Opportunities in the Non-Trade Area to Improve AGOA:**

There have been a number of successes which can be ascribed to AGOA. There have been significant increases in exports of garments, flowers, baby vegetables and shrubbery from one or more COMESA members since AGOA was implemented. AGOA has also encouraged a more outward looking view toward development with trade being mainstreamed into a number of national and regional development plans.

We realize that development and investment issues are often outside the jurisdiction of the subcommittee. We thus list these issues here for the record as they were highlighted at the 8th AGOA Forum as indicated in the attachment. Whether they can be dealt with in an omnibus approach or separately but in the same time frame, is a decision for the US Congress.

Sub-Saharan Africa (SSA) very much appreciates the focus of the United States government on Food Security and Climate Change. SSA would hope, however, the US government provides equal attention to economic growth which would include deepening and expanding AGOA as well as development and investment measures. AGOA could meet expectations of being a transformational program if attention was paid to the following:

1. Incentives for US investment in the region. Targeted-tax incentives for US companies investing as a means of attracting Foreign Direct Investment (FDI) could be put in place;
2. Flexibility of and providing a regional mandate for the Millennium Challenge Corporation (MCC), the Overseas Private Investment Corporation (OPIC) and the US Export-Import Bank (Exlm);
3. Assistance for infrastructure projects that either decrease the cost of production or link domestic and global markets;
4. Support for industries/sectors where the region has competitive advantages; and
5. Providing an option for trade and investment policies to be connected and linked together. Lack of investment flows along the cotton, textiles and apparel value chain contributes to the non-performance of the entire sector. Much as there has been a focus to promote preferential AGOA trade there have been few incentives from the US and African governments to attract investments. This is specifically problematic in the production of the inputs, and, as such, the sector relies heavily on the third country fabric provision for fabrics and other inputs.

**Submitted: Stephen Karangizi, Assistant Secretary General, COMESA, November 2009**

[The information follows:]

## ATTACHMENT

**RECOMMENDATIIONS FOR AGOA IMPOVEMENTS**
**CONCLUDING STATEMENT ON BEHALF OF SSA PARTICIPANTS**
**AS DELIVERED BY KENYAN TRADE MINISTER AMOS KIMUNYA**
**EIGHTH AGOA FORUM IN NAIROBI, KENYA**
**AUGUST 2009**

1. Lack of production capacity to produce competitive goods and services due to supply side constraints;
2. Lengthy procedures on meeting US standards;
3. High cost of transportation, within the region and to the US;
4. Low levels of research and development, based on a lack of available resources;
5. The African Global Competitiveness Initiative (AGCI) should be sustained and enhanced beyond the expiry period of 2010 to support the ongoing programs in SSA. Furthermore, US support should also focus on strengthening the capacity of USAID regional trade hubs for their impact to be felt equally in all the beneficiary countries;
6. Empirical evidence shows that textiles and apparel exports under AGOA and GSP in most sub-Saharan African countries has declined due to expiry of Multi-fiber Agreement (MFA) and also of the safeguard quotas which expired last year. This has been exacerbated by the problems associated with sourcing of the inputs from outside the region since they cannot be competitively produced in the region. Furthermore, most of the countries eligible to benefit from AGOA have comparative advantage in other products particularly in agro-products and only a few countries export textiles and apparel. It is therefore recommended that emphasis and especially for COMESA member States should be directed towards diversification and promoting trade in non-apparel products
6. The US should support regional integration process by ensuring that the benefits of AGOA accruing to cross-border investors are not undermined as a result of political developments in AGOA eligible countries;
7. There is need for targeted resources from the US to support regional integration initiatives in Africa and clearly earmarked regional development projects especially those geared towards addressing supply side-constraints;
8. The need to address constraints affecting women entrepreneurs including dedicating certain percentage of trade finance donor funds to women and address issues that limit access to loan such as collaterals;
9. The need to engage the US administration and Congress on a permanent and predictable AGOA framework that should be enhanced and expanded to include currently excluded agricultural and textiles products of export interest to SSA; and
10. Finally, there is need for continuous cooperation and dialogue between government, private sector and civil society in our efforts to exploit the opportunities created by AGOA.

Chairman LEVIN. Thank you for coming.

Mr. Minister, you're next.

**STATEMENT OF HIS EXCELLENCY CHAM PRASIDH, SENIOR MINISTER AND MINISTER OF COMMERCE, KINGDOM OF CAMBODIA**

Mr. PRASIDH. Chairman Levin, ranking member Brady, Members of the Subcommittee, on behalf of the Royal Government of Cambodia, I appreciate the opportunity to appear before you to discuss reforms of the U.S. trade preference system. Let me begin by

expressing my gratitude for the Committee's cooperation and work with Cambodia on trade policy over the past 15 years which resulted in restoring normalized trade relations in 1995, and in helping to shape the textile agreement in force from 1999 to 2004, and in our WTO session agreement in 2004 and implementation since then.

As I trust you will appreciate, that I come to this hearing with a single message. The Cambodian apparel industry is facing an unprecedented crisis and the action we request in response from this committee and the Congress is, to give our apparel sector duty free and quota free access.

Mr. Chairman, we recognize that this crisis is not the responsibility of the Congress of the United States. Indeed, it is the U.S. apparel market that has given us the chance to transform our industrial economy and we deeply appreciate that opportunity and partnership.

While you are listening to me, I would like you to bear in mind the context we are living and the past tragic history of Cambodia. People of my age who have always resided in Cambodia have saluted six different national flags of Cambodia. That's a record in the world. So, please bear that in mind when you are listening to our plea.

Mr. Chairman, while we are rebuilding our country, we found our way together and we put in place through the International Labor Organization a reporting mechanism for our apparel factories that assured accountability for compliance with Cambodian labor law and fundamental international workers' rights. The better factories Cambodia project has been so far branded the most innovative mechanism to promote corporate social responsibility. We took, also, accompanying measures to make the policy work.

Cambodia's reputation was transformed from a country known for tragedy, for the killing fields, to that of a country that was a pioneer in international trade policy. We made Cambodia a safe haven for all the major brands who source apparel from Cambodia free from sweat shops. The Cambodia model was born and it is now followed by a growing number of other countries but risks of its failing, are looming in the horizon.

I have attached some slides for you to see how we have been able to perform and the current crisis that we are facing is that we are going to see a drop of 24 percent to 36 percent of our government export, not just through the U.S.A., but also through the world. And what we have seen as well is, that we are also very vulnerable to external shocks. Our government sector export represents 87.87 percent of our total exports in 2008. This is affecting the government export mean as well as, the whole community of Cambodia.

Over the past year, we have seen 60 factories, garment factories, close down. 52,000 jobs lost. And what will happen to these 52,000 workers, mostly female, after being laid off is a very big question mark. The Cambodian government does not have money to provide social securities as in developed countries.

Over two million people, who have seen recent improved living conditions in Cambodia, could suddenly see it wipe out like a tsunami.

We have tried to take all the necessary reforms to make our garment sector competitive. How have we been able? We have been successful, or not, in securing a market share in the U.S., you look to the chart that we have provided, you would see that from 2004 to 2008, our market share from 2.1 percent grew to 3.9 percent. But from this year, it is only 2.4 percent.

Comparing us with AGOA, AGOA also started with 2.1 percent, almost the same level. And nowadays with 1.2 percent. Quite the drop. But this drop is not because of Cambodia. If you look to the chart, you would see that China has come from 16.01 percent to 34.74 percent of the market share.

For the U.S. buyers, corporate social responsibility is just one factor. Other factors such as competitive price, speedy delivery of goods, and credit facilities continue to prevail in their decision to source products. These are all related to competitiveness.

Since the world financial crisis started in 2008, industrial tensions in Cambodia are flaring up. Factories are closing doors and, workers are laid off. We have taken steps to improve our apparel sector competitiveness. We are working on programs to boost productivity, assist laid off workers and provide further tax incentive for the industry. But we are have a limited budget. But from the U.S. side, there are also steps that the Ways and Means Committee can take to provide us a bridge to manage the transition in our economy and extend the life of our apparel sector. Duty free access under the U.S. trade preference program.

I have provided also slides to show you that Cambodia is now bleeding white. You look to the chart, you would see that Cambodia is paying more and more duties to the U.S. while countries also LDCs like the Sub-Saharan countries, see less and less duties to be paid to the U.S. So, for example, in the last year, 2008, Cambodia paid $407 million as duties to the U.S. while all the 41 countries in AGOA only paid $14 million.

Does including LDCs on the same footing as the LDCs of AGOA affect AGOA's economy? I would say, no. I would dare to say, no. The end of the quota system in 2005 has started to erode our competitive advantage. The trade preferences the United States can give to Cambodia will help us develop our competitiveness vis-à-vis bigger countries with long and well-established apparel sector, especially our neighbors in Asia.

If you can carve just one or two percent of the U.S. market share for our products, out of China's 34.7 percent share for example, it would change dramatically the economy of Cambodia. It will not affect China's economy at all. This one or two percent slice is certainly not carved from AGOA countries. It's not carving from AGOA's share in the U.S. market. The AGOA countries can use Cambodia as a model for building their competitiveness. Cambodia is not their imagined competitor. We are as poor as them. We cannot be condemned in our market access because we are performing better. Let us not forget that performing better requires painful reforms and strong political will to change for the better.

Performing better is not through protecting infirm or ailing industries, but developing your competitive advantage. I believe African countries can shape a brighter future for themselves, too. The issue of the rules of origin, specifically when a product is ordered

from LDCs, should also be addressed by the U.S. Congress in a manner that they can be effectively utilized.

We also should not be viewed as taking jobs from American workers in the textile and apparel sector, as we are not producing the same type of categories of apparel that they are doing.

The last chart that I would like to share with you, excellencies and other Members of the Subcommittee, shows the GDP growth of Cambodia. At this time, there is still a quota and a policy of linking trade which we understand. We have been able to secure additional quota and our GDP growth went up as did our export of garments to the U.S. But at the end of the quota system in 2005, you look toward our GDP growth, we start to fall from 13.3 percent to 10.8 percent in 2007, to 10.2 percent in 2007, to 6.7 percent in last year. And this year, to −2.75 percent. This is why I said it is a crisis because 87 percent of our world export relies on garments. And if nothing is done for our apparel sector, we are going to go deeper than what you are seeing here.

This means that quota free and free competition, has just offered the opportunity for the onslaught of our products by cheaper Chinese and Indian products and that there is a real free fall of Cambodian export and at the same time, a free fall of Cambodia GDP gross.

What will the U.S. do with its GSP scheme? I am here to make a plea from a war devastated country, a plea from the killing fields. At this moment of crisis, I hope the committee will take the modest steps that can preserve Cambodia garment industry as a success story in development, of labor rights, and of poverty reduction. It is all about opportunities. It is all about competitiveness. It is all about fairness. It is all about strong political will to change, to make a positive change that will impact positively the least developed countries.

The 41 Sub-Saharan LDCs enjoy preferential market access to the U.S. market on the duty free, quota free basis under the AGOA while Asian LDCs, including Cambodia, and Pacific LDCs do not. Cambodia is as poor as any of the AGOA countries. Why can't they receive similar treatment? If Cambodia fails, the AGOA countries are not going to benefit from it, either. What will be the Doha development agenda? Ultimate results for LDCs. Making them poorer or better off? What are the millennium development goals aiming at?

Please, give Cambodia opportunities to export duty free, quota free to the U.S. market, build a stronger private sector and gets its people out of poverty. Our people have suffered long enough. And should not be left out in the cold.

Thank you.

[The prepared statement of Mr. Prasidh follows:]

# STATEMENT OF THE HONORABLE CHAM PRASIDH, SENIOR MINISTER AND MINISTER FOR COMMERCE ROYAL GOVERNMENT OF CAMBODIA

## *AT THE HEARING ON U.S. TRADE PREFERENCES*

**BEFORE THE TRADE SUBCOMMITTEE,**
**COMMITTEE ON WAYS AND MEANS**
**U.S. HOUSE OF REPRESENTATIVES**
**WASHINGTON, D.C.**
**NOVEMBER 17, 2009**

**Chairman Levin,**

**Ranking Member Brady, and**

**Members of the Subcommittee,**

On behalf of the Royal Government of Cambodia, I appreciate the opportunity to appear before you to discuss reforms of the U.S trade preference system.

Let me begin by expressing my gratitude for the Committee's cooperation and work with Cambodia on trade policy over the last 15 years

- in restoring normalized trade relations in 1995;
- helping to shape the textile agreement in force from 1999-2004; and
- in our WTO accession agreement in 2000 and implementation since then.

As I trust you will appreciate, I come to this topic with a single message to you: **the Cambodian apparel industry faces an unprecedented crisis, and the action we request in response is for this Committee and the Congress to give our apparel sector duty-free and quota-free access.**

**Mr. Chairman**, we recognize that this crisis is not the responsibility of the Congress or the United States. Indeed, it is the U.S. apparel market that has given us the chance to transform our industrial economy - - and we deeply appreciate that opportunity and partnership.

An important part of our path back has been the successful development of our apparel sector. From a tiny beginning in 1996, we built the foundation of an industrial economy through a growing garment manufacturing sector, and in 1999 we signed a Bilateral Textile Agreement with the United States.

**At the request of the U.S. Government we embraced the proposition of linking further quota growth under that agreement with steps to assure internationally-recognized labor rights for our apparel workers.**

**Mr. Chairman**, we made that decision despite all of my colleagues telling me I was being foolish. They said I could not trust the United States to perform under that agreement and that linking trade and labor was a bad precedent for developing countries, let alone least-developed countries such as Cambodia. Moreover, the fact was that at the time, neither the U.S. Administration nor we had any idea how such an agreement could be implemented.

But, **Mr. Chairman**, we found our way together, and we put in place through the International Labor Organization a transparent monitoring and reporting mechanism for our apparel factories that assured accountability for compliance with Cambodian labor law and fundamental international worker rights. We took accompanying measures to make the policy works. Cambodia's reputation was transformed from a country known for tragedy – to that of a country that was a pioneer in international trade policy. We made Cambodia a safe haven for all the major brands which source apparel from Cambodia: free from sweatshop. The "Cambodia model" was born – and it is now followed in a growing number of other countries. The creators of this "baby" were my Prime Minister Samdech Akka Moha Sena Padei Techo HUN Sen, and US president Bill CLINTON.

Our industry also prospered, increasing exports from $500 million when we signed that agreement to a peak of $2.4 billion in 2007. We could offer employment for hundreds of thousands of our people, and support services and industries grew along with our apparel sector. The rights of our workers and our trade unions also advanced. I would never tell you that we have completed that journey, or all is as we would want it to be. But we kept our part of the deal, Mr. Chairman.

Of course even as the industry grew, we have been aware of our limitations and challenges: the cost of electricity, transportation and infrastructure needs, a lack of textile production, and the need for higher productivity and value-added products.

Consultants also advised us on the need to diversify our economy away from apparel, and we have worked on that in terms of our agriculture and tourism sectors. We have worked to transform our institutions, to make Customs more efficient and the investment climate and rule of law more secure. In less than a generation, we have come far – but with still a long journey before us.

But global economic forces have now put our apparel industry, our economic future, and the Cambodia model in jeopardy. The quota and safeguard system is gone, and the world's economy in serious recession. We, meanwhile, live in a tough neighborhood to be in the apparel business – with China and Vietnam highly competitive, and without the challenges we face.

The situation is deeply troubling. The ILO has verified that our apparel exports to the United States fell a dramatic 32% in the first six months of 2009 compared to 2008. Since some 70 percent of apparel exports go to the United States and apparel accounts for over 80 percent of our export earnings, this is a devastating blow for us.

It is worth noting that our apparel exports to the EU fell slightly less than 10% during this same period. We believe a key factor accounting for this difference in results is the fact that we receive duty-free and quota-free access in the EU, but not yet in the United States. Our exports to Canada have also held up better since they also receive duty-free and quota-free access.

But as our position in the U.S. market weakens, our apparel factories are closing, down from 310 just a year ago, to under 250 today.

**In a September 2009 report, the International Monetary Fund (IMF) projected our economy to have the most serious reversal this year in all of East Asia, with growth of 10.2 percent in 2007 falling to an expected 2.75 percent contraction in 2009, due to the drop in the garment and tourism sectors.** The same report recognized Cambodia as the country most dependent

upon garment exports in all of East Asia, and the country facing the biggest decline in garment exports, and projected Cambodia would suffer the greatest absolute increase in poverty in the region as a result.

Garment sector employment has indeed fallen by 100,000 workers over the last year. Those that work have fewer days and hours. Consequently, incomes are down and industrial tensions are up.

Certainly, there are steps we can take to continue to improve our apparel sector competiveness. We are working on programs to boost productivity, assist laid off workers, and provide further tax incentives for the industry.

**But there is also a step that the Ways and Means Committee can take to provide us a bridge to manage the transition in our economy and extend the life of our apparel sector.** As you know, Mr. Chairman, that means **duty-free access under the U.S, trade preference program**. We pay an average duty on our apparel of some 16 percent. If you remove that, you are giving an opportunity for our garment workers for some years longer so that may improve our competiveness and develop alternatives. Cambodia faces a very heavy burden in the U.S. tariff system. Last year we faced a $407 million tariff penalty on only $2.4 billion in exports – a higher penalty than many developed countries and oil exporters faced on much larger levels of exports, and one which places us at a severe disadvantage in competing with almost sixty countries in Latin America, Africa and the Middle East which have full duty-free privileges here. Yes, Cambodia alone paid $407m for customs duties, more than the group of 41 AGOA-recipient countries ($14m), and more than France ($391m) or the United Kingdom ($399m), and with total Cambodian goods valued at no more than $2.5b.

## BACKGROUND

Cambodia has made substantial progress from a difficult position. At the end of the Khmer Rouge era in 1979, we had only 64 intellectuals left alive in the country. Virtually all the country's businessmen, union leaders, artists and educators had been killed or forced to leave as refugees. Since the Paris peace agreements of 1991, we have been rebuilding. We have made great progress but

are still far from our goal. As you know, just two decades ago we were a shattered country and people, a victim of Cold War rivalries which ultimately plunged us into genocide. Cambodia was known as a nation of tragedy. Our most important assets, our people, were consumed in a decade of killing, and our country's economy and institutions destroyed. People in Cambodia having my age or above has saluted six different national flags of Cambodia in a span of 40 years!

**We rebuild our country from scratch.** We have proudly found our way back into the world. The United States did reach out and help in our recovery, and we are grateful.

Since 1989 we have concentrated in creating a private-sector economy, providing public services in health and education, joining institutions such as ASEAN and the WTO, and making Cambodia an attractive place for high-quality investors through a good investment environment and guarantees of high labor standards.

To some extent we have succeeded. Among other accomplishments, we have cut infant mortality rates from 87 per thousand in 1990 to 70 in 2007, and raised life expectance from 55 to 60, and doubled per capita income.

But we remain a least-developed country – not only with a per capita income well below $1,000 a year, but suffering from intense poverty in the rural areas which foreigners do not often see but which are home to 11 million of our 14 million people. So we have come a long way, but have still further to go and we see the United States as a partner in the task.

## ROLE OF TRADE

In this regard, trade with the United States has been especially important. Since normalization of trade in 1996, our exports to the United States have risen from essentially zero to about $2.4 billion. This sum, about 95 percent of which comes from the garments we sell to the Gap, JC Penney, Wal-Mart and other American retailers, is about two-thirds of our exports to the world and accounts for about 10 percent of Cambodian GDP. Let me add two points to this basic fact:

- First, Cambodia views trade as a two-way street and is a poor country but an active importer of American goods. Between 2000 and 2008 our imports from the United States grew six-fold. I note in particular that we imported 18,774 American-made cars last year, up from 838 in 2000, which ranks Cambodia fourth in Asia as an American car-buyer, just barely behind Japan and Korea. This year so far we are second only to China.

- Second, we share the Committee's belief in high-quality factories and the rights of workers. In 1999 Cambodia became the first country to agree to an ILO-sponsored revision of our national labor laws and a program of ILO inspection of all factories. We negotiated this with the U.S. government as part of a textile quota agreement, but have kept the program in place over the five years since the quota system was abolished. Every exporting factory in Cambodia is regularly inspected by experts from the International Labor Organization's Better Factories Cambodia program, and loses its right to export if it is found to have child labor or otherwise violate the ILO standards, and of course the Cambodian Labor Law.

We were the first country ever to adopt such a program, and though several other countries are considering adopting the model, we remain to this day the developing country able to ensure that every single factory is subject to the ILO code. It is an expensive program, but we believe it is the right thing to do for workers, and we believe that as well as adding costs it gives Cambodia the reputation we want to have as a country committed to the highest level of labor protection for our garment workers.

The industry also employs about 5,000 educated young Cambodians as middle managers, which in the future will help us develop a business class experienced in international markets and help us develop a self-sustaining national economy at par with our ASEAN neighbors.

## U.S. TARIFF SYSTEM

Unfortunately, our garment-workers and we continue to work under a severe disadvantage, imposed unintentionally by the U.S. tariff system.

American tariff systems designed in the 1920s place higher tariffs on the simple mass-market clothes we produced than on almost any other products. At present, Cambodia's top exports are cotton pullover shirts, cotton trousers, and cotton T-shirts. These have tariffs of 16.5 percent, 16.6 percent, and 16.5 percent. To our East, Vietnam and China can produce these products in much larger volume than we can. Elsewhere in the world, most Latin American and all African competitors in these products have zero-tariff privileges.

Our more advanced competitors face few such disadvantages. China's top three exports, for example, include personal computers, telephones, and children's toys, none of which face any American tariffs at all. Thailand's are disk drives, telecom equipment and shrimp, all also with zero tariffs. India's are diamonds, medicines and jewelry, where tariffs are zero, zero and 5.5 percent.

Last year, $2.4 billion in Cambodian exports received a $407 million penalty. This was more than the $400 million penalty imposed on $58 billion in British goods, not counting a further $43 billion in British services imports. The penalty imposed on our goods is the highest in the world, at about 16.7 percent compared to the overall U.S. tariff average of 1.3 percent. It is hard to see these penalties as anything but anomalous and unreasonably severe. By way of comparison, here are the comparable statistics for some other U.S. trading partners:

| Country | Imports | Tariff Penalty | Tariff Rate | Per Capita Income 2006 |
|---|---|---|---|---|
| Cambodia | $2.4 billion | $407 million | 16.7% | $513 |
| Thailand | $23 billion | $509 million | 2.2% | $7,440 |
| Brazil | $30 billion | $396 million | 1.3% | $8,700 |
| United Kingdom | $58 billion | $400 million | 0.7% | $44,070 |
| Malaysia | $31 billion | $210 million | 0.7% | $12,160 |
| Russia | $27 billion | $64 million | 0.2% | $12,740 |
| South Africa | $10 billion | $9 million | 0.1% | $8,900 |
| Saudi Arabia | $54 billion | $49 million | 0.1% | $22,300 |

Cambodia has been enrolled in the Generalized System of Preferences for some time. However, the GSP is designed for middle-income countries and for the time being offers us relatively little since it excludes clothes. Only $5 million worth of Cambodian imports qualified for GSP – mainly small volumes of plastic packaging, plus a bit of jewelry. The GSP system reduced Cambodia's tariff penalty by about half a million dollars, from $407.5 million to $407 million. Even under the best of circumstances, we will not be able to use the GSP very effectively for years to come.

Our circumstances are especially severe, but several other LDCs are in similar positions, including our neighbors in Laos, East Timor, Afghanistan, Nepal and Bangladesh.

**We are therefore asking the U.S. to fulfill its commitment to allow 97 percent of trade from least-developed countries into the U.S. duty-free and quota-free, by waiving tariffs on our clothing exports as the Committee has done for least-developed countries in Africa and the Caribbean.**

## EFFECTS OF THE CRISIS ON CAMBODIA

The issue is especially important this year, because our garment industry is struggling for survival. At the best of times Cambodia faces a very tough competitive environment, since our near neighbors Vietnam, Thailand and China are all much larger countries with the resources to develop world-class port, energy and communications infrastructure

Since the financial crisis began, our situation has shifted from difficult to desperate. In the past year, our exports of clothes to the U.S. have dropped from about $230 million a month to levels between $125 million and $170 million – that is, by a quarter in the space of a year. As a result 80 of our 340 exporting factories have closed, and about 80,000 young women have lost their jobs.

This creates a social crisis in Phnom Penh, which is a city of 1.5 million trying to find employment for tens of thousands of young women still newly arrived from rural provinces and often with only elementary education. The ILO is running a project tracking the experiences of some of these young women, and

finds many unemployed, many returning to rural areas, and a number forced to go into the sex industry to support themselves and their families.

Less widely recognized, an urban employment crisis quickly worsens poverty rates in rural areas. A rural Cambodian family has only a few months of food security. One daughter working in a garment factory typically sends back home $10 to $15 per month, to buy food, repair the house, or to assist younger siblings to go to school. Severe urban job loss means much greater rural vulnerability and raises the risk of infant mortality, malnutrition and other suffering.

As almost of our factories are still foreign-owned, Cambodia cannot count on reopening them when the global economy recovers after the crisis. Those decisions will be made by businesses based in Singapore, Hong Kong, China and Taiwan, which can reopen in Vietnam or China as easily as in Cambodia. So we need to work hard to retain the confidence of the retailers who buy our products, and are also looking to the Committee for help.

Tariff preference will allow us to weather the crisis and emerge much easier to manage. It will not be enough alone – much of the responsibility lies with us to provide the transport infrastructure, continued high labor standards, energy and telecommunications links that will make Cambodia competitive with the world at large in these goods. But a 16 percent tax cut on a T-shirt, or a 32 percent tax cut on an acrylic sweater, may well be enough to save the industry for us.

## PREFERENCE FOR CAMBODIA NOT DAMAGING TO OTHER REGIONS

Tariff preference for Cambodia will not, in my opinion, damage any region now given preference or FTA treatment. Cambodian clothes mean a lot to our economy, but account for only about 3 percent of U.S. clothing imports. We specialize in cheap mass-market goods that compete only rarely with American products. And in contrast to other preference regions, we depend heavily on the United States and are not yet diversified.

Mexico, for example, is a major supplier not only of clothes but consumer electronics, sports equipment, autos and auto parts, and much else.

Sub-Saharan Africa last year, according to the WTO, had $235 billion in exports, including $70 billion in manufactured goods and $22 billion in farm exports, and relied much more on European markets than on American markets.

We had only about $4 billion in exports, we are not yet significant exporters of farm products, and we rely on the United States for most of our orders.

**CONCLUSION**

Once again, I appreciate the Committee's central role in developing US-Cambodia trade over the last fifteen years. Though it may be hard to see from the United States, there are tens of thousands of Cambodian families who have found their way out of deep poverty, and hundreds of thousands of workers earning living in safe, high-quality factories because of the Committee's work.

The development of our trade relationship so far has also given Cambodia itself has a strong chance to take up the role in the world we want to play, of a self-reliant, middle-income Asian nation.

If the apparel exports of Cambodia, an LDC nation, remain outside the coverage of the U.S. trade preference program, it is a simple fact that unemployment and poverty will increase in Cambodia.

We will see an industry created over some 15 years wiped out in just a few. We will see the two million of our 14 million people who have relied upon the apparel industry, forced back to subsistence farming in their villages, and poverty in our cities.

We will see the important "Cambodian model" -- synonymous with innovation and transparency in labor compliance and copied in a half dozen other nations – become just an historical footnote.

**At this moment of crisis, I hope the Committee will take the modest steps that can preserve Cambodia's garment industry as a success story in development, labor rights and poverty reduction. It is all about competitiveness. It is all about opportunities. It is all about fairness. It is all**

**about strong political will to make a change: a true change in the US trade preferences that will impact positively all the LDCs.**

Thank you for this opportunity to state our case.

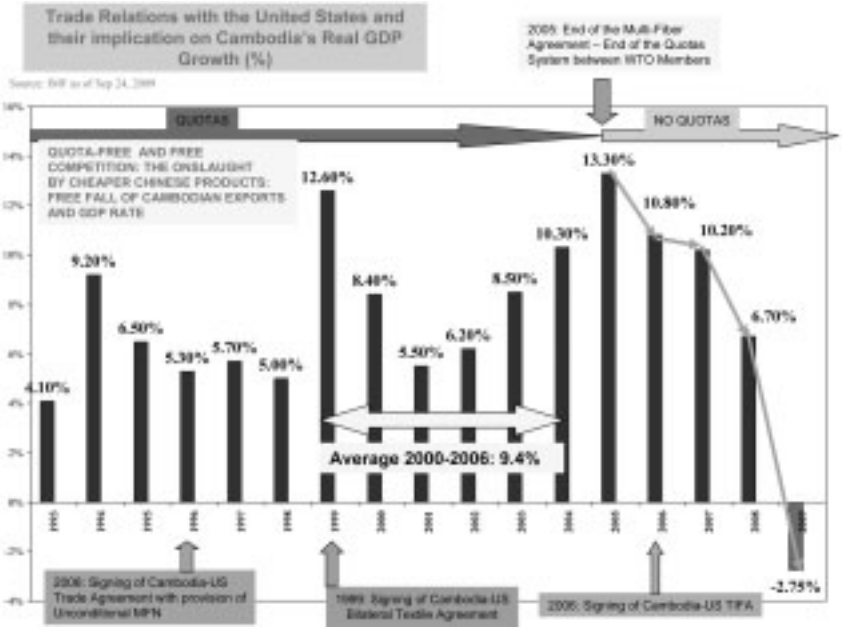


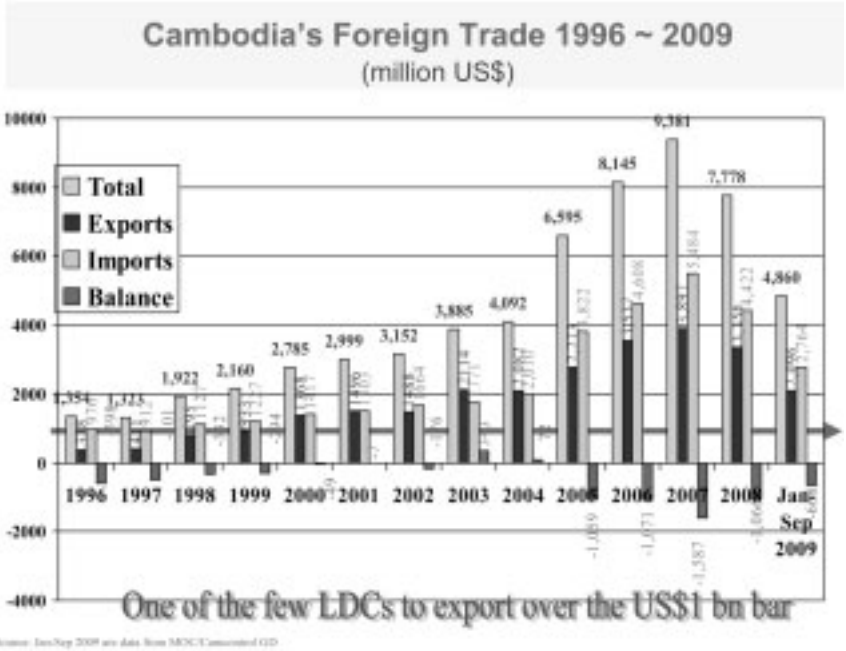
[The information follows:]

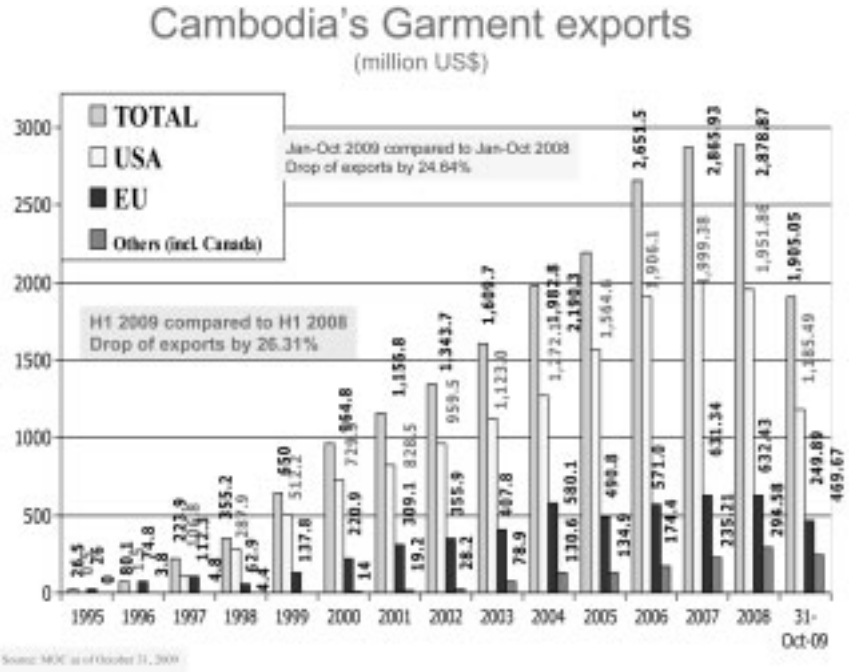
# *The impacts of a 2-tiered LDC US Policy*

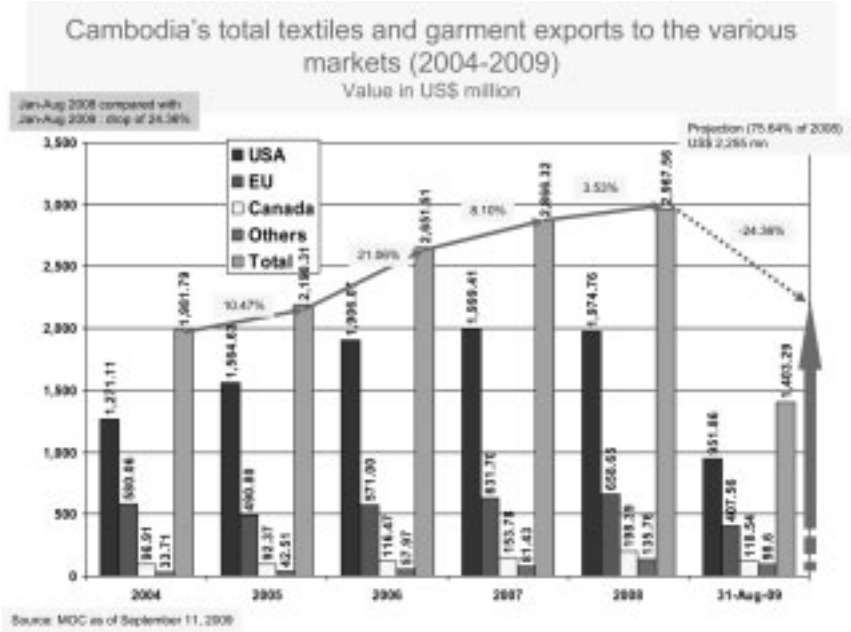
*How market access to the US has benefited Cambodia,*
*a Least Developed Country,*
*And the price this country has to pay for its garment/textiles exports to the USA*

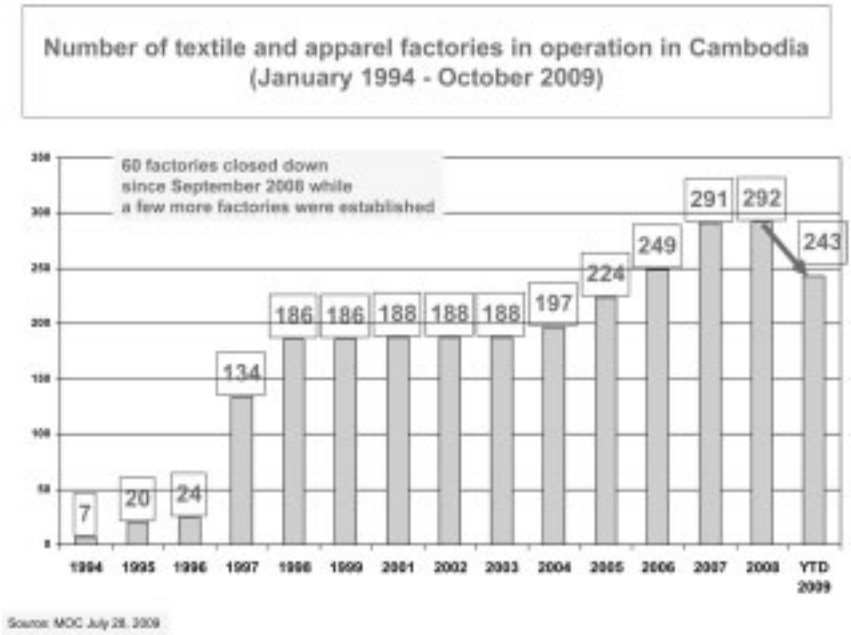
Annex to the Statement by
Senior Minister CHAM Prasidh,
Minister of Commerce of the Kingdom of Cambodia
At the Hearing on "U.S. Trade Preferences"
Before the Trade Sub-Committee,
Committee on Ways and Means, U.S. House of Representatives
Washington DC, November 17, 2009

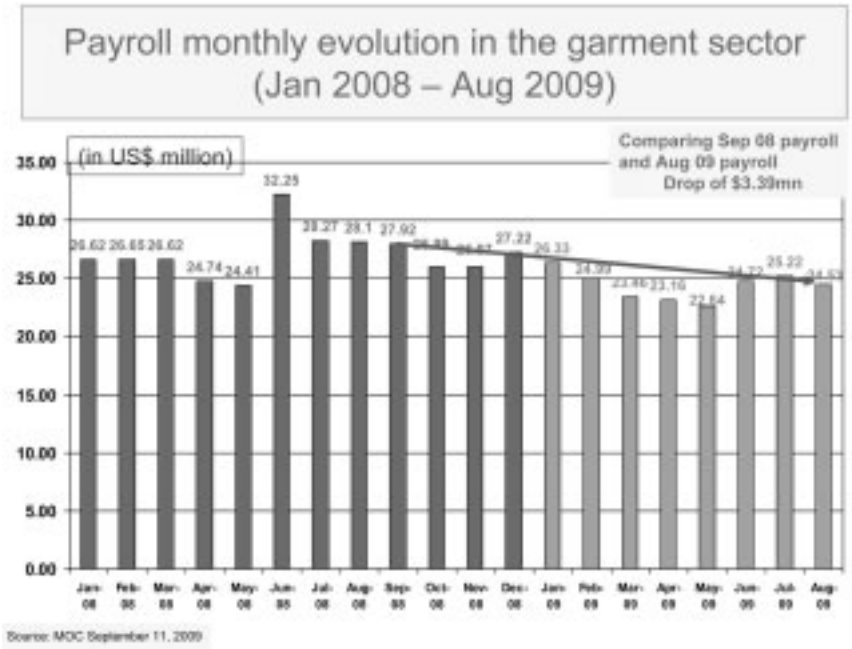


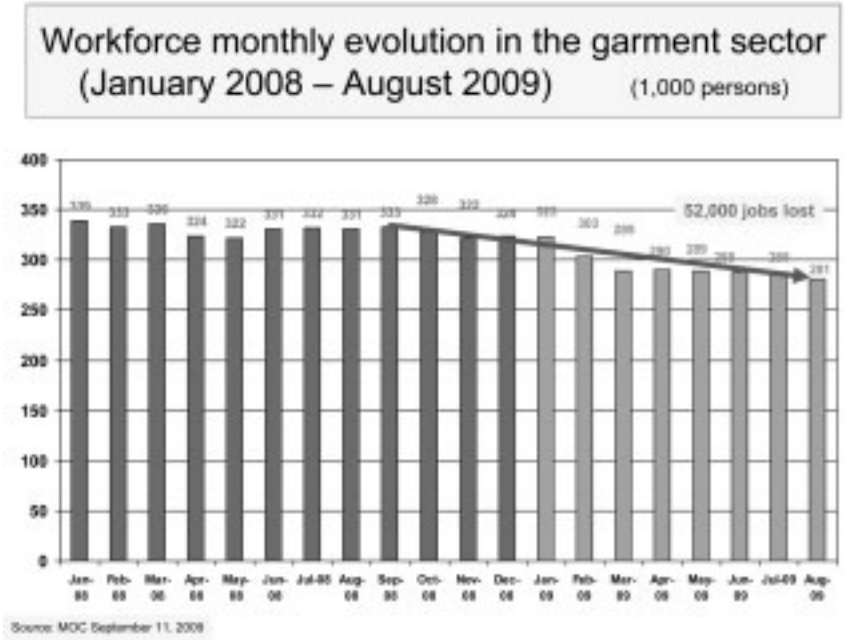

Cambodia's Foreign Trade 1996 ~ 2009
(million US$)
Total
Exports
Imports
Balance
10000
8000
6000
4000
2000
0
-2000
-4000
1,354
1,325
1,922
2,160
2,785
2,999
3,152
3,885
4,092
6,595
8,145
9,381
7,778
4,860
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
Jan-Sep 2009
One of the few LDCs to export over the US$1 bn bar


Cambodia's Garment exports
(million US$)
TOTAL
USA
EU
Others (incl. Canada)
Jan-Oct 2009 compared to Jan-Oct 2008
Drop of exports by 24.84%
H1 2009 compared to H1 2008
Drop of exports by 26.31%
3000
2500
2000
1500
1000
500
0
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
31-Oct-09


Cambodia's total textiles and garment exports to the various markets (2004-2009)
Value in US$ million
USA
EU
Canada
Others
Total
2004
2005
2006
2007
2008
31-Aug-09
Source: MOC as of September 11, 2009


Number of textile and apparel factories in operation in Cambodia (January 1994 - October 2009)
60 factories closed down since September 2008 while a few more factories were established
7
20
24
134
186
186
188
188
188
197
224
249
291
292
243
1994
1995
1996
1997
1998
1999
2001
2002
2003
2004
2005
2006
2007
2008
YTD 2009
Source: MOC July 28, 2009


Payroll monthly evolution in the garment sector
(Jan 2008 – Aug 2009)
(in US$ million)
Comparing Sep 08 payroll
and Aug 09 payroll
Drop of $3.39mn
35.00
30.00
25.00
20.00
15.00
10.00
5.00
0.00
26.62 26.65 26.62
24.74
24.41
32.25
28.27 28.1 27.92
27.22
26.33
23.10
22.64
25.22
Source: MOC September 11, 2009


Workforce monthly evolution in the garment sector
(January 2008 – August 2009)
(1,000 persons)
52,000 jobs lost
400
350
300
250
200
150
100
50
0
Source: MOC September 11, 2009

# The top 20 largest suppliers of garments to the US market 2004-2009

| 2004 | | | |
|---|---|---|---|
| Million $ | Country | % Share | Ranking |
| 66,756.75 | World | 100% | |
| 10,684.56 | China | 16.01% | 1 |
| 3,862.98 | Hong Kong | 5.79% | 2 |
| 2,743.22 | Honduras | 4.11% | 3 |
| 2,502.21 | Vietnam | 3.75% | 4 |
| 2,256.45 | India | 3.38% | 5 |
| 2,036.22 | Dominican Rep | 3.05% | 6 |
| 1,947.60 | Guatemala | 2.92% | 7 |
| 1,821.03 | Thailand | 2.73% | 8 |
| 1,806.51 | Korea | 2.71% | 9 |
| 1,770.00 | Philippines | 2.65% | 10 |
| 1,721.18 | El Salvador | 2.58% | 11 |
| 1,576.59 | Italy | 2.36% | 12 |
| 1,552.89 | Sri Lanka | 2.33% | 13 |
| 1,498.50 | Canada | 2.24% | 14 |
| 1,472.84 | Chinese Taipei | 2.21% | 15 |
| 1,423.81 | Macao | 2.13% | 16 |
| 1,416.59 | Cambodia | 2.12% | 17 |
| 1,167.74 | Turkey | 1.75% | 18 |
| 1,144.48 | Pakistan | 1.71% | 19 |
| 955.98 | Jordan | 1.43% | 20 |

| 2005 | | | |
|---|---|---|---|
| Million $ | Country | % Share | Ranking |
| 70,718.16 | World | 100% | |
| 16,773.84 | China | 23.72% | 1 |
| 3,507.88 | Hong Kong | 4.96% | 2 |
| 3,063.98 | India | 4.33% | 3 |
| 2,684.95 | Honduras | 3.80% | 4 |
| 2,663.47 | Vietnam | 3.77% | 5 |
| 1,830.88 | Thailand | 2.59% | 6 |
| 1,830.82 | Dominican Rep | 2.59% | 7 |
| 1,820.06 | Philippines | 2.57% | 8 |
| 1,816.39 | Guatemala | 2.57% | 9 |
| 1,702.91 | Cambodia | 2.41% | 10 |
| 1,650.09 | Sri Lanka | 2.33% | 11 |
| 1,618.88 | El Salvador | 2.29% | 12 |
| 1,514.99 | Italy | 2.14% | 13 |
| 1,279.55 | Canada | 1.81% | 14 |
| 1,274.42 | Pakistan | 1.80% | 15 |
| 1,195.30 | Macao | 1.69% | 16 |
| 1,173.85 | Korea | 1.66% | 17 |
| 1,085.87 | Chinese Taipei | 1.54% | 18 |
| 1,082.28 | Jordan | 1.53% | 19 |
| 942.82 | Turkey | 1.33% | 20 |

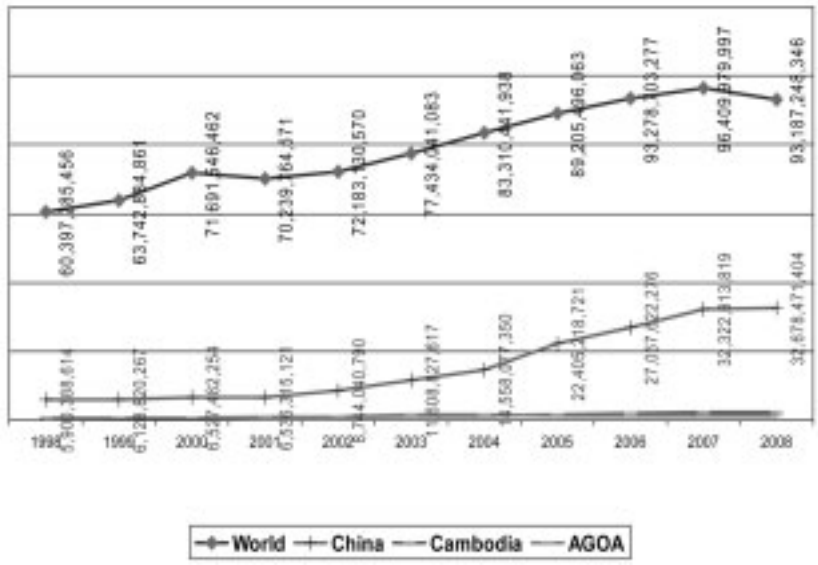
| 2006 | | | |
|---|---|---|---|
| Million $ | Country | % Share | Ranking |
| 73,313.47 | World | 100% | |
| 19,864.86 | China | 27.10% | 1 |
| 3,234.63 | India | 4.41% | 2 |
| 3,152.56 | Vietnam | 4.30% | 3 |
| 2,799.10 | Hong Kong | 3.82% | 4 |
| 2,517.47 | Honduras | 3.43% | 5 |
| 2,131.04 | Cambodia | 2.91% | 6 |
| 1,996.80 | Philippines | 2.72% | 7 |
| 1,856.56 | Thailand | 2.53% | 8 |
| 1,683.02 | Sri Lanka | 2.30% | 9 |
| 1,666.34 | Guatemala | 2.27% | 10 |
| 1,535.35 | Dominican Rep | 2.09% | 11 |
| 1,468.85 | Italy | 2.00% | 12 |
| 1,426.20 | Pakistan | 1.95% | 13 |
| 1,407.33 | El Salvador | 1.92% | 14 |
| 1,252.17 | Jordan | 1.71% | 15 |
| 1,173.17 | Canada | 1.60% | 16 |
| 1,160.37 | Macao | 1.58% | 17 |
| 965.94 | Chinese Taipei | 1.32% | 18 |
| 924.64 | Korea | 1.26% | 19 |
| 879.30 | Nicaragua | 1.20% | 20 |

| 2007 | | | |
|---|---|---|---|
| Million $ | Country | % Share | Ranking |
| 73,923.16 | World | 100% | |
| 22,745.40 | China | 30.77% | 1 |
| 4,523.39 | Mexico | 6.12% | 2 |
| 4,358.44 | Vietnam | 5.90% | 3 |
| 3,981.08 | Indonesia | 5.39% | 4 |
| 3,169.85 | India | 4.29% | 5 |
| 3,103.40 | Bangladesh | 4.20% | 6 |
| 2,510.89 | Honduras | 3.40% | 7 |
| 2,424.93 | Cambodia | 3.28% | 8 |
| 2,034.77 | Hong Kong | 2.75% | 9 |
| 1,766.31 | Thailand | 2.39% | 10 |
| 1,722.21 | Philippines | 2.33% | 11 |
| 1,573.04 | Sri Lanka | 2.13% | 12 |
| 1,498.59 | Pakistan | 2.03% | 13 |
| 1,486.21 | Salvador | 2.01% | 14 |
| 1,450.58 | Guatemala | 1.96% | 15 |
| 1,437.16 | Italy | 1.94% | 16 |
| 1,145.37 | Jordan | 1.55% | 17 |
| 1,056.51 | Dominican Rep | 1.43% | 18 |
| 1,027.74 | Macau | 1.39% | 19 |
| 967.80 | Nicaragua | 1.31% | 20 |

| 2008 | | | |
|---|---|---|---|
| Million $ | Country | % Share | Ranking |
| 22,694.36 | World | 100.00% | |
| 7,788.70 | China | 34.32% | 1 |
| 1,527.76 | Vietnam | 6.73% | 2 |
| 1,436.25 | Bangladesh | 6.33% | 3 |
| 1,331.11 | Honduras | 5.87% | 4 |
| 1,099.19 | Indonesia | 4.84% | 5 |
| 1,035.16 | Mexico | 4.56% | 6 |
| 888.64 | Cambodia | 3.92% | 7 |
| 882.75 | India | 3.89% | 8 |
| 835.96 | Salvador | 3.68% | 9 |
| 692.93 | Pakistan | 3.05% | 10 |
| 490.75 | Thailand | 2.16% | 11 |
| 386.52 | Philippines | 1.70% | 12 |
| 379.49 | Sri Lanka | 1.67% | 13 |
| 359.56 | Dominican R. | 1.58% | 14 |
| 341.12 | Guatemala | 1.50% | 15 |
| 330.39 | Nicaragua | 1.46% | 16 |
| 244.27 | Chinese Taipei | 1.08% | 17 |
| 227.89 | Jordan | 1.00% | 18 |
| 222.37 | Haiti | 0.98% | 19 |
| 215.11 | Egypt | 0.95% | 20 |

| January – June 2009 | | | |
|---|---|---|---|
| Million $ | Country | % Share | Ranking |
| 37,538.67 | World | 100.00% | |
| 13,369.40 | China | 35.61% | 1 |
| 2,481.40 | Vietnam | 6.61% | 2 |
| 2,428.85 | India | 6.47% | 3 |
| 2,026.32 | Indonesia | 5.40% | 4 |
| 1,978.52 | Mexico | 5.27% | 5 |
| 1,812.25 | Bangladesh | 4.83% | 6 |
| 1,311.10 | Pakistan | 3.49% | 7 |
| 962.73 | Honduras | 2.56% | 8 |
| 897.91 | Cambodia | 2.39% | 9 |
| 734.94 | Thailand | 1.96% | 10 |
| 640.58 | Canada | 1.71% | 11 |
| 636.75 | Sri Lanka | 1.70% | 12 |
| 623.91 | Italy | 1.66% | 13 |
| 621.58 | El Salvador | 1.66% | 14 |
| 544.11 | Philippines | 1.45% | 15 |
| 536.87 | Guatemala | 1.43% | 16 |
| 455.63 | Egypt | 1.21% | 17 |
| 408.80 | Nicaragua | 1.09% | 18 |
| 396.06 | Chinese Taipei | 1.05% | 19 |
| 362.06 | Jordan | 0.96% | 20 |

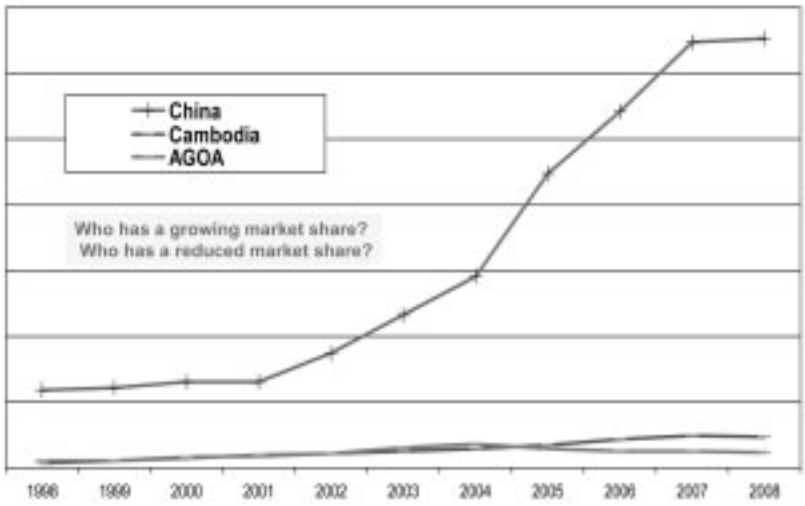
US Imports of Textiles & Apparel from the world (1998-2009)



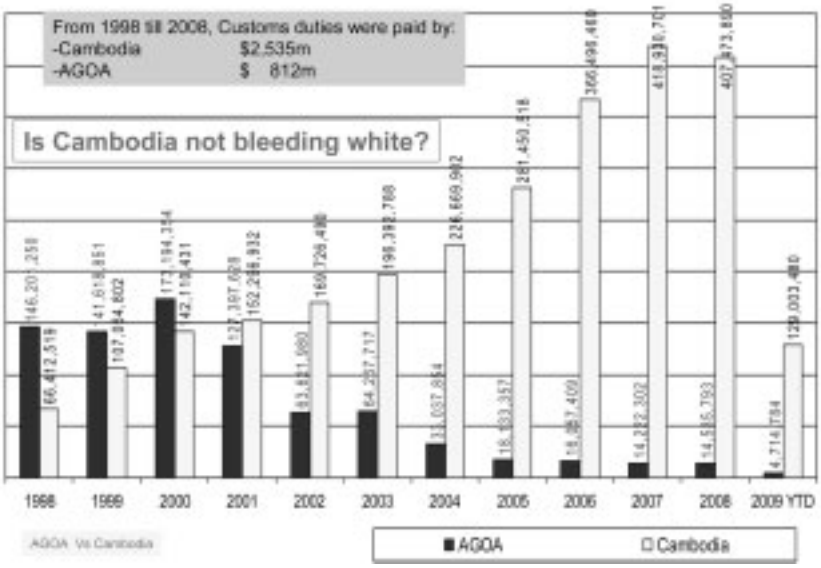

US Imports of Textiles & Apparel from Cambodia, AGOA and China (1998-2009)

Source: US Customs data

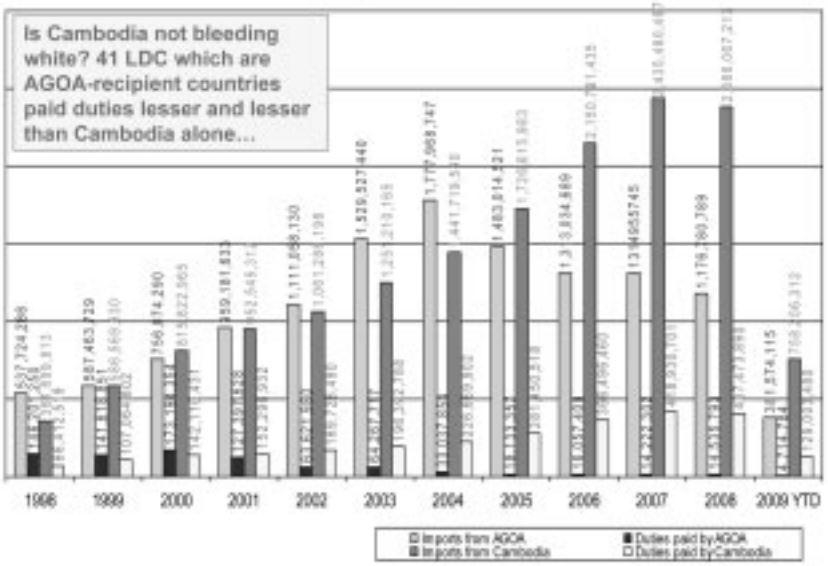
US Imports of Textiles & Apparel from Cambodia, AGOA and China (1998-2009)



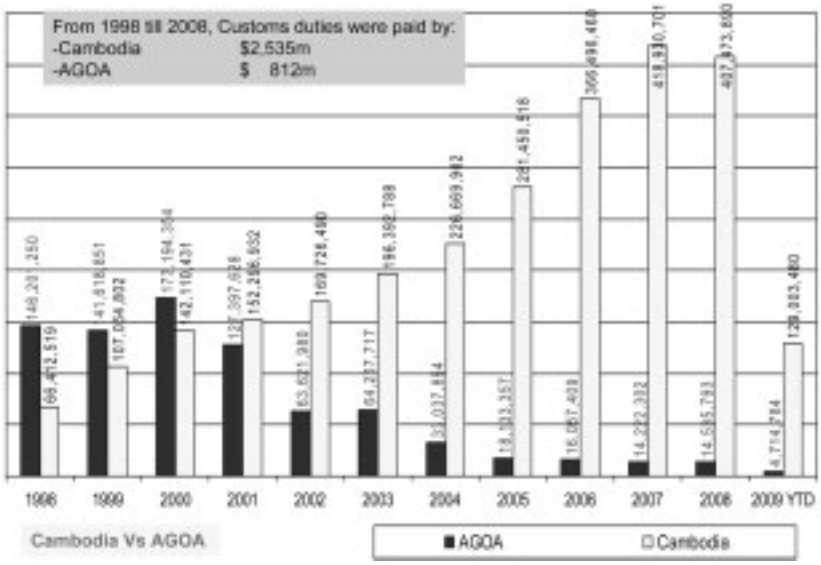

Duties paid for all commodities' import into the USA (1998-2009)



Duties paid for all commodities' import into the USA by Cambodia and AGOA (1998-2009)

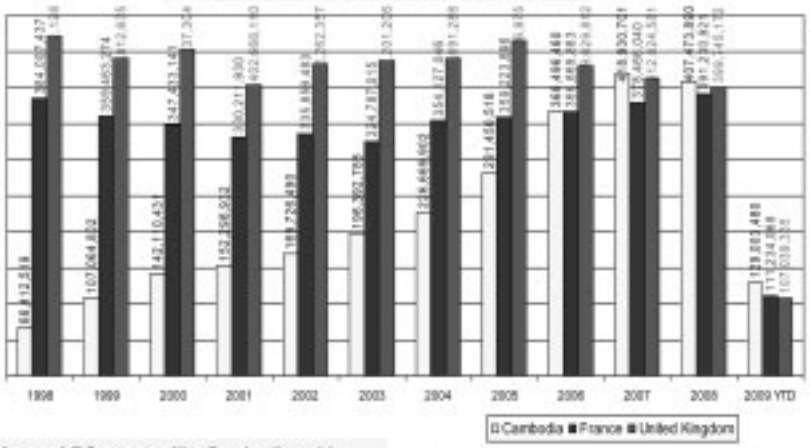



Duties paid for all commodities' import into the USA (1998-2009)



## Duties paid for all commodities' import into the USA (1998-2009)

Cambodia Vs France and United Kingdom




A poor LDC country like Cambodia paid each year to the US as Customs duties equivalent or higher than France or the United Kingdom....
Can we talk about fair trade? Is it an anomaly in the US Trade preferences?

From 1998 till 2008, Customs duties were paid by:

| | |
|---|---|
| -Cambodia | $2,535m |
| -France | $3,931m |
| -United Kingdom | $4,780m |

## What the will the US do with its GSP Scheme?

- It is all about competitiveness
- It is all about fairness
- It is all about strong political will to make a change
- The 41 Sub-Saharan LDCs enjoyed preferential market access to the US market on a DFQF basis under the AGOA while Asian (including Cambodia) and Pacific LDCs did not. Are they not as poor as the AGOA countries?
- What will be the Doha Development Agenda's ultimate results for LDCs? Make them poorer or better off? What are the Millennium Development Goals aiming at?
- Please give Cambodia a chance to export DFQF to the US market, build a stronger private sector, and get its people out of poverty..

Chairman LEVIN. Mr. Hastings, you're next.

**STATEMENT OF W. DAVID HASTINGS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, MOUNT VERNON MILLS, INC.**

Mr. HASTINGS. Chairman Levin and ranking member Brady, thank you for the opportunity to testify on trade preference reform. My name is David Hastings and I am the CEO of Mt. Vernon Mills and the vice chairman of the National Council of Textile organizations.

The overall U.S. textile sector employs over 600,000 workers and exports more than $12 billion a year. My company, Mt. Vernon Mills employs 2,657 textile workers and 17 facilities located in mostly rural areas of the Southeast. Our largest plant in Trion, Georgia, employs 1,142 workers and has been a mainstay in the Trion community since 1845.

Most of what we make at Trion is exported to the NAFTA and CAFTA regions and returns as garments to the United States. On November 7th, Mt. Vernon announced that we had several job openings at the Trion plant. People began lining up outside the plant at four a.m. to apply. By noon we had taken 270 applications from people looking for work. That is how difficult life is in the rural communities today.

I understand that the committee is considering a proposal to extend duty free status to apparel imports for Bangladesh and Cambodia, or to make other changes to the textile and apparel trade rules. 45 textile and apparel groups from 29 countries in Africa and the Western Hemisphere asked me to present a letter today stressing their strong opposition to such efforts. This list includes nine least developed countries, including Haiti. As this committee considers this proposal I appeal to you to keep in mind the workers at our Trion facility and at textile facilities across the country.

Their livelihoods literally rest in your hands. If this committee grants duty free status to large competitive countries, Mt. Vernon's Trion facility as well as many other textile mills across the country will be forced to close. And in the case of Trion, the U.S. military will lose one of the country's largest producers of combat fabric for our soldiers. The reason is simple economics. Bangladesh already pays its workers the lowest wages of any apparel producer in the world. The minimum wage for apparel workers in Bangladesh is 11 cents an hour.

On top of that, Bangladesh has a long history of worker abuse. Over the last six months tens of thousands of garment workers have rioted on multiple occasions with numerous deaths. I grew up in Greenwood, South Carolina, and my father and mother worked their entire careers at Greenwood Mills. Their hard work paid off to the point that I was able to become the CEO of Mt. Vernon Mills. That story of opportunity and promise has been replayed in some of the poorer sections of this country for many generations.

That story has also been replayed around the world. The United States has extended special access in textiles and apparel to 55 countries. Through these programs two-way trade worth nearly $30 billion has been created. Nearly two million workers have escaped from poverty; however, these gains are threatened by the proposals to extend new preferences to Bangladesh and Cambodia. With the

removal of quotas over the last five years, countries that have heavily subsidized their textile export sectors, practice currency manipulation, or pay only the very lowest of wages have seen importers flock to their shores.

Since 2004 China has gained $14 billion in new apparel exports. Exports for Bangladesh and Cambodia have increased by 63 percent, over $2 billion. Exports from Bangladesh and Cambodia have increased by 63 percent, over $2 billion. However, apparel imports from the CAFTA countries have fallen 32 percent while the AGOA countries are down another 40 percent. The U.S. textile industry, in turn, has lost over 150,000 jobs.

Mr. Chairman, I do not think our country believes we should do anything that could jeopardize any additional jobs at home. In particular, we should not be abandoning manufacturing jobs when economists and the president tell us we must produce more and export more to return to economic health. I also do not think we should abandon our preference partners in order to reward countries that barely pay their workers or engage in predatory and illegal subsidy schemes. Instead, I believe that we should be focused in our efforts on ensuring a prosperous future for United States workers as well as for the millions of workers in the preference and free trade areas.

As an immediate issue I urge the committee to move quickly to extend trade preferences that are expiring in the Andean region. Thank you, and I will be pleased to answer your questions.

[The prepared statement of Mr. Hastings follows:]

# Testimony on the Operation, Impact, and Future of the U.S. Preference Programs

by

David Hastings,
Chairman of the Mount Vernon Mills,
Vice Chairman of NCTO

on behalf of the

National Council of Textile Organizations (NCTO)

November 17, 2009

Chairman Levin and Ranking Member Brady, thank you for the opportunity to testify on this subject that is so important to the U.S. textile industry and our workers.

My name is David Hastings, I am the CEO of Mount Vernon Mills, one of the largest textile employers in the country and Vice Chairman of the National Council of Textile Organizations. The overall U.S. textile sector employs over 600,000 workers and exports more than $12 billion in product components a year. The U.S. textile industry is the third largest exporter of textile products in the world, 75% of which are exported to trading partners in the Western Hemisphere, specifically the CAFTA, NAFTA, and ANDEAN regions.

Mount Vernon Mills employs 2,657 textile workers in seventeen facilities, located primarily in rural areas of the southeast. Our largest textile facility is located in Trion Georgia, employs 1,142 workers and has been a mainstay in the Trion community since 1845. Most of the products that Mount Vernon makes are exported to the NAFTA, CAFTA and Andean regions under current preference and FTA programs.

Mister Chairman, it is no secret that our country is in the middle of a perilous time. One out of every ten manufacturing jobs has been lost since this Congress came to session in January. That is 1.2 million manufacturing workers, including 55,000 textile and apparel workers, who are now looking for work. Out of the 687,000 jobs delivered by the stimulus bill, a mere 2,200 have been in the manufacturing sector.

Eleven days ago on November 7th, Mount Vernon announced that there were several job openings at the Trion plant and people began lining up outside the plant at 4 am that morning just to apply. By noon, we had taken 270 applications from people looking for work. Similar reports have been publicized nationwide and the scenario that played out at our Trion plant just ten days ago is indicative of the weakness of the U.S. economy. Mister Chairman, our workers are hurting in this country, hardworking men and women have lost good paying jobs since the recession began in December 2007. I urge this committee to consider proposals that will stimulate job creation as opposed to creating jobs in other countries that could harm vital industries in the U.S.

On behalf of NCTO and the entire U.S. textile industry, I strongly urge the Subcommittee on Trade to keep in mind that our country and our manufacturing sector is hurting badly. As this subcommittee reviews different options regarding preference programs, I urge you to ensure that no action is taken that could potentially cause further job losses in the U.S. It is my understanding that the Committee is considering a proposal to extend duty free status to apparel imports from Bangladesh and Cambodia as a part of broad trade preference reform. Of the 55 countries in the current trade preference and free trade areas not a single country or NGO support granting any sort of preference to these two countries. In fact, not one country

has asked for broad trade preference reform for textiles. There are 42 textile and apparel associations from 28 countries in Africa and the Western Hemisphere, including Least Developed Countries such as Haiti, and they have requested that I present to the Committee a letter (attached) stressing strong opposition to any such effort. I ask that the letter be submitted to the hearing record.

As this Committee considers this proposal, I appeal to you to keep in mind the workers at our Trion facility and of textile facilities across the country. Their livelihoods literally rest in your hands. I would encourage you to watch a short CNN piece about the workers at our Trion facility, their commitments to the jobs and the generations of workers, often from the same family, that have been employed by this plant. If this Committee grants these large competitive countries duty-free status, Mount Vernon's Trion facility, and many others, will be forced to close. And, in the case of Trion, the U.S. military will lose one of the country's largest producers of combat fabric for our soldiers.

The U.S. military depends on the U.S. textile industry for more than 8,000 different products. These include not only uniforms but radar dampening tents that can hide tanks from overhead view, textile armor plating, uniforms, protective gear biological and chemical weapons, fire protection gear, parachutes, high tech mobile medical stations, and myriad other items. However the textile industry cannot provide these innovative products for our soldiers if programs like the Bangladesh-Cambodia proposal are put into place. If large sections of the industry are forced to shut down, the industry will be unable to provide the production scale that allows it to service the U.S. military, which accounts for ten percent of textile industry sales.

Most textile companies do not produce solely for the military, but rather as a component of their business. When U.S. textile companies are forced to close, the military is forced to rely on foreign companies to provide the items needed by the armed forces. As a nation, we become dependent on the good graces of other countries to clothe and protect our military. This is not merely an economic issue, but also a national security issue.

Economics 101 is at the heart of this very grim assessment. Bangladesh already pays its workers the lowest wages of any apparel producer in the world. The minimum wage for apparel workers in Bangladesh is 11 cents an hour. On top of that, Bangladesh has a long history of worker abuse. Over the last six months, tens of thousands of garment workers have taken to the streets and rioted on multiple occasions over wages and working conditions, and multiple deaths have resulted. This violence occurred in the midst of a 15 percent surge in overseas orders after some apparel producers announced they were cutting wages by as much

as 20 to 30 percent in order to stay "competitive[1]."

The labor violence is Bangladesh is not new. The AFL-CIO has become so alarmed by the treatment of workers in this region that it has established three monitoring offices in the country. Their most recent report was disheartening to say the least and concluded despite being under GSP petition for labor rights violations that worker abuse in the vast garment making areas has gone unchanged. The AFL-CIO concluded that the only thing which had changed was that the government's claims of having solved the problems had become even more absurd over time.

Three years ago, much of the Bangladesh apparel supply chain, which tops out at more than two million workers, was wracked by riots resulting again in many deaths. Entire cities were brought to a standstill. Worker complaints in 2006 are the same as they are today: extremely low wages, failure to pay wages, refusal to pay overtime and refusal to pay benefits. While no country has a perfect labor record, the problems in the Bangladesh garment sector are far larger and more acutely pervasive than any other apparel producer in the world with the exception of China.

In addition, most of Bangladesh's fabrics and textile and apparel components are sourced from China, a country that has an enormous state-run, subsidized textile and apparel sector. Since the global crisis began, China which has increased its textile export subsidies by 40 percent or ten billion dollars announced a new round of internal subsidy programs and effectively depreciated the Yuan by seven percent by pegging it to the declining U.S. dollar. This has caused China's textile and apparel exports to Bangladesh and other countries, including the United States to increase in a steadily declining market. The U.S. government has had no reaction and China is once again being rewarded for taking predatory steps to gain world market share at the expense of its trading partners and their workers. And this duty free concept for Bangladesh and Cambodia dramatically increases that reward.

The tough competitive environment forces U.S. importers and retailers to purse these opportunities. When Bangladesh is able to produce a pair of trousers using subsidized Chinese fabric for $5.76 each, and those trousers end up on the retail shelves selling for $30, the enormous and lucrative profit opportunities for U.S. sellers is obvious. In addition, U.S. retailers currently pay $1 billion a year in duties to the U.S. Treasury on apparel products brought in from Bangladesh and Cambodia. If these countries are awarded duty preferences, that one billion dollars in revenue will be transferred from the U.S. Treasury to those companies. This would create a powerful and unstoppable incentive to move additional sourcing to those

[1] The Financial Express, 6/29/09. http://www.thefinancialexpress-bd.com/2009/06/29/71417.html

countries from the preference and FTA areas.

Mister Chairman, I grew up in Greenwood South Carolina; my mother worked her entire career at the Greenwood Mills. Her hard work paid off to the point that I was able to become the CEO of Mount Vernon Mills. That story of opportunity and promise has been replayed in some of the poorest sections of this country for generations. U.S. mills and other manufacturers over the generations have provided security, stability and upward mobility to millions of U.S. workers.

That story has also been replayed around the world. The U.S. has extended special access in textiles and apparel to 55 countries. Through the AGOA, ANDEAN, CAFTA, NAFTA and Haiti programs, two-way trade worth nearly $30 billion dollars has been exchanged over the past three decades. Millions of workers have been lifted out of poverty because of these programs. However, these gains are threatened by the proposals to extend new preferences to Bangladesh and Cambodia.

With the recent removal of quotas, countries that heavily subsidize their textile export sectors, practice currency manipulation, pay only the very lowest wages and in many cases abuse their workers have seen importers flock to their shores. Since 2004, China has gained $14 billion in new apparel exports while Bangladesh and Cambodia have increased by an astonishing 63 percent; in dollars this translates into over $2 billion.

And this is only the beginning: Mr. Parvez, the president of Bangladesh Garments Manufacturers and Exporters Association (BGMEA), sees only sunny times ahead, regardless of whether preferences are granted. In 2008, he predicted[2] that Bangladesh's apparel exports would nearly triple over five years and that Bangladesh would increase its workforce by 1.4 million. We see some of this already playing out; granting duty free access will only exacerbate the problem.

The donor countries have been our preference and FTA partners. Over the last five years, apparel imports from the CAFTA countries have fallen 32 percent, the Andean countries are down 30 percent and the AGOA countries are down 40 percent. Bangladesh and Cambodia have primarily targeted the product areas that the preference and FTA countries export in.

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[2] "Bangladesh eyes $25 bln in textile exports by 2013", Reuters India, April 16, 2008, http://in.reuters.com/article/businessNews/idINindia-33072920080416

| Bangladesh and Cambodia Have Targeted the Top Preference Country Exports (2004-08) | | | | |
|---|---|---|---|---|
| Top Three Preference Country Exports | Preference and FTA countries | | Big Two: Bangladesh and Cambodia | |
| | Change | Percentage | Change | Percentage |
| 1. Knit Shirts (338/9) | -$1.1 billion | -18% | $803 mil. | 231% |
| 2. Cotton trousers (3347/8) | -$2.6 billion | -41% | $1.3 bil. | 198% |
| 3. MMF trousers (647/8) | -$402 mil. | -29% | 129 mil. | 90% |
| - Total Top Three Export Categories | -$4.1 bil. | -29% | $2.2 bil. | 194% |
| Source: USITC | | | | |

The U.S. textile industry, in turn, has lost more than 150,000 jobs. Trade associations and their member companies have heard from the companies that source in Africa and the Western Hemisphere and their response is almost unanimous: we will move our operations to Bangladesh and Cambodia if these countries are granted preferences. This word comes from some of the largest companies that source in the Western Hemisphere and Africa.

The combination of extraordinarily low wage rates, subsidized fabric from China and a transfer of one billion dollars in duties from the U.S. Treasury to retailers and importers will be impossible to ignore. Virtually every textile and apparel trade association reports the same thing: the sheer volume and capacity in those two countries is so large – they currently ship 1.9 billion garments a year to the U.S. – that granting preference to these two countries will decimate the textile and apparel sectors throughout the free trade and trade preference areas.

For instance, cotton trouser imports is the largest value line for many of the preference countries, if Bangladesh were to be granted duty free access in this line it would crush all competition (i.e. all preference country competition).

To give some sense of their size, Bangladesh and Cambodia today ship three times as much apparel as Honduras, the largest CAFTA exporter, six times as much apparel as the entire AGOA region, and thirteen times as much as Haiti into the U.S. market.

| Average Price of Men's Cotton Trousers Entering Duty Free | | |
|---|---|---|
| Country | Average Unit Price with Duty-Free Access | Bangladesh Price Advantage |
| **Bangladesh** | **$5.76** | - |
| Nicaragua | $6.79 | 18% |
| Haiti | $7.03 | 22% |
| Egypt | $7.10 | 23% |
| Kenya | $7.14 | 24% |
| Dominican Republic | $8.42 | 46% |
| Colombia | $9.58 | 66% |
| *Source: USITC, 6203.42.40.16, 2008. Bangladesh would receive a 16.6% duty benefit on these trousers if duties were removed.* | | |

The consequences of such a shift should be carefully considered: textile and apparel manufacturing in the CAFTA/Andean/ NAFTA region employs nearly 1.5 one million workers and the effect of throwing hundreds of thousands of those workers out of their jobs would further destabilize the region, during a time in which several anti-U.S. governments are emerging and

increasing their influence in the Western Hemisphere.

In Africa, the elimination of the textile and apparel sector in some of the poorest, most vulnerable countries on earth would be reversal of a decade of efforts to help Africa grow economically. AGOA, as an effective preference program, would be destroyed. And it means the elimination of large scale manufacturing on the continent and would condemn Africa to continue as an agricultural and raw material resource producer.

In the U.S., hundreds of thousands of textile workers would lose their jobs and plants across the rural Southeast would close. In Trion, GA, a textile complex that has provided over 1,100 workers with competitive wages and benefits would close and the unemployment rate, which hit 18 percent this year, will skyrocket.

In all these places, from Haiti to Lesotho to Lima to San Salvador to Trion, Georgia, there are NO jobs to replace these jobs.

Given the consequences, the subcommittee must carefully study and analyze its options. It must examine the impact not only on the U.S. textile manufacturing sector but on trade preference countries, FTA partners and other countries as well. In considering trade preference reform, the subcommittee needs to understand that broad changes to trade preference rules or the inclusion of large competitive countries alters the playing field for all exporters of textile and apparel. Therefore, the impact on FTA partners that are major exporters must be included and their voices must be heard during the Committee's deliberations.

Solutions:

1) With regard to trade preferences, Congress must pass an Andean trade preference extension immediately. The Andean trade preference act is about to expire, Congress has still not authorized an extension of this important program, and trade is already leaving the region. During these particularly difficult times, companies cannot operate under uncertainty regarding whether they are going to have to pay duties or not. The continuing delay means that companies are now turning to other countries, including China, because they do not know whether or not Congress will extend these benefits. We strongly urge the Committee to move immediately to extend these benefits and preserve this trade and the many American and Andean jobs that depend on it.

2) The biggest positive impact that the Committee could have on U.S. textile manufacturing, AGOA, the CAFTA/NAFTA/AGOA region and on Bangladesh and Cambodia would be to take action against China. China employs more than 60 subsidies to support its textile and apparel sector, manipulates its currency to gain an export advantage, and, according to the U.S. government, instituted a whole series of new, possibly illegal, textile subsides in August. In

addition, over the past year, China has increased its textile export subsidies by 40% or ten billion dollars in violation of its commitment to the G-20 not to engage in protectionist activity.

As a result of its government's intervention into its textile exports, China has disadvantaged every major textile and apparel exporting country in the world. Over the past five years, as quotas and safeguards have been removed, China has increased its share of the U.S. textile and apparel market from 17 percent to a new high of 45 percent in August. Its textile and apparel exports have increased by $17 billion.

This enormous surge has not been isolated to textiles and apparel. Chinese manufactured exports over the last five years to the U.S. have more than doubled as China continues and increases its predatory export policies. The cost to America's workers has been enormous – according the economic reports, millions of U.S. manufacturing jobs have been lost as a result and our country's economic sovereignty is now threatened as trillions of dollars of U.S. wealth have been transferred overseas. In my opinion, one of the most powerful steps that this Committee could take on behalf of our entire country and our countries future would be to begin to hold China accountable for its predatory policies.

3) A final solution is that the government should do more to support manufacturing. As jobs have been bleeding out of this sector, our nation has been losing the most productive, highly paid and value-added workers in our economy. This does not have to be. While other advanced economies such as Germany maintain a robust manufacturing sector (Germany's manufacturing sector accounts for 25 percent of its GDP, while the U.S. share has now fallen to 12 percent), our country's tax, investment and trade policies have encouraged the offshoring of millions of U.S. jobs. I urge the Committee to create new incentives to bring manufacturing jobs back to our country and restore our country's economic and fiscal health.

Conclusion:

What troubles me and so many in this country and in the preference countries is that this proposal rewards those very practices that we find abhorrent in our country. It rewards the lowest common denominator at any price, whether through illegal subsidies, currency manipulation or abusive labor practices. It sends a message to the trade preference countries and our FTA partners that playing by the rules does not work and the commitments that we have made over the decades to help them are null and void. It sends a message to U.S. manufacturers that the best thing to do is close your plants, fire your workforce and move overseas because the U.S. government is no longer committed to manufacturing in the U.S.

Mister Chairman and members of the Committee, I do not believe that a single U.S. citizen supports jeopardizing another U.S. job. In particular, we should not be abandoning manufacturing jobs when the President, Federal Reserve Chairman Ben Bernanke, former

Chairman Paul Volcker and scores of economist have said that the only way for the U.S. to begin to prosper is for our country to produce more and export more. This proposal is completely counter to that important message. Seventy five percent of U.S. textile exports go to the trade preference countries – over ten billion dollars year – and this proposal will be a death knell to much of that business.

I also do not think we should abandon our free trade and preference program partners in order to reward countries that barely pay their workers or engage in predatory and illegal subsidy schemes. Instead, I believe that we should be focusing our efforts on ensuring a prosperous future for the U.S. worker, as well as the millions of workers in the preference and free trade areas.

Thank you and I will be pleased to answer your questions.

November 16, 2009

The Honorable Charles Rangel
The Honorable Dave Camp
The Honorable Sander Levin
The Honorable Kevin Brady
Committee on Ways and Means
Subcommittee on Trade
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Dear Members of the Committee:

As 43 representative groups from 28 trade preference countries and free trade areas, we are writing to express our opposition to a proposal that has been made to extend new textile duty benefits to Bangladesh and Cambodia as part of your review of trade preference rules.

In our countries, the current trade preference and free trade rules have created jobs for nearly two million textile and apparel workers in our countries. As a result of the work the U.S. Congress has done over the last three decades, our workers have seen their lives lifted from poverty in some of poorest countries on earth. In turn, the extension of these duty free benefits in trade preference and free trade areas have created major industries that now provide crucial economic stability in many areas around the world that are important to the United States. These areas include Africa, the Central American and Caribbean countries (including Haiti), the Andean countries and the nations of the Middle East.

The trade programs that Congress has created produce two way trade with the United States in textiles and apparel that totals more than $30 billion a year. These programs were carefully deliberated by the Congress over many years. Any adjustments to the basic rules that govern these programs need to be carefully evaluated and studied. In particular, proposals that impact developing and vulnerable economies could produce catastrophic results, including large scale job losses and economic and political instability. That is why any proposed changes to these programs must be thoroughly studied and analyzed.

Last April, a group of importers, retailers and NGO's proposed new trade preferences for Bangladesh and Cambodia. Specifically they proposed that these two countries should receive duty free access to the U.S. market for textile and apparel products, including those product categories that our export industries depend upon. In a letter accompanying their proposal,

they noted that their proposal was the result of "several years of discussions and hard work" and that their proposal will "preserve the successes of current programs" and in particular cited a decline in imports from Sub-Saharan Africa as a reason to act.

We want to be clear that none of the trade preference countries or free trade partners endorsed this approach or asked that this group to represent them. Neither did any NGO or trade association from any of the 40 trade preference or free trade areas, including Sub-Saharan Africa. In fact, just the opposite is the case. This proposal has caused enormous concern in our countries because of the devastation it would cause to our textile and apparel sectors and our economies.

Since this proposal was made public, we have been told by many of the largest companies that source goods in Africa and the Western Hemisphere that they will move their sourcing to Bangladesh and Cambodia if this proposal becomes law.

The reason is simple economics. Bangladesh and Cambodia are already among the lowest priced producers in the world. Under the importer proposal, importers and retailers would get an immediate savings of nearly one billion dollars a year through the removal of duties and this number would only grow with every order transferred from the preference and FTA countries.

Over the last five years, Bangladesh and Cambodia countries have built up large and competitive apparel sectors by taking market share and business from trade preference and free trade areas. Since 2004, apparel imports from Bangladesh and Cambodia have increased by 63 percent, an enormous increase that totals $2.1 billion dollars. These two countries today export six times as much as the AGOA region combined and twelve times as much as Haiti. At the same time, China has more than doubled its apparel exports to the United States.

The donor countries for this growth have largely been the preference countries and FTAs whose exports have dropped by $7.3 billion, a decline of 38 percent, since 2004. We have already lost hundreds of thousands of irreplaceable textile and apparel jobs. In the top three categories that the preference countries export (cotton and man-made fiber trousers and knit shirts), Bangladesh and Cambodia have increased their exports by 194 percent while our exports have dropped 40 percent.

The Chairman of the Bangladesh Garment Workers Union predicted last year that Bangladesh, even without preferences, would nearly triple its worldwide apparel exports over the next five years and add 1.4 million jobs.

Given these startling statistics, we are convinced that extending new duty benefits to countries that already have large and growing apparel export sectors would threaten the livelihoods of more than a million of our textile and apparel workers. Trade statistics clearly demonstrate

that these countries are growing at the expense of regions that the Congress has clearly indicated deserve special assistance. Preferences programs are designed to help countries with struggling sectors become more competitive, not to boost those countries that already have large, growing and competitive sectors.

We strongly urge you to help us to preserve the nearly two million jobs that benefit so many of our workers by rejecting trade proposals that would further concentrate trade in a small handful of countries.

Sincerely,

AFRICA:

African Cotton and Textile Industries Federation (ACTIF)

- Botswana: Exporters Association of Botswana
- Egypt: Alexandria Cotton
- Ethiopia: Textile and Garment Manufacturing Association
- Kenya: Kenya Apparel Manufacturers and Exporters Association
- Kenya: Kenya Association of Manufacturers (KAM)
- Lesotho: Lesotho Textile and Clothing Industries (LTCI)
- Madagascar: Groupement des Enterprises franches et Partenaires (GEFP)
- Mozambique: Cotton Association in Mozambique (AAM)
- Malawi: Garment and Textile Manufacturers Association
- Mauritius: Export Processing Zone Association
- Namibia: Namibian Manufacturers Association (NMA)
- South Africa: South African Textile Federation
- South Africa: Cotton South Africa
- South Africa: Export Council for the Clothing Industry
- Sudan: Sudan Cotton Company
- Swaziland: Swaziland Cotton Board

- Tanzania: Tanzania Cotton Association
- Tanzania: Tanzania Cotton Board
- Uganda: Uganda Ginners and Exporters Association
- Uganda: Cotton Development Organization
- Uganda: Uganda Textiles and Garment Manufacturers Association
- Zambia: Zambia Textile Manufacturers Association
- Zimbabwe: National Cotton Council

The Whitaker Group

Africa Council on Trade

CENTRAL AMERICA and the CARRIBEAN REGION

Costa Rica: Camera Textile Costarricense

Dominican Republic: Associacion Domincia de Zonas Francas

El Salvador: Camara de las Industria Textil y de Confeccion de El Salvador

Guatemala: Comision de la Industria de Vestuario y Textiles (VESTEX)

Haiti: Association Des Industries D'Haiti (ADIH)

Honduras: Asociacion Hondureña de Maquiladores

ANDEAN REGION:

Colombia: Asociacion Colombiana de Productores Textiles (**ASCOLTEX**) (tent.)

Ecuador: Asociación de Industriales Textiles del Ecuador (AITE)

Peru: Comite Textil - S.N.I.

NAFTA REGION

Mexico: Ca|mara Nacional de la Industria Textil de Mexico (CANAINTEX)

UNITED STATES:

American Fiber Manufacturers Association (AFMA)

American Manufacturing Trade Action Coalition (AMTAC)

National Cotton Council (NCC)

National Council of Textile Organizations (NCTO)

National Textile Association (NTA)

Sewn Product and Equipment Suppliers of the Americas (SPESA)

United States Industrial Fabrics Institute (USIFI)

Workers United, a member of Service Employees International Union (SEIU)

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Chairman LEVIN. Thank you very much.

Mr. O'Brien.

**STATEMENT OF PAUL O'BRIEN, VICE PRESIDENT OF POLICY AND ADVOCACY, OXFAM AMERICA**

Mr. O'BRIEN. Thank you Chairman Levin, Representative Brady, Members of the Subcommittee.

I am Paul O'Brien. I am the vice president for policy and advocacy at Oxfam America. I want to say we're very grateful for these hearings and for the depth of the discussion.

We in particular agree with the recommendations of Representative McDermott and thank you very much for them this morning. Oxfam America: we have 14 affiliates around the world working in a hundred countries. We're an aid organization, but we don't think that the answer to global poverty problems is aid. We think trade is far more important. If you increased global trade by one percent it would be more than two and a half times the global aid budget. It's far more significant.

What we really need to see is bringing aid and trade together in a coherent global development strategy from the United States, which is always going to be the leader on this front, but could do far more to fulfill its potential. It doesn't make sense that we give Cambodia one dollar in aid for every seven dollars we charge them in trade. It doesn't make sense that we are charging Bangladesh $500 million in 2008 on $3.3 billion of exports, while at the same time we're charging less to the United Kingdom on over $50 billion of exports.

We have got to bring some greater coherence to our global development strategies. We are going to make three recommendations to you, which hopefully will be consistent with other things you've heard this morning. One, expand program and product coverage. Two, establish a single, unified program. Make it simpler. Make it more predictable. Three, bring our trade and aid policies together, particularly in trade capacity building under a global development strategy.

Let me say a few more words about each of those. We need to expand our program and product coverage. Why? Because we have still a billion people living in poverty, and a global financial crisis that put a hundred million more of them into poverty. LDCs make up less than one percent of global trade; and imports from LDCs in total are half a percent of U.S. non-oil imports to the United States. That's why we need duty free, quota free access for all LDCs.

On products, when we exclude the key exports that help these countries lift themselves out of poverty, we are undermining our global efforts at sustainable development. If we take textiles and apparel out of duty-free, quota-free access, and they are the key industries in places like Cambodia, as you heard from the minister, we are undermining our longer term development goals there. The same with peanuts, sugar and dairy products under the AGOA agreement.

Our second recommendation is to create a single, unified program with simpler rules and predictability. If we really want trade to drive sustainable growth overseas and we see sustainable growth as the key to long-term development, we have to think about the customers that we have on the ground. Instead of one unified program now, we have ad hoc solutions to specific problems, developed at different times for different reasons. We don't have a simple set of rules, and from the customer's perspective, it's just too confusing to work with.

Because our programs aren't as predictable as they could be, businesses, the people we want to make use of these, can't plan around them. They're not sure if they're going to be there in time. We need, in our legislation, to make a home for preferences in our trade policies. Until we get that legislation, and we believe this committee is going to be key to that, we need to make sure that the GSP and the Andean programs which are going to be coming up next month are renewed for a predictable period of time. We recommend five years at Oxfam.

Third, we need to link trade and aid. I spent the last couple of years working on U.S. aid policy. We are by far the global leader in aid. We spend one in every four dollars globally, but we are underperforming in terms of what we could do to help lift people out of poverty, and that's why we're a part of the modernizing foreign assistance network to try and make our aid more effective for global development. But we face many of the same challenges in the trade world.

There are 15 different agencies that are doing trade capacity building. That's just not an efficient use of resources. People are trying to coordinate. There are interagency discussions, but nobody is really in charge; and it isn't part of an overall global develop-

ment strategy. If we don't do this, we are not going to be able to help the countries that need the help most. It's a problem that 12 of the 38 countries in AGOA aren't using this program.

Why? Because they lack the physical and administrative infrastructure to avail of trade preference opportunities. So we urge this committee to work with the appropriations committee and the foreign affairs authorization committee to give us, the United States, a global development strategy that brings these things together. As I was listening to the minister from Cambodia I was struck by how stark this reality is. As he mentioned, their garment sector is in crisis. They've lost 63,000 jobs.

Many of those jobs are for women. Many of them come from rural areas. We estimate it's around 90 percent. The fear is that many of them are going to go into the sex industry. At the same time that that's happening, one-third of our aid dollars to Cambodia are going to protect HIV AIDS. So we can either address the symptom through our aid work, or we can get at the underlying cause by keeping those women in the jobs that we tried to help them with, with our preference programs.

Whatever we do, we should have a coherent plan. We shouldn't be creating one problem with one of our policies and trying to solve it with another one. We need to bring these together. Thank you for the opportunity to share these three sets of recommendations with you to expand program and product coverage, to make sure we have a simpler program with more predictability; and, ultimately, to bring our trade and aid policies together.

We look forward to working with you as we hope you try to address these problems going forward.

[The prepared statement of Mr. O'Brien follows:]

**Prepared Statement of Paul O'Brien, Vice President of Policy and Advocacy, Oxfam America**

Good morning Mr. Chairman, Representative Brady and Members of the Subcommittee. I am Paul O'Brien, Vice President of Policy and Advocacy for Oxfam America. Thank you for the opportunity to testify today on the important matter of trade preference programs and international development. Oxfam appreciates the subcommittee's initiative to take a comprehensive review of existing programs and to consider how they have been working and how they can be improved.

Oxfam America is an international development and humanitarian relief agency working for lasting solutions to poverty, hunger and social injustice. We are part of a confederation of 14 Oxfam organizations working together in nearly 100 countries around the globe.

Oxfam believes that trade can be an engine for development and poverty reduction as long as the rules of trade work to benefit poor people and developing countries. Well-functioning trade has the potential to lift millions of people out of poverty. To ensure that trade does work for development, U.S. trade policy should hold sustainable economic development as a core objective in order to help improve livelihoods and reduce poverty in developing countries. Likewise, U.S. trade and development policies should be harmonized so that they may bolster each other and build synergies rather than compete against one another. U.S. trade preference programs are an important part of our trade agenda that can help achieve these outcomes.

I would like to talk briefly about why trade preference programs are important, provide a few examples of the strengths and weaknesses of existing programs, and suggest how these programs can be improved to better foster development. Oxfam believes that U.S. preference programs should be improved by:

1. Expanding program coverage to benefit all the world's poorest countries, at a minimum those defined as least-developed countries (LDCs) by the United Nations (UN);

2. Establishing a single, unified program with simplified rules in order to facilitate greater utilization amongst countries and products; and
3. Linking preference programs with foreign assistance in order to help these countries to better take advantage of trade opportunities.

**I. Trade, preference programs, and development**

Poverty, hunger, disease and lack of economic opportunity in developing countries are a human tragedy that is now magnified by the global economic crisis. Even as the global economy begins to recover, developing countries continue to face increased hardships with mounting food insecurity and soaring unemployment. Improving U.S. preference programs to be more inclusive, accessible, reliable and easy to use can aid in their recovery and growth.

Globally, between 73 and 103 million more people will remain poor or fall into extreme poverty (defined as living on less than $1.25 per day) in 2009.[1] The majority of this hardship will be felt in East and South Asia, with between 56 and 80 million people likely to be affected. The crisis is estimated to push into poverty as many as 16 million more people in Africa and another 4 million in Latin America and the Caribbean this year.[2] The World Bank predicts that by the end of 2010, the crisis will push an additional 90 million people into extreme poverty,[3] and another 120 million will fall below the poverty line of $2 per day.[4]

At the same time, dramatic shortfalls in developing country financing are reported in core areas for development such as education, health, infrastructure, and social protection. Further, global export market demand for low-income countries has declined 5 to 10 percent in volume terms this year alone, and merchandise exports from these countries are anticipated to drop by 14.4 percent in 2009, compared with a 22.2 percent rise in 2008.[5] Total U.S. imports from LDCs have fallen by 45 percent, with non-oil imports falling 12 percent.[6] Private capital flows[7] and remittances[8] to developing countries are projected to continue to decline as well.

Yet LDCs like Cambodia and Nepal, which have already been hit very hard by the crisis, face the added burden of higher tariffs in the United States. They do not benefit from existing preference programs because most of the products they export are excluded. Consider the situation of Cambodia, for example. Over the last year, U.S. demand for clothing has dropped and Cambodia's exports to the United States have fallen 23.6 percent from January to mid June this year alone.[9] This has led to the loss of an estimated 70,000 garment factory jobs in the country,[10] primarily affecting women from poor rural areas, since the onset of the global financial crisis in 2008. Anecdotal evidence shows these job losses in the garment industry have heightened the precariousness of job security and wages in the industry and reduced internal remittances to poor families in rural areas, hindering Cambodia's poverty reduction efforts.[11]

Expanding U.S. market access for exports from the world's poorest countries, including Cambodia, Bangladesh and Nepal, can help mitigate the impacts of the global economic crisis, spur broad-based economic growth and make progress towards poverty reduction in urban and rural areas. For more than three decades, U.S. trade preference programs have been one important way that U.S. trade policy has helped to promote development through export expansion and product diversification. While some changes to programs have been made over the years, limitations remain that keep them underutilized, particularly by some of the poorest countries.

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[1] United Nations, World Economic Situation and Prospects 2009, Update as of mid-2009, January 2009.

[2] Ibid.

[3] World Bank. "Financial Crisis Facts and Figures," http://www.worldbank.org/financialcrisis/bankinitiatives.htm.

[4] Shaohua Chen and Martin Ravallion, "The Impact of the Global Financial Crisis on the World's Poorest," 30 April 2009, accessible at: http://www.voxeu.org/index.php?q=node/3520.

[5] "Protecting Progress: The Challenge Facing Low-Income Countries in the Global Recession," Background paper prepared by World Bank Group staff for the G–20 Leaders' Meeting, Pittsburgh, USA, September 24–25, 2009.

[6] USITC, 2009, accessible at: www.usitc.gov.

[7] Massimiliano Cali, Isabella Massa and Dirk Willem te Velde, "The Global Financial Crisis: Financial Flows to Developing Countries Set to Fall by One Quarter," Overseas Development Institute, November 2008.

[8] "Remittance Flows to Developing Countries to Decline by 7.3% in 2009, Predicts World Bank," Updated estimates released at July 13–14 International Diaspora and Development Conference, Press Release No. 2010/024/DEC, July 13, 2009.

[9] Xinhua News Service, June 16, 2009.

[10] Phnom Penh Post, "Recession Threatens Families," 8/26/09.

[11] Public Forum on the Impact of the Global Economic Downturn and Need for Policy Responses, Cambodia-Japan Cooperation Center, Phnom Penh, Cambodia, July 14, 2009.

**II. Strengths and weaknesses of existing preference programs**

A GAO review of U.S. trade preference programs in 2007–8 provided some important insights into the effectiveness of these programs. Oxfam's experience concurs with much of the GAO findings. I would like to highlight a few aspects we consider most important regarding the success of increased market access, but likewise the poor performance in the areas of utilization, accessibility, and assistance for trade capacity building.

*Market Access*

U.S. preference programs have provided increased market access for developing countries, which has stimulated economic growth in manufacturing and agriculture sectors and increased employment opportunities where there are few alternatives, particularly for women. U.S. imports under preference programs represent about 5 percent of total U.S. imports of goods. While our overall imports from developing countries have been steadily increasing in value, particularly since 2000, imports through preference programs have been expanding at a faster rate. In general, we can affirm that U.S. preference programs have been effective in expanding developing country exports.

*Utilization*

Missing their full potential, the benefits of U.S. preference programs to developing countries have been underutilized, especially among LDCs. The reasons are multifaceted, but essentially, programs do not cover the main products LDCs export and can be difficult to use. The rules are complex, difficult to comply with and can be subject to interpretation or change. Most trade preference programs are temporary and are granted ever shorter duration periods, requiring Congressional renewal frequently. In recent years, expiring trade preference programs have been extended for very short periods—two years or less. This creates uncertainty and undermines the ability of businesses and governments to plan and make investments.

Imports through preference programs are still concentrated disproportionately among middle-income countries, as existing programs have not accelerated exports from many LDCs, particularly in economic sectors that generate employment for people living in poverty. Of the 46 countries designated as LDCs, 34 barely used U.S. preferences in 2006. Ten countries account for 75 percent of all preference imports and over 50 percent of these are fuel imports concentrated in a few countries. In 2006, LDCs represented only 17 percent of imports under trade preferences, and of these, a large portion was concentrated in three oil-exporting countries: Angola, Chad, and Equatorial Guinea. It is a major shortcoming of existing trade preference programs that they exclude key exports from poor countries. Further, poor countries face supply-side constraints that programs cannot address unless a clear mechanism is established to provide trade capacity building support.

*Rules*

Complex and disparate rules within and across programs have generated significant challenges hindering some countries from utilizing preference programs. Rules of origin are often hard to understand and costly to administer; both exporters and importers often require technical expertise to use them correctly. In some cases the costs to both exporters and importers for meeting and administering the rules outweigh the benefits from the tariff preference. In addition, other rules can create obstacles. For example, artificial ceilings on product exports (competitive need limitations) could divert investment away from sectors that successfully generate employment through exports. While the intent of these rules may be to try to ensure a better distribution of benefits from preferences among countries, the increasing complexity of the rules is more of an obstacle than an advantage for poor countries.

*Program duration*

Currently, U.S. preference programs are subject to frequent renewals, under different terms for different programs. Instead of the 10-year or similar terms under which programs were originally established, the Generalized System of Preferences (GSP) and some regional programs are now extended for only one or two years or even less. Programs are generally renewed just days before they expire, or sometimes retroactively after expiry. The uncertainty created by such unstable and short-term program durations is a strong disincentive for developing country exporters as well as U.S. importers, who tend to plan their sourcing six months to a year in advance. Lack of certainty for investors and importers leads to job instability and hinders incentives for diversification in developing countries. Moreover, the unpredictability created by short-term and haphazard extensions discourages long-term investment and undermines the potential effectiveness of preference programs for sustainable development.

*Product coverage*

Many of the products poor countries export are ineligible or face restrictions from U.S. preference programs. Greater benefits are realized from preferences when there is broader product coverage. The most effective program would offer market access for the poorest countries that is 100 percent duty-free and quota-free (DFQF) with less restrictive rules of origin.

Most of the gains and growth in imports under preference programs are tied to regional programs precisely because there are fewer constraints on imports. In 2008, African countries under AGOA[12] represented 51.5 percent of U.S. preference imports, Andean countries under ATPA[13] 15.7 percent, and Caribbean basin countries under CBI[14] 2.7 percent and CBTPA[15] 1.5 percent, while GSP represented 28.5 percent of imports under preference programs. During the same year, AGOA and ATPA saw the strongest growth, while GSP saw the smallest growth at 4 percent. Overall, growth of imports under U.S. preference programs has accelerated since 2000, mostly due to the expansion of product coverage and easing of rules of origin associated with regional programs as well as the creation of special GSP benefits for LDCs. AGOA, which has less stringent rules of origin requirements and the greatest product coverage, has demonstrated the greatest success of all U.S. preference programs. These lessons should be carried forward as Congress reviews and improves U.S. preference programs in these and other areas.

However, many LDC exports remain excluded from preference programs. For 15 Asian LDCs, preferential market access is provided on only 83 percent of tariff lines, and continues to exclude key sectors like textiles and apparel and important agricultural products. These are crucial economic sectors for the economies of some Asian LDCs. Even though AGOA provides duty-free access on 98 percent of tariff lines for 26 African LDCs that meet the program's eligibility criteria, quotas remain on key agricultural products.[16] Sugar and dairy products, for example, face severe restrictions on exports to the United States due to the quota system. These are precisely the sectors which have the highest preference margins and are of the greatest export potential for many developing countries, particularly LDCs. Only 0.2 percent of U.S. imports from Cambodia and 0.6 percent from Bangladesh currently receive preferential market access. Excluding important manufacturing and agricultural products means that countries like Bangladesh and Cambodia, two of the leading LDC exporters to the United States, gain very little from preference programs.

*Trade Capacity Building*

Many poorer countries have inadequate physical and administrative infrastructure to take advantage of the trade opportunities offered by preference programs. Producers and businesses face a range of challenges in getting products to market, and often lack adequate information and capacity to meet product standards. Moreover, many developing countries still lack the capacity to diversify their economies and to become more stable and resilient, particularly in the wake of economic crises.

More is needed to help poor countries use preference programs to benefit from trade and further their development. Trade capacity-building assistance can help overcome these constraints, providing economic aid that enables countries to more effectively take advantage of preference programs and boost overall capacity to engage in trade. However, AGOA is the only existing preference program to provide a link to capacity-building efforts, albeit absent of any funding.

In order for preference programs to promote long-term economic development that helps to broadly distribute the benefits of trade and reduce poverty, it is critical that they be linked with aid and capacity-building programs. Binding trade capacity building assistance to preference programs will enable developing country producers and businesses to take advantage of trade opportunities and will also help countries meet program eligibility criteria. In this vein, it is particularly important that aid benefit small-scale producers, especially women and other vulnerable groups, who often lack the information and tools necessary to access markets.

Currently, over 15 U.S. government agencies are engaged in providing some form of trade capacity building assistance, with little effective coordination among them or with trade preference programs. Trade capacity building funds should be closely coordinated, particularly with our foreign aid programs, and should be designed to

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[12] African Growth and Opportunity Act.
[13] Andean Trade Preference Act.
[14] Caribbean Basin Initiative.
[15] Caribbean Basin Trade Partnership Act.
[16] Elliot, Kimberly, "Global Trade Preference Reform: Background Paper for Working Group Discussion Paper," Center for Global Development, April 2009.

meet development needs as determined by recipient countries' national development strategies.

**III. Coherence between trade and aid policies to support sustainable development**

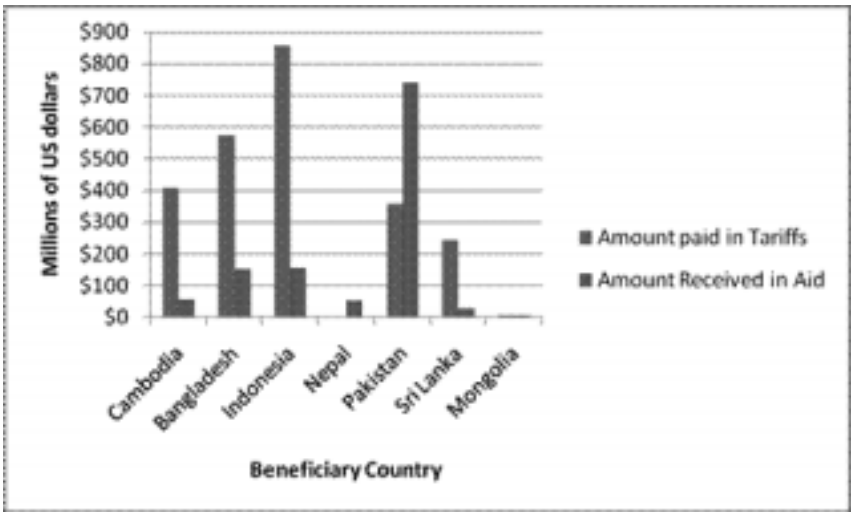
Stepping back from the intricacies of the preference programs, we must recognize that their weaknesses reflect underlying inconsistencies in U.S. trade and development policies. These programs are meant to facilitate access to the U.S. market for developing countries. Yet, some of the world's poorest countries pay the highest tariffs on their exports to the United States. We must, therefore, align our trade and development policies to build synergies and catalysts for economic growth and sustainable development, rather than unintentionally thwarting progress.

The average tariff rate on imports into the United States is 1.7 percent. In comparison, Cambodia, a country which ranks 137 on the Human Development Index, faces an average tariff of almost 17 percent on its exports to the United States. Similarly, Bangladesh must pay an average rate of more than 15 percent and Pakistan nearly 10 percent. Meanwhile, France, the UK, and Saudi Arabia pay average tariffs of less than one percent. Thus, in absolute terms, Cambodian and Bangladeshi exporters pay the United States much more in tariffs than do France or the UK. In fact, Bangladeshi exporters pay more than twice as much in tariffs to the United States than the UK, even though the value of Bangladeshi exports is only one-tenth the value of UK exports.

Something is wrong when the poorest countries are paying more than the richest countries to do business with the United States.

This reality is made more perverse when considering the investments we make through U.S. foreign aid programs. The incoherence of our aid and trade policies is underlined by the fact that we collect more in tariffs than we provide in aid to some developing countries. Nearly all the tariff revenue we collect from LDCs comes from only two countries—Cambodia and Bangladesh—which in 2008 accounted for about 40 percent and 58 percent, respectively, of U.S. tariffs collected from LDCs. Similarly for these LDCs and other poor countries, the tariffs paid for exports were many times more than they received in aid. Cambodian exporters paid $407 million in tariffs to the U.S. and received $58 million in aid, while Bangladeshi exporters paid $573 million in tariffs and received $151 million in aid. Sri Lanka paints an identical picture: $238 million in tariffs and just $28 million in aid. Indonesian exporters pay the U.S. more than five times as much in tariffs ($856 million) than the country receives in foreign assistance ($187 million).

Figure 1: Tariff Revenues vs. Foreign Assistance, 2008




Source: USITC and CBJ Foreign Operations 2010

This is not an effective development strategy. We could do much more to enable economic growth in these countries by eliminating these tariffs and encouraging

greater investment through improved trade preference programs. Moreover, freeing up these dollars would enable these countries greater flexibility in investing in underfunded sectors such as agricultural development, health and education. In order to be most effective in combating global poverty—which is in our economic and national security interest—more needs to be done to ensure full policy coherence and make sure all elements of our national and international policies and goals work together effectively.

**IV. U.S. preference programs should be expanded and improved**

Existing trade preference programs demonstrate a clear benefit to those countries that are able to take advantage of these market opportunities. However, not all developing countries are able. In order to assure that developing countries—LDCs, in particular—can utilize these programs to the fullest extent, U.S. trade preference programs must be expanded and improved. Oxfam recommends that Congress adopt the following measures:

1. Provide 100 percent duty-free and quota-free market access for all products from all the world's poorest countries—at minimum all LDCs as defined by the UN;
2. Create a single, comprehensive and permanent preference program with simplified rules to encompass existing programs and enhance their effectiveness; and
3. Effectively link aid with preference programs to improve the capacity of poor countries to take advantage of the opportunities offered through U.S. preference programs.

Until new legislation to improve preference programs can take effect, it is critical that Congress act immediately to renew expiring trade preference programs. Both the GSP and ATPA are set to expire in just over a month. Already, developing country exporters and U.S. importers have had their business planning interrupted because they do not know whether the preferences will continue or whether the rules will change. Oxfam urges quick passage of a minimum five-year extension of both of these important programs. These and other existing trade preference programs should not again be allowed to expire, and future last-minute extensions should be avoided.

*Provide 100 percent DFQF market access for all poor countries*

Oxfam recommends that U.S. preference programs expand their coverage to provide duty-free and quota-free (DFQF) market access for all products from all poor countries, which at a minimum should include all LDCs as defined by the UN. These countries currently account for less than one percent of world exports, excluding energy, and a mere 0.5 percent of U.S. non-oil imports.

The bi-partisan HELP Commission report released two years ago on improving the effectiveness of U.S. foreign assistance recommended that the United States provide DFQF market access to poor countries, which they defined as those with less than $2,000 GDP per capita as well as those eligible for a Millennium Challenge Corporation compact or threshold program. The Millennium Development Goals, agreed upon by the United States and other developed countries, call for DFQF market access to developed country markets for all LDCs. In addition, together with other developed countries, the United States has already made a similar commitment at the World Trade Organization in the context of the Doha Development Round.

*Create a single, permanent preference program with simplified rules*

Oxfam believes that the aims of the various U.S. trade preference programs could be better achieved if they were replaced with a single, comprehensive trade preference program. Such a program would increase opportunities for all developing countries to benefit as much as possible from global trade while, at the same time, creating certainty for exporters, importers and investors.

To this end, Oxfam recommends that this Committee consider the establishment of a new, unified trade preference program that encompasses and enhances existing programs. In addition to expanding product coverage to provide 100 percent DFQF for all LDCs and ensuring adequate trade capacity building assistance, this new program would simplify rules and establish greater certainty for investors.

*Simplicity:* Harmonization and simplification of the rules will make programs easier to use for developing country producers and exporters, as well as sourcing companies and U.S. importers. There should be one, simple rule of origin common to all products. Complex rules of origin that differ across programs have made programs difficult to use because the rules may be hard to satisfy, subject to differing interpretations, make it costly to demonstrate compliance, and create unnecessary

complexity for sourcing companies to develop supply chains and consistent business relationships.

There should also be a common set of eligibility criteria and procedures for administering, reviewing and suspending or terminating country and product eligibility. These procedures must be fully transparent, predictable, and enforceable and include an effective mechanism for public comment. Oxfam also supports strengthening labor eligibility criteria and including environmental criteria in a comprehensive preference program as a means of promoting sustainable development and ensuring broad distribution of the benefits of trade. To this end, it is very important that a new preference program ensure the provision of the necessary technical assistance and aid that countries may need to help them to meet established criteria.

*Predictability:* Only long-term trade preference programs with timely renewal well in advance of their expiration dates will serve the aim of promoting economic growth and poverty reduction in developing countries. The same predictability helps U.S. businesses be more competitive and lower prices for U.S. consumers. For this reason, Oxfam believes that trade preference programs should be made permanent, with countries graduating from eligibility when they reach a sufficient level of economic development.

Making U.S. trade preference programs permanent would eliminate the "whipsaw" effect of expirations, short extensions, and uncertainty that undermines economic growth in developing countries as well as U.S. businesses who rely on imports. Short-term programs and last-minute renewals undermine the primary purpose of trade preferences and make them far less useful to their intended beneficiaries.

*Link aid with preference programs to help countries take advantage of trade opportunities*

Oxfam recommends that Congress act to ensure that trade capacity building assistance is provided together with preference programs, by statute, in order to help poorer countries to better utilize trade opportunities. A mechanism is needed to provide necessary funds and ensure effective coordination of trade capacity building assistance across U.S. government agencies as well as with other aid efforts.

Assistance for trade capacity building can include enhancing worker skills, providing tools and training to meet product standards, modernizing customs systems, building roads and ports and other infrastructure needs, improving agricultural productivity and promoting export diversification. It should particularly address the needs of small-scale producers and women. Assistance should also be provided to help countries meet labor and environmental eligibility criteria.

This trade capacity building assistance should be recipient-driven, additional to existing development aid, free of economic conditions and adequate to address identified needs. It should also be reliably delivered once committed and provided in a manner that is transparent, well-coordinated, and consistent with recipient countries' development strategies.

**Conclusion**

Trade can be an engine for development when the rules of trade are fair and strive to help poor countries take advantage of the opportunities created by access to the U.S. market. Oxfam firmly believes that U.S. trade preference programs emulate the relationship between trade and development, but must be expanded and improved in order to realize their full potential.

Oxfam urges this Committee to make it a priority to pass legislation in the 111th Congress to expand and enhance U.S. trade preference programs. We recommend that Congress take a new direction in using trade preference programs to spur development and poverty reduction in poor countries by:

1. Providing 100 percent duty-free and quota-free market access for all products from all the world's poorest countries;
2. Create a single, comprehensive and permanent preference program with simplified rules to encompass existing programs and enhance their effectiveness; and
3. Establishing an effective mechanism with binding commitments to provide aid and technical assistance to beneficiary countries, particularly LDCs, to enhance their ability to take advantage of trade opportunities and to meet program eligibility criteria.

Until new, comprehensive legislation to improve preference programs can take effect, Oxfam urges this Committee to work for timely and longer-term renewals of all existing trade preference programs in order to ensure that benefits are not interrupted. This would send a clear message to developing countries of the U.S. commit-

ment to a trade policy that promotes sustainable development and poverty reduction.

Thank you.

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Chairman LEVIN. Well, thank you very much. Thank you.

Ambassador, you have been patient, so let's see how modern technology works. We are all ears.

**STATEMENT OF THE HONORABLE F. TOMÁS DUEÑAS, FORMER AMBASSADOR OF COSTA RICA TO THE UNITED STATES; CHIEF EXECUTIVE OFFICER, ESCO INTERAMERICA**

Mr. DUEÑAS. Good afternoon, Chairman Levin, ranking member Rangel, and distinguished members of the panel and the subcommittee. Thank you very much for bearing with me for Costa Rica in which that I was there personally.

I think it is a great honor to be here before you. For all countries in the path of development, there is no other option but to deepen our integration with the global economy. Increased trade provides options and opportunities for the people, allows countries to modernize and learn new practices and improve their competitiveness.

Today, I will talk about Costa Rica's experience as beneficiary of trade preferences granted by the United States through unilateral trade programs and later on, and I will say quite successfully, in its more stable relationship through a bilateral trade agreement. Since the 1980s Costa Rica and the rest of Central America and the Caribbean had the opportunity to increase trade with the United States. Thanks to the bipartisan policy of the Caribbean Basin Initiative (CBI) and its subsequent expansions, the trade preferences granted by the CBI were major incentives to attract investors from the United States and other countries to our region and created a substantial flow of investment and trade growth to the basin.

In the implementation of the initiative, it was clear that in order to enjoy preferential trade access to the United States market countries needed to put in place the necessary legal framework to create an environment of predictability and respect of the rule of law. In addition to foster investment and development it was essential to have the necessary infrastructure, education and healthcare, as well as the adequate security conditions.

In that sense it was clear that non-reciprocal benefits were a great opportunity for developing countries like ours to partially solve the lack of investment and jumpstart the creation of sources of employment and economic activity. However, they were not enough to promote sustainable developments in the long run.

Costa Rica was able to take advantage of the preferences promoting trade diversification, moving from exporting a few commodities to creating a diversified wide base of agricultural products, attracting a more sophisticated manufacturing, and finally inserting services with more added values. Across the line the region as a whole benefitted of the preferences, increasing its exports to the United States. Thanks to that Central America showed rapid growth, macro economic stability and a certain level of social prosperity.

CBI showed good results, partly because its simplicity, its predictability and its coverage. The system under which products entered the U.S. was simple and easy to administer and the benefits were granted across the board to a good range of products. CBI was expanded in the Caribbean Basin Trade and Partnership Act (CBTPA) with the caveat that it required periodical reauthorization by Congress.

Unilateral trade preferences were a great opportunity, but clearly were not enough to lead countries towards freer trade and more sustainable economic growth. The region was prepared to move towards a more mature and permanent relationship with the United States; and, as a matter of fact, one of the most significant aspects of the CBTPA is that the U.S. Congress specifically defined it as a previous step to a Free Trade Agreement with the region.

Because the U.S. and the region's economies complement each other and because the CBTPA is a unilateral, temporary and discretional, preferential scheme, a free trade agreement, based on reciprocity, was seen as a natural and positive step for the CBI countries, be it bilateral or as part of the FTAA negotiations. As the FTAA negotiations stalled, and other countries around the world and in the Hemisphere were negotiating numerous bilateral trade agreements, the U.S. decided to embark in bilateral negotiations with Central America and Dominican Republic.

The main goal of the United States through CAFTA was to expand opportunities for U.S. trade and investment, while promoting economic development and democratic governance.

May I remind you that over 50 percent of our region's exports go to the United States. More than 50 percent of our region's imports come from the United States. An average of 63 percent of total foreign directed investment is of the United States.

Central American countries realized that negotiating with the United States was both necessary and convenient. First, the U.S. is the most important trading partner for the region and one of the most significant investors in the area, and trade is very important for those countries for which integration into the world economy is the only means towards growth and development. Second, though CBI had been quite beneficial, the region was looking for a reciprocal, stable relationship based on a scheme of rights and obligations rather than on unilateral concessions.

In the outset of the negotiations the U.S. recognized the importance of trade capacity building (TCB) to assist Central American countries in an adequate transition to free trade, implementation of the agreement and adjustment to liberalized trade. Therefore, for the first time an FTA included a section on trade capacity building.

CAFTA is also the first trade agreement entered into by the United States, which contains explicit provisions on cooperation through capacity building to improve labor conditions.

Our countries also agreed to develop concrete and ambitious projects to promote environmental protection.

CAFTA is certainly far more than a trade accord, and it was conceived as the foundation of a more stable, mature relationship between the United States and these important neighbors to the South.

In my opinion, it is vital for the success of hemispheric relations that the United States will once more forge a new bipartisan alliance to support a productive engagement with the countries of the Western Hemisphere.

The best medicine against extremisms and populism in the region is to show that those countries that follow the path of open markets, good governance and economic freedom are the ones that are growing and developing. These free trade agreements are a great step in that direction, whereas preferences are only a small step.

Today, despite the adverse economic climate that we are confronting now, I am pleased to share with you some good results of the agreement in terms of growth and investment:

CAFTA–DR has helped the region weather the recent economic crisis. While the region's exports to the United States have declined in 2009, they have declined by much less than the overall decrease in U.S. imports from the world.

In 2006 Central America experienced its highest economic growth rate since 1993. Overall trade in goods between the United States and the CAFTA–DR countries grew from $35.0 billion in 2005 to $44.7 in 2008, an increase of 28 percent.

From 2006 to 2007 foreign direct investment flows into the region increased considerably. El Salvador saw the largest increase in FDI (597 percent) of any country in Latin America. FDI inflows into Guatemala increased by 51 percent, Honduras by 21 percent, and Nicaragua by 19 percent. In each case these are larger increases in foreign direct investment than in the four to five years pre-CAFTA.

Intra regional trade among the CAFTA–DR countries has increased significantly with trade among the Central American countries expanding by approximately 18 percent in 2008.

In conclusion, sirs, despite the benefits created by the preference programs, it is necessary to have tools created by free trade agreements that allow us to further promote trade facilitation, continue with the removal of remaining barriers, and promote and attract more investment to our countries and our hemisphere. It is vital to keep the funding for trade capacity building, especially on the labor and environmental fronts. I thank you very much, once more.

[The prepared statement of Mr. Dueñas follows:]

**Prepared Statement of The Honorable F. Tomás Dueñas,**
**Former Ambassador of Costa Rica to the United States;**
**Chief Executive Officer, ESCO InterAmerica**

For all countries in the path of development there is no other option but to deepen our integration with the global economy. In times of globalization the dilemma that developing nations face is as harsh as it is simple: if we cannot export more and more goods, we will wind up exporting more and more people as they seek new opportunities elsewhere. Only if we open ourselves to the world we will be able to create enough jobs, and jobs of high enough quality, for our youth.

Increased trade provides jobs and opportunities for the people, allows countries to modernize and learn new practices and improve their competitiveness.

Today, I will talk about Costa Rica's experience as beneficiary of trade preferences granted by the United States through unilateral trade programs and later on, in its more stable relationship through a bilateral trade agreement.

Since the 1980s, Costa Rica and the rest of Central America and the Caribbean had the opportunity to increase trade with the United States thanks to the bipartisan policy of the Caribbean Basin Initiative (CBI) and its subsequent expansions.

Through this scheme the region was able to provide more jobs and opportunities to our people, and foster economic diversification, growth and development.

The trade preferences granted by the CBI were major incentives to attract investors from the United States and other countries to our region, and created a substantial flow of investment and trade growth to the basin.

In my opinion, we can correlate the benefits of a more vigorous trade between Central American and the United States with the consolidation of peace and democracy in the region at the beginning of the 1990s after several decades of political upheaval and civil unrest. People dislocated by war or violence were able to find decent jobs and slowly incorporate into civil life.

Some countries extracted more benefits than others from this program. **In the implementation of the initiative, it was clear that in order to enjoy preferential trade access to the United States market countries needed to put in place the necessary legal framework to create an environment of predictability and respect of the rule of law.**

In addition, to foster investment and development, it was essential to have the necessary infrastructure, education and health care as well as the adequate security conditions.

In that sense, it was clear that non-reciprocal benefits were a great opportunity for developing countries like ours to partially solve the lack of investment and jumpstart the creation of sources of employment and economic activity. **However, they were not enough to promote sustainable development in the long run.**

Costa Rica was able to take advantage of the preferences, promoting trade diversification, moving from exporting a few commodities to creating a diversified wide base of agricultural products, attracting a more sophisticated manufacturing and finally inserting services with more added values.

At the same time Costa Rica continued investing in education and health care and improving its legal and tax frameworks for investors to operate in our country. These policies derived good results, putting the country as one of the leading per capita exporters in the region.

Other countries, like the Dominican Republic, showed impressive results, thanks in great part to creating the right investment climate for certain types of investments, especially in the textile and apparel sector.

Across the line the region as a whole benefited of the preferences, increasing its exports to the United States. Thanks to that Central America showed rapid growth, macro economic stability and certain level of social prosperity.

CBI showed good results partly because of its simplicity, its predictability and its coverage. About 80% of Central American products enjoyed duty-free access in the United States. The system under which they entered the U.S. was simple and easy to administer and the benefits were granted across the board, to a good range of products. CBI was expanded in the Caribbean Basin Trade and Partnership Act (CBTPA) with the caveat that it required periodical reauthorization by Congress.

Later on, normalization of relations between the United States and China also had a direct impact in the region, mostly in the textile industry.

Unilateral trade preferences were a great opportunity but clearly were not enough to lead countries towards freer trade and more sustainable economic growth. **The region was prepared to move towards a more mature and permanent relation with the United States.** As a matter of fact, one of the most significant aspects of the CBTPA is that the U.S. Congress specifically defined it as a previous step to a Free Trade Agreement with the region. In Section 215, it mandates the President of the U.S. to convene a series of meetings between the trade ministers of the region and the U.S. Trade Representative with the purpose of ". . . reach[ing] agreement between the United States and CBTPA beneficiary countries on the likely timing and procedures for initiating negotiations for CBTPA beneficiary countries to enter into mutually advantageous free trade agreements with the United States that contain provisions comparable to those in the NAFTA . . ."

**Because the U.S. and the region's economies complement each other, and because the CBTPA is a unilateral, temporary and discretional preferential scheme, a free trade agreement, based on reciprocity, was seen as a natural and positive step for the CBI countries, be it bilateral or as part of the FTAA negotiations.** As the FTAA negotiations stalled, and other countries around the world and in the Hemisphere were negotiating numerous bilateral trade agreements, the U.S. decided to embark in bilateral negotiations with Central America.

The main goal of the United States through CAFTA was to expand opportunities for U.S. trade and investment, while promoting economic development and democratic governance. It aimed to level the playing field among this major trading bloc by permanently granting benefits that the Central American countries and the Do-

minican Republic have enjoyed for years as part of the successful Caribbean Basin Initiative (CBI).

The Central American countries looked to consolidate and expand the market access benefits of the CBI in exchange of a commitment with the United States, which is the region's main trade partner and main source of foreign investment to further modernize their political systems, strengthen the rule of law, democratic institutions, and to lock-in reforms that the region was able to achieve in the last two decades.

Let me remind you that:

- Over 50% of our region exports go to the U.S.
- Over 50% of our region imports come from the U.S.
- An average of 63% of total FDI during the last 7 years is U.S. investment.

Central American countries realized that negotiating with the U.S. was both necessary and convenient. First, the U.S. is the most important trading partner for the region and one of the most significant investors in the area, and trade is very important for these countries, for which integration into the world economy is the only means towards growth and development. **Second, though CBI had been quite beneficial, the region was looking for a reciprocal, stable relationship, based on a scheme of rights and obligations rather than on unilateral concessions.**

Furthermore, in the outset of the negotiations the U.S. recognized the importance of trade capacity building (TCB) to assist Central American countries in an adequate transition to free trade, implementation of the agreement and adjustment to liberalized trade. Therefore, for the first time an FTA included a section on Trade Capacity Building (Section B, Chapter 19). The DR–CAFTA governments also agreed to establish a Committee on Trade Capacity Building, whose work is concentrated in the prioritization of trade capacity building projects; promoting international organizations, private sector entities and non-governmental organization participation in the process and in monitoring and assessing progress in implementing the strategies.

CAFTA is also the first trade agreement entered into by the United States which contains explicit provisions on cooperation through "capacity building" to improve labor conditions by: (1) ensuring effective enforcement of existing labor laws; (2) working with the ILO to improve existing labor laws and enforcement; and (3) building local capacity to improve workers rights.

Our countries also agreed to develop concrete and ambitious projects to promote environmental protection.

CAFTA is certainly far more than a trade accord. It was conceived as the foundation of a more stable, mature relationship between the United States and these important neighbors to the South.

In my opinion, it is vital for the success of hemispheric relations that the United States will once more forge a new bipartisan alliance to support a productive engagement with the countries of the Western Hemisphere. The best medicine against extremisms and populism in the region is to show that those countries that follow the path of open markets, good governance and economic freedom are the ones that are growing and developing. These free trade agreements are a great step in that direction, whereas preferences are only a small step. Washington's engagement through a productive multilateral relationship could be a decisive factor to improve the economic, social and political conditions of the hemisphere for the benefit of both the United States and Latin America.

Some feared that CAFTA could ruin many of the five and a half million small farmers who make their living from traditional agriculture in Central America. However, there are some amazing statistics regarding trade on agriculture products upon implementation of CAFTA. For example farm and agribusiness exports from El Salvador to the United States had an 85% increase from 2005.

It is noteworthy that external conditions have hit the region hard, first with the increase in prices of food and fuel in 2007 and 2008 and then, of course, with the economic crisis that is having a negative impact in terms of employment, investment, production and trade. Part of the benefits of CAFTA–DR will probably take some time to materialize in a scenario like this.

Despite the adverse economic climate that we are confronting now, I am pleased to share with you some good results of the agreement in terms of growth and investment:

- **CAFTA–DR has helped the region weather the recent economic crisis. While the region's exports to the United States have declined in 2009, they have declined by much less than the overall decrease in U.S. im-**

**ports from the world.** In fact, out of the top 20 suppliers to the United States, only one country, Ireland, had a smaller decline in exports to the U.S. than CAFTA–DR. The region's performance this year has been strengthened by continued expansion of electronic components shipments from Costa Rica as well as steady shipments of bananas, pineapples, and melons and medical supplies, and expansion of precious metals.

- In 2006 Central America experienced its highest economic growth rate since 1993.
- Overall trade in goods between the United States and the CAFTA–DR countries grew from $35.0 billion in 2005 o $44.7 billion in 2008, an increase of 28.0 percent.
- **From 2006 to 2007, FDI flows into the region increased considerably. El Salvador saw the largest increase in FDI (597%) of any country in Latin America. FDI inflows into Guatemala increased by 51%, Honduras by 21%, and Nicaragua by 19%. In each case these are larger increases in FDI than in the four to five years pre-CAFTA.**
- **Intra-regional trade among the CAFTA–DR countries has increased significantly with trade among the Central American countries expanding by approximately 18 percent in 2008, following a gain of about 17 percent in 2007.**

Despite the benefits created by the preference programs, it is necessary to have tools created by free trade agreements that allow us to further promote trade facilitation, continue with the removal of remaining barriers, and promote and attract more investment to our countries and our hemisphere. Furthermore, it is vital to keep the funding for trade capacity building, especially on the labor and environmental fronts.

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Chairman LEVIN. Thank you very much. Fortunately, because modern technology isn't quite up to what we hope, it wasn't a very good connection. But you had submitted your testimony in advance, so we were also able to follow it reading it as you presented it.

So let me suggest because it isn't a very ample connection that we will. I just checked with Mr. Brady and he has agreed that we will submit some questions to you in writing; and, if you would then give us answers in writing. Okay? And we know how to reach you. I'll ask the staff.

We do. We know how to reach you so that we will send you questions, not by television, but we will send you questions by the Internet or maybe even by old fashioned mail. Okay? And then if you could give us your answers and we will place them in the record, is that okay?

Mr. DUEÑAS. Thank you.

Chairman LEVIN. Thank you very, very much, and good luck to you. We are honored that you could join us.

Mr. DUEÑAS. Thank you very much for the opportunity, sir.

Chairman LEVIN. Okay. Can you see me wave?

[Laughter.]

Chairman LEVIN. Thank you very much, Ambassador.

All right. So we will have some questions. We've been told that there are going to be votes, so why don't we just start coming this way, if that's okay, and we will start with Congresswoman Sánchez.

Ms. SANCHEZ. Thank you, Mr. Chairman.

I have a very brief set of questions for this panel, but again, I'm going to sort of preference my questions with a little bit of commentary as is often the practice of Members of Congress.

We can't resist an opportunity to make comments on specific issues. But all along, sort of my basic premise has been that liber-

alizing trade in and of itself is not going to be the silver bullet for economic development of impoverished or developing countries, and ideally what I would like to see is an overhauled trade model for trade agreements in preferences in which we are looking at other investments that can be made in conjunction with trade to help some of these countries develop.

And to the premise of liberalizing trade is that if we can help other countries develop, and develop a middle class, that there will then be consumers for many of the goods the United States produces, so it will be a benefit to U.S. workers as well. And one of the things that I'm keenly interested is in trying to help other countries succeed that we also don't neglect our own workers here at home and put them at a disadvantage. So the questions that I have, I'm going to start with Mr. Hastings.

What is the average wage and benefits package that you offer your full-time employees?

Mr. HASTINGS. Our average wages range from including benefits, probably from around $26,000 a year to around $60,000 a year.

Ms. SANCHEZ. Okay. And does that include also like healthcare benefits?

Mr. HASTINGS. Yes, it does.

Ms. SANCHEZ. In your opinion do you think that paying those kinds of wages and benefits allows Mt. Vernon Mills to compete globally?

Mr. HASTINGS. I would say 10 years ago it did. Over the last 10 years there's been a significant decline in our industry and I think of all manufacturing. I guess that decline would be attributed to the trade policies that our country has followed during the last 10 years. Our industry has seen a significant decline during that time and also over the last two years. We've lost within the last year 60,000 textile jobs and over a million manufacturing jobs. I think there's been two million manufacturing jobs lost since the recession began, so it's making it more difficult for our industry and I think all manufacturing industries to retain the market share that they have.

Ms. SANCHEZ. Okay. And in your own words, could you tell me, Mr. Hastings, what in your opinion it would take for Mt. Vernon to compete with, say, Bangladesh or Cambodia, or even China? What kinds of changes would you have to do to your company in order for them to be able to compete?

Mr. HASTINGS. Well, I mean, I think over all, the country, we need to see a major shift in our trade policy. I mean it's not set up where it's a level playing field, and especially against China. I mean I think it is well documented of the illegal subsidies that China has, the currency manipulation, it's very hard for us to compete. And it's proven out in the numbers.

Over the last five years, China has gone from less than 20 percent of the U.S. textile or U.S. garment or import market to 45 percent. There's been an increase of $17 billion, so it's pretty tough, obviously, for us to compete in that kind of environment; and, you know, during that same timeframe, we have had a decrease of 150,000 jobs, so.

Ms. SANCHEZ. So what kind of legislative proposals do you think that this committee should be considering in order to try to

level that playing field so that U.S. manufacturers are not necessarily a participant?

Mr. HASTINGS. I think the major one would be currency manipulation. If you look at the currency issue, currency manipulation gives Chinese exporters such a significant advantage over U.S. manufacturers and U.S. textile companies. And I think there have been some countervailing duties against the illegal subsidies that they offer but nothing against currency manipulation. I think it is documented that the Chinese government offers everything from free land to subsidized rent and subsidized energy. Somehow we need to level that playing field.

Ms. SÁNCHEZ. So some kind of oversight to make sure that people are adhering to the same set of rules so that there is a level playing field for competition?

Mr. HASTINGS. That is correct.

Ms. SÁNCHEZ. Thank you. I have no more questions. I yield back.

Chairman LEVIN. Mr. Brady.

Mr. BRADY. Thank you, Mr. Chairman. Thank you Secretary General, Mr. Minister. I appreciate Ambassador Dueñas being here today, and my question was directed toward him about why he needed to move from a preferenced relationship to a full, pretrade agreement relationship; and I think he answered that. But, let me ask this. I really appreciate Ms. McDermott's efforts to try to extend references broadly as he testified today to simplify and creates consistency with it.

One of our problems is that as we make more products eligible, while it is very helpful to the preference countries in welcome by our U.S. importers creates a great deal of heartburn for Mr. Hastings and other businesses that compete against them. Same goes for rules of origin as we try to deal with that issue, now tailored to each region, but changes if you go to a broader standard. Clearly, preferences have been historically a bipartisan effort as we try to move them forward.

So, my question is to the panel what advice, criteria or counsel would you give this committee as we look at broader reforms within this area. How do we deal with those issues, some of which conflict as Minister Prasidh made the point that adding new countries doesn't necessarily take away market share. We lose it to China instead, but other preference countries feel strongly that that's not the case or they fear losing that market access.

Any advice? And I'll start with Mr. O'Brien. Any advice or guidance you would give the committee as we look at those issues?

Mr. O'BRIEN. Well, we think they're difficult issues. I mean Oxfam is working on poverty issues in the United States too, but when we go overseas and we go to a place like Cambodia where you've got 30 percent of the population living on less than a dollar a day, it brings home the reality that what we need is some kind of fairness in the trade system. And what we mean by fairness isn't just equal opportunity. It's giving these countries the chance, the opportunity to enter the global marketplace.

Mr. BRADY. Good. Thank you.

Chairman LEVIN. Mr. Hastings.

Mr. HASTINGS. Yes. I think when you look within the last few years the overall decline in AGOA, the overall decline in trade with CAFTA—I think I've indicated Cambodia is down, which is probably tied to the recession—that's not the case in China. That's not the case in Bangladesh. China has increased its market share, as I stated earlier, from less than 20 percent to 45 percent. That's a lot, and I think their actual textile and apparel exports are now up to $45 billion.

That's a big piece of the pie. If you could take some of that and share that with some of the other countries I think that would fix a lot of the issues that come up.

Chairman LEVIN. Thanks, Mr. Hastings. Minister Prasidh?

Mr. PRASIDH. Thank you. I think that I join also Mr. O'Brien that normally when you like to address the world trade preferences you have also the thing of linking it with technical assistance to support infrastructure, to deal with supply capacity of those people who are recipient of your preferences. If not, they would not be able to maximize the advantages that you have provided.

They look to the case of AGOA. You have provided that group eight times, but they can do more if you provide more things to support the infrastructure and build up their trade capacity. For the case of Cambodia we see the same thing, but what is important to stress here is that the decline in our government export is not because of the current recession. It is because we are no more competitive because we are facing competition from China, who can produce everything, very fast, and at the same time even can give credits to the buyers, the retailers in the U.S. Why we cannot do the same thing.

Mr. BRADY. Thank you, Minister.

Secretary General.

Mr. KARANGIZI. Thank you.

I think there are various issues, First of all, I think it's quite obvious that the trade preferences alone do not assist particularly our countries enhancing access to the markets, so definitely investment in infrastructure, support capacity building to the private sector and other related issues. But, we also think other incentives, therefore, private sector investment that would result in increased production to access the market would greatly support our region. But, other than that, I mention some other points.

We think you should look at alternative ways for the other RDCs that would not erode the market that sub-Saharan countries have. And I've mentioned them, including things like an import allowance program, which I have mentioned. Those are the kind of reforms I could think of.

Mr. BRADY. Thank you, Mr. Secretary. Thank you, Chairman.

Chairman LEVIN. Mr. Etheridge, do you want to try to rehash in several minutes?

Mr. ETHERIDGE. I'll be very brief, Mr. Chairman, so you get time in.

Let me thank each of you for being here. And, Chairman, it seems to me that last round of questioning, one of the big issues is the playing field is far from level. It is a great deal of unfairness that relates to that and as you look at market share and marketplaces, you know, we are sort of like the fellow that just said "I

gave at the office. Now I've got to give again." And when you are opening markets, there is one thing to open the markets and another thing to monitor and make sure that fairness is being done. And if you can't get transparency, you've got real problems. And we are dealing in an untransparent situation.

So with that, Mr. Hastings, let me ask you just one question. Now, we've got several. Mr. Chairman, I'll submit those for the record for the Ambassador from Costa Rica. Because I come at it a little different. I'm looking at the state and unemployments and double digits and holding strong and climbing. And we have already given at the office. We are giving at home, and it looks like we are going to be giving again, not only in textile jobs, but others. And it's across the board, part of it.

So as we look at these preferences, my question to you, Mr. Hastings—you touched on it a while ago—let's assume we opened up more preferences. Tell me what happens, not just to your business, but to all those suppliers that you deal with, plus all of those families that depend on your business for salaries in those communities that take care of Boys and Girls Clubs and all those other things that happen in our communities.

Mr. HASTINGS. Well, like I stated earlier, over the last 10 years we've had a significant decline in our company. We used to be over 6,000 employees. We are down to 2,700 now. We've closed large factories. But our whole industry, not just Mount Vernon, is at a critical juncture. We have downsized and downsized, but to maintain our businesses and be competitive we all need to run a certain amount of volume. And once you get to that critical juncture if you lose, just a little bit more volume, then your competitiveness as business just starts spiraling out of control.

If you get to where you're not competitive from a cost standpoint, as I think we are now approaching in our industry, then you are at the point that you really can't lose any more orders or jobs and still be competitive. And that point would be a death knell to our industry.

Mr. ETHERIDGE. Let me follow it up. I promise I'll ask just one other one. It deals with your raw materials and the farmers behind that.

Mr. HASTINGS. We consume 17,000 bales of cotton a month. So the vendors of cotton would be impacted. Take a community like Trion, where we've got 1,200 employees. It's a rural community with no industry. If Trion had to close, the impact on the local vendors and the schools from the loss of user fees, and the property taxes, would be devastating.

Mr. ETHERIDGE. Thank you. Thank you, Mr. Chairman. I yield back.

Chairman LEVIN. All right. I think we have three minutes and we all agreed that we appreciate your presence, and we'll be for a while. So why don't you go about your other busy business, and then we will take the fourth panel.

Mr. O'Brien, as you know, we work with Oxfam a lot. I'd like you, if you would, to ask the economists of Oxfam if we took your first provision a hundred percent duty free and quota free market access for all products from all the world's first countries; and, you know, we are in favor of opening up our trade to developing coun-

tries. It's part of the Doha Round. But what would be the impact on job loss in the United States if we followed what you suggest? All right, with that, and send it to us in writing, not by modern technology.

Thank you so much and we will recess and then hear the fourth panel. And thanks again to the four of you for excellent testimony to especially our friends from other places who have come a long ways. Thank you very much.

So we are in recess.

[Recess.]

Chairman LEVIN. We will reconvene.

As we were discussing informally, we very much appreciate your patience. This very gifted panel, people who come from different walks of life, in a sense, and different viewpoints, all with a lot of expertise.

David Love is senior vice president and chief supply chain officer—not quite sure what that means—at Levi Strauss & Co. Jeff Vogt, who is a specialist on global economic policy from the AFL–CIO. William "Bill" Reinsch, who is president of the National Foreign Trade Council. Meredith Broadbent, a trade advisor and a veteran of these wars here. Margrete Strand Rangnes, who is the director for Labor, Worker Rights, and Trade Program for the Sierra Club, and Dr. Loren Yager, who is director of international affairs and trade for the GAO.

So, if you would, each of you take five minutes. I think that would be helpful if you could try to limit it to that so that those of us who have been able to come back could have a few minutes to have some real back and forth, and we might even get some of you arguing with each other, if it isn't interesting enough. Because we like that back and forth, and these panels aren't very well set up for that.

So, Mr. Love, why don't you start and then we will just go down?

Thank you very much.

**STATEMENT OF DAVID LOVE, SENIOR VICE PRESIDENT AND CHIEF SUPPLY CHAIN OFFICER, LEVI STRAUSS & CO., SAN FRANCISCO, CALIFORNIA**

Mr. LOVE. Thank you, Mr. Chairman, and Members of the Subcommittee for the opportunity to provide this testimony today regarding the operation of U.S. trade preference programs. I am the chief supply chain officer for Levi Strauss & Co., which means I source the product. I am the key buyer for Levi Strauss & Co.

As you may know, Levi Strauss & Co. is based in San Francisco, California, a global corporation with roughly 11,000 employees. More than 3,000 of them are employed in the United States. We are one of the world's leading branded apparel companies. We design apparel and related accessories for men, women, and children under the Levi's, Dockers, and Signature by Levi Strauss & Co. brands, and we market our products in more than 100 countries—actually 110 countries worldwide.

As a truly global company, Levi Strauss sources our jeans and other apparel products from roughly 50 countries around the world. The supply chain my team and I manage is quite complex, particularly when you look at the way in which we source for the impor-

tant U.S. market. Over the years we have adapted our sourcing strategies to take advantage of the various U.S. trade preference programs that have been available to us and our apparel products. These programs have not been the sole reason for our decision to source from a particular country, but they have been a key consideration in those decisions, both to enter a country and to migrate out of it. I will get to that latter point a little later in my testimony.

Some of the trade preference programs that we have utilized have worked better than others over time, and I would like to take a moment to describe what, in our view, are the critical factors that make a program workable from a business perspective. First, the program must be stable and predictable. We need to know that it will be in operation over the long term. Short term program durations and the need for often shorter term extensions are not good for business and do not encourage long term investment.

Second, the rules of trade under the preference program must be as simple and liberal as possible. We as businesses need maximum trade flexibility to structure our operations in developing countries, which often present other challenges in areas of infrastructure and capacity. Third, the rules of trade for the program should be stable. Once we have set up operations to take advantage of a particular program and it is working, changing the rules of the road can have an inadvertent effect of stifling business.

I would like to take a moment to elaborate a little bit more on these issues with some real world examples. Take the issue of duration and predictability. When ATPA took effect in 1991, our suppliers began to take advantage of the program to dramatically increase production in Colombia. Using U.S. fabric, our partner operations in Colombia were a win-win for everyone. We had a stable base of quality supply for our products, U.S. textile producers benefitted, as did Colombian workers and the broader Colombian economy. At our peak, we were sourcing 60 million units annually from Colombia and the business may even have grown more.

However, then the ATPA was set to expire in 2006 and the uncertainty started. We did not know if Congress was going to renew the program, and that caused us to doubt our sourcing plans for Colombia. In the end, Congress did renew the program, but only for a short duration, and these short term renewals have continued since. We cannot make commercial decisions based on such three to six month timeframes, especially when orders are placed at least one year in advance.

As a side note, I would like to urge you to renew the ATPA as soon as possible for at least as long as it takes to implement the U.S. Colombia Free Trade Agreement. I say this because our sourcing from the country of Colombia has dropped from 60 million units to between 1 and 2 million units due to this uncertainty. And I think this is a real world example of why workable trade preference programs must have long and predictable durations.

To my second criteria, simple and liberal rules of trade, here too the rules of origin and other aspects of trade preference programs can really make or break them from a business perspective. We have had great success working with programs like AGOA that allow for raw material imports to be sourced from wherever we can

secure the best and most reliable supply. Simple and liberal rules of origin for products traded under a preference program are critical, and programs that are based on them are definitely the most workable. When things get complicated, these programs can be very difficult to use.

For example, when the first iteration of HOPE Act for Haiti was enacted, its complicated rules of origin made it extremely difficult for companies like Levi Strauss & Co. to use. Over time, Congress has modified the program, and now it is one of the most liberal and easy to use. However, we face other challenges in Haiti that restrict our trade with the country.

Political and social security issues, labor concerns, port infrastructure deficiencies, water shortages, and other capacity issues make Haiti a difficult country in which to do business, and I would urge Congress and the U.S. government to work with Haitian officials to address these lingering concerns to help make the HOPE program work better for all stakeholders.

And that brings me to my third point. You can't change the rules of the road on trade preference programs if they are working. If you do, they could very well stop working quickly. The AGOA program that I mentioned earlier provides a prime example of this fact. We began taking advantage of AGOA soon after the program was created. We steadily increased our production in Southern Africa.

The program was working well for us and we had future plans to grow, but then Congress enacted new legislation in 2006 which added a so-called abundant supply element to the program. We had no idea how these provisions would work in practice, particularly since denim fabric, our lifeblood, was arbitrarily listed as being in abundant supply in Africa, even though we knew that it really was not for our needs.

As soon as we saw these provisions had actually been enacted, we basically put the brakes on our U.S. sourcing operations for Africa, put it on hold, and began a fight to remove the provisions. Fortunately, Congress eventually moved to eliminate the abundant supply provisions, but not for several years, and that delay certainly stunted our operations in Africa, and definitely not something I think was intended.

So the key for success for a preference program from a business perspective, and something I urge you to keep in mind as this committee and the House of Representatives work to move forward broader preference program reform, is to keep the programs simple, predictable, and with liberal rules of origin that provide businesses the greatest opportunity to take advantage of them.

I would also note that we need to keep in mind that these programs are designed to promote economic development and help raise the quality of life for citizens in many of the poorest countries of the world, and in our view, as a socially responsible company, upholding labor standards is a key aspect of these preference programs. We need to make sure that we provide trade preferences to those least developing countries that not only need a leg up but are committed to improving respect for worker rights.

In that regard, I would like to associate myself with the Minister of Commerce from Cambodia, Dr. Prasidh, who spoke on the pre-

vious panel. Those LDCs that support international labor standards should be able to benefit from trade preferences for all products, including the apparel products of primary concern for Levi Strauss & Co.

Fortunately, we have proof that preferential trade arrangements really can achieve the developmental objectives for LDCs and other developing countries that we hope they can achieve if structured correctly. Egypt, I think, provides an excellent example. While not technically a trade preference program, the QIZ program under the U.S.-Israel free trade agreement has been very successful. When it was extended to Egypt in 2004, Egypt's apparel industry was minuscule. But now apparel exports to the United States have reached nearly $800 million in 2008, and the expanding trade has helped create new jobs for thousands of Egyptians. Not surprisingly, the QIZ has one of the simplest rules of origin, and has been one of the programs easiest for us to use from a trade and business perspective.

So in short, preference programs can achieve their objectives if they are structured correctly. And when I say correctly, again, I mean that they must be predictable, with long duration. They must cover all products, including apparel products that are the primary exports and capabilities of developing countries. They must also have liberal rules of origin that get away from the highly restrictive "yarn forward" rule of origin in favor of more flexible rules that can actually work for developing countries and help U.S. companies innovate and compete in a very competitive marketplace.

And finally, any preference reform must include all LDCs that respect international labor standards. Economically disadvantaged populations need our help, and those countries that support labor standards should be rewarded. Our developmental trade policy should reflect this need. So as you and your colleagues continue to work toward broader preference program modifications, I urge you to keep these tenets in mind as a recipe for success for future U.S. trade preference programs.

Thank you, again, Mr. Chairman, for the opportunity to present this testimony today.

[The prepared statement of Mr. Love follows:]

**Prepared Statement of David Love, Senior Vice President and Chief Supply Chain Officer, Levi Strauss & Co., San Francisco, California**

Thank you Mr. Chairman and Members of the Subcommittee for the opportunity to provide this testimony today regarding the operation of U.S. trade preference programs.

As you may know, Levi Strauss & Co. (LS&Co.) is based in San Francisco, California and is a global corporation with roughly 11,000 employees, more than 3,000 of whom are employed in the United States. LS&Co. is one of the world's leading branded apparel companies. We design apparel and related accessories for men, women, and children under the Levi's®, Dockers®, and Signature by Levi Strauss & Co.® brands. We market our products in more than 100 countries.

As a truly global company, Levi Strauss sources our jeans and other apparel products from roughly 50 countries around the world. The supply chain my team and I manage is quite complex, particularly when you look at the way in which we source for the important U.S. market.

Over the years, LS&Co. has adapted our sourcing to take advantage of the various U.S. trade preference programs that have been available to us and our apparel products. These programs have not been the sole reason for our decision to source from a particular country, but they have been a key consideration in those deci-

sions—both to enter a country and to migrate out of it. I will get to that latter point a little later in my testimony.

Some of the trade preference programs that we have utilized have worked better than others over time and I would like to take a moment to describe what, in our view, are the critical factors that make a program workable from a business perspective.

First, the program must be stable and predictable. We need to know that it will be in operation over a long term. Short term program durations and the need for often shorter-term extensions are not good for business.

Second, the rules of trade under the preference program must be as simple and liberal as possible. We as businesses need maximum trade flexibility to structure our operations in developing countries, which often present other challenges in areas of infrastructure and capacity.

Third, the rules of trade for the program should be stable—once we have set up operations to take advantage of a particular program and it is working, changing the "rules of the road" can have the inadvertent effect of stifling business.

I would like to take a moment to elaborate a little bit more on these issues with some real world examples.

Take the issue of duration and predictability. When the Andean Trade Preference Act (ATPA) took effect in 1991, our suppliers began to take advantage of the program to dramatically increase production in Colombia. Using U.S. fabric, our partner operations in Colombia were a win-win for everyone. LS&Co. had a stable base of quality supply for our products, U.S. textile producers benefited as did Colombian workers and the broader Colombian economy.

At our peak, we were sourcing 60 million units from Colombia and the business may have even grown more. However, then the ATPA was set to expire in 2006 and the uncertainty started. We didn't know if Congress was going to renew the program and that caused us to doubt our sourcing plans for Colombia. In the end, Congress did renew the program but only for a short duration and those short-term renewals have continued since. We cannot make commercial decision based on such 3 to 6 months timeframes, especially when orders are placed at least one year in advance.

As a side note, since I have the opportunity, I would like to urge you to renew the ATPA as soon as possible and for as long as possible. I say this because our sourcing from the country has dropped from 60 million units to one to two million units due to uncertainty regarding the program's status. This is a real world example of why workable trade preference programs must have long and predictable durations.

To my second criteria—simple and liberal rules of trade—here too the rules of origin and other aspects of trade preference programs can really make or break them from a business perspective. We have had great success working with programs like the African Growth and Opportunity Act (AGOA) that allow for raw material imports to be sourced from wherever we can secure the best and most reliable supply.

Simple and liberal rules of origin for products traded under preference programs are critical and programs that are based on them are definitely the most workable—when things get complicated these programs can be very difficult to use. For example, when the first iteration of the Hemispheric Opportunity through Partnership Encouragement Act (HOPE Act) for Haiti was enacted, its complicated rules of origin made it extremely difficult for companies like LS&Co. to use. Over time, Congress has modified the program and now it is one of the most liberal and easy to use.

However, we are facing other challenges in Haiti that restrict our trade with the country. Political and social security issues, labor concerns, port infrastructure deficiencies, water shortages and other capacity issues make Haiti a difficult country in which to do business. I would urge Congress and the U.S. Government to work with Haitian officials to address these lingering concerns to help make the HOPE program work better for all stakeholders.

And that brings me to my third point—you can't change the rules of the road on trade preference programs if they are working. If you do, they could very well stop working quickly. The AGOA program that I mentioned earlier provides a prime example of this fact.

LS&Co. began taking advantage of AGOA soon after the program was created. We steadily increased our production in southern Africa and the program was working for us. But then Congress enacted new legislation in 2006 which added a so-called "abundant supply" element to the program.

We had no idea how these provisions would work in practice, particularly since denim fabric, our life blood, was arbitrarily listed as being in abundant supply in Africa even though we knew that it really wasn't for our needs. As soon as we saw

that these provisions had actually been enacted, we put our U.S. sourcing operations from Africa on hold and began a fight to remove the provisions. Fortunately, Congress eventually moved to eliminate the abundant supply provisions, but not for several years and that delay certainly stunted our operations in Africa—definitely not something I think was intended.

So, the key for success for a preference program from a business perspective and something I urge you to keep in mind as this Committee and the House of Representatives work to move forward broader preference program reform is to keep the programs simple, predictable and with liberal rules of origin that provide business the greatest opportunity to take advantage of them. I would also note that we need to keep in mind that these programs are designed to promote economic development and help raise the quality of life for citizens in many of the poorest countries in the world.

And in our view, as a socially responsible company, upholding labor standards is a key aspect of these preference programs. We need to make sure that we provide trade preferences to those least developing countries that not only need a leg up but are committed to improving respect for worker rights. In that regard, I would like to associate myself with the Minister of Commerce of Cambodia, Dr. Cham Prasidh who spoke on the previous panel. Those LDCs that support international labor standards should be able to benefit from trade preferences for all products, including the apparel products of primary concern for LS&Co.

Fortunately, we have proof that preferential trade arrangements can really achieve the developmental objectives for LDCs and other developing countries that we hope they can achieve if structured correctly. Egypt provides an excellent example. While not technically a trade preference program, the Qualified Industrial Zone (QIZ) program under the U.S.-Israel Free Trade Agreement has been successful. When it was extended to Egypt in 2004, Egypt's apparel industry was miniscule. But now, apparel exports to the United States have reached nearly $800 million in 2008 and the expanding trade has helped create new jobs for hundreds of Egyptians. Not surprisingly, the QIZ has one of the simplest rules of origin and has been one of the programs easiest for us to use from a trade perspective.

In short, preference programs can achieve their objectives if they are structured correctly. And when I say "correctly," I mean that they must be predictable with long durations. They must cover all products including apparel products that are the primary exports of developing countries. They must also have liberal rules of origin that get away from the highly restrictive "yarn forward" rule of origin in favor of more flexible rules that can actually work for developing countries and help U.S. companies innovate and compete in a very competitive market. And finally, any preference reform must include all LDCs that respect international labor standards. Economically disadvantaged populations need our help and those countries that support labor standards should be rewarded. Our developmental trade policy should reflect this need.

As you and your colleagues continue to work toward broader preference program modifications, I urge you to keep these tenets in mind as a recipe for success for future U.S. trade preference programs.

Thank you again Mr. Chairman for the opportunity to present this testimony today.

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Chairman LEVIN. Thank you very much.

Mr. Vogt.

**STATEMENT OF JEFF VOGT, GLOBAL ECONOMIC POLICY SPECIALIST, AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL–CIO)**

Mr. VOGT. Chairman Levin and Members of the Subcommittee, on behalf of the over 11 million members of the AFL–CIO, I thank you for the opportunity to review the operation of the U.S. trade preference programs. While the AFL–CIO is interested in multiple aspects of U.S. trade preference programs, I have been asked to focus today on labor eligibility criteria of the GSP and related preference programs.

I have submitted for the hearing record written testimony that both examines in detail the problems with the current system as

well as articulates a reasonable, straightforward proposal for reform based on universal eligibility criteria and a more rational, transparent, and consistent process to review violations of that criteria. I would be happy to answer any questions you have with regard to that testimony.

The labor criteria of our trade preference programs are of critical importance to the global labor movement. The AFL–CIO, together with partner unions and workers in numerous developing countries in Latin America, Africa, and Asia, has used this important tool over the last 25 years. In the best cases it has brought about modest improvements in labor laws or resolutions to long pending cases. Indeed, our most recent experience with Bangladesh shows that the GSP program can be used to create needed political space for positive change.

Today, the vast majority of workers in the export processing zones of Bangladesh now have some form of worker representation on the job because of the hard work of local labor organizations that have made use of the political space generated by the continuing GSP review. Those workers can now begin the process of bargaining for their fair share of the gains of international trade. This is not to say there is not a very long way to go in Bangladesh, but it is—this is an example that when used and used properly, the GSP process provides leverage, that can bring about meaningful reform.

However, the application of labor rights criteria in trade preference programs has been highly inconsistent over the years. Often unrelated geopolitical and foreign policy interests or sensitivity to the economic interest of multinational corporations has meant that clear cases of egregious labor rights violations are never accepted for review, or that cases, once accepted, are dropped without evidence of any meaningful improvement in the areas outlined in the complaint.

The lack of clear criteria for the acceptance of petitions, of any fixed timelines by when the government must rule on the acceptability of a petition, or on the merits, and of any obligation that the government ever provide a written, public rationale for its actions has allowed the USTR in the past, over several administrations, to exercise almost unfettered discretion to apply the law. Even now, USTR has failed to accept for review two detailed petitions by the AFL–CIO filed well over a year ago.

The lack of consistency of the application of the labor criteria over the last 25 years has substantially undermined the legitimacy of the program. A new set of procedures that put a premium on transparent, consistently applied criteria with reasonable timelines and an agency decision making based on the merits of the complaint would go a long way to improve the functioning of the labor provisions. I propose a new set of procedures in the written testimony I have submitted.

I think we also need to take a fresh look at the eligibility criteria themselves. Trade preference programs still refer to internationally recognized worker rights. There is an important difference between these rights and the ILO core labor rights, which are the universal set of minimum labor standards as articulated by the ILO in 1998. For example, internationally recognized worker rights do not in-

clude the prohibition on discrimination in respect of employment and occupation. In addition, the preference programs currently refer to a minimum age for the employment of children which is weaker than the ILO formulation of the effective abolition of child labor.

Further, the labor criteria only requires that a country take steps to afford internationally recognized worker rights. The current preference program simply requires a country to improve labor standards over time, but not requires a country to have achieved any basic level of compliance to be eligible. Thus, a country may have horrendous labor laws and practices, so long as it temporarily and marginally improves them after a petition is filed.

We also need to look at additional eligibility criteria outside of labor. We are supportive, obviously, of the addition of environmental criteria, human rights, and good governance criteria, which we find in other trade preference programs, such as AGOA.

I do want to make clear—and this has come up earlier today—that we do not view the goal of filing labor petitions to be the suspension of preferences, and it never has. Rather, we file petitions with the aim of bringing about demonstrable improvements in the administration of labor justice, and thus improvement in the lives of workers and the economies of beneficiary countries.

Thus, the approach taken to labor violations should be cooperative, at least initially, and that is why we propose that petitions lead first to the adoption of remediation plans with clear benchmarks developed by the U.S. government with input and continued participation of petitioners, workers, employers, and governments to address and resolve systemic violation of labor rights. If countries are making real progress but have not yet met those benchmarks at the end of an initial review, they should be given more time. Of course, the threat of suspension or withdrawal of benefits must be retained and wielded if governments fail to abide by the legal obligations under the preference programs.

Finally, I would like to add that we support, obviously, trade capacity building. This is critical, as many witnesses have already testified today, to making preference programs work. A subset of that, I believe we need to develop better programs with regard to worker rights, programs that better help workers, unions, to better understand and better advocate for themselves, for the fulfillment of their basic labor rights on the job.

So I will leave it there, and I will be happy to answer any questions you may have with regard to my written testimony or any of the statements I have made today. Thank you.

[The prepared statement of Mr. Vogt follows:]

**Prepared Statement of Jeff Vogt, Global Economic Policy Specialist, American Federation of Labor & Congress of Industrial Organizations (AFL–CIO)**

Chairman Levin and Members of the Subcommittee, on behalf of the over 11 million members of the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), I thank you for the opportunity to address the future of U.S. preference programs. While the AFL–CIO is interested in the reform of multiple aspects of the preference program system, I will focus today on the labor eligibility criteria.

**Introduction**

In 1984, labor advocates succeeded in passing legislation conditioning a country's eligibility under the Generalized System of Preferences (GSP) on "taking steps to afford internationally recognized worker rights."[1] These rights include: the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.[2] The rationale for linking trade and labor rights was two-fold: i) workers who are able to exercise these fundamental rights will be able to bargain collectively for better wages and working conditions, ensuring that the benefits of trade accrue not only to capital but also to labor; and ii) while developing countries should be able to attract investment based on a comparative wage advantage, it should not benefit from wages that are artificially low due to labor repression.

Economic research has also demonstrated that the adoption and enforcement of these core labor rights is essential to broad-based economic development. As the Organization for Economic Cooperation and Development (OECD) pointed out in a 2000 report, International Trade and Core Labor Standards, "countries which strengthen their core labor standards can increase efficiency by raising skill levels in the workforce and by creating an environment which encourages innovation and higher productivity."[3] The OECD also found in a 1996 report, entitled Trade, Employment and Labor Standards, that "any fear on the part of developing countries that better core standards would negatively affect either their economic performance or their competitive position in world markets has no economic rationale."[4]

Today, U.S. general or regional trade preference programs all contain either the GSP labor clause or a minor variation thereof.[5] However, there are significant substantive and procedural problems with the current labor provisions.

**A. SUMMARY OF PROBLEMS WITH CURRENT GSP LABOR STANDARD AND PROCEDURES**

1. Outdated Standard

In 1998, the member states of the International Labor Organization (ILO) agreed on a set of universal, core labor rights applicable to all members regardless of level of development. These core labor rights were enshrined in the ILO Declaration on Fundamental Principles and Rights at Work, which commits all members to respect, promote and realize four categories of labor rights: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labor, the abolition of child labor and the elimination of discrimination in respect of employment and occupation. Importantly, all members are obliged to respect, promote and realize these principles and rights regardless as to whether they have ratified the relevant, underlying conventions. This touchstone has now been incorporated into all bilateral free trade agreements pending as of May 10, 2007.

Despite the adoption of these principles and rights over ten years ago, trade preference programs still refer to "internationally recognized worker rights" (IRWR). There are important differences between IRWR and the core labor rights. For example, IRWR do not include the prohibition on discrimination in respect of employment and occupation contained to the ILO Declaration. In addition, the preference programs currently refer to "a minimum age for the employment of children," which is weaker than the ILO formulation, "the effective abolition of child labor." It has also been argued that the rights collectively defined as IRWR do not refer to any external source of law and thus may be invested with any meaning given to them

[1] 19 USC 2462(b)(2)(G).

[2] In 2000, countries were further required to implement their commitments "to eliminate the worst forms of child labor" to remain eligible. See 19 USC 2462(b)(2)(H).

[3] OECD, International Trade and Core Labour Standards (Oct. 2000), available online at http://www.oecd.org/dataoecd/2/36/1917944.pdf.

[4] See also, Aidt, Toke & Zafiris Tzannatos, Unions and Collective Bargaining, Economic Effects in a Global Environment, World Bank (2002), available online at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2002/09/13/000094946_02083104140023/Rendered/PDF/multiopage.pdf.

[5] See, e.g. African Growth and Opportunities Act (AGOA), substituting "making continual progress toward establishing" in place of the "taking steps to afford" approach in GSP. The *Haitian* Hemispheric Opportunity through Partnership Encouragement Act (HHOPE) also contains a substantial labor monitoring program based on the ILO Cambodia labor monitoring project.

by the USTR, rather than the meaning conferred upon those rights by the international community through the ILO.[6]

2. No Minimum Level of Compliance

The current preference programs simply require a country to improve labor standards over time, but do not require a country to have achieved any basic level of compliance to be eligible. A country may therefore have horrendous labor laws and practices (2 on a scale of 10), so long as it temporarily and marginally improves them after a petition is filed (3 of 10).

3. Limited Petition Filing Window

Preference programs, with the exception of the CBI and AGOA, allow for third parties to submit petitions alleging the violation of any eligibility criteria. The regulations implementing each program limit petitions to only once a year, though the statute imposes no such limitation. If a major labor rights violation occurs a month after the petition window closes, a potential petitioner will have to wait nearly an entire year to raise the matter through a petition process. Further, the petition windows for the various programs are not coordinated, nor are they fixed (in practice), meaning that the petition window can (and does) change from year to year.[7] In 2003, the petition window was never opened. The U.S. government has also failed to regularly review the compliance of beneficiary countries and self-initiate appropriate action.

4. No New Information Rule

A determination that a country does not merit review should not bar subsequent petitions on the same or similar issues, as it has in the past. The so-called "no new information" rule, 15 CFR 2007.0(b)(5) and 2007.1(a)(4), has no statutory foundation and should be abolished.[8] In general, the rule prohibits the filing of a petition on any matter that has been raised in a previous petition against the same country. Thus, a country could take minimal steps towards compliance just to avoid review and then backslide into noncompliance once suspension of benefits is no longer threatened. If a petitioner were to file a complaint on the same subject matter, the petition could be rejected if the new information were not deemed sufficiently substantial.

5. Exercise of Excessive Executive Discretion

a. Meritorious Petition Not Accepted for Review and No Reason Given

The only reason to reject a country practice petition for review that finds any support in the statute or regulations is that the petition fails to set forth facts that, if substantiated, would demonstrate that the beneficiary country in question has not taken steps to afford workers internationally recognized worker rights.[9] However, numerous well-supported petitions detailing widespread and/or serious violations of worker rights have been rejected in the past without any official explanation. The

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[6] An infamous example of this is the so-called "Clatanoff Rule," articulated by former Assistant USTR for Labor, William "Bud" Clatanoff. At a 2003 conference at the National Academy of Sciences regarding the monitoring of international labor standards, he stated with regard to freedom of association: "If someone tries to form a union, they can't get shot, fired or jailed. I'm sorry. I know there are thousands of pages of ILO jurisprudence I am not going to read, but that's my criteria—shot, fired or jailed, you're not given freedom of association."

[7] 15 CFR 2007.3 does provide that petition shall be conducted at least once a year according to the schedule set forth in therein. The deadline for petitions established in the regulations is June 1, unless otherwise specified by notice in the Federal Register. The petitions are rarely, if ever, due on that date. In 2009, petitions were actually due on June 24th. In 2004, petitions were due on December 14th.

[8] 15 CFR 2007.0(b). During the annual reviews and general reviews conducted pursuant to the schedule set out in § 2007.3 any person may file a request to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in section 502(b) or 502(c) (19 U.S.C. 2642(b) and (c)). Such requests must: (5) supply any other relevant information as requested by the GSP Subcommittee. *If the subject matter of the request has been reviewed pursuant to a previous request, the request must include substantial new information warranting further consideration of the issue.*

[9] See, 15 CFR 2007.0(b). During the annual reviews and general reviews conducted pursuant to the schedule set out in Sec. 2007.3 any person may file a request to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in section 502(b) or 502(c) (19 U.S.C. 2642(b) and (c)). Such requests must (1) specify the name of the person or the group requesting the review; (2) identify the beneficiary country that would be subject to the review; (3) indicate the specific section 502(b) or 502(c) criteria which the requestor believes warrants review; (4) provide a statement of reasons why the beneficiary country's status should be reviewed along with all available supporting information; (5) supply any other relevant information as requested by the GSP Subcommittee.

government should accept for review a petition if the statements contained therein, if substantiated, would constitute a failure of the beneficiary country to comply with its obligations or commitments under the labor clause. If a petition is rejected, the government should provide in writing the reasons for that decision. If a defect in the submission could be remedied, the government should instruct the petitioner what is needed to make the petition acceptable for review. Further, the criteria that the GSP subcommittee of the Trade Policy Staff Committee (TPSC) employs to determine whether to accept or reject a GSP petition for review should be public.

b. Abuse of Continuing Review

USTR has often put countries under a "continuing review," a probationary period during which the government waits to see whether a country is making sufficient progress necessary to retain its eligibility. Using a "continuing review" as a means to provoke the improvements necessary to avoid suspension is legitimate. However, some reviews have continued for several years while violations of workers' rights continued unabated. Thailand, for example, was under review for nine consecutive years while it maintained GSP eligibility. Reviews should rarely, if ever, last for more than two petition cycles without a final determination of eligibility. No country will undertake needed reforms if it believes that there is no real chance that market access could be limited, suspended or withdrawn.

c. Executive Branch Fails to Limit, Suspend or Withdraw Preferences, even in Clear Cases

GSP does provide the President some discretion to continue to extend preferences even if the country fails to meet the worker rights eligibility criteria. Section 2462(b)(2)(G) of the GSP provides that "The President shall not designate any country a beneficiary developing country under this subchapter if any of the following applies: such country has not taken steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country." Section 2462(b)(2) does provide, however, that subparagraphs (G) and (H)(to the extent that the work "by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children") "shall not prevent the designation of any country as a beneficiary country under this subchapter if the president determines that such designation will be in the national economic interest of the United States and reports such determination to the congress with the reasons therefore." (emphasis added).

Despite this limited grant of discretion, several country practice reviews over the last 25 years have been closed with no action taken (limitation, suspension or withdrawal) and with no apparent steps taken by the foreign government to afford IRWR. Given the complete lack of transparency, it is impossible to ascertain the basis for inaction and determine whether it is rooted in the clear statutory language outlining the scope of presidential discretion or whether other extra-statutory factors are considered by subordinate committees such as the TPSC when making a recommendation to the President.[10] The discretion exercised by the TPSC in practice and afforded the President under the statute is so broad that it could form the basis for inaction on almost every petition.

6. Country v. Industry-Level Enforcement

Nothing currently prevents USTR from suspending trade preferences with regard to a specific industry or industries where rampant violations occur (rather than sus-

[10] 15 CFR 2007.2(g) and (h) regulate the process by which recommendations are made to the President. Nowhere do the regulations provide the TPSC (and superior committees) discretion to weigh considerations unrelated to the program's eligibility criteria.

(g) The TPSC shall review the work of the GSP Subcommittee and shall conduct, as necessary, further reviews of requests submitted and accepted under this part. Unless subject to additional review, the TPSC shall prepare recommendations for the President on any modifications to the GSP under this part. The Chairman of the TPSC shall report the results of the TPSC's review to the U.S. Trade Representative who may convene the Trade Policy Review Group (TPRG) or the Trade Policy Committee (TPC) for further review of recommendations and other decisions as necessary. The U.S. Trade Representative, after receiving the advice of the TPSC, TPRG or TPC, shall make recommendations to the President on any modifications to the GSP under this part, including recommendations that no modifications be made.

(h) In considering whether to recommend: (1) That additional articles be designated as eligible for the GSP; (2) that the duty-free treatment accorded to eligible articles under the GSP be withdrawn, suspended or limited; (3) that product coverage be otherwise modified; or (4) that changes be made with respect to the GSP status of eligible beneficiary countries, the GSP Subcommittee on behalf of the TPSC, TPRG, or TPC shall review the relevant information submitted in connection with or concerning a request under this part together with any other information which may be available relevant to the statutory prerequisites for Presidential action contained in Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461–2465).

pending or withdrawing preferences at the country level). With very rare exceptions, such as Pakistan, where USTR suspended preferences in the 1990s for carpets, surgical instruments and soccer balls, USTR has not exercised this flexibility and has instead limited itself to a determination as to whether to suspend or withdraw trade preferences for an entire country. The targeted limitation of preferences should be used more frequently.

## B. A BETTER WAY

Below is a comprehensive set of proposals to reform both the labor eligibility criteria as well as the process for reviewing complaints, remediating violations and making determinations as to whether to suspend preferences in whole or in part.[11] These recommendations could be applied to reform of any or all of the extant preference programs, or lay the foundation for a new, unified preference program.

### 1. Eligibility Standard(s)

Establishing new eligibility criteria for a broadly revamped preferences scheme requires several related choices. For example, tiers of development and levels of market access could be uniform or layered. For purposes of this testimony, we assume three baskets of trade preferences based on a combination of level of development and market access. However, should the program evolve and take another shape, these suggestions would need to be adapted.

Also, note that only labor eligibility criteria are discussed here. One would expect that other criteria would be required, including those related to good governance, human rights, the environment and others.

#### a. Basic Preference for Developing Countries

Assuming levels of market access similar to the current GSP program for developing countries, the following criteria should be met to be or remain eligible.

*Standard*

- The country must make continual progress towards adopting laws consistent with core labor rights and must have adopted laws consistent with the ILO core labor rights within 3–5 years of the program entering into force to remain eligible.
- Though the obligation is to make progress during the transition period, the country cannot have laws that prohibit (de jure or de facto) the exercise of a core labor right (e.g., bar on the formation of unions or a minimum requirement of 100 members to form a union) or fail to have laws governing acceptable conditions of work with respect to minimum wage, hours, and health and safety.

*Level of Enforcement*

- During the transition period, the country must make continual progress towards effectively enforcing its laws related to the core labor rights and acceptable conditions of work; once the transition period ends, the country must effectively enforce those laws.
- Though the obligation is to make continual progress during the transition period towards effective enforcement, the country, at a minimum, must have tribunals for the enforcement of such labor rights and acceptable conditions of work, which shall be fair, equitable, and transparent; provide for the possibility of remedies such as fines, penalties, or temporary work closures; and allow for the appeal or review, as appropriate, of decisions to impartial and independent tribunals.
- Though a country retains the right to the reasonable exercise of discretion and to *bona fide* decisions with regard to the allocation of its resources, the country must, at a minimum, not reduce the percentage of its annual budget for labor enforcement and should increase the budget for labor enforcement proportionately as the economy expands.
- The country cannot be on Tier 3 of U.S. State Dept Trafficking Report (those countries whose governments do not fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards and are not making significant efforts to do so).[12]

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[11] Note: We believe that beneficiary countries must also meet eligibility criteria with regard to human rights, rule of law and good governance and the environment. Those criteria are not spelled out here.

[12] In 2009, this list included: Burma, Iran, North Korea, Syria, Chad, Kuwait, Papua New Guinea, Zimbabwe, Cuba, Malaysia, Saudi Arabia, Eritrea, Mauritania, Sudan, Fiji, Niger and Swaziland.

**b. GSP–Plus**

Currently, the U.S. has no incentive based program that ties greater levels of market access to certain vulnerable developing countries to compliance with a higher set of eligibility criteria. The European Union currently has such a program—GSP Plus. If the U.S. were to incorporate such an approach, a developing country could be eligible to export more goods at a preferential tariff rate than possible under the basic GSP. If correctly designed and implemented, an incentive based program that rewarded better labor practices could result in better labor laws and practices. If such a program were to be established, the following eligibility criteria would be appropriate. Such countries should also be subject to more rigorous oversight on compliance with the eligibility criteria.

To be eligible, the country must:

- have adopted laws and regulations consistent with the core labor rights
- must effectively enforce those laws and all other national laws governing worker rights and social protection
- maintain a functioning tripartite body that meets regularly to discuss labor laws, labor relations and social and economic policy generally, if such a structure exists, or otherwise ensure regular and meaningful social dialogue on these issues.
- ensure that no workers are excluded *de facto* or *de jure* from, and that all workers are protected equally by, national labor laws, regulations, and policies, including subcontracted workers, temporary workers, migrant workers, seasonal workers, part-time workers, project-based workers, informal sector workers, etc. Nothing in this criterion shall be construed as prohibiting positive affirmative measures to protect the rights of more vulnerable workers.

**c. Duty-Free/Quota Free for Least Developed Countries**

It has been proposed that Least Developed Countries (LDCs) should now receive duty free/quota free preferential tariff treatment. LDCs should also be required to meet the basic GSP criteria described herein; however, they should be given a somewhat longer transition period and more resources from a variety of sources should be marshaled to help LDCs meet these and other eligibility criteria. This arrangement would strike a balance between the lower level of development on one hand and the substantially greater market access afforded on the other.

**2. A New Process**

a. Institutions

Currently, worker rights country practice petitions are filed with the USTR and reviewed initially by the GSP Subcommittee of the TPSC, an inter-agency committee that includes USTR, Treasury, Agriculture, State, USAID, Commerce and Labor. The full TPSC includes, in addition, the Council of Economic Advisors, Council on Environmental Quality, Department of Defense, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of the Interior, Department of Justice, Department of Transportation, Environmental Protection Agency, National Economic Council, National Security Council, Office of Management and Budget and the U.S. International Trade Commission (non-voting member).

It is understandable that a wide range of agencies may have an interest in a decision regarding country eligibility to receive trade preferences. However, as to whether the petition (1) on its face alleges a violation of the worker rights criteria and should therefore be accepted and (2) whether, following an investigation, those claims have been substantiated by the evidence, it appears that those decisions are wholly within the competence of DOL, and specifically ILAB. Thus, as to the first two aforementioned questions, ILAB's findings and conclusions should be given substantial deference, if not be determinative. The ultimate issue, whether a country's benefits should therefore be suspended because of those violations, or what the scope of the suspension should be, could be a determination that requires input from a broader inter-agency committee—though the scope of their review should be circumscribed.

b. Procedures

1. Public Petitions

The USG should provide for the receipt of public petitions from any person at any time on labor rights matters under a new trade preference scheme. This could be accomplished either by establishing an open petition process or by maintaining a fixed annual review process, at which time petitions would be encouraged, but with the possibility of filing a petition out-of-cycle. Elements of a basic petition should

include: name and contact information of petitioner (which should remain confidential if requested), a summary of the relevant facts, if possible the specific domestic laws or international labor rights alleged to have been violated and the relief sought. No additional information should be required at the initial stage.

The petition shall be accepted for review if the statements contained in the petition, if substantiated, would constitute a failure of the country to comply with the obligations or commitments under the preference program. ILAB should announce its determination within 30 days of the receipt of the petition. If the information provided is insufficient to make an initial determination, ILAB should notify the petitioner within 30 days of the receipt of the petition and request any information needed to make a determination. The petitioner should have 60 days from receipt of the notification to supply the requested additional information. ILAB shall have 30 days from the date the petitioner resubmits the petition in order to make its determination. If the petitioner does not supply the requested additional information within 60 days, or if the information is still insufficient, then the petition may be rejected.

If accepted, a notice should be published in the Federal Register within 5 days that a petition to review the eligibility of a beneficiary country has been accepted for review. Specific notice should be given to the foreign government and petitioner(s). The FR notice will start a process not to exceed 120 days. ILAB shall invite the public to submit supplemental written testimony in support of or in opposition to the petition within 30 days. Thereafter, ILAB and any other relevant agencies should conduct an investigation, including interviews with petitioners, government officials, employers or employer associations specifically named or in an industry identified in the complaint, as well as NGOs and other relevant stakeholders. As part of its investigatory process, a public hearing should also be held. The investigatory phase should close within 120 days from the filing of the petition.

Within 60 days from the close of the investigation, a written determination as to whether a violation or violations of the labor clause occurred, and the facts and evidence supporting that determination.[13]

2. Levels of Review

Unlike the existing petition process (in practice), petitioners should be able to request action taken at the country and/or industry level. Indeed, almost all past petitions have raised concerns at both levels, but the only remedy available in practice has been a complete suspension of preferences to an entire country. The availability of targeted remedies may provide the USG the flexibility to address the most critical problems directly.

For example, a situation could arise in which a petitioner alleges: (1) that the government has failed to enact laws consistent with the country's preference program obligations, has failed to maintain those laws, and/or in a systematic way has failed to enforce them; (2) alleges rampant violations in a specific industry, with illustrative cases with regard to specific firms that represent the worst actors within that industry. A petitioner should be able to request (and the U.S. government provide) action be taken at one or both levels. In cases where laws and regulations fall short of core labor standards, where there is a widespread failure in the administration of labor justice (ministry, inspectorate, courts), and/or where the government as employer is violating worker rights, the U.S. government should consider application of country-level remedies. Where worker rights violations are especially concentrated in a particular industry, the U.S. government should consider remedies that target the products of that industry.[14]

3. Remediation & Suspension

a. Country Level

The primary purpose of enforceable labor rights criteria is to improve working conditions, not to suspend tariff preferences for the sake of it. Thus, the approach taken to labor violations should be cooperative, at least initially. If ILAB were to

[13] The USG should develop a methodology setting forth clear and consistent procedures for the conduct of investigations, the criteria used to determine whether a violation of the labor clause has occurred, how such factors are weighed, and how a final determination is made. The methodology should also set forth procedures for drafting and implementing a remedial work plan, if applicable, and oversight of the implementation of such a plan. This proposed methodology should be published in the Federal Register for public comment.

[14] If the industry does not benefit from preferences, violations would have to be viewed in the context of a broader, country practice petition. However, this does not preclude the USG from developing a remediation plan that addresses concerns in that industry. The limitation would be in that benefits would have to be withdrawn for the entire country, rather than the specific industry.

determine based upon a petition or a biennial review (see below) that the beneficiary country is not in compliance with the labor eligibility criteria, then it should enter into consultations with the beneficiary country (with the participation of worker and employer representatives) to develop a work plan with clear benchmarks that, if met, would bring the country into compliance with the eligibility criteria. Such a work plan should usually be no longer than one year in duration, with a mid-point review.

If, after such consultations, a work plan cannot be developed, eligibility should be terminated. If such a plan is not fully implemented after the year, ILAB shall consider what progress has been made toward fulfilling the work plan. If the country has demonstrated sufficient political will and has taken substantial steps towards implementing that plan, the USG should extend the period for an additional period not to exceed one year. If, however, the country has not demonstrated the requisite will or has made insufficient progress, the preferences shall be limited, suspended or withdrawn.

As noted above, the TPSC is responsible for making a recommendation to the President to limit, suspend or withdraw preferences. Although the statute gives the President the discretion to factor in other considerations, i.e. the national economic interest, it is clear that members of the TPSC are factoring in additional non-labor considerations at the time the recommendation is being formulated. Further, the TPSC does not now appear to be constrained by any timelines whatsoever in making their decision.

The TPSC should be constrained to make its recommendation to the President within 60 days from ILAB's recommendation. Further, TPSC may reject ILAB's determination and recommend no action be taken only on the basis of an affirmative, consensus opinion based on evidence that suspending the preferences would either cause serious harm to the U.S. economy or jeopardizes the national security of the United States. If the TPSC recommends limitation, suspension or withdrawal of preferences, the President should notify Congress of his (or her) intent to limit or suspend the country's eligibility for preferential trade treatment within 30 days (unless the president independently determines that suspending preferences would cause serious harm to the economy or jeopardizes the national security of the United States). The final decision, either in the affirmative or negative, must be in writing with a full explanation for the reasons supporting that decision.

b. Industry Level

If a petition targets a particular industry or industries, or ILAB otherwise determines that violations described in a country practice petition are concentrated in a specific industry or in industries, it should develop a special work plan (or sub plan) with specific recommendations to address violations in the identified industry or industries. Of course, persistent worker rights violations in any industry are the responsibility of both the employers (who violate the law) and the government (which fails to enforce the law), so a sectoral approach will necessarily have to set forth specific benchmarks in a work plan that are directed to both the government and to the employers. As with the country-level work plan, government, employers and workers should all be engaged in developing that plan.

If the country and employers have demonstrated the will and have taken substantial steps towards implementing that plan, the president should extend the review period for an additional period not to exceed one year. If, however, the country has not demonstrated the requisite will or has made insufficient progress, and the violations are especially concentrated in an industry or industries, the president shall notify congress of intent to terminate the preferential treatment for the products in the identified industries.[15]

4. Reinstatement of Eligibility

The President may reinstate the eligibility for preferential treatment of a country (or sector) whose eligibility has been terminated if it is determined that the qualified beneficiary country has fully implemented the work plan.

Countries seeking reinstatement should file a written request with USTR. Notice of the request shall be published in the Federal Register. Any interested party shall have 60 days to provide information in response to the notice as to whether the country has implemented its work plan and/or any new additional information post-

[15] In many cases, a firm or group of firms may be responsible for giving the entire sector a bad reputation. If an entire sector were under review, it would be advantageous for the better actors to put pressure on the bad actors to avoid having the relevant product losing preferential treatment. However, if a firm within an industry continues to commit serious violations of worker rights, the USG should seek ways, where possible, to deny benefits to that firm or firms.

suspension with regard to the country's compliance with the labor clause generally. A public hearing should be held within 30 days after comments are due. ILAB shall review the evidence and conduct such investigations as necessary and make a determination within 90 days whether the beneficiary country has complied with the work plan. The preferences shall remain limited or suspended unless ILAB makes a finding that the beneficiary has fully complied with the work plan (and has not engaged in subsequent violations that justify the continuation of the suspension). If so, it would make a recommendation of reinstatement to the TPSC. If not, preferences shall remain suspended until such time that the beneficiary country can demonstrate full compliance through the process described above.

There may be some cases where a country seeks reinstatement of eligibility after several years out of the program, at which point the work plan would no longer be relevant. In such cases, a new assessment would need to be undertaken to ascertain whether the country meets the relevant eligibility criteria.

5. Regular Biennial Monitoring

In conjunction with civil society partners with demonstrated expertise in labor rights matters and together with other relevant international organizations, USTR, DOL and State shall work together to assess compliance by beneficiary countries with core labor rights and acceptable conditions of work, in law and practice. Such assessments shall be based on information available from the annual IRWR reports required under 19 USC § 2464,[16] the International Labor Organization, other interested parties, country and worksite visits that include confidential worker and worker representative interviews, meetings with management, visits to workplaces, collection and review of relevant documents. The U.S. government would not be required to develop yet another report but rather to survey information already in hand or readily available, and any additional information provided by civil society organizations and collected in the course of ongoing information gathering from the labor attachés and labor reporting officers.

In recognition of the limited resources, the U.S. government should be allowed to exercise discretion and self-initiate reviews of those countries that present the worst cases of non-compliance.

**C. Capacity Building**

Substantial funding will be required to make this program reach its desired goal. We will need to be creative in pursuing a consistent stream of funding. It is important, too, that we undertake a serious assessment of the efficacy of past labor capacity building programs. While some were well tailored to address properly diagnosed problems, others were not designed to address the most critical problems. Coordination among the several agencies at times seemed poor, with multiple projects receiving funds to do largely the same work. In other cases, organizations that received funding to carry out labor capacity building programs have had little expertise in labor relations and/or are unfamiliar with the region. In some cases the local partners designated by US-based organizations are unknown to or do not have the complete trust of labor organizations. Finally, there appears to be little accountability, particularly with regard to government institutions that continue to receive funds for workshops, training and equipment year after year despite showing little will to actually improve the quality of their work.

[16] This section would of course need to be amended to refer to the core labor rights assuming our recommendations herein are adopted.

Chairman LEVIN. Thank you very much.

Mr. Reinsch, please.

**STATEMENT OF WILLIAM A. REINSCH, PRESIDENT, NATIONAL FOREIGN TRADE COUNCIL (NFTC)**

Mr. REINSCH. Thank you, Mr. Chairman and Members of the Subcommittee. Thank you for the opportunity to appear. I am Bill Reinsch, I am president of the National Foreign Trade Council, a trade association of some 300 U.S. companies that are engaged in international trade and investment.

We support trade preference programs that eliminate tariffs in order to provide cost effective inputs to U.S. manufacturing, thereby enhancing U.S. jobs and competitiveness. Studies by the GAO and private sector think tanks show that preference programs have a small effect on the overall U.S. economy, and the tariff relief they provide benefits small and medium sized companies as much as it does large corporations. This tariff elimination also reduces costs to the U.S. consumer.

In the historic economic downturn we are experiencing, these multiple domestic benefits can be significant. Let me mention a few examples. The U.S. appliance makers imported $70 million worth of air conditioning machinery parts duty free last year that were used in making appliances here in the United States. Those same parts not covered under GSP would have a 1.4 percent tariff, so these manufacturers realized a $1 million savings on these components, which came mostly from Thailand. $430 million worth of ferrosilicon was imported last year under GSP, mostly from South Africa and Georgia, at a $17 million savings, increasing the competitiveness of domestic steel exports and reducing the cost of U.S.-made steel that was sold here.

The U.S. imported $80 million worth of marble sawn into slabs for the construction industry, mainly from Turkey, India, and Egypt, where GSP removed a 5 percent tariff, resulting in a $4 million benefit to this industry. About $10 billion worth of oil, mainly from Iraq, enters the U.S. under GSP. AGOA, in turn, waived tariffs on about $50 billion of oil from Nigeria, Angola, and Equatorial Guinea, and $13 billion worth of Colombian oil enters the U.S. under ATPA.

These are very low tariff products that Americans would buy anyway, but on each barrel there are 5 cent or 10 cent duties. All together, the savings comes to about $40 million.

Beyond this domestic benefit, we believe in the value of a stable system of trade preferences as a tool to provide broad and deep benefits to some of the world's poorest countries. This is not only a moral obligation, but also in our national, economic, and security self-interest.

The eligibility criteria inherent in all U.S. preference programs have led to economic and legal reforms which have made a real difference in building and strengthening a home grown entrepreneurial class, which allows economies to diversify and move beyond dependence on preference programs for growth. For example, the NFTC strongly believes that a strong IPR regime in developing countries is a key component in creating an indigenous class of entrepreneurs and innovators. Many cite the eligibility criteria in

GSP as contributing to Brazil moving forward to increase its IPR protections, and that is paying off for domestic innovation.

However, when beneficiary countries move away from the rule of law, such as Ecuador's withdrawal from the International Center for Settlement of Investment Disputes, and diminishing the independence of the judiciary, it is important that the eligibility criteria provide leverage for an appropriate response. Instituting across the board eligibility criteria mandating a strong rule of law and respect for an independent judiciary combined with adequate capacity building assistance will serve to separate countries who are moving forward from those like Ecuador who are moving away from international norms.

In April of this year the NFTC joined a diverse group of 29 organizations in sending a letter to Ambassador Kirk and to Congress outlining our consensus agreement on what improvements to the preference programs would be most beneficial. This group consists of broad based trade associations and bilateral business councils and NGOs focusing on international economic development, poverty, and hunger eradication and other international aid issues.

Since then, facilitated by the Trade Aid and Security Coalition of the Global Works Foundation and the trade partnership, we have continued to meet, including other faith-based, labor, and food security NGOs, and major corporations and other experts to find common ground on the details while communicating regularly with Congressional staff, including the staff of this committee.

We are united in the belief that Congress should make tangible improvements to the preference programs. A progress report on our work will be forthcoming soon, but our experience has shown that the main things Congress should do are, first, move toward a unified set of preferences, harmonizing the elements of GSP and regional programs over a short timeframe. Crafting a program that is certain, reliable, predictable, and long term is the most powerful thing Congress can do to ensure that preferences work for those they are intended to help.

Second, provide permanent, 100 percent duty free and quota free benefits for eligible least developed countries. This bold move provides the commitment and leadership that will serve as the foundation for all of the other work needed to make sure that the poorest nations begin to integrate preferential access to the U.S. market into their broader development plans.

Third, end the short and uncertain renewals. Waiting until a month or days or even after the expiration of a program to renew it makes it difficult to use the programs. For importers, stability is probably the most important issue. Investing in developing countries and building strong sourcing relationships requires time and money. Companies are reluctant to spend these resources if the preferences constantly start and stop, or if it seems like a product might lose GSP benefits, just as the investment begins to pay for itself.

Fourth, simplify the rules. Integrating the multiplicity of rules of origin, eligibility requirements, and product graduation requirements will increase use of the program.

Finally, tie renewal eligibility and graduation more completely to capacity building. While preferences can serve as a potent catalyst

for economic, regulatory, legal, and political reform, the capacity to build the infrastructure and the understanding of what is needed to utilize the programs and what is expected to maintain this privilege are all crucial to success.

In conclusion, I want to make clear that we understand that preferential access to the U.S. market is a privilege, not an entitlement, and along with it go responsibilities. Countries who receive these preferences must demonstrate the vision to undertake other efforts to improve their citizens' livelihood. Preferences are only one tool to spread economic opportunity globally.

We believe that U.S. leadership is finding a way forward to conclude the Doha Round is of paramount importance. Clearly articulating and implementing a comprehensive forward looking national trade policy that opens markets for U.S. business, workers, farmers, and ranchers must go hand and hand with the important effort to update and modernize the system of U.S. trade preference programs, and we look forward to working with Congress and the Administration in this effort.

Thank you Mr. Chairman.

[The prepared statement of Mr. Reinsch follows:]

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Testimony of William A. Reinsch

President, National Foreign Trade Council

Before the House Committee on Ways and Means Subcommittee on Trade

Hearing on the Operation, Impact and Future of U.S. Preference Programs

November 17, 2009

Mr. Chairman, Congressman Brady, Members of the Subcommittee, thank you for the opportunity to appear before you today to talk about the importance of U.S. trade preference programs and ways to improve them.

My name is Bill Reinsch and I am President of the National Foreign Trade Council, a trade association of some 300 U.S. companies engaged in international trade and investment. Our member companies represent a broad cross section of industries that drive the American economy, and we advocate trade, tax and human resource policies that support the ability of our members to compete successfully around the globe.

**Trade Preferences Help U.S. Manufacturers and Consumers**

So it is natural that we support trade preference programs that eliminate tariffs in order to provide cost-effective inputs to U.S. manufacturing, thereby enhancing U.S. jobs and competitiveness.

Studies by the GAO and private sector think tanks show that preference programs have a small effect on the overall U.S. economy and the tariff relief they provide benefits small and medium size companies as much as it benefits large corporations. This tariff elimination also reduces costs to the U.S. consumer. In the historic economic downturn we are now experiencing, these multiple domestic benefits are significant.

Based on ITC data compiled by Ed Gresser at the Democratic Leadership Council, here are just a few examples of how trade preference tariff reductions benefit U.S. manufacturers and consumers:

- U.S. appliance makers imported $70 million worth of air-conditioning machinery parts duty free last year that were used in making appliances here in the United States. Those same parts not covered under GSP would have a 1.4% tariff, so these U.S. manufacturers realized a $1 million savings on these components, which came mostly from Thailand.

- $430 million worth of ferrosilicon was imported last year under GSP without the normal 3.9 percent tariff, mostly from South Africa and Georgia, at a $17 million savings, increasing the competitiveness of domestic steel exports and reducing the cost of U.S. made steel sold here.

- The U.S. imported $80 million worth of marble sawn into slabs for the construction industry, mainly from Turkey, India and Egypt, where GSP removes a 5 percent tariff, resulting in a $4 million benefit to this industry devastated by the economic downturn.

- AGOA, The Andean Preferences and GSP all cover energy products. About $10 billion worth of oil, mainly from Iraq, enters the U.S. under GSP. AGOA waives tariffs on about $50 billion worth of oil from Nigeria, Angola and Equatorial Guinea, and $13 billion worth of Colombian oil enters the U.S. under ATPA. These are very low-tariff products Americans would buy anyway, but on each barrel there are five-cent or ten-cent specific duties. Altogether the savings comes to about $40 million.

**Trade Preferences Help Poor Nation Economies**

Beyond this domestic benefit, we and our members believe in the value of a stable system of trade preferences that offer duty free access to the U.S. market as a tool to provide broad and deep benefits to some of the world's poorest countries. This is not only a moral obligation, but also in our national economic and security self interest.

In many of the poorest countries, without access to the markets of the United States and other wealthy nations, employment opportunities lie in subsistence agriculture, government jobs and intermittent and economically unstable opportunities in the informal sector, which provide no path toward a better future. Preferential access to the U.S. market in the 1980s led to increased exports in nations covered under the Caribbean Basin Economic Recovery Act, which led to increased foreign direct investment in Central America, resulting in real income growth.

The eligibility criteria inherent in all U.S. preference programs have led to economic and legal reforms which have made a real difference in building and strengthening a home grown entrepreneurial class which allows economies to diversify and move beyond dependence on preference programs for growth. For example, the NFTC strongly believes that a strong domestic IPR regime in developing countries is a key component in creating an indigenous class of entrepreneurs and innovators. Many cite the eligibility criteria in GSP as contributing to Brazil moving forward to increase their IPR protections and that is paying off for domestic innovation.

**Move Toward a Unified Set of Preferences, Target the Poorest for Duty Free Quota Free, and Decrease the Uncertainty of Renewal**

In April of this year the NFTC joined with a very broad and diverse group of 29 organizations to send a letter to Ambassador Kirk and to Congress outlining our consensus agreement on what improvements to the preference programs would be most beneficial. This group consists of broad based and sectoral trade associations and bilateral business councils and NGOs focusing on international economic development, poverty and hunger eradication, and other

international aid issues.

Since then, facilitated by the Trade, Aid and Security Coalition of the GlobalWorks Foundation and the Trade Partnership, we have continued to meet, including other faith based, labor and food security NGOs and major corporations and other experts to find common ground on the details, while communicating regularly with Committee and Member staff. This effort proves that while we may remain divided on some of the details, we are unusually and uniquely united in the belief that Congress must and can make tangible improvement to the preference programs.

A progress report on the group's work will be forthcoming, but our experience has shown that the main thing Congress should do is:

- Move toward a unified set of preferences, harmonizing the elements of GSP and regional preference programs over a short time frame. Crafting a program that is certain, reliable, predictable and long term is the most powerful thing Congress can do to insure that preferences work for those it is intended to help.

- Provide permanent, 100 percent duty free and quota-free benefits for eligible lesser developed countries (LDCs). This bold move provides the commitment and leadership that will serve as the foundation for all the other work needed to make sure that the poorest nations begin to integrate preferential access to the U.S. market into their broader development plans.

- End the short and uncertain renewals. Waiting until a month, days or even after the expiration of a program to renew it makes it difficult to use the programs. For importers, stability is probably the most important issue. Investing in developing countries and building strong sourcing relationships requires time and money. Companies are reluctant to spend these precious resources if the preferences constantly start and stop, or if it seems like a product might lose GSP just as the investment begins to pay for itself. For non-LDC beneficiary countries, this means moving to a multiple year renewal period.

- Simplify the rules. Integrating the multiplicity of rules of origin, eligibility requirements and product graduation requirements will increase use of the program. Along with this, Congress should simplify and coordinate government administration of the program.

- Tie renewal, eligibility, and graduation more completely to capacity building. While preferences can serve as a potent catalyst for economic, regulatory, legal and political reform, the capacity to build the infrastructure and the understanding of what is needed to utilize the programs and what is expected to maintain this privilege are all crucial to success.

**Trade Preferences Are Not a Cure-All**

In conclusion, we understand that preferential access to the U.S. market is a privilege, not an entitlement, and along with it go responsibilities. Countries who receive these preferences must demonstrate the vision to undertake other efforts to improve their citizens' livelihood.

Preferences are only one tool to spread economic opportunity globally. We believe that U.S. leadership in finding a way forward to conclude the Doha Round of WTO negotiations is of paramount importance. Clearly articulating and implementing a comprehensive forward looking national trade policy that opens markets for U.S. business, workers, farmers and ranchers, must go hand in hand with the important effort to update and modernize the system of U.S. trade preference programs, and we look forward to working with Congress and this Administration in this effort.

Thank you for this opportunity to appear before you today.



Chairman LEVIN. Thank you very, very much.
Ms. Broadbent.

**STATEMENT OF MEREDITH BROADBENT, TRADE ADVISOR, THE GLOBAL BUSINESS DIALOGUE**

Ms. BROADBENT. I appreciate the opportunity to discuss U.S. trade preference programs. I am a trade advisor to the Global Business Dialogue, an association that focuses on international trade an investment matters. In that GBD does not lobby and our members have not considered this issue as a group, the views expressed here today are my own. They are based on my practical experience administering the GSP program at USTR from 2003 to 2008.

Although several key changes are needed, I would caution against a wholesale rewrite or consolidation of the separate U.S. trade preference programs. Rather, I am very positive about the track record of Congress for revising and improving these programs in a more iterative manner, as necessary, to reflect current foreign policy realities, the interests of U.S. industry, and current U.S. objectives in multilateral trade negotiations, and development priorities.

Under the single lens of any one of these concerns, U.S. trade preference programs are far from ideal. But taking into account the whole set of objectives, the current structure of the preference programs gives USTR the flexibility to effectively tailor U.S. trade policy toward 131 different developing countries, a group that spans a very wide spectrum in terms of per capita income and capacity to implement trade reforms.

Because of the wide differences in the capacities of beneficiary countries to comply, trade preference eligibility criteria in the statute should not be one size fits all. USTR has been successful in bringing about positive changes in beneficiary countries based on the existing conditionality criteria. Historically, the goal of gradually integrating advanced developing countries into a reciprocal trade relationship with the United States under the disciplines of the WTO or in the context of a free trade agreement has been important for Congress and for both Republican and Democratic administrations.

Over the past 30 years, the United States has enacted five preference programs targeting specific regions of the world for deeper, more generous benefits. Each of these regional programs has its own history, national security, and foreign policy context. Aimed at providing economic alternatives to drug crop production, the Andean trade preference program lent itself well in the case of Colombia and Peru to encouraging a transition from unilateral trade preferences to a willingness and ability to undertake the reciprocal and binding obligations of free trade agreements. Recently, Ecuador has been reviewed under ATPA for breaches of rule of law that have affected U.S. investors, raising the question of whether unilateral trade preferences in this case are serving U.S. interests, but it is my view that the statute has been working.

There are leaders in Congress who have championed and fought for expanding trade ties with separate regions, which I believe has had a tremendously positive impact on U.S. trade relations with these areas of the world. Chairmen Rangel and Archer and Levin and Congressmen McDermott and Crane worked tirelessly to establish the AGOA program. I believe AGOA led to a sea change improvement in U.S. trade relations with Africa, and was responsible

for creating government mechanisms for coordinating with the continent on common objectives for the Doha negotiations in the WTO.

The flexibility in the current preference structure makes GSP an effective tool for USTR. USTR is in a better position to encourage beneficiary countries to eliminate market access barriers for U.S. exports and respect worker rights, for example, because U.S. trade negotiators can engage the target developing country both under GSP and under the regional program. Proposals to streamline and consolidate programs should be considered, but not at the expense of reducing the status of regional groupings that the countries themselves view as important, and which provide a framework and incentives for USTR to promote regional economic integration, an important development objective in and of itself.

There are improvements in these programs that Congress should consider. U.S. importers and potential investors in many developing countries have legitimate concerns about the complications and costs associated with the exceedingly arcane rules of origin that apparel products must meet in order to receive duty free treatment. The effectiveness of U.S. preference programs is undermined by detailed and complicated restrictions related to requirements to use U.S. fabric, yarn, and finishing processes. No other sector of trade is so tightly controlled and micromanaged. I urge the Subcommittee to look at these rules of origin in a fresh light to see what can be done to simplify and eliminate burdensome complications that have the effect of undermining the value of the duty savings to the developing countries that the United States is trying to help.

I'm sorry to say that in terms of the Doha Round trade agenda, the Committee will also have to wrestle with reconciling the goal of helping developing countries and the perverse and damaging incentive trade preferences create for countries to oppose multilateral trade liberalization in the WTO. Once developing countries become vested in their preferences, they often fight multilateral reductions and tariffs, creating a difficult negotiating dynamic for the United States in Geneva. For example, many preference receiving developing countries continue to pose cuts in developed country apparel tariffs.

This inclination by some preference beneficiaries to oppose any trade liberalizing proposal that could be characterized as causing "preference erosion" is having serious deleterious effects on the Doha negotiations. This is not the most important obstacle to reaching an agreement, but it is an issue that WTO countries will have to face when larger issues in the Doha Round are solved.

In conclusion, Mr. Chairman, preferences are a flexible and effective mechanism for furthering the U.S. trade policy agenda. They establish market-based incentives for developing countries to open their markets. These programs will be enhanced by amendments that help make the programs simpler and more user friendly, but which also preserve USTR's ability to tailor its approach to the different circumstances facing developing countries.

Thank you.

[The prepared statement of Ms. Broadbent follows:]

Statement of Meredith Broadbent
Trade Advisor, the Global Business Dialogue
Before the Subcommittee on Trade of the Committee on Ways and Means
U.S. House of Representatives
Hearing on U.S. Trade Preference Programs
November 17, 2009

Chairman Levin, Ranking Minority Member Brady, and other Members of the Committee, thank you for the opportunity to discuss the issue of improving U.S. trade preference programs.

**Introduction**

By way of background, I am Trade Advisor to the Global Business Dialogue (GBD), an association that focuses on international trade and investment matters. In that GBD does not lobby and our members have not considered this issue as a group, the views expressed here today are purely my own. They will be based on my practical experience administering the Generalized System of Preferences (GSP) program at the Office of the United States Trade Representative (USTR) from 2003-2008 and leading the U.S. negotiating team for the Doha (NAMA) negotiations on industrial market access during the same time period. Prior to serving at USTR, I was privileged to work for the Ways and Means Trade Subcommittee, where I participated at the staff level in the development and expansion of several of the regional trade preference programs.

**Overview**

Although I will be interested to see reform proposals that may be developed based on the review the Subcommittee is undertaking and appreciate that several key changes are needed, my inclination at this point is to caution against a wholesale rewrite or consolidation of the five existing U.S. trade preference programs. Rather, I remain very positive about the track record of Congress for revising and improving these programs in a more iterative manner as necessary to reflect: 1) current foreign policy realities and economic development priorities; 2) the interests of U.S. industry, including importers, exporters, and those impacted by import competition; and 3) current U.S. objectives in multilateral trade negotiations.

Under the single lens of any one of these concerns, U.S. trade preference programs are far from ideal. But taking into account the whole set of objectives, which I believe Congress has, the current structure of the preference programs gives USTR the flexibility to effectively tailor U.S. trade policy toward 131 different developing countries, a group that spans a very wide spectrum in terms of per capita income and capacity to implement trade reforms. Because of the wide differences in the capacities of beneficiary countries to comply, trade preference eligibility criteria in the statute should not be one-size fits all. USTR has been successful in bringing about positive changes in beneficiary countries based on the existing conditionality criteria. Recent examples include improved labor rights in Uganda, Swaziland and Liberia and more effective enforcement of intellectual property rights in Brazil, Ukraine, Kazakhstan and Pakistan.

**Discussion**

GSP, the preference program that I administered at USTR, has been renewed and modified eleven times since its inception in 1976. The goal of GSP is to improve the ability of developing economies to compete with developed countries in the international trading system, thereby enhancing their growth and development. As authorized by this Committee, the GSP program encourages beneficiaries to: 1) eliminate or reduce significant import barriers to goods, services and investment; 2) afford all workers internationally recognized worker rights; and 3) provide adequate and effective means to secure and enforce property rights, including intellectual property rights. The law also has protections for domestic industries that are sensitive to import competition from articles receiving preferential tariff treatment. Although the statute is less clear on this goal, duty-free treatment on imports from GSP beneficiaries allows many U.S. firms and consumers to benefit from lower costs and more choices.

Historically, the goal of gradually integrating advanced developing countries into a reciprocal trade relationship with the United States under the disciplines of the World Trade Organization (WTO) or in the context of a free trade agreement (FTA) has been important for Congress and for both Republican and Democratic Administrations. As early as 1980, a Presidential report to Congress noted that the President's statutory authority to provide benefits under the GSP program would be employed "to withdraw, suspend or limit the application of duty free treatment" in a way that would begin to pare back benefits for competitive products from the most successful exporters under GSP. Congress added competitive needs limits to the GSP statute in 1984 with the goal of limiting the ability of globally competitive exporters to monopolize trade preferences in a particular category. Congress strengthened these limits in 2006. To date, about 245 products from a wide variety of developing countries have "graduated" or reached a level of competitiveness in the U.S. market consistent with a determination that duty-free treatment is no longer necessary.

In addition, several Presidents have used authority in the statute to graduate successful countries from the program altogether, not just on a product by product basis. Countries such as Hong Kong, Taiwan, South Korea and Singapore, which were graduated, have all become top performers in international trade and strong allies and advocates for achieving further trade liberalization in the WTO.

It is important to note that a typical step in any free trade agreement negotiation is for the two countries to reach an understanding that all tariff lines receiving a duty-free preference will become permanently duty-free upon implementation of the agreement. To my mind, this step (familiar to all FTA market access negotiators) is a fitting reminder that unilateral trade preferences represent a helping hand on a pathway toward a more mature, permanent trade relationship that also entails concrete, predictable trade opportunities for U.S. exporters. Permanent duty-free treatment for preference products is something FTA partner countries are willing to pay for by making a package of reciprocal, binding trade concessions to the United States.

Over the past thirty years, the United States has enacted other trade preference programs targeting specific regions of the world for deeper, more generous benefits including, after 2000,

important and valuable benefits for apparel imports which, until that time, had been statutorily excluded from all trade preference programs. These regional programs were built on the basic structure of the GSP program: the Caribbean Basin Economic Recovery Act (CBERA) in 1983; the Andean Trade Preference Act (ATPA) in 1991; and the landmark Africa Growth and Opportunity Act (AGOA) in 2000. The "HOPE" Act, passed in 2006, increased duty-free access to the U.S. market for apparel and certain other products made in Haiti.

Each of these regional programs has its own history, national security, and foreign policy context. The original Caribbean Basin program was an innovative program designed to help stabilize a region emerging from civil wars and insurgencies. Aimed at providing sustainable economic alternatives to drug crop production in Bolivia, Colombia, Ecuador and Peru, the Andean Trade Preference program lent itself well (in the case of Colombia and Peru) to encouraging a transition from unilateral trade preferences to a willingness and ability to undertake the reciprocal and binding obligations of free trade agreements. Recently, Ecuador has been reviewed under ATPA for breaches of rule of law that have affected U.S. investors. Bolivia has become ineligible for benefits because of a failure to adhere to obligations under international countermarcotics agreements and the fact that its Government is explicitly encouraging coca production.

There are leaders in Congress who have championed and fought for expanding trade ties with separate regions, which I believe has had a tremendously positive impact on U.S. trade relations with these areas of the world. Chairmen Rangel and Archer and Congressmen McDermott and Crane worked tirelessly to establish the AGOA program. Congressmen Gibbons and Frenzel set the stage for the transformation of our commercial relationship with the Caribbean Basin that has occurred since the bill passed in 1983. For its part, I believe AGOA led to a sea change improvement in U.S. trade relations with the 40 developing countries in the region, and was responsible for creating government mechanisms for coordinating with the continent on common objectives for the Doha negotiations in the WTO. The AGOA Forum, established in the legislation, has been highly successful in encouraging expanded political exchanges and dialogue between the highest levels of the U.S. Government and their African counterparts.

**Proposed Improvements**

Having administered only the GSP program but having coordinated closely with the USTR administrators of AGOA, ATPA, and CBERA in the process, I appreciate the value and flexibility of the current preferences structure. It is difficult to prove but my experience tells me that USTR is effective encouraging beneficiary countries to eliminate market access barriers for U.S. exports and respect internationally recognized worker rights, for example, because U.S trade negotiators can engage the target developing countries under both GSP and a regional program. Proposals to streamline and consolidate programs should be considered but not at the expense of reducing the status of regional groupings that the countries themselves view as important and which provide a framework and incentives for USTR to promote regional economic integration, often an important trade and development objective in and of itself.

That being said, there are essential changes and improvements to these programs that Congress should consider. Since apparel first became eligible for trade preferences under AGOA and the Caribbean Basin program in 2000, we have seen how much increased trade in this sector contributes to creating opportunities for economic development in poor countries. To cite a recent example, the fact that the HOPE program has created an estimated 30,000 jobs in Haiti in just two years is an impressive accomplishment.

However, U.S. importers and potential investors in many developing countries have legitimate concerns about the complications and costs associated with the exceedingly arcane rules of origin that apparel products must meet in order to receive duty-free treatment. The effectiveness of U.S. preference programs is undermined by detailed and complicated restrictions relating to requirements to use U.S. yarn, fabric and fininishing processes. No other sector of trade is so tightly controlled and micromanaged. The paperwork requirements can be overwhelming, particularly for small businesses. I urge the Subcommittee to look at these rules of origin in a fresh light to see what can be done to simplify and eliminate burdensome complications that have the effect of undermining the value of the duty savings to the developing countries that Congress is trying to help.

I am sorry to say that in terms of the Doha Round trade agenda, the Committee also will have to wrestle with reconciling the goal of helping developing countries integrate into the global economy and the perverse and damaging incentive trade preferences create for countries to oppose multilateral trade liberalization in the WTO. Once countries become vested in their preferences, they often fight multilateral reductions in tariffs, creating a difficult negotiating dynamic for the United States in Geneva. For example, many preference receiving developing countries continue to oppose cuts in developed country apparel tariffs. This inclination by some preference beneficiaries to oppose any trade liberalizing proposal that could be characterized as causing "preference erosion" is having serious, deleterious effects on the Doha negotiations aimed at reducing industrial tariffs.

**Conclusion**

The U.S. trade preference programs have had a long, successful history in improving economic conditions in the developing world. Even though U.S. preference programs currently account for only 5.4 percent of total U.S. imports, in my experience, these benefits are appreciated and valued by developing countries, probably more than their dollar value would imply. USTR's ability to use preferences to improve bilateral trade relations, encourage economic development and solve market access and worker rights issues will be enhanced by amendments that help make the programs simpler and more user -friendly.

Thank you, Mr. Chairman and Members of the Committee. That concludes my testimony.

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Chairman LEVIN. Thank you very, very much.
Ms. Rangnes.

**STATEMENT OF MARGRETE STRAND RANGNES, DIRECTOR, LABOR, WORKERS' RIGHTS & TRADE PROGRAM, SIERRA CLUB**

Ms. RANGNES. Thank you. Thank you Chairman Levin, ranking member Brady, and Members of the Subcommittee. On behalf of the Sierra Club's 1.3 million members and supporters, I want to thank you for the opportunity to address this issue. I am here primary as a representative of the Sierra Club, but I am also speaking on behalf of a broad array of organizations, including the Center

for Biological Diversity, the Center for International Environmental Law, Defenders of Wildlife, Demos, Environmental Investigation Agency, and Friends of the Earth.

The United States has long granted trade preferences to developing countries that meet various criteria. These have changed with time, reflecting U.S. economic and foreign policy priorities. However, the GSP does not currently include environmental criteria. Now is the time to correct that omission, and the environmental community looks forward to working with this committee and Congress to include meaningful environmental language to our GSP system.

This hearing could not be more well timed. In just a few weeks, world leaders will gather in Copenhagen to address the critical issues of climate change. A quick snapshot of the state of the global environment tells a sobering story. We are facing a collision of crises ranging from alarming rates of biodiversity loss, deforestation, vanishing fresh water supplies, and pervasive chemical pollution. Sadly, it is in the developing world that is at risk for suffering the greatest harm for these environmental threats.

Climate change is also an economic development issue since it is projected to reduce gross domestic product by up to 10 percent in the developing world. Conversely, sound environmental policies can lead to sound economic growth. A prime example of this can be seen in Africa, where an agreement to reduce or end commercial trade in elephants allowed populations that were crashing towards disappearance to rebound to healthy levels.

This action cut off huge amounts of corrupt payment that weakened governments throughout sub-Saharan Africa, helped to simplify and improve enforcement activities, protected the broader ecosystems, and paved the way for massive increases in tourism, revenue, and assisted local employment. Tanzania's 2008 tourism income, for example, was over $1 billion, and is centered on the wildlife in its national parts.

As detailed in my written testimony, we believe that there are two central components that must be addressed in a revised GSP. The first is the inclusion of meaningful environmental standards. The second focuses on the process and implementation of these.

On the substantive end, it is important to make clear that there is no environmental equivalent to the core labor standards found in the ILO. Thus, ratification and implementation of critical multilateral environmental agreements, also known as MEAs, can be used as a benchmark. MEAs aim to protect the very fabric of the planet's ecology and address different dimensions of the environmental challenges we face, ranging from climate change and protection of the ozone layer to protecting endangered species.

While some are regional in scope, many are global agreements that are signed by a majority of countries, including our GSP partners, and a revised GSP should demonstrate the expectation that countries live up to their MEA obligations as well as effectively enforce their domestic environmental laws and regulations. However, even the best intended provisions will have little impact if there is not also a clear process around implementation.

We believe a number of improvements can be made to the current petition system, making it more accessible and transparent.

Specifically these include allowing for more frequent opportunities for the submission of petitions, establishing clear timelines for the review and investigation process, and accepting both country and sector-based petitions.

Including environmental criteria in the GSP is not intended to lead to the exclusion of beneficiary countries, but rather improve environmental conditions while still helping to expand trade. A phase-in period should be established during which countries bring their actions into accordance with the environmental standards. This transition phase should include capacity building, technical support, and financial assistance. Least developed countries should be allowed more time to come into compliance.

On the question of resources needed to enable countries to meet these obligations, we believe it is important to look at a variety of possibilities in addition to any direct assistance from the United States. A number of the major MEAs, for example, do offer financial mechanisms as well as technical assistance and capacity building. In the American Clean Energy and Security Act, there are funds set aside for developing countries to adapt and mitigate the impacts of climate change, and working with other countries with GSP programs, such as those found in Europe, also offers opportunities to more effectively coordinate on the multilateral level.

It is time to revisit our policies to create an avenue for increasing environmental protection, and thus, sustainable development. We look forward to working with this committee and Congress to include meaningful environmental criteria in the GSP.

Thank you.

[The prepared statement of Ms. Rangnes follows:]

**Prepared Statement of Margrete Strand Rangnes, Director, Labor, Workers' Rights & Trade Program, Sierra Club**

Chairman Levin and Members of the Subcommittee, on behalf of the Sierra Club's 1.3 million members and supporters, I want to thank you for this opportunity to address the critical issue of environment, development and trade in the context of the review of U.S. trade preference policy.

My name is Margrete Strand Rangnes, and I direct the Sierra Club's Responsible Trade Program. I am here primarily as a representative of the Sierra Club, but I am also speaking on behalf of a broad array of organizations, including the Center for Biological Diversity, the Center for International Environmental Law, Defenders of Wildlife, Demos, Environmental Investigation Agency and Friends of the Earth.

The United States has long granted trade preferences to developing countries that meet various criteria. These criteria, which are stipulated by the Generalized System of Preferences (GSP), have changed with time—reflecting U.S. economic and foreign policy priorities. While the criteria include non-support for terrorism, enforcement of intellectual property rights, and respect for internationally recognized worker rights, the GSP does not include environmental criteria. With the current U.S. GSP program set to expire at the end of December and environmental issues taking on growing urgency, now is the time to correct that omission.

Trade policy is one means by which the United States expresses its values and advances both foreign and domestic policy goals. The evolution of the GSP criteria has reflected this and revising the GSP to include environmental criteria would be consistent with the law's history and intent. The stated purpose of the GSP is to promote economic growth in the developing world. Environmental sustainability underlies economic growth and development. As we discuss U.S. trade preference policy, the world faces the interwoven challenges of alleviating extreme poverty and protecting our natural environment. Achieving these goals in unison is the only way to improve human development while ensuring the continued prosperity of future generations.

This hearing could not be more well-timed; in just a few weeks, world leaders will gather in Copenhagen, Denmark, to address the critical issue of global climate

change. The science is clear. Climate change is happening, and those hit hardest are those who are least responsible for causing it—the developing world. The question now is whether we can avoid planetary tipping points that once crossed, will lead to catastrophic impacts for all nations. While there is no silver bullet that offers a simple and immediate fix to these challenges, amending the GSP to include environmental criteria is one of the tools we have available. Preserving the planet's ecosystem is becoming a primary domestic and global priority for the United States. Trade policies must be updated to reflect this goal.

Positive changes are already under way. Recent bilateral U.S. trade agreements have included progressively stronger environmental provisions, and I want to thank Chairman Levin and members of this committee for their leadership on this front. The intent of these provisions is not simply to strengthen environmental protections by U.S. trading partners, but also to reassure American citizens and workers that these partners are not cutting ecological corners as they compete with the United States. Moreover, such provisions provide important leverage for environmentalists in developing countries as they fight entrenched interests. However, since bilateral trade agreements cover only a limited number of countries, including environmental criteria in the GSP would greatly reinforce the ways that trade policy supports the U.S.'s environmental goals.

**A Backdrop of Environmental Crises**

A quick snapshot of the state of the global environment tells a rather grim story of which climate change is only one aspect. We are facing a collision of environmental crises ranging from alarming rates of biodiversity loss, to vanishing fresh water supplies, to pervasive chemical pollution. The combination of these crises has led scientists to warn of planetary boundaries that, if passed, will cause irrevocable harm to both the developing and developed world. Sadly, today it is the developing world that is at risk for suffering the greatest harm.

The world water crisis is one of the largest public health issues of our time. According to the World Health Organization, nearly 1.1 billion people (roughly 20 percent of the world's population) lack access to safe drinking water, which in turn is estimated to kill almost 4,500 children per day. In fact, the World Health Organization reports that out of the 2.2 million unsafe drinking water deaths in 2004, 90 percent were children under the age of five, nearly all in the developing world. The current rate of species extinction is hundreds of times higher than the natural rate of extinction.[1] If climate change continues unchecked, the Intergovernmental Panel on Climate Change predicts we are likely to lose another 30 percent of remaining species, primarily in tropical countries in the developing world. Finally, the World Resources Institute estimates that more than 80 percent of the Earth's natural forests have already been destroyed, a natural resource upon which the developing world is heavily dependent.

Climate change is also an economic development issue since it is projected to reduce gross domestic product by up to 10 percent in the developing world, greatly reducing the ability of countries to respond to these monumental challenges.[2] In order to minimize the worst impacts of climate change, we must take action now. We must use all tools available to us, including the access to our markets we grant through preference programs and trade agreements.

A country example of how climate change and resulting environmental threats can impact development, can be found in the Niger Delta, which spans more than 20,000 square kilometers and is home to approximately 25 percent of Nigeria's population, diverse plant and animal species, and natural resources.[3] Niger Delta inhabitants rely heavily on economic activities closely tied to the vitality of their environment, such as fishing, farming and trading.[4] These resources and economic activities are threatened by a myriad of impacts caused by rising sea levels brought on by climate change. It is projected that nearly 15,000 square kilometers of land in the Niger Delta could be lost over the course of the next century if there is a one meter rise in sea level.[5] Rising sea levels are already causing coastal flooding and erosion, damage to coastal vegetation such as mangroves, and saltwater intru-

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[1] United Nations Environmental Program, UNEP (2007): *Geo-4.* Global Environmental Outlook. Environment for Development.

[2] Nicholas Stern et al, *Stern Review on the Economics of Climate Change: Summary for Policymakers* (London: HM treasury, 2006), 9.

[3] Etiosa Uyigue, "Climate Change in the Niger Delta," Community Research and Development Center, 1.

[4] Ibid.

[5] Ibid.

sion of freshwater water supplies, all of which could lead to the forceful relocation of nearly 80 percent of the Niger Delta population.[6]

Uganda provides another example of the impacts of climate change and development. Uganda relies heavily on the water resources of Lake Victoria's basin; however, lake levels have decreased due to high evaporation rates.[7] Of particular concern is the impact of low water levels on hydroelectric power in Uganda, which is "central to the economic prosperity" of the country.[8] Uganda recently invested over $260 million in the Nalubale/Owen Falls and Kiira Dams to produce upwards of 380 MW of electricity; however, low water levels have led to power generation far short of predicted numbers—a mere 120 MW.[9] Such low levels of power generation have resulted in a situation where the dams cannot provide enough electricity for domestic and industrial needs, leading to increased electricity costs for a population of people where more than 37 percent live below the poverty line.[10] These higher costs have "restrict[ed] access" and "affect[ed] the well being and economic activities" of the Ugandan people.[11]

**The Proposal for Including Environmental Provisions in GSP**

**Substantive Provisions**

In the absence of a set of internationally agreed upon environmental standards (akin to the internationally recognized worker rights standards currently included as a criterion in the U.S. GSP program), ratification and implementation of Multilateral Environmental Agreements (MEA) that the United States has also ratified and implemented can be used as a bench mark. While some MEAs are regional in scope, a number of global MEAs are signed by a majority of countries, including our GSP partners. MEAs aim to protect the very fabric of the planet's ecology and address different dimensions of our urgent environmental challenges; they deal with issues ranging from climate change and protection of the ozone layer to protection of endangered species.

An example of a critical MEA can be seen in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

Wildlife trade is a booming global activity which generates significant income for numerous local, regional, national and international communities. Illegal wildlife poaching and resultant international trade is also a massive and destructive activity, ranking behind only drug and human trafficking and ahead of arms in annual value.[12] Recognition that the extinction of valuable plant and animal species from the wild would represent both a natural tragedy and an economic travesty—both for resource-dependent communities and commercial traders—led to the ratification of CITES. The Convention requires countries to base decisions about commercial trade in such species on rational, scientific criteria, and creates mechanisms so that countries struggling to reduce trafficking and poaching crimes receive support from their trading partners. Implementation of CITES requirements on a national level requires strengthened natural resource and enforcement institutions.

A prime example of CITES' positive impact on development in poor nations can be seen in Africa, where the international community's agreement through CITES to reduce or end commercial trade in elephants (1989) allowed populations that were crashing towards disappearance from over-hunting for ivory to rebound to healthy levels today. This action, within a short time, cut off huge amounts of corrupt payment that weakened governments throughout sub-Saharan Africa; helped to simplify and improve enforcement activities; protected the broader ecosystems around elephant populations, and paved the way for massive increases in tourism revenue and associated local employment. Tanzania's 2008 tourism income, for example, was over $1 billion dollars, and is centered on the wildlife in its national parks.[13]

Many countries ratify MEAs but do not successfully implement them. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which includes 175 countries and which aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival, pro-

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[6] Ibid.

[7] Dickens Kamugisha, "Lake Victoria Extinction and Human Vulnerability in Uganda," Africa Institute for Energy.

[8] Ibid., 1.

[9] Ibid., 2.

[10] Ibid., 3–4.

[11] Ibid., 4.

[12] Neme, Laurel. 2009. Animal Investigators. Scribner.

[13] "Tanzania tourism revenue to hit $1,35 billion next year." Reuters, 22 June 2008.

vides one example. The CITES "National Legislation Project" shows that 51 of the countries currently in the GSP program are within Category 1 or 2, lacking or with inadequate national implementation. Including compliance with MEAs as an environmental criterion in the GSP will provide increased incentive for countries to implement MEAs. Furthermore, the United States should provide adequate technical and capacity building assistance as well as financial assistance for countries that are currently unable to bring themselves into compliance. This support can be effectively channeled through the institutional structures established in the MEAs, as well as through the capacity-building initiatives of the UN Environment Programme.

Countries may have national laws that accomplish similar levels of protection as the MEAs. Essentially, beneficiary countries should either be a party to MEAs or have enacted domestic legislation that provides similar protections of the same form.

Furthermore, the revised GSP statute should also require countries to effectively enforce their domestic environmental laws.

**Process and Implementation**

The eligibility criteria of the GSP, such as in the area of labor standards, are currently enforced through a petition system. That is, any person can petition the United States government to remove the trade preferences granted to a Beneficiary Developing Country (BDC) based on its violation of GSP criteria. Every year, eligibility issues are reviewed by the Trade Policy Staff Committee (TPSC) during the Annual GSP Product and Country Eligibility Review. The TPSC is made up of trade practices experts from 19 different government agencies, including departments related to environmental standards (i.e. the Council on Environmental Quality, Department of Agriculture, Department of Energy, and Environmental Protection Agency). The inclusion of these departments as members of the TPSC means that it is in a good position to judge the relevance of potential environmental petitions, and adequately assess the eligibility of countries in this area.

A number of improvements can further enhance the petition process, making it more accessible and transparent. There should be more frequent opportunities for the submission of petitions, rather than in limited filing windows as is currently the case. Furthermore, clear timelines should be established for the review and investigation processes. Another important reform is the acceptance of both country and sector-based petitions. That is, environmental standards that are being broken in one sector should not necessarily mean that the entire country loses its GSP privileges. Limitation or suspension of GSP privileges should be applicable by sector as well as by country. Finally, countries found in violation of environmental criteria should have the opportunity to develop a National Plan of Action rather than suffer the loss of preferences. All final decisions should be in writing and be made public.

Including environmental standards in the GSP Program, and thus bringing MEAs into the petition system will help to promote and enforce compliance with those agreements by empowering a range of actors to draw attention to compliance failures. This is especially helpful for countries that may need additional outside assistance in enforcing their environmental laws. Often, there is desire to comply with these agreements, but limited capacity to do so. The United States should work with countries that are named in petitions to establish National Plans of Action and help bring them into compliance with the GSP criteria.

**What will happen to countries that are currently granted GSP preferences but do not meet the new environmental standards?**

The objective of preference programs is to expand trade and enhance development. Thus, including environmental criteria in the GSP is not intended to lead to the exclusion of beneficiary countries from preferential treatment. Rather, eligibility criteria are meant as a way to help ensure that expanded trade can actually promote sustainable development, instead of provoking a race to the bottom through weak and unenforced labor and environmental standards. The ultimate aim of these new standards is to help improve environmental conditions in developing countries while still helping them to expand trade.

A phase-in period should be established during which countries that received GSP benefits prior to the revised environmental criteria going into effect would be allowed a set period of time during which they must bring their actions into accordance with those standards. This transition phase should include capacity building, technical support and financial assistance.

Least developed countries should be allowed more time to come into compliance with the new standards. Failure to comply with the environmental criteria will be examined on a case by case basis. The United States (through the TPSC) should work with these countries to develop National Plans of Action, and provide financial

assistance if necessary to assist in reaching environmental standards. LDCs that work with the United States to develop these National Plans of Action and then work to implement them should continue to be granted GSP preferences.

**How will developing countries meet the costs associated with compliance with environmental standards?**

The initial phase-in period should be accompanied by adequate technical and capacity building assistance, as well as financial assistance for countries that are unable to bring themselves into compliance with the new environmental criteria.

Furthermore, a number of the major multilateral environmental agreements are supported by financial mechanisms through the agreement themselves. That is, developing countries are afforded financial assistance to meet compliance standards when they sign/ratify the treaty itself. For example, as part of the Montreal Protocol, a Multilateral Fund was set up to assist developing countries whose annual per capita consumption and production of ozone depleting substances (ODS) is less than 0.3 kg to comply with the control measures of the Protocol. Currently, 146 of the 194 Parties to the Montreal Protocol meet these criteria. The fund is financed by 49 industrialized countries (including some countries with economies in transition).[14] The Global Environmental Facility (GEF) provides funding for developing nations to meet their obligations under the Stockholm Convention, Convention and Biological Diversity, Cartagena Protocol on Biosafety and the UN Framework on Climate Change Convention.[15] CITES largely relies on funding from governments, international agencies and the private sector, but generally does not provide substantial assistance for developing nations.

Countries that make reasonable strides towards compliance but cannot realistically be expected to meet the environmental standards without additional financial assistance (beyond that which is provided through the individual agreement), should be provided a grace period during which they will be given provisional preferential treatment.

**Coordination with Other GSP Granting Nations**

The United States should not be alone in requiring environmental standards to be met as a condition for GSP eligibility. A multilateral effort would not only be much more effective, but it would also send a strong message that maintaining the integrity of the environment is a vital component of development and needs to be more adequately addressed. There are currently 13 national GSP schemes in place according to the UNCTAD secretariat. The following countries grant GSP preferences: Australia, Belarus, Bulgaria, Canada, Estonia, the European Union, Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and the United States of America. Only the European Union's GSP + program currently include environmental criteria.

**Conclusion**

The U.S. GSP is set to expire on December 31, 2009. This means that unless Congress passes legislation to renew it, the U.S. Customs and Border Protection will begin to collect duties on imports from GSP countries on January 1, 2010. Ideally, Congress would renew the GSP program with these additional environmental standards before the legislation expires at the end of this year. However, more often than not the GSP has been allowed to expire and then is later renewed retroactively. This places developing countries at a huge financial disadvantage, especially in light of the current economic downturn. If the GSP is allowed to expire, BDCs will be forced to pay customs duties on exports to the United States starting January 1, 2010. Although these funds would be returned retroactively when the program is ultimately renewed, this places a large financial burden on firms in these poor countries. Uncertainty about the renewal of GSP can have the effect of discouraging its use because it makes sourcing plans uncertain and potentially costly. Furthermore, while exporters may be reimbursed for the duties accrued, American consumers are not reimbursed for the higher costs of imported goods.

It is time to revisit U.S. trade preference policy to create an avenue for increasing environmental protection and thus sustainable development. The climate change crisis has highlighted the need for the international community to work together on environmental issues; this coordination must extend into the trade arena. This moment of crisis provides an opportunity to rethink patterns of growth, ways of measuring progress, and the means to build more resilient systems. Environmental sustainability underpins economic growth and development. If development is to be

[14] Multilateral Fund for the Implementation of the Montreal Protocol.
[15] Multilateral Fund for the Implementation of the Montreal Protocol.

sustainable, economy, society and the environment must be interconnected in ways which are mutually reinforcing.

We look forward to working with this Committee and the U.S. Congress to include meaningful and binding environmental criteria in U.S. trade preference policy.

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Chairman LEVIN. Thank you very much.

Mr. Yager.

**STATEMENT OF LOREN YAGER, DIRECTOR, U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO), INTERNATIONAL AFFAIRS AND TRADE**

Mr. YAGER. Mr. Chairman, ranking member Brady, and Members of the Subcommittee, I am pleased to appear in front of the subcommittee again, this time to report on our work on U.S. trade preference programs.

GAO has completed three in-depth studies of U.S. preference programs for the Committee on Ways and Means and the Finance Committee and we are involved in an additional study at this time. The Committee has already heard testimony from many experts today, so let me summarize just a few key points from my written statement.

Mr. Chairman, the opening statements for the hearing, the testimony from members sponsoring legislation, the government and private sector officials all demonstrate that the design of preference programs is a difficult balancing act.

If you make the programs more generous for some groups, you often make them more difficult for others. We outlined a couple of these key tradeoffs in our earlier report. And let me go through these very briefly. One example is that the programs are designed to offer duty-free access to the U.S. market, but only to the extent that they do not harm U.S. industries. As a result, the programs exclude certain products from duty-free status, including some that preference countries are capable of producing and exporting successfully.

A second trade-off involves deciding which developing countries can enjoy preferential benefits. For example, legislation has been proposed to provide Bangladesh and Cambodia access to preferential benefits for their apparel exports to the United States. On the other hand, as we've heard today, the African private sector spokesman and other experts on the AGOA program caution that giving preferential access to Bangladesh and Cambodia for apparel might endanger the apparel export industry that has grown up under that program.

This same trade-off involves decisions regarding the graduation of countries or products from the program. Although the intent of country and product graduation is to provide greater benefits to poor countries, we repeatedly heard concerns that China, rather than less developed nations, would be most likely to gain U.S. imports, as a result of a beneficiary's loss of preferences.

Policy makers face a third trade-off in setting the duration of preferential benefits and authorizing legislation. Preference beneficiaries and U.S. businesses that import from them agree that longer and more predictable periods for program benefits are desir-

able, while others point out that periodic program expirations can be useful as leverage.

Members of Congress have recognized this trade-off with respect to Africa. Congress renewed AGOA's general provisions until 2015 to provide an incentive for long-term investment. While in ATPA, where there are concerns about responses from Ecuador, Congress has shortened the renewal period to six months to maintain and retain that leverage.

Mr. Chairman, I have also outlined a number of recommendations to improve preference programs, both in my written statement and in GAO's earlier reports. I would be happy to summarize those in the question and answer period, but at this time let me conclude my oral statement and allow the subcommittee to engage in questions and answers. Thank you, Mr. Chairman.

[The statement of Mr. Yager follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Trade, Committee on Ways and Means, House of Representatives

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# INTERNATIONAL TRADE

## Options for Congressional Consideration to Improve U.S. Trade Preference Programs

Statement of Loren Yager
Director, International Affairs and Trade

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GAO-10-262T

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# Highlights

Highlights of GAO-10-202T, a testimony before the Subcommittee for Trade, Committee on Ways and Means, House of Representatives

November 2009

## INTERNATIONAL TRADE

## Options for Congressional Consideration to Improve U.S. Trade Preference Programs

### Why GAO Did This Study

U.S. trade preference programs promote economic development in poorer nations by providing duty-free export opportunities in the United States. The Generalized System of Preferences, Caribbean Basin Initiative, Andean Trade Preference Act, and African Growth and Opportunity Act unilaterally reduce U.S. tariffs for many products from over 130 countries. However, two of these programs expire partially or in full this year, and Congress is exploring options as it considers renewal. This testimony describes the growth in preference program imports, identifies policy trade-offs, and summarizes GAO recommendations and options suggested by a panel of experts on the African Growth and Opportunity Act (AGOA). The testimony is based on studies issued in September 2007, March 2008, and August 2009. For those studies, GAO analyzed trade data, reviewed trade literature and program documents, interviewed U.S. officials, did fieldwork in nine countries, and convened a panel of experts.

### What GAO Recommends

In the March 2008 report, GAO recommended that the U.S. Trade Representative review beneficiary countries that have not been considered under the regional programs, and periodically consider preference programs jointly. In response, USTR officials told us that the relevant agencies will meet at least annually. USTR also changed its annual report to discuss the preference programs in one place.

View GAO-10-202T or key components. For more information, contact Loren Yager at (202) 512-4347 or yagerl@gao.gov.

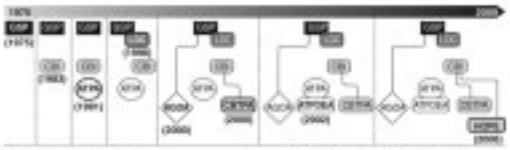
### What GAO Found

Total U.S. preference imports grew from $20 billion in 1992 to $110 billion in 2008, with most of this growth taking place since 2000. The increases from preference program countries primarily reflect the addition of new eligible products, increased petroleum imports from some African countries, and the rapid growth of exports from countries such as India, Thailand, and Brazil.

Preference programs give rise to three critical policy trade-offs. First, opportunities for beneficiary countries to export products duty free must be balanced against U.S. industry interests. Some products of importance to developing countries, notably agriculture and apparel, are ineligible by statute as a result. Second, some developing countries, such as Bangladesh and Cambodia, are not included in U.S. regional preference programs; however, there is concern that they are already competitive in marketing apparel to the United States and that giving them greater duty-free access could harm the apparel industry in Africa and elsewhere. Third, Congress faces a trade-off between longer preference program renewals, which may encourage investment, and shorter renewals, which may provide leverage to encourage countries to act in accordance with U.S. interests such as trade liberalization.

GAO reported in March 2008 that preference programs have proliferated and become increasingly complex, which has contributed to a lack of systematic review. Moreover, we found that there was little to no reporting on the impact of these programs. In addition, GAO solicited options from a panel of experts in June 2009 for improving the competitiveness of the textile and apparel sector in AGOA countries. Options they suggested included aligning trade capacity building with trade preference programs, modifying rules of origin to facilitate joint production among trade preference program beneficiaries and free trade partners, and creating non-punitive and voluntary incentives to encourage the use of inputs from the United States or its trade preference partners to stimulate investment in beneficiary countries.

**Growth of Trade Programs over Time**




Source: GAO analysis of USTR documents on Generalized System of Preferences, African Growth and Opportunity Act, Andean Trade Preference Act, and Caribbean Basin Initiative.

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss our work on U.S. trade preference programs. Over the last 2 years, GAO has completed three in-depth studies on U.S. preference programs for this Committee and the Senate Committee on Finance.[1] We believe this hearing provides an opportunity for Congress and the administration to review the progress and performance of these programs as a group and consider potential opportunities to improve them. As a number of the preference programs are scheduled to expire by the end of the current calendar year, this discussion will allow for consideration of some of the difficult questions that have been posed in the past by members of this Committee.

In order to contribute to that discussion, I will address three topics. First, I will provide some background on the programs and on recent import trends. Second, I will outline some of the key trade-offs between various domestic and foreign interests that are inevitable in the design of preference programs. Finally, I will summarize some of the recommendations we have provided regarding preferences programs as well as some of the options that experts suggested to GAO that we included in our most recent report to Congress on the African Growth and Opportunity Act.

My remarks are based on the three studies noted above, and informed by our on-going work in fulfillment of a congressional mandate on the Haiti Earned Import Allowance Program.[2] We conducted our work on the cited studies from March 2007 to July 2009 in accordance with generally accepted government auditing standards and GAO's quality assurance framework, as applicable. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit.

[1] GAO, U.S.-Africa Trade: *Options for Congressional Consideration to Improve Textile and Apparel Sector Competitiveness under the African Growth and Opportunity Act*, GAO-09-916 (Washington, D.C. : August 12, 2009); GAO, *International Trade: U.S. Trade Preference Programs Provide Important Benefits, but a More Integrated Approach Would Better Ensure Programs Meet Shared Goals*, GAO-08-443 (Washington, D.C.: Mar. 7, 2008); and GAO, *International Trade: An Overview of Use of U.S. Trade Preference Programs by Beneficiaries and U.S. Administration Reviews*, GAO-07-1209 (Washington, D.C.: Sept. 27, 2007).

[2] In response to the statutory mandate in the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), Title XV of P.L. 110-234, GAO is conducting a review of the Earned Import Allowance Program for Haiti.

objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

In an effort to promote and achieve various U.S. foreign policy objectives, Congress has expanded trade preference programs in number and scope over the past 3 decades. The purpose of these programs is to foster economic development through increased trade with qualified beneficiary countries while not harming U.S. domestic producers. Trade preference programs extend unilateral tariff reductions to over 130 developing countries. Currently, the United States offers the Generalized System of Preferences (GSP) [1] and three regional programs, the Caribbean Basin Initiative (CBI),[2] the Andean Trade Preference Act (ATPA),[3] and the African Growth and Opportunity Act (AGOA). Special preferences for Haiti became part of CBI with enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act in December 2006. The regional programs cover additional products but have more extensive criteria for participation than the GSP program. Eight agencies have key roles in administering U.S. trade preference programs. Led by the United States Trade Representative (USTR), they include the Departments of Agriculture, Commerce, Homeland Security, Labor, State, and Treasury, as well as the U.S. International Trade Commission (ITC).

U.S. imports from countries benefiting from U.S. preference programs have increased significantly over the past decade. Total U.S. preference imports grew from $20 billion in 1992 to $110 billion in 2008. Most of this growth in U.S. imports from preference countries has taken place since 2000. This accelerated growth suggests an expansionary effect of increased product coverage and liberalized rules of origin for least-developed countries (LDC) under GSP in 1996 and for African countries under AGOA in 2000. In particular, much of the growth since 2000 is due to imports of petroleum from certain oil producing nations in Africa, accounting for 70.5 percent of total imports from Sub-Saharan Africa in 2008. For example, in that same year, U.S. imports from the oil producing

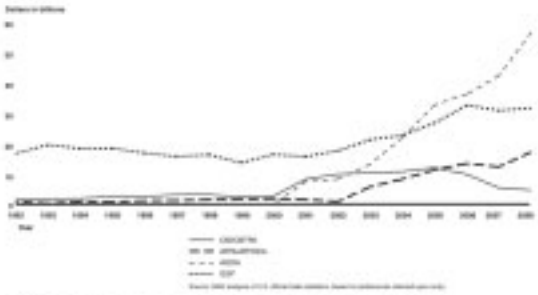
[1] In 1996, the number of duty-free tariff lines offered under GSP was expanded to provide additional benefits to beneficiary least-developed countries (LDC).

[2] In 2000, CBI was expanded by the Caribbean Basin Trade Partnership Act (CBTPA).

[3] In 2002, ATPA was expanded by the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

countries of Nigeria grew by 16.2 percent, Angola by 51.2 percent, and the Republic of Congo by 65.2 percent.

**Figure 1: Trends in U.S Preference Import Levels (1992-2008)**



Note: Values of imports are expressed in nominal dollars, not adjusted for inflation.

There is also evidence that leading suppliers under U.S. preference programs have "arrived" as global exporters. For example, based on a World Trade Organization (WTO) study in 2007,[1] the three leading non-fuel suppliers of U.S. preference imports—India, Thailand, and Brazil—were among the top 20 exporters in the world, and were also major suppliers to the U.S. market. Exports from these three countries also grew faster than world exports as a whole. However, these countries have not reached World Bank "high income" level criteria, as they range from "low" to "upper middle" levels of income.

GSP—the longest standing U.S. preference program—expires December 31, 2009, as do ATPA benefits. At the same time, legislative proposals to provide additional, targeted benefits for the poorest countries are pending.

[1]For additional information, see WTO, World Trade 2007, Prospects for 2008: Developing, Transition Economies Cushion Trade Slowdown, Press Release No. 529, Apr. 17, 2008, p. 29.

## Critical Policy Trade-offs among U.S. Consumers, Producers, and Foreign Beneficiaries Are Inherent in Preference Programs

Preference programs entail a number of difficult policy trade-offs. For example, the programs are designed to offer duty-free access to the U.S. market to increase beneficiary trade, but only to the extent that access does not harm U.S. industries. U.S. preference programs provide duty-free treatment for over half of the 10,500 U.S. tariff lines, in addition to those that are already duty-free on a most favored nation basis. But they also exclude many other products from duty-free status, including some that developing countries are capable of producing and exporting. GAO's analysis showed that notable gaps in preference program coverage remain, particularly in agricultural and apparel products. For 48 GSP-eligible countries, more than three-fourths of the value of U.S. imports that are subject to duties (i.e., are dutiable) are not included in the programs. For example, just 1 percent of Bangladesh's dutiable exports to the United States and 4 percent of Pakistan's are eligible for GSP. Although regional preference programs tend to have more generous coverage, they sometimes feature "caps" on the amount of imports that can enter duty-free, which may significantly limit market access. Imports subject to caps under AGOA include certain meat products, a large number of dairy products, many sugar products, chocolate, a range of prepared food products, certain tobacco products, and groundnuts (peanuts), the latter being of particular importance to some African countries.

A second, related, trade-off involves deciding which developing countries can enjoy particular preferential benefits. A few LDCs in Asia are not included in the U.S. regional preference programs, although they are eligible for GSP-LDC benefits. Two of these countries—Bangladesh and Cambodia—have become major exporters of apparel to the United States and have complained about the lack of duty-free access for their goods. African private-sector representatives have raised concerns that giving preferential access to Bangladesh and Cambodia for apparel might endanger the nascent African apparel export industry that has grown up under AGOA. Certain U.S. industries have joined African nations in opposing the idea of extending duty-free access for apparel from these countries, arguing these nations are already so competitive in exporting to the United States that in combination they surpass U.S. free trade agreement partners Mexico and those in CAFTA, as well as those in the Andean/AGOA regions.

This trade-off concerning what countries to include also involves decisions regarding the graduation of countries or products from the programs. The original intention of preference programs was to provide temporary trade advantages to particular developing countries, which would eventually become unnecessary as countries became more competitive. Specifically,

the GSP program has mechanisms to limit duty-free benefits by "graduating" countries that are no longer considered to need preferential treatment, based on income and competitiveness criteria. Since 1989, at least 28 countries have been graduated from GSP, mainly as a result of "mandatory" graduation criteria such as high income status or joining the European Union. Five countries in the Central American and Caribbean region were recently removed from GSP and CBI/CBTPA when they entered into free trade agreements with the United States. In addition to country graduation, the United States GSP program also includes a process for ending duty-free access for individual products from a given country by means of import ceilings—Competitive Needs Limitations (CNL). These ceilings are reached when eligible products from GSP beneficiaries exceed specified value and import market share thresholds (LDCs and AGOA beneficiaries are exempt). Amendments to the GSP in 1984 gave the President the power to issue (or revoke) waivers for CNL thresholds under certain circumstances, for example through a petition from an interested party, or when total U.S. imports from all countries of a product are small or "de minimis." In 2006 Congress passed legislation affecting when the President should revoke certain CNL waivers for so called "super competitive" products. In 2007, the President revoked eight CNL waivers.

Policymakers face a third trade-off in setting the duration of preferential benefits in authorizing legislation. Preference beneficiaries and U.S. businesses that import from them agree that longer and more predictable renewal periods for program benefits are desirable. Private-sector and foreign government representatives have stated that short program renewal periods discourage longer-term productive investments that might be made to take advantage of preferences, such as factories or agribusiness ventures. Members of Congress have recognized this argument with respect to Africa and, in December 2006, Congress renewed AGOA's third-country fabric provisions until 2012 and AGOA's general provisions until 2015. However, some U.S. officials believe that periodic program expirations can be useful as leverage to encourage countries to act in accordance with U.S. interests such as global and bilateral trade liberalization. Furthermore, making preferences permanent may deepen resistance to U.S. calls for developing country recipients to lower barriers to trade in their own markets. Global and bilateral trade liberalization is a primary U.S. trade policy objective, based on the premise that increased trade flows will support economic growth for the United States and other countries. Spokesmen for countries that benefit from trade preferences have told us that any agreement reached under the Doha round of global

trade talks at the WTO must, at a minimum, provide a significant transition period to allow beneficiary countries to adjust to the loss of preferences.[1]

## Potential Areas of Improvement for U.S. Trade Preference Programs

### Proliferation of Preference Programs Has Led to a Need for a More Integrated Approach

GAO found that preference programs have proliferated over time and have become increasingly complex, which has contributed to a lack of systematic review. In response to differing statutory requirements, agencies involved in implementing trade preferences pursue different approaches to monitoring the various criteria set for these programs. We observed advantages to each approach but individual program reviews appeared disconnected and resulted in gaps. For example, some countries that passed review under regional preference programs were later subject to GSP complaints. Moreover, we found that there was little to no reporting on the impact of these programs. To address these issues, GAO recommended that USTR periodically review beneficiary countries, in particular those that have not been considered under GSP or regional programs. Additionally, we recommended that USTR should periodically convene relevant agencies to discuss the programs jointly.

In our March 2008 report, we also noted that even though there is overlap in various aspects of trade preference programs, Congress generally considers these programs separately, partly because they have disparate termination dates. As a result, we suggested that Congress should consider whether trade preference programs' review and reporting requirements may be better integrated to facilitate evaluating progress in meeting shared economic development goals.

In response to the recommendations discussed above, USTR officials told us that the relevant agencies will meet at least annually to consider ways to improve program administration, to evaluate the programs' effectiveness jointly, and to identify any lessons learned. USTR has also changed the format of its annual report to discuss the preference

[1]For additional information on these issues see GAO-08-443 and GAO-07-1209.

programs in one place. In addition, we believe that Congressional hearings in 2007 and 2008 and again today are responsive to the need to consider these programs in an integrated fashion.

## Experts Provided a Range of Options for Improving AGOA

In addition to the recommendations based on GAO analysis, we also solicited options from a panel of experts convened by GAO in June 2009 to discuss ways to improve the competitiveness of the textile and apparel sector in AGOA beneficiary countries. While the options were developed in the context of AGOA, many of these may be applicable to trade preferences programs in general.

- **Align Trade Capacity Building with Trade Preferences Programs**: Many developing countries have expressed concern about their inability to take advantage of trade preferences because they lack the capacity to participate in international trade. AGOA is the only preference program for which authorizing legislation refers to trade capacity building assistance; however, funding for this type of assistance is not provided under the Act.[1] In the course of our research on the textile and apparel inputs industry in Sub-Saharan African countries, many experts we consulted considered trade capacity building a key component for improving the competitiveness of this sector.

- **Modify Rules of Origin among Trade Preference Program Beneficiaries and Free Trade Partners**: Some African governments and industry representatives of the textile and apparel inputs industry in Sub-Saharan African countries suggested modifying rules of origin provisions under other U.S. trade preference programs or free trade agreements to provide duty-free access for products that use AGOA textile and apparel inputs. Similarly, they suggested simplifying AGOA rules of origin to allow duty-free access for certain partially assembled apparel products with components originating outside the region.

- **Create Non-Punitive and Voluntary Incentives**: Some of the experts we consulted believe that the creation of non-punitive[2] and voluntary incentives to encourage the use of inputs from the United States or its trade preference partners could stimulate investment in beneficiary

[1] For additional information on trade capacity building see GAO-09-916.

[2] The non-punitive focus of this suggestion is a direct response to the negative results of the previously implemented "abundant supply" provision in AGOA. (See GAO-09-916 for more detail.)

countries. One example of the incentives discussed was the earned import allowance programs currently in use for Haiti and the Dominican Republic. Such an incentive program allows producers to export certain amounts of apparel to the U.S., duty free, made from third-country fabric, provided they import specified volumes of U.S. fabric.[7] Another proposal put forth by industry representatives was for a similar "duty credit" program for AGOA beneficiaries. A simplified duty credit program would create a non-punitive incentive for use of African regional fabric. For example, a U.S. firm that imports jeans made with African origin denim would earn a credit to import a certain amount of jeans from Bangladesh, duty free. However, some experts indicated that the application of these types of incentives should be considered in the context of each trade preference program, as they have specific differences that may not make them applicable across preference programs.

While these options were suggested by experts in the context of a discussion on the African Growth and Opportunity Act, many of these options may be helpful in considering ways to further improve the full range of preference programs as many GSP LDCs face many of the same challenges as the poorer African nations. Some of the options presented would require legislative action while others could be implemented administratively.

Mr. Chairman, thank you for the opportunity to summarize the work GAO has done on the subject of preference programs. I would be happy to answer any questions that you or other members of the subcommittee may have.

## GAO Contact and Staff Acknowledgments

For further information on this testimony, please contact Loren Yager at (202) 512-4347, or by e-mail at yagerl@gao.gov. Juan Gobel, Assistant Director; Gezahegne Bekele; Ken Bombara; Karen Deans; Francisco Enriquez; R. Gifford Howland; Ernie Jackson; and Brian Tremblay made key contributions to this statement.

[7]The earned import allowance programs for Haiti and the Dominican Republic vary in some aspects, for example a 3 for 1 ratio of qualified inputs to earned credits is used for Haiti, while a 2 for 1 ratio is used for the Dominican Republic.

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Chairman LEVIN. Well, thank you. Dr. Yager, I think maybe it was well that you went last, in this sense: I do think you lay out the various facets that have to be considered as we look at this issue. And I do think today's hearing has had a basically constructive atmosphere to it, and a recognition that, as we endeavor to expand trade, there really is a need to consider various ingredients, and to really try to shape its course. And you can't simply let it proceed, willy nilly.

So, let me just encourage, for example, Ms. Rangnes, I know that you have begun to work on environmental issues. And your statement acknowledges that there isn't a standard like the ILO labor standard, which lays out five or four, depending on how you define it, criteria that have some historical development to them.

And what you suggest really somewhat reflects the way the environmental issues were confronted in the U.S.-Peru free trade

agreement where, in the end, the standard was MEAs plus something else. And, as we know, in the issue of reforestation or deforestation, there are some very additional and strong provisions. And so, I think coming especially with this last panel, is a recognition that we all have to very actively dig in and have a lot of discussion and dialogue as we make decisions.

Those factors include, for example, length. And if we are not going to reform these provisions in the next six weeks, I think we will have to face issues, for example, of length of continuation of benefits. So, some of the factors mentioned relate not only to a longer term reform, if we cannot do it in the short term, but also as to what we do in the short term.

And I would like to, Mr. Brady, encourage us to have—as I think the staff has commenced—a lot of discussion about how we proceed. And, if possible, to have these discussions go on between the House and the Senate. Because, otherwise, we could be faced with passing legislation here which could get hung up in the Senate. And I think the preferable course, since we face some deadlines here, some important deadlines, if we could, find some common basis for action involving both the majority and minority in the House, and the majority in the Senate and the White House.

Now, I acknowledge that's a tall order on anything. But I think it's worth a try. I think it's worth a try. So, let me leave it at that, and ask Mr. Brady if he would like to inquire.

Mr. BRADY. Chairman, again, thank you for holding this hearing. These have been very informative panels on a number of issues. Thank you. You all brought something different to the table. Let me just ask some quick questions.

Mr. Love, the reason you—the sourcing from Colombia plummeted from 60 million units to 1 or 2 was what?

Mr. LOVE. Really, the unpredictability of what lay ahead. We try to engage with strategic players over the long term, and that—we were not able to continue those relationships in Colombia because of the economic impact due to that uncertainty. So we revisited our sourcing strategy on that basis.

Mr. BRADY. Got it. So stability, predictability is the key factor.

Mr. LOVE. Yes. You know, cost is a big factor in supply chain sourcing. But predictability and reliability are the key factors, you know. Your product doesn't show up on time, it has a pretty significant economic impact.

Mr. BRADY. Thanks, Mr. Love. Dr. Yager, I agree with your recommendation that we ought to have systemic regular oversight over the preference programs. But is—are you recommending that we collapse these preference programs into a unified approach?

Mr. YAGER. Ranking Member Mr. Brady, it's not necessarily the case that you have to combine the programs in order to have a well-aligned review process. And I think one of the options would be to ensure that all of the countries within the five different preference programs do get reviewed on a fairly regular basis.

The situation that exists right now is that, within certain regional programs like the AGOA program, there is a very regular review process on an annual basis. On the other hand, within the GSP program—which admittedly has a much larger number of par-

ticipants—; about 131—the review process is not regular. And, in fact, there was a 17-year period between overall GSP reviews.

So, I think one of the recommendations that we made had to do with the frequency and the regularity of the review process, moving closer to a situation where there is a guaranteed review for all countries. And I think that could be combined with, or it could be separate from the petition-driven process, which has also been an issue today.

Mr. BRADY. Thank you. Mr. Reinsch, you made a number of points about unifying and simplifying. Have you taken a position, has the council taken a position on Mr. McDermott's bill at this point? Or are you still looking at it?

Mr. REINSCH. I understand that he is on the verge of introducing——

Mr. BRADY. I am sorry, yes, but——

Mr. REINSCH [continuing]. A version. I believe they are giving us material on it this afternoon. So I can't answer your question now, but I probably can answer it tomorrow morning.

Mr. BRADY. Great, thanks. Ms. Broadbent, welcome back. Glad you have you here.

Obviously, preference programs, for many of us, are a starting point, you know, and a way to start that process of transition ultimately to a full partnered free trade agreement. A legitimate question is, during the preference program, what is America receiving for our market access?

And when it comes to eligibility criteria, can you cite examples where that has prompted policy changes within that host country?

Ms. BROADBENT. In general, it is my view that the eligibility criteria in GSP acts to incentivize better policies in developing countries. To pick out a few examples:—improved labor rights in Swaziland, Liberia, and Uganda, and intellectual property rights improvements in Brazil, Ukraine, Kazakhstan, and Pakistan.

There are really good success stories and not many cases where petitioners are frustrated with USTR. I think that USTR is viewed as responsive to problems raised by petitioners, and has been able to move the ball forward in several of these countries, based on the leverage of the conditions in GSP.

Liberia, for example, is a big success that sticks in my mind. In 2006, President Ellen Sirleaf was able to make enough progress in coming into compliance with GSP conditions that GSP was restored to Liberia after many years of not having GSP. She received GSP benefits based on a willingness to invite the ILO in to work with them to figure out how Liberia could establish an environment in which unions could organize.

Mr. BRADY. Great, thank you. I really mean it, this is a very informative panel, all across the board. Thank you, Mr. Chairman.

Chairman LEVIN. Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman. Mr. Vogt, what type of problems have you experienced in filing petitions at USTR?

Mr. VOGT. Actually, I've written a law review article on this, so I can send that along to your office.

Mr. DOGGETT. I would appreciate getting that.

Mr. VOGT. It's looking at—that period as a 20-year review as a use of the GSP petition process.

Part of the problem is that if you file a complaint with the USTR, there is no criteria articulated as to what they use to determine whether to accept a complaint or not. When decisions are made, there is no written rationale, so you have no idea why that particular petition has been accepted or rejected.

Mr. DOGGETT. So you could go months without even knowing whether the petition you filed was being reviewed?

Mr. VOGT. Years, in some cases. So, I mean, that's part of it.

Sometimes petitions are actually accepted. There could be informal conversations between the U.S. government and the foreign government. No real kind of dialogue with the petitioners. That, too, can drag on for years without any demonstration of meaningful progress on the issues that have been raised in the complaint.

Mr. DOGGETT. Let me ask you specifically about the Uzbek child labor case. I find it difficult to justify why we would grant any preference to one of the most thuggish governments in the entire world. But since we do, what happened with that case?

Mr. VOGT. Right—about two years ago, the International Labor Rights Forum filed a petition with regard to Uzbek cotton. That's the case in which the government, as a state policy, is forcing children to leave school for months at a time to pick cotton, some of which is exported to the United States. That petition was accepted, but it has been under review for a couple of years now.

I know there is a vigorous interagency discussion on this petition. But on the merits, on the labor merits, I mean there is no question. And I don't think anybody is questioning whether the allegations in the complaint are true or not. In fact, you know, the Uzbek Government, in a couple of opportunities, refused to even show up at the hearings on——

Mr. DOGGETT. So when USTR had a hearing, the Uzbeks didn't even show up to offer any rationale at all for their use of child labor?

Mr. VOGT. Right, right.

Mr. DOGGETT. And how long has that case been pending over there?

Mr. VOGT. I think at least a couple of years.

Mr. DOGGETT. Thank you. I will look forward to reading your law review article.

And I would like to ask Ms. Rangnes a couple of questions. This morning you heard Mr. Reif respond to me that he felt that the GSP requirements on labor standards had led to changes in the laws in several African countries, and the provisions on intellectual property had led to changes in the law in several Asian countries.

What are we losing out on? What is the effect of totally disregarding the need to do the same thing for environmental protection, as you have advocated?

Ms. RANGNES. Well, I think an example here could be seen in the connection between trade and illegally harvested timber and wood products. That is—deforestation contributes 20 percent of global greenhouse gas emissions. There is very little regulatory framework to stem the import of illegally harvested wood.

Under GSP programs we are importing a fair amount of wood and timber products from countries like Brazil, from Indonesia, very high rates of deforestation. Much of that suspected also to be

illegally harvested. It's hard to put an exact number on the illegal logging.

And so, if you had any criteria in the GSP to enforce forestry laws, enforce compliance with MEAs, for example, you could use it as a way to then petition and make sure that those laws are upheld. We often find that there are good laws on the books that are not being enforced. We know it's a develop issue. The World Bank estimates that developing countries are losing some $15 billion annually in revenue because of illegal logging.

So I think that's a really concrete example. We try to address that as a term and noted in the Peru FTA, looking very specifically at a trade-related issue. So, that would be one example of how we could see those provisions being used.

Mr. DOGGETT. And I know you mentioned the very critical matter of climate change. And I share your commitment to addressing global warming. But just to be clear with reference to any renewal of the GSP regime, climate change is really not directly a factor there, because we don't really have a multilateral environmental agreement dealing with that. Maybe some day before the planet burns up.

But to look at modest change that might be made without slowing down the renewal of GSP, what about just the modest step of requiring countries to do what they have already committed to do, with reference to the enforcement of their environmental laws, as we did in Peru, and perhaps enumerating some of the major environmental multi-lateral agreements that they have either signed on to, or the majority of the world has, like the trade and endangered species, which is a real serious problem in a number of the African and Asian countries that benefit from GSP.

Ms. RANGNES. Absolutely. And when I listed the group of organizations that are working on these kinds of proposals, that is the type of thing that we would like to be able to come back to this committee with, and work out some language that would incorporate both a reference to the MEAs, and to obligations that countries have already signed on to.

One hundred and seventy-five countries around the world have signed the Convention on International Trade in Endangered Species, for example. And so having an expectation that those obligations are being met, as well as enforcing domestic and environmental law, that is what this broader coalition of environmental groups are working on to develop for this process.

Mr. DOGGETT. And then, finally, mention was made this morning, "Well, if you add too many requirements here, we will get way behind our trading competitors." I believe you note in your written testimony that, actually, the European Union already has some environmental criteria for its own GSP program.

Ms. RANGNES. They have included in what they call as a GSP Plus, in terms of giving—for countries going above and beyond their basic program, which is another way of looking at these questions, as well, and, you know, rewarding sustainability policies, as well.

You could do that, for example, under—in logging, and look at certified timber, and giving that preference, for example. There is many different options that I think you should—that this com-

mittee and that—we want to be working with this committee in thinking through and developing.

Mr. DOGGETT. Thank you very much. Thank you, Mr. Chairman.

Chairman LEVIN. Mr. Doggett, we can look to the Europeans on that. I wish they would look to us on some other things. Mr. Davis?

Mr. DAVIS. Thank you. Since Mr. Doggett decided to give the introduction for my remarks, for my comments this morning, I will just pick right up on that point.

I would probably disagree with the European statements of their principles versus what they actually do. You can walk through the francophone countries in western Africa and watch EU policies in perfect harmony there, as they steal contracts from—or have contracts stolen from other lower-priced bidders.

There is an interesting commerce that takes place. The United States actually upholds a vastly higher standard in terms of Foreign and Corrupt Practices Act, and things like that, that make many of the discussions on standards that we're having here seem rather mute. I've seen that firsthand.

And I think that we play ourselves again right back into that question of creating double standards by having too many. It's no different than dealing with a federal bureaucracy for somebody who is running a manufacturing business. You can end up complying with one bureaucracy's regulations and then automatically place yourself in violation of another standard.

And this is not to say that this discussion is not very important, that we don't want to be good stewards. But I am very concerned about the left and right hand not knowing what the other is doing. And we're seeing the potential for that in this discussion.

You know, my case in point, when Mr. Reinsch made the comment that Ecuador is moving away from this standard right here, you know, I might suggest, you know, language the panel wouldn't use, but perhaps we're seeing sort of this retrograde Socialist movement take place that—obviously, people have a right in a sovereign nation to do what they want to do. They can make that choice. But we don't have to underwrite that.

But at the same time, I come back to my comments on Colombia this morning, who I personally witnessed, in a generation, go through dramatic and remarkable changes, moving hugely in the right direction. Are there labor concerns there? Perhaps there are, depending on the standard we want to apply. We could say that here, in the United States. We could say that in many countries in the world.

But at what point do we say, "Okay, we're not going to move you to the next step in the preference program," assuming that's to lift us up. And the whole aspect of this is to move us towards a place of harmonizing our economies so that we can work effectively together.

My question is, don't we actually create a situation where we create a default double standard? We punish those, potentially, who might be—it might be politically helpful for us to do, like Colombia, who is at vastly greater risk than simply a question of labor preferences, frankly, when they've made these huge strides in the right direction.

We have a legitimate and very real national security threat in the northern half of South America right now that is progressively growing. And, as this spreads, if we abandon those who have shown good intent, who have moved in the right direction, tell me how we're not going to be creating that double standard and punishing the folks who want to be allied with us?

I had the chiefs of staff of a number of South American countries personally tell me—not Colombia's, I might add—that their biggest strategic concern, from an economic policy, was not understanding why the U.S. wouldn't approve the Colombia Free Trade Agreement, because of their concern of what all of that means, in terms of second and third order effects. And I don't think that's a Democrat or Republican issue. But I think looking at it beyond our individual silos of interest, you know, I have some concern.

And I would throw it open to anybody on the panel to answer that question. I mean, it creates a legitimate moral dilemma, I believe. What Ecuador is doing is unconscionable. They are violating all possible contracts for investment, and I don't think it's a good place to invest, based on what we're seeing. Colombia has moved in the right way. Their own labor organizations, in fact, have asked us for passage of this agreement, but we're not moving on.

I know it's not—Chairman, I understand that we're talking about preferences. But I really want to frame this in that bigger picture, that we don't over-complicate this at the next step.

Mr. VOGT. I will take a shot at that. I mean, we can have perhaps a debate on the Colombia Free Trade Agreement and the labor standards. I don't want to go into that at the moment.

But I do think it is not overburdening the preference programs to have meaningful labor rights standards included. Because, from our point of view, having labor standards, the ILO core minimum standards, is essential if these programs are to have a development effect. I mean, just opening up preferences could mean that there is a flow of——

Mr. DAVIS. Let me—I know I'm running out of time here. I just need to ask you a question.

Mr. VOGT. Yes, yes.

Mr. DAVIS. Would you agree with me that the European—in terms of the European Union aspects of standards in Africa with labor standards, and the agreements that both of us know that they have——

Mr. VOGT. Right.

Mr. DAVIS [continuing]. With many countries there, do they hold as high a standard as the United States does in actual operation? Are you actually seeing the operation of their businesses over there to see that?

Mr. VOGT. I don't have experience——

Mr. DAVIS. I can tell you they don't. And that's my big concern here, is there is a double standard between—we can't lift the Europeans up—and I agree with you. We should have a legitimate aspect of social justice. I think it's something that's missed in many of the messages that we convey. But I'm concerned that we can hurt the people that we say that we're trying to help by creating a situation where it's not tenable to do business in the long run.

Chairman LEVIN. Well, your time is up. If somebody wants to answer Mr. Davis, I didn't take five minutes, and I would like us to end with a sense of common purpose.

I don't think it's a double standard to say that because another country has a lower standard than we do, that we have a double standard. There are lots of double standards in the world. And the question is what standard we should build into our trade agreements. And what's built into the trade agreements that we have in recent times enacted are the basic ILO standards. And if one reads the State Department documents themselves, they indicate some of the ways in which Colombia falls short in terms of labor standards.

We will discuss Colombia some other time. I think we need to be careful. The only issue is not violence. But we don't kill labor leaders and workers in this country.

Mr. DAVIS. Mr. Chairman, could I clarify my remarks briefly? Not so much on Colombia.

Chairman LEVIN. Okay.

Mr. DAVIS. Let me put this in a context of not dealing with violence. We know that it's dropped dramatically, and that's a good thing. It may not—we may have different standards to what that is. It's never right, if a person has a crime committed against him.

I want to put this more in a regulatory context, from the perspective of economic entities and countries and businesses that are investing with each other. And one would hope that, eventually, we would be able to invest both ways, and be even more effectively integrated.

Just in America, if we go from state to state—and I think Mr. Love could probably confirm this—OSHA is not the best loved organization that's out there in the manufacturing world. And I'm not talking about safety standards. Over half of the regulations in OSHA that can be used to shut down a business have nothing to do with safety whatsoever, but their paperwork compliance measures.

And my biggest concern is, as we address this, I think the preferences are very important. I think that any time we can revisit and scrub regulations to make them more relevant, more proactive, I'm all there on that, and will work with you on any way possible. It's simply that I don't think that we add value necessarily if we take it so far that it gets very complicated, and then suddenly it becomes a matter of political preference, as opposed to clear and simple objective criteria.

Chairman LEVIN. All right. Mr. Blumenauer is here. I don't think the issues relating to Colombia are basically issues of political preference. They are issues of standards, not political preference. What has motivated people on this committee is not political preference. And there can be legitimate differences of opinion about the implementation of standards, but I think we won't make much progress if we simply write off the other person's point of view as political preference. I don't claim that your positions are basically positions of political preference. I don't think Mr. Brady has ever heard me say that.

Mr. Blumenauer has been very patient. You want to join in? It's your—no, Ms. Sánchez. That is right, it is your turn. I'm sorry.

Mr. BLUMENAUER. I will be a little more patient.

Chairman LEVIN. No, no. We started the other way around the last time, and so I skipped over. But Ms. Sánchez?

Ms. SANCHEZ. And before I even launch into questions, just preference with I have certainly a perspective to add on the Colombian debate, having visited down there and met with labor union leaders down there that tends to contradict some of what the other opinions on this dais are. And—but I will reserve that debate for another day.

I want to start with Mr. Vogt. In your written testimony you provided some really great detail about the limited filing period with which to file petitions with USTR, noting specifically that the petition windows for the various programs are not coordinated, nor are they fixed, meaning that the petition window can and does often change from year to year, and that, in 2003, the petition window was never, in fact, even opened. Is that——

Mr. VOGT. Right, right.

Ms. SANCHEZ. Having sort of an arbitrary window of filing—in some cases, one that's not even open from time to time—has your experience confirmed that that sort of is a big deterrent towards even trying to file petitions?

Mr. VOGT. It's—it can be a problem. I mean, I think we don't have—where it can become an issue is that you may have a petition window opening up in June of one year. You have about a month to file a petition. You could have a major labor rights violation happen in October. Then there is nothing formal you can do about it until you loop around to June of the following year.

Ms. SANCHEZ. The following year.

Mr. VOGT. But obviously, we would raise it with the State Department, with the Department of Labor, and try to address it in informal means.

But, you know, there are examples where countries have, you know, wholesale suspended labor rights for some crisis or another, a major strike is put down, you know, some egregious violation, and there is simply no meaningful way to address it, using the preference lever until, sometimes, months after the fact.

Ms. SANCHEZ. When petitions are rejected, are reasons generally given for the rejection of those petitions? Or can they be rejected and then you never even really know why?

Mr. VOGT. Yes, there is a—you get an email from USTR with a list of petitions that have been accepted for that cycle. That's it. So, you—if you call up and talk to the labor office at USTR you sometimes may get some rationale. But it's nothing systematized.

Or sometimes you will get a rationale that makes absolutely no sense. You know, a few years back a petition was filed against both El Salvador and Guatemala around 2003, 2004, during the CAFTA debates. And I was told, "Well, you know, we just can't take two petitions from Central America, so we're going to just—we're not going to take El Salvador this year." I mean, there is nothing in the petition that was——

Ms. SANCHEZ. Was deficient?

Mr. VOGT. Yes.

Ms. SANCHEZ. They are just——

Mr. VOGT. Right. It's like, "Well, we are going to do just one Central American one this year."

Ms. SÁNCHEZ. Right. So, I mean, would you say that sort of the crazy time lines for even—well, the fact that most of the review is petition-driven, to some extent I think probably limits the number of violations that are actually dealt with, not to mention the fact that there is not really any transparency, in terms of rejection of petitions.

I mean, do you get the sense that because the rules are so restrictive and there is no transparency that there were probably hundreds, if not thousands of violations that occur that the USTR doesn't know about, or doesn't even want to know about?

Mr. VOGT. I mean, I—obviously, we can wait that period of time and get a referral back to violations over the previous year or previous years, and that often happens.

I think the real problem is that, with the absence of transparency, that it creates an environment where you have total discretion to decide whether you're going to accept a complaint. If you accept it, what you're going to do. And, without communication with the petitioners, with workers in the relevant countries on a regular basis, you really have no idea what's going on until you get to the email from USTR saying, "We accepted your petition," or, "We've accepted it, we've had a hearing, and we've decided not to take any action this year."

Ms. SÁNCHEZ. Okay. Ms. Broadbent—and this is sort of in another direction, but much has been mentioned about Ecuador. But in determining the factors that Congress should consider when we consider whether or not to extend trade preferences, do you think that a country's refusal to dismiss a private lawsuit that is currently pending in civil court should be one of the factors that we look at in determining whether or not a country is worthy of extension of trade preferences?

Ms. BROADBENT. I'm not sure that I can address that, per se. I was responding in my testimony to the President's review of what was going on in Ecuador, and just my sense of a pretty long list of investment disputes that are going on there with the Government—of Ecuador.

Ms. SÁNCHEZ. I understand there are investment disputes.

Ms. BROADBENT. Yes.

Ms. SÁNCHEZ. But I am asking a very specific——

Ms. BROADBENT. Yes.

Ms. SÁNCHEZ [continuing]. Question about private lawsuits pending in civil courts, and whether or not those should be a factor in determining whether or not trade preferences should be extended for a particular country.

Ms. BROADBENT. Your question is? Could you just say it—I'm sorry, I'm not——

Ms. SÁNCHEZ. Sure. Should a particular government, their refusal to dismiss or quash a private lawsuit that's currently pending in civil court, should that be a factor to determine whether or not that country's trade preferences should be extended? Should Congress consider that? Is that relevant information for Congress?

Ms. BROADBENT. I think it depends on the specific case. And, you know, all information ought to be looked at that is relevant to the dispute.

Ms. SÁNCHEZ. But a private civil case that the government is not involved in?

Ms. BROADBENT. Yes, I just don't really want to go much farther than that. I don't really——

Ms. SÁNCHEZ. Have an opinion on it?

Ms. BROADBENT [continuing]. Have a view at this point, yes.

Ms. SÁNCHEZ. Okay. Sorry to hear that, because it strikes me as innately absurd that we would try to punish a government for a civil lawsuit that is currently pending in court, where there has not been an outcome, and try to leverage trade preferences as a way to try to make that case go away. Call me crazy. I'm an attorney by training, and I think that the rule of law should exist, and that political efforts should not be made to undermine that.

Very last question, again to Mr. Vogt. In your written testimony, you mentioned the possibility of adopting any U-style GSP Plus policy. Could you describe how that system would help protect working families against unfair competition by countries that actively repress labor movements, while helping build up the least developed countries?

Mr. VOGT. It is—I put the GSP Plus language in there as—I mean, it is—at this point we have no idea which country—I mean, how we're going to shape any future preference program, whether it will be a unified program, whether it will be duty free, which countries are in which category. But I think it is something that is worth considering, depending on which countries we're talking about, the level of market access, and whether that makes sense to create some sort of incentive benefit scheme like the European system.

So, I'm not saying that it's a critical element of a preference program. But depending on how the market access and the constellation of countries line up, it could be something that could be considered.

Obviously, I think with the EU program, they condition greater market access on having even more rigorous standards, ratification of all the core conventions, and effectively enforcing those. We include some ideas as to what could be kind of a high bar program for those countries that really want to go the extra mile, and really do right by workers——

Ms. SÁNCHEZ. So, in essence, sort of a carrot to incentivize behavior——

Mr. VOGT. Right.

Ms. SÁNCHEZ. Versus a stick which, on an earlier panel, they said, "Trade really shouldn't be used as a stick, we should try to provide incentives for the right kind of behavioral changes."

Mr. VOGT. Right. For those who have exemplary, you know, practices and laws on a range of issues, labor being one of those.

Ms. SÁNCHEZ. Thank you. Thank you, Mr. Chairman.

Chairman LEVIN. Mr. Blumenauer has the last word.

Mr. BLUMENAUER. I hope not the last word, Mr. Chairman.

Chairman LEVIN. Oh, you do.

Mr. BLUMENAUER. I appreciate——

Chairman LEVIN. It's most fitting.

Mr. BLUMENAUER. I appreciate the opportunity to eavesdrop here a little bit towards the end. I apologize for having other re-

sponsibilities that took me away. I've got lots of interesting material to try and digest here.

I would like to just go back to where—a point our friend, Mr. Doggett, mentioned in terms of the role that environmental, and particularly climate change, is going to play, going forward.

I feel good about the time and energy we spent on the annex with the Peru Free Trade Agreement. I think it made a difference for that country. I also think that it broadened the support for the legislation, made it a better agreement, made it easier to move forward.

Having spent a fair amount of time in recent years dealing with illegal logging, we finally got those provisions tucked into the farm bill. But it was interesting, watching as people dove into it, that it actually made a big difference, not just for the protection of indigenous people, protecting scarce environmental resources, but it did make a difference in terms of the rule of law, fighting corruption, and it made a big difference to American producers, who didn't have to have a depressed price and extended supply.

I am curious about ideas going forward. And this is at the end of a long day, and you have been very patient. But I would posit for the committee members any offer for thoughts that they might want to supply to us at their leisure about ways that we can make a difference, moving forward.

We have had some progress on a bilateral basis, what happens in a multi-lateral context. I am interested in the GSP Plus, in terms of how it relates specifically to environmental provisions. If any of you have a brief comment here, I would welcome it. But I would be very interested in your reflections at a later date about things that we should look at to be able to move forward.

I appreciate—we don't want to make this hopelessly complex. I appreciate we want to be surgical. But it seems to me that this is an area that we have not given appropriate attention in the past. It has great potential for the challenges that we face.

Some of these poor countries are at risk because of the exploitation of their environmental resources. One's heart just breaks about what's going on now in Madagascar, for instance.

But getting a sense from you, going forward, I would be very interested in thoughts or observations you have. And, since my time has not yet expired, if there are any brief comments that any of you would wish to offer, as long as the chairman is willing to be patient, I would——

Mr. YAGER. Yes, Mr. Blumenauer, I can make a couple of comments.

One of the things we've found from the work that we have performed, both on preference programs and on FTAs, is that it's not just what's written into the program, but it's the level of involvement by U.S. agencies in following up on those programs. And I think that when we took a look at the preference programs, we did find some issues where there were significantly different programs, review structures, and transparency between one program and another.

And I think one way to ensure that both the Congress and the public have a better chance to participate and be aware of the decisions that are being made is to take a look at the reporting process

and the review process that's built into the different preference programs, and make the selections on how frequently those programs in individual countries need to be reviewed, what are the graduation rules, the components, whether there are rules of origin, and finally, a number of the review features having to do with determination for inclusion, whether it's a petition-based or a government review, and a large number of other, let's say, design features that should be considered in the more systematic review that I know will be going forward over the next years.

Mr. BLUMENAUER. Ms. Rangnes.

Ms. RANGNES. Yes. You know, on behalf of the environmental community, we do want to say thank you, because there is hardly a champion in Congress as you have been, in looking at the illegal logging issue, for example, the Lacey Act, and so forth.

You know, what's clear is that there is no silver bullet for any of these problems that we're facing. This is one tool. We are trying to explore other ones. I think for us, you know, we want to make sure that we lift standards generally, in finding some language that does that. And I think then also looking at other ways than rewarding additional policies or initiatives, but look at the span of countries that enjoy GSP access, you're talking about such a high difference of development levels, as well.

And so, we need to be mindful of that, and that's where perhaps a GSP Plus, or some sort of model, whether it is for certified timber products coming in, whether it's more access for clean energy products, you know, these kinds of things that we can think about that helps both foster development on the ground, as well as rewarding those practices.

That being said, finding some baseline that applies for all, as we're trying to lift the standards, also makes sense. And that is, I think, the challenge that we're facing as we're trying to address some of these questions now.

Mr. BLUMENAUER. Thank you. Thank you, Mr. Chairman. I would invite, at some point, if any of our other panelists have some thoughts, I would welcome just brief notes. I would appreciate it.

Chairman LEVIN. Well, we are going to do, Mr. Blumenauer, exactly that. So I think your comments are really a fitting place to end this, I think, exceptional day.

It is interesting how, when it comes to preference programs, there is a basic, I think, agreement that there need to be standards built into these preference agreements. There may be differences as to what they are, as to their extent, et cetera. But we start from that rather common place, which isn't always true in trade issues.

So now, the challenge is for us to tackle how we proceed with these preference programs. And the environmental issue is a relatively new one that we very much are working on, and the staffs are talking about. And so, I would encourage all of you, regardless of your particular perspective, to join in on that and every other issue that we have talked about today.

Because without—it's not for me to state anything definitively, this is going to be up to discussion on a bipartisan basis in the next days. We will face this issue of the deadline on two of these sets of preferences. And we are going to—I think there is agreement—have to do something.

And so, we are going to face this question as to the timeline for extension and the timeline for reforms. And I think we will want more input on every issue that we have talked about today.

So, we urge you to send us materials. They don't even have to be short.

[Laughter.]

Chairman LEVIN. And if you don't want them on the record, they won't be on the record.

So, thank you so much for your patience. I think for you, Mr. Brady, and for me, you have been an exceptional panel, even more brilliant than you've been patient.

So, thank you very much for coming. We are now adjourned.

[Whereupon, at 4:48 p.m., the subcommittee was adjourned.]

[Questions for the Record from Mr. Brady follow:]

July 15, 2010

The Honorable
Congressman Kevin Brady
U.S. House of Representatives
301 Cannon Building
Washington, DC 20515

Dear Congressman Brady:

Please allow me to respond for the record to the question that you asked me during the hearing held by the Ways and Means, Subcommittee on Trade on November 17th, 2009 on the Operation, Impact and Future of the U.S. Preference Programs. The question was:

*Costa Rica already had preferential access to the U.S. market via preference programs, so why did it want an FTA? What benefits has Costa Rica seen from the FTA that it couldn't get from preferences?*

As I indicated in my testimony, the non-reciprocal trade preferences granted by preference programs such as the CBI were a good policy that gave Costa Rica and other developing countries in the region a great opportunity to foster investment and jumpstart the creation of sources of employment and economic activity. However, these programs have serious limitations:

1. Unilateral preferential programs can be modified, suspended or terminated unilaterally by the United States, by decision of the administration or through an Act of Congress. Thus, the U.S. sets the rules and can change them at any time without involvement of the recipient country, i.e. Costa Rica given that what the recipient has is a concession and not a right.

2. There is no way to ensure that the U.S. is going to indefinitely continue to extend these benefits. In several occasions, influential members of Congress have called for their elimination. In the meantime, the decisions of the companies investing in our country are based on facts and not in mere expectations.

3. Preferential programs and specifically the CBI have limited coverage. Under the CBI, there were important products for Costa Rica which were still facing tariffs, such as tuna, or non-tariff barriers, as in the case of some ornamental plants.

4. A significant part of the CBI benefits (those contained in the CBTPA) were aimed to expire in 2008, and there was no indication that they were going to be renewed.

5. Preferential programs include tariff concessions, but they don't include trade rules in many other areas that are of utmost importance to develop trade in an orderly manner.

6. Preferential programs do not include a dispute resolution mechanism that allows solving trade disputes that arise between countries, which is very important when a small country like Costa Rica is facing a nation of greater political and economic power as it is in this case States USA.

In light of the above mentioned limitations, and of the changing circumstances in the region and in the world, Costa Rica aimed for the type of reciprocal, predictable, stable relationship, based on a scheme of rights and obligations that only a Free Trade Agreement could guarantee.

Through DR-CAFTA, Costa Rica has been able to consolidate and expand the market access benefits of the GSP and CBI in exchange of specific commitments and reciprocal access to the United States producers. In addition, the Agreement has fostered the modernization of some rules, strengthen certainty and competitiveness, and open up key sectors of the Costa Rican economy.

Moreover, DR-CAFTA offers a great opportunity to lock-in key reforms achieved in Central America in the last decades, strengthen democratic institutions and the rule of law, and advance integration efforts among the countries of Central America, while promoting trade facilitation, removing barriers to trade, and attracting more investment to our countries and our hemisphere.

In summary, Costa Rica was able to get from an FTA much more than lower or zero tariff rates. It got a more mature, stable and predicate relationship with the United States, which is the country's most important trade partner and source of foreign investment.

Yours sincerely,

F. Tomás Dueñas



[Submissions for the Record follow:]

**Statement of VF Corporation**

VF Corporation appreciates this opportunity to submit comments for the record in conjunction with the November 17, 2009, Trade Subcommittee hearing on the Operation, Impact, and Future of the U.S. Preference Programs. As the Committee deliberates the many complex facets of reforming U.S. trade preference programs, we ask that in the immediate future the Committee support the renewal of the Andean Trade Preference Act (ATPA), which is set to expire on December 31. VF, like other U.S. companies that import products under the ATPA, cannot afford a lapse in benefits as we approach 2010. Specifically, we request that the Congress extend the program for eligible countries for at least two years. In particular, we hope that the Congress will not remove Peru from the ATPA program.

VF Corporation is a global leader in lifestyle apparel with a diverse portfolio of jeanswear, outdoor, imagewear, sportswear and contemporary apparel brands. Our principal brands include Wrangler®, Lee®, Riders®, The North Face®, Vans®, Reef®, Eagle Creek®, Eastpak®, JanSport®, Napapijri®, Nautica®, Kipling®, John Varvatos®, 7 For All Mankind®, lucy®, Splendid®, Ella Moss®, Majestic® and Red Kap®.

We have also developed a special relationship with Colombia and the Andean Region since the beginning of ATPA. ATPA has been a successful economic partnership, not only for our company but for U.S. businesses in general and the people of the Andean region. The Andean region has become a steadily growing market for U.S. exports and almost 2 million jobs there depend on ATPA preferences. In fact, U.S. exports to the region have *more than tripled* since ATPA was expanded in 2002, and last year exports to the region totaled $31.6 billion.

Our economic success has also translated into better quality jobs for workers abroad. All VF authorized factories are required to follow our Global Compliance Principles (GCP), whether they are operated by us directly or by our suppliers and vendors. Established in 1997 and consistent with internationally recognized labor standards, GCP requirements insure that work environments are safe and responsibly managed. In addition, we require that our owned facilities be certified by Worldwide Responsible Accredited Production (WRAP), an independent, non-profit organization dedicated to ethical manufacturing throughout the world.

A long-term extension of at least two years for ATPA is absolutely necessary to ensure its continued success. Short-term extensions create a frustrating environment of extreme unpredictability for us and many other U.S. companies invested in the region or companies planning to start new operations. The current economic downturn, together with the uncertainty of trade preference extensions, has already brought down all trade indicators between the U.S. and the Andean region to worrisome levels. Faced with the uncertainty of continued trade benefits, some apparel production has shifted to Asia, and we expect this trend to increase significantly if ATPA is not renewed. As a result, U.S. cotton growers and U.S. textile workers are being deprived of valued customers for their products and much-needed jobs in the region are being lost.

ATPA continues to be critical to our successful partnership with the Andean region; however, this preference program is only temporary and excludes some products and services. Further, unilateral preferences do not grant any benefits to U.S. products exported to beneficiary countries. The pending free trade agreement with Colombia, however, would provide permanent, reciprocal treatment for products traded between the United States and Colombia. We look forward to the eventual implementation of that agreement but will depend on ATPA to continue our trade flow within the Hemisphere before the FTA is in place.

Due to the delay in the implementation of the Colombia FTA, we also request the U.S. Congress to continue including Peru as part of the ATPA program. Our company makes knitted products in Peru with non-originating elastics, which are eligible for duty free under ATPA but not under the Peru FTA. Moreover, we need the ATPA accumulation provisions because we input Colombian yarn and fabrics for our products made in Peru. This same concern is shared by other U.S. companies doing business with the Andean region. In fact, almost 75 percent of Peru's apparel exports to the United States in the first eight months of this year entered duty-free under the regional yarn provision under ATPA. This trade may disappear if the program is allowed to lapse. Peru's inclusion in ATPA is needed until the Colombia FTA is passed.

***Conclusion***

ATPA continues to be an important source of economic growth for the U.S. and the Andean region. Benefits of this program can only be maximized if businesses have stable and predictable rules of engagement. Implementing the Colombia FTA

will be one way to ensure this. In the meantime, renewal and extension of ATPA for *two more years*, and the continuation of Peru as a member country, will help us maintain our successful business partnership with the Andean region.

Sincerely,

Candace Cummings
*Vice President—Administration and General Counsel VF Corporation*

**Statement of U.S. Preference Reform Working Group**

**Consensus Recommendations for U.S. Preference Program Improvements**

This consensus proposal for U.S. preference program improvements is supported by a broad range of stakeholders who use preference programs or work closely with those who do. The group includes non-governmental organizations working to reduce poverty in developing countries, U.S. companies sourcing goods from developing countries for sale in the United States, and individuals and research organizations focused on trade and development policy.

We agree that the goals of the various existing U.S. trade preference programs could be better achieved if they were components of a single, comprehensive trade preference program that increases opportunities for *all* developing countries, and in particular, LDCs to benefit as much as possible from global trade while, at the same time, creating certainty for exporters, importers, investors and workers. We believe this proposal addresses the concerns different stakeholders have with the ways in which current U.S. preference programs operate and the constraints on their success in promoting development through trade.

This brief paper does not seek to limit reform to the issues contained herein. Many of the organizations that support these recommendations also support more detailed reforms in particular areas, and we continue to discuss and develop consensus on these issues that should also be considered in comprehensive trade preference reform.

**GENERAL PRINCIPLES and BENEFITS**

**Issue**

The primary goal of a U.S. preference program should be to promote sustainable economic development in developing countries through expanded job-creating trade with the United States. To achieve this goal, a successful preference program must meet the needs of two constituencies: those who grow, make, and export goods in the beneficiary developing country (BDC), and their customers in the United States. These constituencies require a preference program that is:

- Certain, reliable, predictable and long-term;
- Simple to use;
- Promotes sustainable development and stimulates value-added production opportunities in the beneficiary countries, covering all products that beneficiary countries are capable of producing,
- Sensitive to beneficiaries' differing or unique development needs; and
- Wherever possible, linked to targeted policies and programs to build capacity to participate in markets and take full advantage of preferential market access.

Currently, U.S. preference programs fall short of these requirements. The family of U.S. preference programs, which includes as many as six separate programs,[1] is characterized by

[1] The six programs are the Generalized System of Preferences (GSP), the African Growth and Opportunity Act (AGOA), the Caribbean Basin Economic Recovery Act (CBERA, including the Caribbean

short duration periods and a multiplicity of rules of origin, eligibility requirements, and product "graduation" procedures. Further, these programs do not cover all products of key interest to BDCs,[2] and they may be sensitive to the economic challenges of some beneficiaries while not meeting the needs of others.

**Recommendation**

We recommend that the United States maintain a single preference program that extends duty-free treatment for imports of eligible articles from BDCs, and that provides permanent, 100 percent duty-free and quota-free (DFQF) benefits to imports from eligible lesser-developed countries.

**ELIGIBLE BENEFICIARY DEVELOPING COUNTRIES**

**Issue**

U.S. preference programs have differing eligibility criteria, some of which are more restrictive than others and many of which are similar but differently worded. These differences create confusion and uncertainty for producers in BDCs and their customers in the United States about whether a BDC will qualify for benefits. In short, the eligibility criteria for U.S. preference programs need to be updated and harmonized.

**Recommendation**

The new single preference program should have one set of clear, commercially meaningful and achievable set of eligibility criteria. The goal is to have as many beneficiary developing countries achieve and retain eligibility as possible, and, ideally the eligibility criteria should work to promote progress in different areas rather than blocking access to the U.S. market. The purpose of the eligibility criteria is to provide incentives for BDCs to adopt policies and practices that will have the greatest positive impact on their sustainable development. Whenever possible, progress towards meeting eligibility criteria shall be encouraged and supported, including through targeted capacity building assistance. The new process requirements described below will help ensure that the eligibility criteria are used to the fullest extent possible, and priority will be placed on maintaining benefits if countries work to make progress in meeting the eligibility criteria within a reasonable period of time

We recommend two types of eligibility criteria, which are detailed in Attachment A. The first is a group of statistical and other objective criteria relating to levels of development and trade competitiveness. It includes a definition of developing countries contained in the U.S. Generalized System of Preferences program and a new definition of a "lesser developed

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Basin Trade Partnership Act, CBTPA, and the Caribbean Basin Initiative, CBI), the Andean Trade Preferences Act/Andean Trade Preferences and Drug Eradication Act (ATPA/ATPDEA), the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act, and West Bank/Gaza Strip Qualifying Industrial Zones preferences (QIZs).

[2] From the development perspective of BDCs, the product exclusions mean that the perverse situation exists that, for example, the United States provides Bangladesh and Cambodia $161 million in foreign aid in FY 2008 with one hand, and then takes it and more back with the other hand by collecting nearly six times as much ($981 million in 2007) in duties on imports from those impoverished countries.

country" (LDC) that is designed to be objective, measurable and sensitive to the special needs of BDCs in Sub-Saharan Africa.

The second group of criteria requires a Presidential assessment of a developing country's trade, business, labor and other practices. It covers the major criteria currently included in other existing U.S. preference programs, including conditions relating to civil rights/ democracy, corruption, market access, intellectual property rights, investment, labor/human rights, and national security/terrorism/narcotics.

**RULE OF ORIGIN**

**Issue**

Generally, U.S. preference programs contain a 35 percent value added rule of origin for non-apparel goods that BDC producers must meet in order to qualify for benefits. For apparel products, the various U.S. preference programs include a number of differing rules of origin. Past legislative efforts to encourage commercial sourcing decisions have frequently had unintended negative consequences and have often ultimately resulted in different and complex rules that have created confusion and uncertainty for U.S. customers and an enormously burdensome paperwork requirement for BDC exporters. Compliance and enforcement problems are inevitable under the current system. Often, the hurdles involved in meeting these complicated rules cost exporters and importers more than the tariff savings afforded by the preference program. In addition, the opportunities to meet the rules of origin by using inputs from other BDCs are limited, and cumulation is not possible at all with respect to U.S. free trade agreement (FTA) partners, undermining economic opportunities.

**Recommendation**

We recommend that the preference program contain a single simple rule of origin for all products, with a clear opportunity to cumulate inputs from other BDC and FTA countries. The rule should be substantial transformation plus at least 35 percent of the appraised value of the article, with the sum of the cost or value of the materials produced in the BDC or any one or more such BDCs, the United States, [or a U.S. FTA partner] plus the direct costs of processing operations performed in the BDC or other BDCs/[FTA partners] counting towards that 35 percent.[3]

We recommend that the preference program continue to require that eligible products be imported directly from an eligible BDC and be wholly the growth, product, or manufacture of a beneficiary developing country, or be a new or different article of commerce which has been grown, produced, or manufactured in one or more beneficiary developing countries or U.S. free trade agreement countries.

Trade preference reform should be undertaken in such a way to ensure that the poorest beneficiary countries, particularly LDCs, are not disadvantaged through extension of preferences to new regions and countries. We are developing separate specific recommendations for a comprehensive trade and development strategy for Sub-Saharan Africa

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[3] This means, for apparel, that if fabric from any source is cut and sewn in a BDC, the full value of the fabric counts toward the 35 percent requirement. The rule of origin would be similar to that in HR 4101.

that we intend to issue in a related paper.

**COUNTRY/PRODUCT "GRADUATION"**

**Issue**

Under all existing U.S. preference programs, a BDC may lose benefits (permanently or temporarily) if the President determines that it no longer meets one or more of the eligibility criteria. The process leading to such a determination can be inconsistent and unpredictable, stretching over many years, or informed more by political than objective rationales. In all cases, the process has lacked transparency.

Individual products can lose benefits (permanently or temporarily) only under the GSP program when trade in those products exceeds "competitive need limits" (CNLs) or as the result of action on a petition from a U.S. producer. The CNLs are artificial measures of "competitiveness," and the annual review process is confusing to both exporters and importers. Deadlines for the implementation of the loss of benefits are unreasonable, and the reasons for determinations are often obscure.

**Recommendation**

Bearing in mind that the goal is to retain preference benefits for the greatest number of products imported from the greatest number of eligible developing countries based on objective criteria, we recommend that the current country and product "graduation" procedures, particularly those under the GSP program, be significantly changed. In particular, we recommend that clear and reasonable deadlines for action be maintained, and that the President publish, publicly, the reasons for decisions. We recommend that the President work with BDCs, using capacity building if necessary, to assist BDCs in meeting the eligibility criteria or in overcoming any deficiencies in continuing to meet eligibility criteria.

We also recommend that the preference program contain no *a priori* product exclusions, but that, for non-LDC beneficiaries, extension of preference benefits for products currently excluded from GSP be evaluated on a case-by-case basis during a pre-implementation "transition period" described in Attachment B. During this transition period and annually afterward, we recommend a clear and objective process for removing products from eligibility when imported from non-LDCs. We further recommend a policy approach that enables countries that exceed certain development thresholds (such as income levels) to enter into more mature trading relationships, rather than lose trade benefits. The details of our recommendations are provided in Attachment C.

**CAPACITY BUILDING**

**Issue**

The United States extends billions of dollars ($2.3 billion in FY2008) in trade capacity building assistance (TCBA) to developing countries. Unfortunately, this spending is not as successful as it should be in generating sustainable development and increasing value-added production opportunities in many developing countries. The reasons are several. Over 15 U.S. government agencies report devoting some funds to TCBA, with little effective coordination among them or with other donor governments, international institutions, businesses and non-governmental organizations engaged in TCBA efforts. In addition, TCBA is not systematically used to help BDCs take full advantage of U.S. preference programs. There is no formal,

comprehensive assessment of what individual BDCs need to enable them to fully participate in markets and make full and effective use of U.S. preference programs, including meeting eligibility requirements and other requirements, e.g. sanitary and phytosanitary standards.

**Recommendation**

We recommend that the President designate a new senior official for sustainable/market-led development within the Executive Office of the President who, among other responsibilities, will oversee implementation by the TPSC of the improved preference program and ensure that TCBA efforts spread throughout the government are coordinated and targeted at initiatives that will help BDCs meet the eligibility criteria of the preference program and fully participate in markets, including taking full advantage of the preferences available, with a particular focus on connecting women, smallholder farmers and other small business to market.

We recommend that the President undertake a development review with input from every agency with TCBA programs in place, coordinated by the senior official for sustainable/market-led development, and including input from multilateral lending banks, foundations, NGOs, beneficiary country governments, U.S. consumers (U.S. importers), local businesses and workers and their organizations, and other private sector organizations regarding the effectiveness of current TCBA initiatives and suggesting ways to improve them to target specific products and sectors with the greatest long-term promise for development, including ways to encourage and support building local and regional markets and capacity, especially in Sub-Saharan Africa. The review must include recommendations for adjusting TCBA so that it is effective in enabling beneficiary countries, especially those in Sub-Saharan Africa and other least developed countries, to make full use of the preference program. The President must report to Congress on progress made.

Annually thereafter, we recommend that the President seek input from governments of preference beneficiaries and affected communities, including local business groups, NGOs, worker organizations and others to assess what is working and what is not, and develop capacity building initiatives that are most appropriate for ensuring that beneficiaries are able to use the preference program. The review shall include recommendations for fully utilizing preferences. Again, the President must report to Congress on progress made.

Additional recommendations on (1) specific areas of focus for trade capacity building programs and (2) an integrated "whole of government" approach to support building local and regional capacity in Sub-Saharan Africa will be released separately.

**TERM**

**Issue**

To encourage sustainable development and investment, preferences need to be in effect for as long a period of time possible. With the exception of CBI and the QIZs, U.S. preference programs only remain in effect for short periods of time, discouraging U.S. investors and customers from relying on them for stable production or sourcing programs. While a permanent preference program would be the ideal solution, we recognize the concern on the part of some that this could lead some BDCs to be less than enthusiastic supporters of moving the WTO's Doha Development Round or other trade liberalization efforts to a successful conclusion.

**Recommendation**

Our consensus recommendation is that the term of the preference program be permanent upon enactment for LDCs and extend for five years to all other BDCs, with automatic renewal for another five years if the President certifies to Congress that BDCs are contributing positively (from the multilateral perspective) to a successful outcome of WTO Doha Development Round trade negotiations. (We note here the distinction between a permanent preference program and the permanency of preference benefits. The latter continue only as long as the BDC meets the programs eligibility criteria.) If the President determines that only a small number of countries are not contributing positively to the successful outcome of the WTO Doha Round, the program would expire only for those countries. Upon implementation of a Doha agreement, preferences for non-LDC BDCs would be automatically extended for 10 years.

We further recommend that existing U.S. preference programs continue until their scheduled expiration dates. Renewal of those preference programs, including African Growth and Opportunity Act, should be considered if beneficiaries believe continuation would be beneficial and seek renewal.

Submitted by
(as of 12/1/09)

American Apparel & Footwear Association (AAFA)

Business Council for Global Development

Caterpillar, Inc. (Peoria, IL)

Coalition for GSP

Kimberly A. Elliott, Senior Fellow, Center for Global Development

Ed Gresser, Director, Trade and Global Markets, Democratic Leadership Council (affiliation for purposes of identification only)

International Labor Rights Forum

Initiative for Global Development

Katrin Kuhlmann, Resident Fellow, German Marshall Fund of the United States

William C. Lane, Member, HELP Commission

National Retail Federation

Oxfam America

Retail Industry Leaders Association

U.S. Association of Importers of Textiles and Apparel (USA-ITA)

U.S.-Bangladesh Advisory Council

Wal-Mart Stores, Inc. (Bentonville, AR)

Women Thrive Worldwide

Attachment A
Beneficiary Eligibility Criteria

**1. Threshold Criteria**

Level of development: Beneficiary Developing Countries (BDCs) must have per capita income in U.S. dollars of no more than the World Bank's level defining a "high income" country over three consecutive years.

Lesser-developed countries (LDCs) are defined as those countries meeting one of the following two criteria:

- Determination by the United Nations that a country is a least developed country;
- Determination by the President that a BDC is a least developed country for the purposes of the African Growth and Opportunity Act.

No members of the European Union are eligible for any benefits.

No BDC can account for more than 5 percent of total U.S. merchandise imports.

BDCs cannot be a member of a commodity cartel that withholds supplies from trade that thus raises the price of the commodity to an unreasonable level and causes serious disruption to the world economy.

**2. Evaluative Criteria**

Civil rights/"democracy". The BDC should have established or be making continual progress toward establishing the rule of law, political pluralism and the right to due process, a fair trial and equal protection under the law.

Corruption. The BDC should have in place a system, or be taking steps to have in place a system, to fight bribery and corruption.

Market access. The BDC should provide the United States access to its resources, goods and services markets and be encouraging increased goods and services trade and investment inflows, particularly from the United States and countries in the region; the BDC should not provide preferential treatment to other developed countries that it does not also provide the United States if it causes a "significant adverse effect" on the United States.

Intellectual Property Rights (IPR). The BDC should adequately and effectively protect and enforce IPR.

Investment. The BDC should reduce trade-distorting investment practices and policies and provide adequate compensation for nationalized, expropriated or otherwise seized U.S. property, including patents, copyrights and trademarks.

Labor/human rights. As an initial determination, a BDC should afford or be making continuous progress toward adopting and effectively enforcing laws consistent with the core labor rights listed in the 1998 ILO Declaration on Fundamental Rights at Work and of laws that govern acceptable conditions at work, and should have or be making continuous progress toward creating fair, equitable and transparent tribunals for this purpose. The BDC should not engage in activities that constitute gross violations of internationally recognized human rights.

National security/terrorism. The BDC should not engage in activities that undermine US national security, or aid or otherwise support international terrorism, or support or otherwise perpetuate the supply of illegal narcotics into international markets.

Attachment B

**Process for Start-Up Transition Period for Country Product Eligibility**

A short (one-two year) transition period is required to allow a smooth transition from existing preference programs to the new preference program. All expiring preference programs must therefore be extended to remain in effect for this transition period and apply to imports from their respective BDCs.

During the transition period,

- The President shall issue regulations for the new preference program.
- The President will determine which BDCs meet the eligibility criteria for preferences, and which BDCs require capacity building assistance to be in a position to meet the eligibility criteria by the end of the transition period.
- Product eligibility for preferences when imported from non-LDC BDCs shall be determined by a "negative list" evaluation conducted by U.S. International Trade Commission at the 8-digit HTS product level of detail, with advice to the President to suspend duty-free treatment for products imported from BDCs other than LDCs. The ITC will focus on the list of all HTS items currently excluded from GSP (either statutorily or because they have exceeded competitive need limits).

After both determinations are made, duty-free benefits under the new preference program go into effect.

Attachment C
Country/Product Change Process

1. **Country Changes** (applies to all BDCs, including LDCs):

The President shall make determinations of each BDC's continued eligibility for preferences through an automatic annual review. Within a reasonable period after the program's effective date, this review will place particular focus on whether countries have both implemented and are enforcing conditions contained in the eligibility criteria. Wherever possible, capacity building resources will be utilized to assist BDCs in meeting the eligibility criteria. In addition, the President shall accept petitions on an annual basis to initiate case-by-case reviews of an individual BDC's compliance with eligibility criteria, and the decision to initiate or not initiate a review will be published within 30 days with explanations for the reasons for the decision. An out-of-cycle review would be possible in the event of an egregious violation of eligibility criteria that arises after the regular review cycle has begun. Input from all interested stakeholders will be solicited, public hearings held. In deciding whether to suspend or revoke beneficiary status in whole or in part, the President will consider whether the BDC's ability to meet the eligibility criteria could be assisted with greater or more specific capacity building assistance. The President will publish his/her decision in the Federal Register, with a detailed explanation of the reasons behind the decision, within one year of the decision to accept the petition for review. The President may decide to postpone suspension or terminate benefits in whole or in part if he/she believes additional capacity building assistance will be effective in assisting the BDC in meeting the eligibility criteria within a reasonable period of time. Further, if a country is approaching the per capita income threshold eligibility criteria limit, the President may decide to continue to extend benefits to the BDC if the BDC agrees to undertake/implement (on an MFN basis) new trade liberalization policies or trade preferences for LDCs. If instead the recommendation is to proceed with the suspension or termination of benefits, in whole or in part, that change in duty-free status will not become effective before 12 months from publication in the Federal Register.

Countries that have benefits suspended or revoked in whole or in part can ask to have them restored if they can show they have subsequently made the changes necessary to meet the eligibility criteria. The process for reinstatement of benefits shall be initiated by petition on an annual basis, provide for input from all interested stakeholders, allow for a public hearing, and result in a decision that is published within one year in the Federal Register and includes details of the reasons for the decision.

2. **Product Changes** (applies to BDCS that are not LDCS):

Annually, the President shall accept petitions to suspend or terminate the extension of preferences for a specific product (at the 8-digit HTS level) from a specific BDC. The petition must provide information that shows that imports of the product from the BDC are having a significant adverse impact on producers/workers in the United States of a like or directly competitive product. The decision to begin or not begin a review of the petition will be published within 30 days in the Federal Register with reasons for the decision. Input from interested stakeholders will be accepted, in writing and at a public hearing. In addition to the impact on U.S. producers/workers of the continuation of preferences for a specified product, the President will also consider the likely impacts of suspension or termination of preferences, in whole or in part, on the BDC, other BDCs, LDCs, or non-beneficiary countries; and on U.S. consumers. Any agency reports prepared to advise the President will be detailed and public. The President shall publish his/her decisions, with the detailed reasons for the decisions, in the Federal

Register within 12 months of acceptance of the petition for review, with an effective date of loss of preferences 12 months from the date of publication in the Federal Register.

The President may restore duty-free treatment to products that have lost that treatment if interested stakeholders can show that restoration will no longer adversely affect U.S. producers or workers and will benefit the BDC's overall economic development and the U.S. national economic interest. The process for reinstatement of benefits shall be initiated by petition on an annual basis, provide for input from all interested stakeholders, allow for a public hearing, and result in a decision that is published within one year of the beginning of the investigation in the Federal Register and includes details of the reasons for the decision.

## Statement of African Cotton and Textiles Industries Federation

The African Cotton and Textiles Industries Federation (ACTIF) appreciate the opportunity to submit the following comments to the House of Representatives Committee on Ways and Means Trade Subcommittee in connection with its November 17, 2009 hearing on U.S. trade preference programs, dealing in particular with the impact on the African Growth and Opportunity Act (AGOA).

The world of textiles has changed dramatically with the expiry of the Multi Fiber Arrangement (MFA) and post safeguard measures and as such, re-alignment of the industry is inevitable. ACTIF members have been impacted negatively as can be observed in export sales decline of over 30% to-date and this decline continues to be envisaged. In consideration, ACTIF members feel the AGOA trade preference program needs to be reinforced to respond to these new trade realities.

### Africa and AGOA

- AGOA's greatest success story has been the blossoming of African exports of apparel to the United States. Subsequent modifications to this trade arrangement, contained in the recently passed Africa Investment Incentive Act of 2006, together with future improvements, will maintain critical mass in the apparel industry, and encourage greater vertical integration, which is essential to the long-term competitiveness of the African fibre-textile-apparel value chain in the post-MFA environment.
- AGOA significantly enhances and liberalizes U.S. market access for Sub-Saharan African countries; it offers tangible incentives for Sub-Saharan African countries to continue their efforts to open their economies and build free markets. It is designed to promote prosperity, develop economies, and ultimately create new markets for U.S. goods and services. It recognises that trade is an engine of economic growth, and through AGOA, it is helping to provide new opportunities for the people of Africa, and is helping to eliminate poverty.
- However, in light of the dramatic market changes since the end of the MFA, it is imperative that measures must be taken to avoid a setback to the objectives of AGOA, and a reversal of the positive economic transformations that have arisen so far out of the passage of AGOA. Equally important, it is critical that any changes to U.S. trade preferences for other countries and regions do not undermine AGOA further.

### SSA Potential

We also notice in the USTIC report (ITC–PUB 4078) that SSA has tremendous potential to develop cotton and cotton yarn, which could produce denim and mid-to-heavier weight fabric and circular knitted fabrics for woven/knitted apparels. These fabrics can be utilised by the SSA garment industry, for local, regional, or international export orders for denim, twill or poplin pants, work wear, industrial wear, and corporate wear, in 100% cotton or blended fabrics, or in knitted fabrics. The report has detailed the potential of each country, and challenges that have made it difficult to exploit this potential.

### Challenges

The biggest challenge for the SSA apparel and textile industry was post MFA. As the quotas were removed on the apparels from established and subsidized markets, which have similar or lower wages in most of the African countries, the competitiveness of SAA diminished by over 22%. The initial impact of this was that many of

the garment companies had been attracted to SSA by AGOA's DFQF, opted to move their production to Asian countries that provided lower production costs and subsidies for development of the textiles and garment sector.

Over the last 4 years, the textiles and garment industries in SSA have been trying hard to survive. The exciting growth rate experienced in 2000–2004 has diminished in terms of export to U.S. markets

The second biggest challenge, if enacted, is the DFQF U.S. market access provision to Asian LDCs; this would put the last nail in the coffin for the textile and garment industry in SSA. These Asian countries have had a developed and mostly integrated industry and sector over the last several decades. Unlike Sub Saharan Africa, Bangladesh and Cambodia do not need trade preferences to be competitive. Their apparel exports to the U.S. have grown significantly since the end of the MFA, whereas SSA's are declining sharply as shown in the table above. This decline would be amplified if the proposed DFQF were extended to Asian LDCs, leading to the total demise of the textile and garment industry in Africa, with the consequence being insurmountable negative economic and social impact. Bangladesh, for example, exported apparel worth US$10.1 billion in 2007 accounting for 2.9% of the world's apparel exports, while Africa as a whole exported US$4.8 Billion accounting for 1.4% of the world's exports.

The apparel industry today requires shorter lead times, and buyers are looking for those markets, which can deliver "Just- in- time" supply sources. The factories dependent on third country fabrics can only do replenishment orders or programming orders, which today are offered to the lowest bidders. Buyers are sourcing these apparels from the cheapest region like China, Vietnam, Cambodia, and Bangladesh, and SSA is hard pressed to compete on price. SSA needs to have its own supply sources of fabric and trims within the region, if not in the country, to overcome this handicap. In addition, the cost of the raw materials has to be competitive and quality should be of an international standard. This may not be possible in the near future, unless we have a booming apparel industry to create enough demand for investors to upgrade present textile and spinning facilities, and establish new ones, in order to provide the raw material at competitive prices and quality acceptable to international standards.

**The present provision under AGOA**

a. Third country fabric provision until September 2012.
b. AGOA valid until September 2013.

***Proposed Modifications***

To rejuvenate and provide stimulus to the sector and to have a level playing field the Sub-Saharan Africa textile to apparel value chain requires:

**1. *Single Rule of Origin***

One single rule of origin for all AGOA eligible countries, to promote the development of regional value chain, integration, and sourcing; i.e. elimination of the distinction between LDCs and non-LDCs under AGOA.

**2. *AGOA on permanent relationship basis***

AGOA needs to be a more permanent relationship. This would create confidence for the investor to develop the depleted cotton and textile sector and at the same time, this will ensure certainty in the mind of the U.S. buyer.

**3. *Inclusion of Mill Fabrics***

The inclusion of textile mill products under AGOA to provide the much needed access to an extensive and much wider market, which in turn will encourage the development and expansion of the textile sector to reduce dependent on the third country fabric.

**4. *Third country fabric provision extension indefinitely***

Third country fabric provision needs to be extended indefinitely, but to encourage domestic/regional vertical integration, a new credit system be defined as mentioned hereunder item **5b**—At present, the availability of fabrics and textiles for use within the SSA region is exceptionally limited, with only a few countries having limited backward linkages. The SSA region has actually seen a decrease in the number of textile operations/factories and a subsequent decrease in the availability of supply as the cost is not competitive with the supply source from Asia; and therefore garment manufacturers use third country fabric in order to meet the price demands of the Buyer. It has therefore been very difficult for the industry to develop its local or regional source. The provision of third country fabrics is necessary to keep the existing industry operational until such time that the local and regional supply

source is developed to produce various types of fabrics for export with an acceptable quality at internationally competitive prices.

**5. *Increase Buyer Interest***

Buyer interest in sourcing apparel from the AGOA countries has decreased continuously since the expiry of the MFA, and even more sharply in recent times due to the world economic crisis. In order for AGOA to continue to be a success, instilling buyer interest in sourcing from AGOA is imperative. ACTIF supports amending AGOA so that those U.S. buyers who source from AGOA are rewarded with the opportunity to import apparel from other non-AGOA LDC countries duty free. We suggest as follows:

a) Fashioned after the "Earned Import Allowance Programs" (EIAP), already in effect under CAFTA–DR and the Hope Act for Haiti, the proposed EIAP for AGOA allows qualified U.S. importers/buyers to earn duty credit by authorising duty-free importation of a square metre equivalent (SME) of apparel from non-AGOA LDCs for every importation of apparel from AGOA made with third country fabric.
b) Furthermore, in order to encourage vertical integration of the textile/apparel industry on the African continent, qualified U.S. importers/buyers would double their earned credit by importing apparel from AGOA using AGOA-origin fabric.

**6. *Encourage U.S. Investors***

ACTIF proposes that encouragement should be given to U.S. investors in J.V or Technical/Market Access partnerships, if they come to develop the existing cotton, textile, and apparel sector, which has tremendous potential in SSA. Interest in the CTA sector is not instilled due to limitation of finance and market access. Therefore, local investors are not investing unless they have some commitment for market access and assistance in technical and/or financial needs.

**7. *Trade remedies for unfair practices of competitors***

ACTIF further suggests that the U.S. should employ trade remedies to address unfair practices of competitors that may indirectly affect the competitiveness of SSA textile and apparel production, and prompt relevant discussions at the WTO. Options considered under this were to:

- Expand monitoring and enforcement actions regarding export subsidies and other unfair trade practices related to textile and apparel imports
- Apply pressure to deter Chinese and other Asian countries, intellectual property violations related to African ethnic textile designs

**8. *Exclude all other textile and apparel products from the DFQF initiative***

ACTIF recommends that textile and apparel products should be excluded from the preference reform initiative in order to avoid undermining the infant textile and apparel industry in Africa, which has been developed in response to AGOA.

**U.S. Government strategy for SSA**

Under the new Millennium Challenge Co-operation (MCC), U.S. Government has developed a strategy for SSA regional integration, which follows U.S. government suggestions and options considered under this issue area:

- Support regional economic communities to help enhance the vertical integration and competitiveness of Cotton Textile Apparel (CTA) Sector regional chains.
- Place a higher priority on support of regional economic programmes in U.S. development programmes
- Place a higher priority on regional efforts under U.S. development programmes, such as the African Global Competitiveness Initiative and to encourage economic integration
- Create incentives for countries to participate in regional economic communities
- Support a general capital increase for the African Development Bank
- Options to support regional integration stem from recognition that each SSA country is unlikely, by itself, to achieve full vertically integrated production with linkages throughout the supply chain
- SSA countries must be able to work together to develop an efficient, competitive textile and apparel industry

**In Conclusion**

It is the considered opinion of ACTIF that:

- These modifications and proposed changes:
  - Are consistent with the original aims and objectives of AGOA, and will enhance the continuing benefits of trade that the U.S. currently has with Africa
  - Will promote economic diversification and sustainable development as an engine for poverty alleviation
  - Will have a consequential positive impact on the standards of living for many thousands of households and for women in particular
  - Should maintain the critical mass necessary in the apparel industry and provide an environment to encourage and induce textile development
  - By including textile mill products under AGOA, it will provide much needed access to an extensive and much wider market, which in turn will encourage the development and expansion of the textile sector

Failure to reinforce these provisions:

- will call into question all of the goals of AGOA, including the desire to alleviate poverty, create employment and improve living standards
- will inadvertently remove any possibilities for industry growth
- will doom any attempt to develop new industries since such development must rely on infrastructure and external economies created by these activities, induced by AGOA
- will discourage potential new investors from risking funding, particularly in the capital intensive textile sector, not to mention the unemployment, discontent and unrest that will be created in the wake of any failure

Finally, we would like once again to thank U.S. Government for giving the Sub-Saharan Africa AGOA, it recognises that trade is an engine of economic growth and through AGOA; it is helping to provide new opportunities for the people of Africa and is helping to eliminate poverty.

Jaswinder (Jas) Bedi
Chairperson

**Statement of Albaugh, Inc.**

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December 1, 2009

The Honorable Sander Levin
Chairman
Ways and Means Subcommittee on Trade
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Levin:

Albaugh, Inc. appreciates the opportunity to submit these comments on our experiences with the operation of the U.S. preference programs and issues to consider in your efforts to improve them.

Albaugh produces herbicides, insecticides, and fungicides for American farmers and markets its products to distribution networks in all 50 states. Headquartered in Ankeny, IA, the company employs approximately 150 workers at our Iowa headquarters, our manufacturing and formulation facility in St. Joseph, MO, and our regional sales offices in California, Georgia, Idaho, Texas and Virginia.

Dennis Albaugh founded the company in 1979. Today, Albaugh remains privately held and is the largest independent formulator and packager of off-patent crop protection products in the U.S.

Albaugh and the GSP Program

Albaugh has been importing under the Generalized System of Preferences (GSP) program for many years. Primarily, we import 2,4-dichlorophenoxyacetic acid ("2,4-D") from Argentina, which we process at our St. Joseph, MO facility into herbicide products for U.S. farmers. 2,4-D is Albaugh's second largest product line. In addition, we have in the past from time to time imported the herbicide products 2,4-DB, Trifluralin, Glyphosate and Atrazine from Argentina. Albaugh's future plans call for the possible importation of products from Atanor's facilities in Brazil as well.

After several years of importing 2,4-D and Trifluralin from Argentina, Albaugh invested in the Argentinean supplier, Atanor S.C.A. In 2003 Albaugh completed the acquisition of Atanor. Our imports from Atanor enter under the GSP program, which saves up to 6.5 percent on import duties.

The U.S. market for agrochemicals has grown increasingly more competitive over the years, and GSP has saved Albaugh millions of dollars in duties, which savings help Albaugh compete against much larger U.S. chemical companies and foreign suppliers.

GSP Successes

GSP can serve as an effective tool to promote investment in developing countries, such as Albaugh's purchase of Atanor. Albaugh expended significant resources, both time and money, developing a supplier relationship in Argentina, which is one of the few developing countries that exports 2-4, D acid. The other top suppliers are developed countries, as well as China (see table).

**Imports of Aromatic Pesticides (HS 2918.99.20)[1]**

| Country | 2008 U.S. Imports ($m) | Share of 2008 Imports (%) |
|---|---|---|
| United Kingdom | 29.8 | 30.8 |
| Australia | 26.2 | 27.1 |
| Netherlands | 11.7 | 12.1 |
| India | 9.5 | 9.9 |
| Austria | 6.0 | 6.2 |
| China | 5.6 | 5.8 |
| **Argentina** | **5.5** | **5.7** |
| Germany | 2.3 | 2.4 |
| Others | 0.0 | 0.0 |
| Total | 96.6 | 100.0 |

Source: U.S. International Trade Commission

Atanor provides good jobs in Argentina, a country that has experienced significant economic struggles over the last 10 years. Despite its classification as an "upper middle income" country by the World Bank, Argentina's 2008 per capita income actually remains below its 2000 level of $7,470.

[1] Tariff classification includes products other than 2,4-D

In addition to promoting development, GSP helps American companies by keeping raw material costs low. As already mentioned, the market for agrochemicals in the United States is intensely competitive. Competitors in the 2,4-D business sourced from other countries have recently begun to appear. The advantage posed by having an ownership interest in a key raw material supplier in a country that participates in GSP is critical to Albaugh's continued success in the business of selling herbicides in the U.S.

In many ways, Albaugh (and Atanor) are the textbook example of what the GSP program intended: GSP benefits have encouraged investment in a developing country while improving U.S. competitiveness in both the United States and Argentina.

Modifications to the GSP Program

While Albaugh has used the GSP program successfully for many years, there are certain changes that would greatly improve its impact on promoting development and helping American companies stay competitive.

*Pass Longer GSP Extensions*

One of the strongest disincentives for American companies that import under GSP is frequent expirations and renewals and the resultant uncertainty that Congress will act before the program lapses, even temporarily. From 1993 to 2001, GSP expired seven times. Despite the fact that Congress renewed GSP retroactively on each of these occasions, companies like Albaugh had to pay the tariffs during these lapses. These "temporary" expirations have lasted up to 15 months, or longer than some periods of renewed authorization. Following renewal, importers have to undertake a time-consuming process to have the tariffs refunded. This sequence of events at best deprives Albaugh of needed capital for significant periods of time. Large multinational corporations may be able to take these matters in stride; for smaller privately-held companies like Albaugh, they are very substantial costs and management challenges.

Even when Congress passes GSP renewal legislation before the program expires, its tendency to wait until the last possible moment causes problems for importers. It typically takes 4-6 weeks for a product ordered from Argentina to arrive at our facility in St. Joseph, MO. For some products, we must ship intermediate ingredients to Argentina first, increasing the lag time between order and delivery to three months or longer. It is therefore frequently the case, in situations such as this, that we have imports in transit to the United States with respect to which we do not know whether tariffs will be levied on entry. To manage this risk, sometimes we must purchase more product sooner than it is needed, which drives up costs of carrying inventory.

We would respectfully request that Congress reauthorize the GSP at the earliest possible time and for at least a two-year period to remove these disadvantages of the program for US companies.

The Honorable Sander Levin
Page 4 of 4
December 1, 2009

*Maintain Broad GSP Country Coverage*

While we applaud the efforts of Congress to ensure that the least-developing countries (LDCs) benefit from preference programs, eliminating GSP benefits for countries like Argentina would not shift trade automatically to the LDCs. While this may be true for some products, there are very few or no LDCs in the world that export the chemicals used by Albaugh (as shown by the previous table). A loss of GSP benefits for Argentina in our case would raise our input costs, lower our ability to offer competitive alternatives to American farmers, and endanger jobs in both the United States and Argentina, with no corresponding benefit to other developing countries. Therefore, country coverage should remain broad to ensure that as many people as possible, both Americans and in developing countries, can benefit from GSP preferences.

Along these lines, we are concerned about proposals included in legislation introduced by Representative Jim McDermott (H.R. 4101) that would require "upper-middle income" countries to offer preference programs of their own to LDCs and certain other African countries to retain GSP benefits. We are particularly concerned that there is no transition period for that requirement. Congress has been considering changes to the GSP program for the last several years, so it understands how difficult it can be to create a meaningful preference program. Expecting developing countries to create similar programs in little to no time is therefore unrealistic and unfair. More than this, it would be harmful to US companies such as ours. If the eventual reform legislation includes such a provision, it should clearly outline what is expected of developing countries and provide a realistic timeline for implementation.

* * * * * * * * *

We thank you again for the opportunity to comment on the impact and potential modifications to the U.S. preference programs. Please do not hesitate to contact me if you have any questions.

Sincerely,

Stuart I. Feldstein
Vice President

**Letter from United Scientific Supplies, Inc.**

December 1, 2009

The Honorable Sander M. Levin, Chairman House Ways and Means Committee
Subcommittee on Trade
1102 Longworth House Office Building
Washington, D.C. 20515

Re: *Comments in Support of Continuation of U.S. Generalized System of Preferences Program*

Dear Chairman Levin,

In accordance with the November 10, 2009 press release of the House Ways and Means Committee, we are submitting the following comments in support of extension of the Generalized System of Preferences (GSP) program for consideration by the Committee. We understand that on November 17, 2009, the Committee held a hearing to evaluate the operation and impact of the United States' preference program, as well as opportunities for improvement moving forward. As you are aware, the GSP program is currently scheduled to expire on December 31, 2009. We assert

that if the GSP program were allowed to lapse as scheduled, it would place United Scientific Supplies, Inc., ("United Scientific") and other U.S. manufacturers at a competitive disadvantage, increase costs of scientific equipment to schools and students, and undermine development efforts of foreign industries.

Our company, United Scientific, started in 1984 as a family owned and operated business involved in the wholesaling of imported science education equipment to dealers who sell to primary, secondary, and higher education institutions throughout the United States. United Scientific has been in business about 20 years, and currently employs about 15 people. There are approximately 10 large, and more than 150 smaller, U.S. dealers of scientific education supplies, with total industry sales of $300–400 million per year. Sales of supplies and equipment vary from year to year, depending on new science curricula adopted by states and budgetary constraints for public and private educational institutions.

The founder of United Scientific began production of science education materials in India in the 1950s, and exporting to the United States and other markets in the 1970s. Import sourcing of science education products started at least 25 years ago and currently accounts for the vast majority of the products sold. This has enabled U.S. dealers to control product costs and assure that public schools can maintain access to replacement and updated science education equipment. Such articles include microscopes, balances, biology and chemistry products, physics apparatus, laboratory supplies such as beakers, cylinders, goggles, safety apparatus, thermometers, magnets, scales, stoppers, porcelain ware, bench meters, glassware, magnifiers, and other general lab supplies. The majority of the imported supplies are sourced from producing countries which benefit from GSP status.

In addition to the developmental and trade policy reasons for the program, we note that expiration of the GSP program would impose significant new costs on science education programs and schools at all levels. Apart from the financial harm it might do to small, family-owned companies like ours, the loss of GSP status would effectively impose significant new taxes on science studies across the country at a time of serious budget cuts, reductions-in-force, and elimination of even basic science programs. The country's school districts can ill-afford such new burdens as states and counties struggle to maintain science studies and families struggle to pay for their children's education. The expiration of GSP would be tragically inconsistent with the legislation under consideration by Congress designed to promote education.

For the above reasons, we strongly urge the Committee to introduce and pass legislation which would allow for continuation of the GSP program. Should you have any questions or require additional information, please contact the undersigned.

Sincerely,

Brian F. Walsh
Matthew T. McGrath

Counsel to:

United Scientific Supplies, Inc.

**Statement of American Apparel & Footwear Association**

Thank you for providing this opportunity to submit a brief statement in connection with the Subcommittee's hearing on trade preference programs.

By way of background, the American Apparel & Footwear Association (AAFA) is the national trade association of the U.S. apparel and footwear industries, and their suppliers. Our members make and market apparel and footwear around the world, including in many developing countries.

The AAFA favors a long-term approach to expanding global trade like that envisioned in the current multilateral trade round (DOHA) of negotiations whereby all countries would lower their remaining tariff levels on manufactured goods. However, as an interim approach, we wish to stress our very strong support for maintaining, reforming, and expanding U.S. trade preference programs.

U.S. companies, including many of our members, have, over the years, made sizeable investments and built key relationships centered on the intended rules and regulations envisioned in respective trade programs. The underpinning of those investments and partnerships are supported by the advantage of the duty free market access provided by these programs to produce products in the preference countries and

sell them in the United States and throughout the world.[1] In so doing, these companies have created thousands of jobs in developing countries and in the United States, assisted in poverty alleviation, stimulated economic growth in the United States and abroad, fostered political stability in many developing countries, and supported key U.S. bilateral partnerships.

As you know, our association has been intimately involved in the design, development and implementation of most U.S. trade preference programs in operation today. We have worked with the legislative and executive branch to help craft programs, and then worked with the implementing agencies, such as Customs and Border Protection (CBP) or the U.S. Commerce Department, to ensure companies understood how best to utilize and comply with the programs.

Notwithstanding our support for U.S. trade preference programs, we believe a Congressional review and reform of these programs is long overdue. While the current system attempts to recognize unique market and manufacturing capabilities that can help drive U.S. exports and partnerships in respective regions, the result is a patchwork of programs that expire at different times, feature diverse and sometimes complex rules of origin, contain inconsistent product and country coverage, and rely upon inconsistent conditionality requirements. As a result, even though U.S. trade preference programs have been greatly expanded during the past 10 years, the utilization of these programs has dropped as the amount of apparel imported from countries that benefit from these programs has actually declined during that period. In turn, U.S. yarn and fabric exports—a requirement for the rule of origin for several of these preference programs—have also dropped in recent years to key markets in Central America, the Caribbean Basin, and the Andean region. For footwear, the situation is even worse because the trade preference programs that cover footwear do not even apply to many of those countries that produce shoes. Currently, less than 20 percent of all apparel and less than 2 percent of all footwear is imported into the United States from countries that have duty free status.[2]

This underutilization means missed opportunities for U.S. companies and their partners in the developing world.

We look forward to working with this Committee and other stakeholders in Congress, the Executive Branch, the non-governmental organization (NGO) community, the private sector, and the developing world to craft a fresh approach to ensure greater use of these programs in the coming years. With that in mind, we would like to offer several suggestions.

***First***, the duration of preference programs should be sufficiently long enough to provide predictability for the users to encourage long term trade and investment. Current programs are often authorized for a few months or a year or two. This time period is inadequate for the programs to generate long term sustained interest, especially because it takes so long for the implementation procedures (implementing regulations, entry procedures, etc) to be promulgated. These short durations negatively affect the ability of U.S. companies to export to, import from, or invest in preference beneficiary countries. If the programs are authorized for at least 10 years with predictable continuity at the conclusion of that 10 year period (we note the original Caribbean Basin Initiative (CBI) is permanent), companies are able to make long term investment and trade plans with knowledge of how the programs work, and without fear that these plans may be suddenly disrupted.[3]

***Second***, it is imperative that programs are implemented in a manner that encourages trade and investment to take place. Excessive paperwork and documentation, combined with complicated and restrictive rules of origin or burdensome conditionality requirements, often act as disincentives for the wide use of these programs. Delayed and inconsistent application of the regulations by CBP, even when Congress has articulated that the programs should be implemented in a trade conducive manner, has further eroded the use of these programs. We favor an approach that simplifies and harmonizes (where possible) these rules and ensures that complicated, subjective, and costly compliance schemes not undermine these programs. U.S. trade programs, including the system of preferences, should be designed to work together, rather than as separate programs.[4] In concert with this reform, we

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[1] Similar programs of other developed countries provide comparable access to those developed country markets.

[2] These numbers also include countries with which the U.S. has a Free Trade Agreement (FTA). Excluding FTAs, the percent is far smaller.

[3] Moreover, preference programs with longer durations also make the conditionality aspects of the program more effective, significant, predictable, and practical to implement.

[4] Under current rules, for example, inputs from one preference beneficiary or free trade agreement (FTA) partner country often end up disqualifying the finished products of another beneficiary or FTA partner country.

would urge that CBP shift to an account approach, instead of a shipment-by-shipment approach, to foster sustained development of and use of these programs.

***Third***, we urge that country and product coverage be expanded to create more opportunities than those that currently exist. Such an expansion would also ensure a more consistent application of preference programs, and would cover more of the developing world,[5] in a manner comparable to what is provided by other developed countries. Such an expansion would also help ensure that U.S. companies are able to strengthen existing investments and take advantage of South-South trade flows, which are accounting for an increasing share of global trade. It would also ensure that developing countries are included for the products that are their chief exports. For example, even though Bangladesh and Cambodia have access to the U.S. market under the Generalized System of Preferences (GSP), neither of these countries have duty free access to the U.S. market for textiles or apparel. This is because the programs that provide duty free access for clothing are all based on regions—Africa, Central America and the Caribbean Basin and Andean region. Because Bangladesh and Cambodia, and about a dozen other countries, lie outside those regions, their apparel exports are excluded from preferential treatment even though apparel is among their top exports.

***Fourth***, we believe the Committee should explore how the preference programs interact with the system of Free Trade Agreements (FTAs)—particularly those with developing countries—that the United States has negotiated. While a traditional view holds that countries graduate from trade preference programs once an FTA takes effect, we would urge the Committee to explore whether certain preferences can be left in place, at least as a transitional measure, with respect to those FTA partner countries. For some countries, such as Jordan, Mexico, and the Dominican Republic, preference programs and FTAs exist side by side. The Committee should also examine whether it makes sense to ensure that FTA partner countries have interim access to the U.S. market that is as preferable to that which is accorded to preference beneficiary countries. This would ensure that FTA partners, who negotiated permanent and reciprocal agreements with the United States, do not see their access eroded by countries that did not engage in such negotiations.

***Finally***, preference reform should be accompanied by significant reforms in the areas of trade finance and capacity building. It is deeply problematic that U.S. trade and investment credit agencies—such as the ExIm Bank, the Overseas Private Investment Corporation (OPIC), and the Trade and Development Agency (TDA)—are not better aligned with U.S. trade preference or FTA policies. It is almost ten years since Congress approved duty free access for garments imported from Central America, yet these export credit agencies still find themselves restricted from offering their financial products and services in that region. Similarly, sustained economic development in sub-Saharan Africa, and many other parts of the developing world, will only gain momentum once the proper infrastructure and economic policies are in place. Proper funding for trade capacity building—whether in the form of capital improvements or training—is critical for this to occur.

Over the past few years, AAFA has also been working with a coalition of business groups, non-governmental organizations, and other stakeholders to address preference reform issues. The product of those discussions so far, a white paper entitled, *"Consensus Recommendations for U.S. Preference Program Improvements,"* has also been submitted to the Committee. We look forward to working with this Committee and others in Congress, the Executive Branch, the non-governmental organization (NGO) community, the private sector, and the developing world to draw upon these recommendations and work toward greater use of these programs in the coming years.

## Statement of American Fiber Manufacturers Association

Mr. Chairman, Members of the Subcommittee,

These comments on the pending renewal of the Andean Trade Preference & Drug Eradication Act (ATPDEA) are submitted by the American Fiber Manufacturers Association (AFMA). AFMA is the U.S. national trade association representing the interests of domestic fiber manufacturers. We have strongly supported all free trade agreements and preferential trade arrangements deployed in the Americas, stretching back to the U.S.-Canada Free Trade Agreement, through NAFTA, all unilateral regional arrangements, and the recent FTAs with CAFTA–DR, Peru, Panama, and

[5] Of course, we would strongly object to the inclusion of any preferences for countries, such as Burma, with whom we have an import ban.

Colombia. We are convinced FTA expansion is the most effective U.S. trade policy available to maintain regional competitiveness.

We reaffirm our commitment to this goal as ATPDEA stands for renewal. In particular, as noted below, we believe its renewal presents a significant opportunity to advance a consistent vision for hemispheric trade policies, as important to U.S. trade policy as it would be for American elastomeric fiber producers, their workers, and the communities where they operate.

In our Association's member base this includes significant elastomeric manufacturing facilities in North Carolina (RadiciSpandex Corp.), Alabama (RadiciSpandex Corp.), and South Carolina (Asahi Kasei Spandex America). An additional major producer, INVISTA, subsidiary of privately owned Koch Industries of Wichita, Kansas, operates a major spandex plant in Waynesboro, Virginia.

With that as background, AFMA offers the following comments for the Subcommittee's consideration:

**1. *The Andean Trade Preference Arrangement (ATPDEA) Should Be Renewed As Soon As Possible To Avoid Disrupting Established Trade Relationships***

This position is not just ours—- it has extraordinary support among U.S. textile sector producers and customers. Important trading patterns established and expanded in recent years are at risk if the needed renewal flounders.

For the U.S. manufactured fiber industry, the Andean region holds growing commercial significance. Prompt renewal of the long-standing unilateral duty-free treatment that ATPDEA provides is a significant economic incentive for our customer base. Early enactment will help U.S. manufactured fiber producers sustain and strengthen market share in the region.

**2. *ATPDEA's De Minimis Rule for Textile Product Fiber Content Should Be Made Consistent With Recently Negotiated U.S. Regional FTAs***

The expiring ATPDEA contains an outdated *de minimis* fiber content standard that conflicts with all recent regional FTAs negotiated by USTR. These include nine trading partners: the 6-country CAFTA–DR, Peru, Panama, and Colombia.

Each of these negotiations took note of the fact that the *de minimis* approach employed in the earliest accords (notably NAFTA) was flawed regarding application of its 7% "non-originating" fiber exemption to elastomerics. For products employing them, elastomerics are their highest value, most innovative components, generally imparting their significant benefits at low content percentages. Thus, a 7% exemption excludes most elastomeric applications from the yarn-forward origin rules that constitute the core textile sector equity in FTAs and other trade arrangements.

All recent U.S. regional FTAs correct this by placing elastomeric fiber beyond the reach of their *de minimis* content exemptions. In tandem, the modified *de minimis* exemption is adjusted up to 10%. Accordingly, ATPDEA is a regional content rule outlier. Perpetuating its outdated *de minimis* structure and standard in its renewal stands in the way of consistent region-wide trade policy and administration.

Use in ATPA's extension of an origin rule fully consistent with Peru's FTA would be a positive anticipation of an implemented U.S.-Colombian FTA, since that pact also places elastomerics outside the *de minimis* authority. The pending U.S.-Colombia FTA and the U.S.-Peru FTA now in force have identical elastomeric fiber origination provisions*—a version, as noted above, consistent with all recent regional U.S. FTAs.

**3. *Two-Country ATPDEA/Peru Trade Should Be Accommodated By Upgrading ATPDEA to the Current Hemisphere De Minimis Standard—Not By Revision of a Fully Implemented U.S./Peru FTA.***

Several business organizations have recommended including Peru within the authorities of a renewed ATPDEA to accommodate continuation of existing two-country trade. The shape of this trade needs verification to fully understand the challenge to be met. To the extent it exists for elastomeric products, AFMA recommends it be addressed by bringing ATPDEA's origin rules to the regional standard, and not by breaking open the integrity of an enacted, implemented free trade agreement to fit temporal renewal of a unilateral arrangement.

> *"9. Notwithstanding paragraph 8, a good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be originating only if such yarns are wholly formed in the territory of a Party."*

AFMA believes bringing ATPDEA's *de minimis* alongside the other FTA accords in the region is the most rational and consistent trade policy. It directly would contribute to desirable regional trade rule unity while avoiding unnecessary damage to U.S. elastomeric fiber producers' established business activity in the area.

Thank you for your attention to this important issue. We would be pleased to provide any additional information you desire.

Paul T. O'Day
President & Counsel

**Statement of the U.S. Chamber of Commerce**

Tuesday, November 17, 2009

The U.S. Chamber of Commerce welcomes the opportunity to present written testimony on the future of U.S. preference programs, including the Generalized System of Preferences, the Andean Trade Preference Act, and other current and possible programs. The Chamber is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region.

**Generalized System of Preferences**

The U.S. Generalized System of Preferences (GSP) program is a trade preference program that extends duty-free treatment to selected goods imported from more than 130 specified developing countries. Its purpose is to promote economic development in developing countries by expanding their trade with the United States. Congress established GSP in 1974, and legislation authorizing the program has been renewed on many occasions since then. The current program expires on December 31, 2009. In recent years, U.S. imports under GSP have regularly surpassed $30 billion annually.

In November 2006, the U.S. Chamber released a study entitled *Estimated Impacts of the U.S. Generalized System of Preferences to U.S. Industry and Consumers.* According to the study, GSP boosts the competitiveness of American manufacturers and lowers the cost of consumer goods for American families. The study found that GSP has become an important component of the competitiveness of American manufacturers and an integral part of sourcing for firms selling a range of consumer goods to American families.

The study found that GSP helps keep U.S. manufacturers and their suppliers competitive. Approximately three-quarters of U.S. imports using GSP are raw materials, parts and components, or machinery and equipment used by U.S. companies to manufacture goods in the United States for domestic consumption or for export. Electrical equipment and parts and transportation vehicle parts are significant imports under GSP. The products coming in under GSP generally do not compete with U.S.-made goods in any significant way.

The Chamber study also presented these findings:

§ American families also benefit from GSP. Finished consumer goods sold by U.S. retailers account for about 25 percent of GSP imports. Relatively inexpensive jewelry was the most significant item.
§ GSP is particularly important to U.S. small businesses, many of which rely on the program's duty savings to compete with much larger companies.
§ In addition, GSP imports support U.S. jobs. Moving GSP imports from the docks to the retail shelves supported nearly 82,000 U.S. jobs in 2005, according to the Chamber's report.

**Andean Trade Preference Act**

Since its enactment in 1991, the Andean Trade Preference Act (ATPA) has been an effective tool to generate trade, growth, and jobs among the beneficiary countries. Data from the U.S. International Trade Commission show that U.S. imports from the beneficiary countries have quadrupled from $5 billion in 1991 to $28.5 billion in 2008. Additionally, according to estimates issued by the governments of the four beneficiary countries—Colombia, Peru, Ecuador and Bolivia—ATPA and the industries it supports have led directly to the creation of approximately two million jobs in the region, with more than 75 percent of these jobs in Colombia and Peru.

As a result, ATPA has been a singularly effective alternative development program in the Andean region. ATPA-related jobs tend to pay above-average wages and often serve as a gateway for workers to enter the formal sector, where they pay taxes and receive health care benefits. The benefits for society are considerable. ATPA provides local citizens with long-term alternatives to narcotics trafficking and illegal immigration.

While much discussion of ATPA centers on the Andean countries, the program also benefits U.S. businesses by allowing them to import components and materials as well as labor-intensive consumer goods on a duty-free basis, enhancing their com-

petitiveness and their ability to create jobs. For example, the cut flower industry in Colombia employs approximately 100,000 workers directly and an additional 90,000 Colombians indirectly. However, an additional 225,000 U.S. jobs depend on imports of Colombian flowers, largely in the transportation, distribution, and retail industries. This is a good example of how ATPA provides American consumers with more choices at better prices for an array of products. Goods imported under the program generally do not compete directly with U.S. products.

Since Congress first approved ATPA in 1991, the statute has included a number of eligibility criteria relating to fair treatment of U.S. companies and other priorities. For instance, the statute indicates that a country may not qualify as a beneficiary if its government expropriates property belonging to a U.S. citizen or corporation or if it takes steps to repudiate or nullify any existing contract or agreement with a U.S. citizen or corporation. The Chamber considers adherence to the rule of law, respect for private property and investment, and the sanctity of contract to be cornerstones of U.S. international commercial policy, and these conditions are entirely appropriate in the context of the ATPA program.

*Colombia*

The Chamber offers unreserved and enthusiastic support for the extension of ATPA for Colombia pending entry-into-force of the critically needed U.S.-Colombia Trade Promotion Agreement. Colombia has consistently met eligibility criteria while benefiting from participation in ATPA.

In the case of Colombia, the Chamber believes that ATPA has played a useful role in U.S. efforts to promote sustainable economic growth through trade expansion. ATPA-related job creation has helped the Colombian government isolate violent extremist groups, restore economic growth, and increase investment in education, health, and infrastructure.

In a letter sent on October 27, 2009, to Senate Finance Committee Chairman Max Baucus (D–MT), Ranking Member Senator Charles Grassley (R–IA), Ways and Means Committee Chairman Charles Rangel (D–NY) and Ranking Member Congressman Dave Camp (R–MI), dozens of U.S. textile and apparel companies and associations called for approval of the U.S.-Colombia Trade Promotion Agreement as a way to end the uncertainty created through short-term extensions of ATPA. The letter noted that "imports of textile and apparel products from the Andean region dropped by more than 10 percent from 2007–2008 and have dipped another 30 percent in the first eight months of this year." The letter goes on to add that "U.S. textile exports to the region in 2008 were down over 10 percent from 2006 and have fallen another 35 percent in just the first eight months of this year alone."

This decline reflects the commercial partnership between the U.S. textile and apparel industries, which supply fabric and other inputs, and businesses in Colombia. It suggests difficulties for America's 500,000 textile and apparel workers as a critical foreign market ceases to purchase their products. Many analysts believe U.S. companies are likely to phase out their investments in Colombia and shift operations to Asia, undermining the gains the program has achieved over the years.

The Chamber agrees emphatically that a more robust trade framework is needed to unleash the full benefits of trade and investment between the United States and Colombia. In particular, the pending U.S.-Colombia Trade Promotion Agreement will provide far more extensive benefits to workers, farmers, consumers, and companies in both the United States and Colombia. However, it is imperative that Congress move swiftly to extend ATPA beyond December 31, 2009, to help avoid trade disruption and job losses pending congressional consideration of the agreement with Colombia. The Chamber urges Congress to continue this important program as it applies to Colombia.

*Peru*

The U.S.-Peru Trade Promotion Agreement entered into force in early 2009, leading most observers to conclude that Peru no longer needs ATPA benefits. However, due to shared production of some apparel products by Colombia and Peru, it is also important that ATPA be extended to Peru as such products would otherwise face steep U.S. tariffs, despite entry-into-force of the U.S.-Peru Trade Promotion Agreement. In fact, 75 percent of all U.S. apparel imports from Peru in the first nine months of this year entered under the regional fabric provisions under the preference program, not the U.S.-Peru Trade Promotion Agreement.

*Bolivia*

While successive administrations in Colombia and Peru significantly improved their compliance with the statute's eligibility criteria over the past decade, Bolivia has recently moved in the opposite direction. As a result, the U.S. administration ceased to provide these trade preference benefits to Bolivia.

During the past three years, more than half a dozen of the largest business enterprises in Bolivia have been expropriated. Most of these firms are in the oil and gas sector, but the largest telecommunications company in the country was also expropriated. While U.S. companies and citizens were not involved in all of these cases, they were in some. With international companies' technical know-how and capital now largely absent, Bolivia's oil and gas production has fallen to the point that the country can no longer fulfill its contract to sell natural gas to Argentina. Indeed, production is barely sufficient for domestic consumption.

In a referendum held January 25, 2009, Bolivian voters approved a new constitution. The new constitution may allow the government to assert greater state control over the economy, with articles that appear to forbid foreign companies from repatriating profits or resorting to international arbitration to resolve nationalization disputes (as permitted in the U.S.-Bolivia bilateral investment treaty).

*Ecuador*

In recent years, questions have also been raised about Ecuador's compliance with the ATPA's eligibility criteria relating to the fair treatment of U.S. companies and counter-narcotics efforts. Respect for property and concession rights is at times absent, particularly in the oil and gas sectors. Notably, Ecuador's government in 2004 terminated a 19-year-old contract with Ecuador's largest foreign investor, Occidental Petroleum Corporation, and expropriated the firm's assets in the country. Now being considered under international arbitration, this was one of the largest expropriations in the world in a generation.

This is part of a pattern in which Ecuador's judicial system has failed to provide adequate protection from unlawful expropriations or provide investors and lenders with prompt, adequate, and effective compensation for expropriated property. In addition, U.S. citizens have had their assets seized because of judgments against their Ecuadorian partner in cases having no connection with the U.S. investor.

An additional important problem facing U.S. companies operating in Ecuador is systemic weakness and susceptibility to political or economic pressures in the rule of law. The Ecuadorian judicial system is plagued by processing delays, unpredictable judgments in civil and commercial cases, inconsistent rulings, and limited access to the courts. Criminal complaints and arrest warrants against foreign company officials have been used to pressure companies involved in commercial disputes. There have been cases in which foreign company officials have been prevented by the court from leaving Ecuador due to pending claims against the company. Ecuadorians involved in business disputes can sometimes arrange for their opponents, including foreigners, to be jailed pending resolution of the dispute. The executive branch has used the media to insert itself in judicial disputes and has dissolved or reorganized judicial bodies to advance its goals, depriving judicial proceedings of transparency and integrity.

Ecuador's actions have brought investment in the vital energy sector to a halt, and state-owned Petroecuador's production continues to decline. With oil and gas prices at historically high levels as late as the summer of 2008, Ecuador was nonetheless unable to increase investment in the hydrocarbon sector, in part because of legal uncertainties, highly unfavorable tax policies, environmental liability concerns, and lack of a coherent energy policy. Today, with prices much lower, the policy environment has not improved and has arguably deteriorated further.

**Future of U.S. Preference Programs**

The Chamber applauds this Committee for taking a closer look at how our preference programs are working as well as ways to improve their effectiveness. Expanding coverage—in terms of product coverage, geography, and duration of benefits—is worth considering.

In the case of GSP, the Chamber supports renewal preferably for a period measured in years rather than months. To their detriment, Chamber members have found that short-term renewals tend to disrupt existing commercial relationships and make the establishment of new ones more difficult.

In addition, it is notable that most of the benefits described in the previously cited Chamber study on the economic impact of GSP arise from trade relationships with relatively advanced developing countries such as Brazil and India; consequently, the Chamber views their continued eligibility as particularly important to U.S. manufacturers and consumers. Enhancing trade preference benefits for the world's least developed countries should not come at the expense of American jobs, industrial competitiveness, or consumer welfare. The Chamber urges Congress to preserve these existing trade ties and extend the GSP program without eliminating the participation of the advanced developing countries.

Beyond these longstanding issues, the Chamber has worked in recent months with leading business and non-governmental organizations in an effort to build a consensus on a unified, coherent trade preference program that can enhance their effectiveness as a development tool and build on their benefits for the United States. Such reforms would aim to ensure that these programs more effectively meet the development challenges of countries facing extreme poverty in ways that are consistent with U.S. economic needs, including the needs of our companies and workers.

The Chamber looks forward to working with the various Members of Congress who have introduced legislation that would expand existing preference programs. For example, Congressmen Eliot Engel (D–NY) and Dan Burton (R–IN) have introduced H.R. 1837, the U.S.-Paraguay Partnership Act of 2009, which would add Paraguay to the list of ATPA beneficiary countries. The Chamber supports H.R. 1837, and its Senate companion bill S. 780, because it would further promote ATPA objectives of fostering economic development and promoting legitimate alternatives to narcotics production in South America.

The Chamber is also supportive of efforts to create Reconstruction Opportunity Zones (ROZs) in Afghanistan and some areas of Pakistan. However, we are deeply concerned with the labor provisions included in H.R. 1886, the Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009 (PEACE Act of 2009), which the House approved on June 11, 2009. H.R. 1886 rejects longstanding eligibility provisions on labor rights employed in the GSP program, substituting instead the requirement that the countries comply with "core labor standards" and set up an International Labor Organization (ILO) monitoring program to ensure that producers comply with "core labor standards."

Adopting such new and restrictive eligibility criteria in this legislation would be particularly harmful, as it would seriously complicate the ability of the ROZ program to attract investment in this region and thus generate new sources of employment. Particularly given the unique security issues in this region, this approach would undermine the primary goals of the legislation.

The approach taken by S. 496, sponsored by Senator Maria Cantwell (D–WA), is by far a better solution for the inclusion of labor criteria in a preference program. It incorporates the criteria for determining eligibility, including with respect to the countries' commitments to internationally recognized labor rights, consistent with GSP and other preference programs that have been repeatedly reviewed and approved by Congress on a bipartisan basis. These criteria have been successfully employed by successive administrations to promote labor rights in numerous developing countries.

As the Chamber and seven other business organizations explained in a June 22 letter to the Senate Finance Committee (appended), a successful ROZ program would also need to extend broader product coverage and extend to additional geographic areas in Pakistan than granted under these bills. Legislation that fails to do so, and that includes onerous and untested labor conditions, would be a hollow gesture that would do little or nothing to foster economic development in Afghanistan and Pakistan.

Additionally, the Chamber supports the African Growth and Opportunity Act (AGOA), which expires in 2015. We urge the Committee to consider ways to improve AGOA, for example, by creating new incentives for U.S. importers to source apparel from Africa, by allowing them to receive a duty credit which can then be applied to products purchased from qualified non-African LDCs, and by expanding product coverage to include critical African agricultural products such as sugar, peanuts, cotton, and processed cocoa products. To help address Africa's capacity constraints, the Chamber supports efforts to build trade capacity in Africa with a focus on infrastructure development, elimination of non-tariff barriers, and support for small and medium-sized enterprises. Trade capacity building should be pursued on a regional basis, encouraging deeper and faster regional integration—a stated goal of African nations and the United States.

Finally, as noted in our discussion of Colombia's ATPA benefits, the American public has made clear its preference for fair trade based on reciprocal market openings. Bilateral and regional trade agreements can unleash growth and development in ways that unilateral trade preferences cannot. But while the United States pursues reciprocal trade accords, we should continue to secure the benefits of these longstanding preference programs.

**Conclusion**

While a broader reform may have to wait, Congress must act swiftly to extend preference programs expiring on December 31. The Chamber supports extension of GSP, which has been an effective trade tool bolstering domestic manufacturing, expanding consumer choice, and promoting economic growth in developing countries. Allowing GSP to expire could lead to months of significant trade disruption. Not only will GSP beneficiary countries suffer losses of important export orders, but American companies that rely on lower-cost preference program inputs will see their costs escalate and their competitiveness decline.

The Chamber offers unreserved and enthusiastic support for the extension of ATPA for Colombia pending entry-into-force of the critically needed U.S.-Colombia Trade Promotion Agreement. Due to shared production of some apparel products by Colombia and Peru, it is also important that ATPA be extended to Peru as such products would otherwise face steep U.S. tariffs, despite entry-into-force earlier this year of the U.S.-Peru Trade Promotion Agreement.

Although citizens and companies in both the United States and beneficiary countries derive benefits from participation in ATPA, there are serious concerns about the continued deterioration in the basic rule of law occurring in Ecuador and Bolivia. The President's June 30, 2009, report to Congress on Ecuador's and Bolivia's ATPA eligibility noted several issues of serious concern, as does the U.S. Department of State's 2009 Investment Climate Statements with respect to Ecuador and Bolivia. Other international reports continue to highlight similar problems.

We urge Congress and the administration not to reward Bolivia and Ecuador through renewal of the ATPA. If Congress does extend the ATPA with respect to these countries, it should be a short, six-month extension and should provide ATPA benefits only to products from non-state dominated sectors.

Finally, we look forward to working with Congress in the months ahead to pursue measures to improve our preference programs. Doing so will not only benefit developing countries, but will also help U.S. companies and workers to remain competitive in the global economy.

Thank you.

**American Apparel & Footwear Association (AAFA)**
**Fashion Accessories Shippers Association (FASA)**
**National Foreign Trade Council (NFTC)**
**National Retail Federation (NRF)**
**Retail Industry Leaders Association (RILA)**
**Travel Goods Association (TGA)**
**U.S. Association of Importers of Textiles and Apparel (USA–ITA)**

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**United States Chamber of Commerce**

June 22, 2009

Dear MEMBERS OF THE SENATE FINANCE COMMITTEE:

We write to express our strong support for meaningful trade preferences for Afghanistan and Pakistan. However, we are deeply disappointed with H.R. 1886, the Pakistan Enduring Assistance and Cooperation Enhancement Act of 2009 (PEACE Act of 2009), which the House passed on June 11th to create Reconstruction Opportunity Zones (ROZ) along the Pakistan-Afghanistan border. When the Senate takes up this legislation, we strongly urge that the Senate start with S. 496, introduced by Senator Maria Cantwell, and expand and revise it in several areas to ensure that the ROZ program is not a hollow gesture to the people of Afghanistan and Pakistan.

The ROZ program represents a critical opportunity for the United States to foster economic development and social stability in the region and to make good on the promise of a closer economic relationship with Pakistan and Afghanistan. As currently drafted in both the House and the Senate, however, the ROZ program represents only symbolic assistance for Pakistan and Afghanistan.

Much has changed both politically and economically since the ROZ program was first crafted by the Bush Administration more than two years ago. Yet the pending legislation is essentially unchanged, gerrymandering coverage to match a China quota agreement that no longer exists, and blocking benefits for those products that Pakistan is best positioned to produce. The Congress should update the proposal to reflect the world today, where there are no quotas, Asian suppliers are in fierce

competition for sales to the U.S. market and security conditions in the region have grown worse.

For the ROZ initiative to be effective, duty-free treatment must be extended to all textile and apparel products, and especially to cotton trousers and shorts and cotton knit tops. These products are most likely to generate employment opportunities. Cotton knit shirts and cotton trousers are vitally important to Pakistan, yet these products face U.S. duties that average around 17 percent. Configuring the ROZ program to include these items will give Pakistan a fighting chance in this competitive industry. Moreover, U.S. producers are not at risk from apparel exports from Pakistan; it is the other Asian producers who compete with Pakistan. Cotton knit shirts and cotton trousers from Pakistan represent a mere 3.6 percent of total U.S. imports of these products.

We also urge Congress to revisit the limited areas in Pakistan that are eligible to use the ROZ program. Limiting ROZs to extremely remote areas that are experiencing intense conflict and are not yet mature for industrial growth would only delay job creation. Therefore, we encourage you to consider expanding the geographic areas in Pakistan to include areas that are currently capable of production. All of Pakistan, not just the tribal areas on the Northwest Frontier, is being targeted by extremists.

Another area of concern in S. 496 is the disclosure requirements. We agree that transshipment is a legitimate concern, and we support the effective and time-proven anti-transshipment provisions that exist in other trade preference programs like the African Growth and Opportunity Act (AGOA). However, S. 496 goes way beyond those provisions and requires extensive disclosure of sensitive and proprietary information. For example, the legislation requires the disclosure of the names of all owners, directors, officers, suppliers, and U.S. customers of ROZ entities. This raises significant proprietary information concerns because companies do not want to reveal their sourcing strategies to competitors.

S. 496 also requires Pakistan and Afghanistan to compile a list of names and addresses of all participating entities. Such a list would surely become a target list for America's enemies in the region. S. 496 incorporates key criteria for determining eligibility, including countries' commitments to internationally-recognized labor rights, consistent with the Generalized System of Preference (GSP) and other preference programs repeatedly reviewed and approved by Congress. Unlike S. 496, however, the House bill seeks to impose highly onerous labor criteria that would undermine the ability of this program to produce the much-needed economic growth in this region. The labor provisions in the House bill go far beyond the GSP program, are unworkable, particularly given the unique security considerations that will be encountered in the region, and will only serve as a further disincentive for companies to use this program. Therefore, we strongly urge that S. 496 be the model for any labor provisions included in the final legislation.

Moreover, the pay-for mechanism in the House-passed bill would actually increase the cost of doing business in non-ROZ areas of Pakistan. This is contrary to the goal of bringing greater job creation to this critically important region, and would raise questions about possible conflict with World Trade Organization rules regarding most-favored-nation treatment for those areas of Pakistan that are not eligible for ROZ investment. Penalizing one part of Pakistan to benefit another is a terrible precedent in a trade preference program.

The United States has an important opportunity to send a tangible message to the people of Afghanistan and Pakistan with this initiative. We have a chance to create real employment that counters the recruitment efforts of extremist groups in both countries. But that is possible only if the product scope, geographic coverage, disclosure, labor, and pay-for provisions of the ROZ program reflect the realities in the region. We encourage you to make these important revisions so we can translate the U.S. vision into real economic development to support U.S. and regional stability.

Thank you for your time and consideration in this matter.

Sincerely,

American Apparel & Footwear Association (AAFA)
Fashion Accessories Shippers Association (FASA)
National Foreign Trade Council (NFTC)
National Retail Federation (NRF)
Retail Industry Leaders Association (RILA)
Travel Goods Association (TGA)
U.S. Association of Importers of Textiles and Apparel (USA–ITA)
United States Chamber of Commerce

**Statement of American Sugar Alliance**

The American Sugar Alliance (ASA) appreciates the opportunity to submit these comments for the record of the House Ways and Means Trade Subcommittee Committee's November 17, 2009, hearing on U.S. trade preference programs, specifically on proposals to extend duty-free, quota-free treatment (DFQF) of all imports, including sugar, from Least Developed Countries (LDCs) and certain other developing countries. The ASA is the national coalition of American sugarbeet and sugarcane growers, processors, and refiners.

The ASA opposes any proposal to extend DFQF treatment to sugar. Such action would threaten the viability of U.S. sugar policy and of the U.S. industry.

The United States is the world's fifth largest producer and consumer of sugar and the second largest importer. The U.S. sugar-producing industry generates 141,000 American jobs in 19 states and $10 billion in annual economic activity. Sugar is a basic food ingredient found in approximately 70 percent of food products.

For the food security of our nation, it is critical to maintain a strong and healthy domestic sugar industry to ensure customer needs are met for a broad array of high quality products. Maintaining a domestic sugar policy is essential to sustaining a viable industry that faces unfair production and predatory trading practices by virtually every sugar exporter. In order to operate the current sugar policy at no cost to the taxpayer, as the Congress intended, supply and demand must be delicately balanced. DFQF treatment for sugar would pose a direct threat to the U.S. sugar policy and industry and would ultimately harm taxpayers and consumers.

As the result of commitments made in the WTO, NAFTA, and other Free Trade Agreements (FTAs), imports already account for a large share of U.S. sugar use. Over the past five years, this share has averaged 25 percent; in the just completed 2008/09 crop year the import share reached just under 30%. The 38 developing countries which currently enjoy access to the U.S. market under these agreements benefit from access to the U.S. market because prices here reflect the cost of producing sugar. Their alternative is to sell to the grossly distorted and depressed world market, where prices have tended to be well below the costs of production of nearly all developing countries.

Sugar (along with a number of other agricultural products) has been excluded from the various preference programs operated by the U.S. for the benefit of developing countries because the inclusion of sugar in these programs is incompatible with the sound operation of the domestic sugar program. As a result of the existing trade commitments referred to above, the U.S. market is likely to be oversupplied in most years, rendering operation increasingly difficult.

The potential oversupply situation is exacerbated by the complete opening of the U.S. market to Mexico as of January 2008 and the large degree of uncertainty that exists with respect to Mexican export capabilities and intentions. In the 2008/09 crop year, USDA first forecast imports of sugar from Mexico at 500,000 metric tons but the eventual total for the year was two-and-one-half times that amount—over 1.27 million metric tons.

Proposals to extend DFQF to sugar, which find their most concrete form in H.R. 4101 introduced by Congressman McDermott on November 18, 2009, would damage the U.S. sugar industry, result in increased and unnecessary government expenditures, and could, ultimately, jeopardize the viability of both the domestic sugar program and the U.S. sugar industry. Such an outcome, by erasing the value of the U.S. market to the many developing countries now supplying it, would also cause these countries substantial financial loss and imperil economic development in the

many countries highly dependent on their sugar industries and on access to the U.S. market.

**Damage to U.S. Sugar Industry**

The countries officially designated as LDCs by the United Nations produce in total about 3.5 million metric tons of sugar and export over a million tons of sugar. H.R. 4101 would provide DFQF to most of these LDCs. As indicated in the attached table, these proposed beneficiary LDCs produce nearly 2.5 million tons of sugar and export over 700,000 tons. But the McDermott bill would also extend DFQF for sugar to non-LDC African countries, including such major sugar producers as South Africa, Mauritius, Swaziland, and Kenya. Thus, in total, the bill would extend DFQF to countries producing nearly 7 million tons of sugar and exporting nearly 3 million tons.

Even these figures do not fully indicate the magnitude of the potential threat to the U.S. sugar program. Beneficiary countries could use subsidized imported sugar to meet their own domestic consumption needs and, thus, free up their domestic production (meeting the rules of origin) for export to the United States; there is nothing in H.R. 4101 to prevent such substitution. Mexico is already doing so under a NAFTA substitution loophole.

Worse yet, transshipment of subsidized sugar from non-beneficiary countries through the long list of countries covered by the McDermott bill could occur. Unlike substitution, the bill does not allow transshipment, but such illicit trade activity would be difficult to monitor.

Both of these practices significantly inflate the volume of potential exports to the United States, and the potential danger.

Granting of DFQF for sugar would, therefore, likely result in the flooding of the U.S. market—a market, as noted above, already oversupplied in many years as a result of existing trade commitments. It would magnify the already high degree of uncertainty that USDA administrators of the domestic program face as a result of the unfettered access of Mexico to the U.S. market.

The result of the excessive oversupply generated by DFQF for sugar would be depressed U.S. sugar prices and large government expenditures for the conversion of surplus sugar into ethanol (as required by the 2008 Farm Bill). Ultimately, the granting of DFQF on top of existing trade commitments (and those contemplated in the Doha Round) could make operation of the domestic sugar program unmanageable and jeopardize the viability of the U.S. sugar industry.

**DFQF for sugar would also damage developing countries**

As noted earlier, some 38 developing countries already benefit greatly from their existing access to the U.S. market through the TRQs established under the WTO or the access granted through NAFTA or other FTAs. Most of these suppliers recognize the adverse effects on their own interests that the oversupply generated by DFQF would cause.

In separate submissions in March 2007, two large groups of developing countries, 29 countries in all, expressed to the U.S. government their opposition to including sugar in a DFQF program:

- The CBI Sugar Group: Barbados, Belize, the Dominican Republic, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Trinidad and Tobago; plus Mauritius and the Philippines.
- Comesa (Common Market for Eastern and Southern Africa): Burundi, Comoros, D.R. Congo, Djibouti, Eritrea, Egypt, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, Zimbabwe.

Comesa reiterated its opposition to inclusion of sugar in any DFQF scheme at the November 17, 2009, hearing on preference reform. We understand that other developing-country sugar producers have submitted comments in opposition to sugar's inclusion:

- The International Sugar Trade Coalition, a large group of developing-country sugar producers that also have shares of the U.S. sugar import quota. The ISTC includes Barbados, Belize, the Dominican Republic, Fiji, Guyana, Haiti, Jamaica, Malawi, Mauritius, Panama, the Philippines, Saint Kitts and Nevis, Swaziland, Trinidad and Tobago, and Zimbabwe.
- The Sugar Alliance of the Philippines, a national collation of sugarcane planters, millers, refiners, and traders.

**Other Concerns with H.R. 4101**

The bill would establish common rules of origin, in many cases differing from those established in existing agreements and programs, for countries benefiting from the various U.S. preference programs and introduce a new procedure for the designation of articles as eligible for preferential treatment.

We believe the existing, long-standing rules of origin and procedures used for the Generalized System of Preferences (GSP) and other preferential programs are quite adequate and that new rules of origin and procedures are unnecessary. Furthermore, it is critical that the primary consideration in making any changes to rules of origin or procedures for designations should continue to be whether additional imports would cause, or threaten to cause, material harm to domestic producers.

**Doha Round Considerations**

At the 2005 WTO Ministerial in Hong Kong, the U.S. committed to the granting of DFQF treatment to LDCs for 97% of tariff lines. This limited commitment clearly reflected, among other concerns, U.S. negotiators' recognition of the adverse impact such access could have on the U.S. sugar program and market—as attested in numerous statements by then-USTR Rob Portman and then-Agriculture Secretary Mike Johanns to private sector advisors, Congressional staff, and the press.

Moreover, the 2005 limited commitment was only to be put into effect as part of the successful completion on the Doha Round. Congress needs to consider carefully the effects of the unilateral granting of DFQF, and the expansion of its application beyond LDC's (to countries such as South Africa), on the willingness of DFQF beneficiary countries to negotiate constructively in subsequent Doha negotiations.

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**Statement of the Association of Colombian Flower Exporters**

ASOCOLFLORES is a non-profit trade association established in 1973 to represent and support the Colombian flower grower-exporter industry in its efforts to achieve sustainable and competitive development. ASOCOLFLORES currently represents 272 companies who account for 75 percent of the total volume of all Colombian cut flower exports. In 2007, Colombia exported $1.1 billion worth of flowers, 82 percent ($933 million) of which were sold in the United States. ASOCOLFLORES member companies sustain 98,000 direct jobs and support nearly 83,500 indirect jobs. It is estimated that Colombian flower imports support nearly 225,000 jobs in the United States.

The Association's objective is to promote international exports of Colombian flowers and to ensure the flowers are produced in an environmentally sustainable manner and with social responsibility towards its significant workforce. ASOCOLFLORES supports Florverde®, one of the most advanced, comprehensive environmental programs in Latin America to sustain renewable agricultural resources. The Colombian flower industry is the most highly unionized of any Colombian private sector, and much higher than the U.S. floral industry.

To ensure the well being of its workforce, ASOCOLFLORES members invest some **$28 million per year** on numerous social programs for the direct benefit of its workforce and their families. In particular, the employment by the flower sector of large numbers of women workers (nearly 60 percent of the total workforce) have helped to spur the industry to create major social programs for workers and their families—progressive services such as housing, nursing, day care, subsidized schooling, subsidized food and nutrition programs—that help set a model for the private sector throughout the Latin American region.

**ASOCOLFLORES Supports the ATPA and Enactment of U.S.-Colombia Trade Promotion Agreement**

Since 1991, U.S. trade policy toward Colombia—particularly the ATPDEA and its precursor, the Andean Trade Preference Act ("ATPA")—has focused on efforts to spur legitimate employment in Colombia through U.S. investments in Colombia's economy. By that measure, the Colombian flower industry represents one of the great success stories of U.S. trade policy toward Colombia.

The fact that the Colombian flower industry has grown from some 20,000 direct employees in 1991 to 181,500 today demonstrates that ATPA/ATPDEA are clear examples of the success—on national security, economic, and social grounds—of an enlightened and responsible program of U.S. trade benefits that have made a real difference on the ground in Colombia. The U.S.-Colombian TPA will solidify the major progress made under ATPDEA and lay the groundwork for growth of other sectors.

**Many Thousands of U.S. Jobs Depend on Duty Free Flowers from the Andean Region**

It is estimated that 225,000 U.S. jobs depend on the free flow of Colombian floral imports. These jobs are in sectors such as transportation, import brokerage, wholesale operations, retail florist shops, internet providers, supermarkets and convenience stores. Major U.S. retailers such as Wal-Mart, K-Mart, Costco, and major supermarket chains, and their workers and customers across the United States, depend on Colombia to supply their flower and floriculture needs.

**The U.S. Floral Industry Depends on Duty-Free Flowers From the Andean Region**

The tariff preferences for Colombian flowers provided by the United States are vital to the U.S. floral industry because it depends on flowers from Colombia. It is estimated that over 4.2 billion flowers are imported into the United States on an annual basis with 60 percent of them coming from Colombia. The global flowers industry is an intensely competitive business that keeps margins very thin—the estimated operating profit for most businesses is only 2–3 percent. Thus, the imposition of import duties on flowers from Colombia, even modest ones, can have a devastating impact on the entire industry.

Recent history demonstrates the point. In 2002, the U.S. flower industry incurred 6–7 percent duties (on average) on all flower imports from Colombia due to an eight-month lapse in ATPA tariff preferences. Due to the large volume of imports during that period, which covered Valentine's Day, Easter and Mother's Day, U.S. importers paid an estimated $2.5 million per month on flower imports from Colombia and Ecuador during this period. Given the small operating margins of the industry, even that modest level of duties had a disruptive, harmful impact on the industry—both in the United States and in Colombia. This difficult period for the flower industry demonstrates the necessity of locking in duty free flower imports from Colombia under the U.S.-Colombia TPA.

In the alternative, ASOCOLFLORES would urge a longer and more predictable time frame for ATPA, which has been extended numerous times, though often for very short periods of time. In addition, Congress has typically extended ATPA "at the last minute." The unpredictability and volatility surrounding ATPA renewal is a cause for major concern, not just by ASOCOLFLORES, but by the many U.S. and Colombian economic sectors that provide the bulk of employment opportunities generated by ATPA.

**The Colombian Flower Industry is a Leader in Promoting Environmental and Socially Responsible Economic Growth in Colombia; it is a Model Trading Partner of the United States**

The Colombian flower industry is on the leading edge of environmental protection. In 1991, the industry was the first to undertake an environmental impact study at sector level in Colombia. As a result of the study, the flower industry created Florverde®, a program to promote respect for and conservation of Colombia's natural resources. Nowadays, Florverde© constitutes one of the strictest and most comprehensive Certification systems for agriculture, including environmental as well as social matters. A majority of the flower producing farms, representing nearly 72 percent of total flower growing companies, participate in this project. At least 40 percent of them are currently certified. These actions ensure the sustainability of the industry and surrounding environment for years to come. To date, the industry has spent more than $2 million on the Florverde program, which was designed and implemented at the industry's own initiative.

The industry has also taken a courageous stand against violence in Colombia and worked toward building peace in the nation by designing and instituting a conflict resolution program for all of its workers to better teach them how to "Cultivate Peace in the Family." Given the dramatic success of this groundbreaking program, which may be replicated in other Colombian industries, USAID directly supported the program with a $1 million grant, from 2005 until 2007. As of 2008, the program is supported by GTZ from Germany.

In addition, the Colombian flower industry has created the program School of Floriculture in order to give social and economic stability to families displaced by violence in Colombia's rural areas. To date, the school has trained several thousand displaced persons, who have become permanent employees, thus providing them with the opportunity to begin a new, peaceful life in the flower growing business.

Recognizing the severe problem of a lack of affordable housing in Colombia, the flower industry has created and implemented the "Flowers are Home" housing program, which seeks to provide subsidies for 20,000 workers in three main areas: acquisition of new housing; improvement of existing housing; and support in land title

issues. So far, ASOCOLFLORES members have contributed some $7 million toward helping its workforce to meet their housing needs.

**The Colombian Flower Industry Provides Job Security, Good Pay and Benefits**

100% of ASOCOLFLORES member company workers are hired with legal contracts. 86% of these workers have labor contracts, while the remaining 14% are hired under other types of contracts. The average employment period of a worker in a flower farm is five years (75% of workers have been in the same company for up to ten years, and 15% over 10 years) and 75% of ASOCOLFLORES member companies pay salaries up to 28% above the minimum wage. All of them meet other legal requirements such as social security payments (health, pension, and bonuses) and the provision of working uniforms. In addition, workers also receive other forms of assistance from their employers, including the provision of transportation and meals; wedding, maternity and death allowances; and an education subsidy for their children.

**Colombian Flower Workers Are Protected by Colombian Law and Benefit From Strong Union/Collective Bargaining Agreement Representation**

Women that work on ASOCOLFLORES' member farms do not perform duties related to pesticide storekeeping and application because Colombian labor law explicitly bans women from carrying out this type of activity. In line with Florverde® standards, it is expressly prohibited to run a pregnancy test during the hiring process, as well as exhibit any form of discrimination against pregnant women or any worker for any cause, under any type of employment. Forced child labor is explicitly prohibited and no minor under the age of 18 is permitted to work. The average work shift on farms under the auspices of Florverde® is 46.5 hours per week, less than the legal limit of 48 hours.

Union membership in ASOCOLFLORES' member companies is approximately 16%, which compares favorably with the national average of 5% among total workers. Importantly, floriculture has the highest level of unionization in Colombia's private sector, and has a higher unionization level compared to the flower industries of Holland (approximately 8%) and the United States (approximately 3%). Approximately 45% of workers in ASOCOLFLORES' member companies who are not union members are covered by collective bargaining agreements, which are negotiated between workers and employers to establish compensation during an agreed time period (generally three years). None of ASOCOLFLORES member companies hire workers under 18 years old, even though Colombian law allows 16 year-olds to work with parental permission.

**The Colombian Flower Industry Is A Strong Ally of the United States**

The Colombian flower industry has played a key role in furthering U.S. national security interests in the Andean region by utilizing U.S. trade benefits to provide a major, stabilizing force in Colombia's economy, particularly in critical area surrounding the capitol of Bogota. In addition, at considerable human and economic cost, the Colombian flower industry has been a courageous partner with U.S. law enforcement to fight the illegal narcotics trade.

The Colombian flower industry has been recognized by the U.S. Government—including the Department of State, Drug Enforcement Administration, and the Customs and Border Protection Bureau—as an important ally in efforts to combat the illegal drug trade.

The industry has worked closely with U.S. law enforcement to establish extensive anti-smuggling programs by spearheading design and implementation of a state-of-the-art security system that the Colombian growers are developing and financing to protect their shipments from contamination by narcotics traffickers. The industry's close cooperation with these law enforcement agencies has been recognized by those agencies as a model for other industries.

**Colombian Flower Imports Benefit U.S. Consumers**

As with the ATPDEA, the U.S.-Colombia TPA should continue to benefit U.S. consumers. The mature and highly integrated relationship between Colombian flower producers and U.S. end-users have provided benefits to U.S. consumers, including greatly increased availability of a wide variety of better quality flowers. This has been achieved in large part through the duty free treatment of Colombian flowers since 1991. As the International Trade Commission noted in its Eleventh Report (2004) on "The Impact of the Andean Trade Preference Act, "Previous analyses in this series have shown that since ATPA went into effect, U.S. consumers have benefited from lower prices and higher consumption . . . " As a representative example, in the Commission's 1999 report, the ITC determined that ATPA preferences saved

U.S. consumers nearly $12 million on fresh cut roses and $8.5 million on other popular flowers in 1998 alone.

**Key Elements of the U.S. Floral Industry Support ATPA and the TPA; the Colombian and U.S. Floral Industries are Highly Integrated**

The U.S. and Colombian floral industries have consolidated and become highly integrated over the past few years. This explains why important U.S. floral industry players, including the Association of Floral Importers of Florida (AFIF), support the U.S.-Colombia TPA and continued duty free treatment of Colombian flowers. This support demonstrates the cooperative and increasingly integrated relationship between Colombian suppliers and the U.S. flower retail industry. This relationship has evolved from one of adversity to cooperation and joint promotional efforts to increase flower consumption in the United States. In fact, in 2004, U.S. and Colombian flower producers renewed a ground breaking agreement—the Flower Promotion Organization (FPO)—that seeks to broadly promote increased flower consumption by U.S. consumers.

**Conclusion**

The Association of Colombian Flower Exporters strongly supports the Andean Trade Preference Act and the U.S.-Colombia Trade Promotion Agreement. ASOCOLFLORES urges Congress to enact a predictable ATPA program that provides a bridge to the Trade Promotion Act to allow the industry to continue to build on its successful track record of protecting Colombia's environment, supporting its significant workforce through a broad range of progressive programs, and support the peace process in Colombia.

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**Statement of the U.S. Association of Importers of Textiles and Apparel**

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**On the Operation, Impact and Future of U.S. Preference Programs**

Before the House Committee on Ways and Means
Subcommittee on Trade

Tuesday, November 17, 2009

The U.S. Association of Importers of Textiles and Apparel, USA–ITA, appreciates this opportunity to present its views and recommendations on reform of the U.S. unilateral preference programs.

USA–ITA's member companies include manufacturers, distributors, retailers, importers of apparel and textile home furnishing products and related service providers, such as shipping lines and customs brokers. Like other industries involved in consumer goods, U.S. importers and retailers of textile and apparel products have been significantly and negatively impacted by the global economic crisis. With all the attention paid to manufacturing, the reality is that there has been a disproportionate impact on one of the few industries that has not asked for a bailout—retailing, and apparel retailing in particular. According to the Bureau of Labor Statistics (BLS), as of September 2009, overall retailing has lost 809,000 jobs since September 2007, a direct result of the downturn in the economy and steep decline in consumer spending, especially on discretionary items like clothing. Of those lost retail sector jobs, 152,000 of them were in clothing, accessory and department stores alone.

U.S. apparel importing and retailing is a vital component of the U.S. labor force. According to the Bureau of Labor Statistics, as of September 2009:

- Total retail trade employment was estimated at 14,699,000 workers—about 11 percent of the American work force (138.9 million).
- Ten percent of these retail-related workers were associated with clothing and clothing accessory stores, 1,408,700 workers.
- Department stores accounted for another 10 percent, 1,525,900 people. Together, these two portions of the U.S. retail sector accounted for 2.9 million workers.
- In addition to these retail related jobs, there are transportation, warehousing and longshoreman jobs that account for significant additional employment in the U.S.

As of the third quarter of 2009, there were 247,700 textile workers and 163,900 apparel workers in the U.S.—411,600 all together. Unfortunately, the BLS data does not identify how many of those apparel workers are serving the commercial market versus the procurement market.

U.S. preference programs offer an opportunity for U.S. importers and retailers of consumer goods to save duties and therefore pass along savings to U.S. consumers, a particularly important benefit when consumers are feeling uncertain about their futures and closely watching their spending. The reality, however, is far more complicated. USA–ITA's member companies have substantial experience with the many unilateral preference programs that apply to imported consumer goods. Based upon that experience, including the application of regional preference programs for apparel that began in 2000, with the enactment of the Caribbean Basin Trade Partnership Act and the African Growth and Opportunity Act, USA–ITA has concluded that U.S. preference programs are too limited, too complicated, and insufficient to act as a primary motivator for the placement of business. Substantial reforms are necessary to ensure that U.S. preference programs serve their development objectives.

Since at least 2005, when USA–ITA's then Chairman of the Board testified before the Trade Policy Staff Committee's subcommittee on the Generalized System of Preferences (GSP), USA–ITA has been urging the Administration and the Congress to rationalize the many individual U.S. preference programs into a single preference program. Our recommendation is to follow four criteria:

1) base the preference program upon the GSP program,
2) expand the product coverage to include apparel and home furnishings,
3) apply to all covered products the rule of origin established under the GSP program; and
4) substantially expand funding for capacity building to address deficiencies in productivity and infrastructure.

We discuss each of these points in detail below.

*Establish One Unified Preference Program*

If providing a basis for the developing countries to attract investment, produce competitive goods, and evolve into more sophisticated economies is truly the objective, the answer is to establish a single uniform program that is more user- and business-friendly.

USA–ITA envisions a single GSP program that includes apparel and textile home furnishings in place of the diverse regional preference programs that currently provide duty-free treatment. These various regional programs, which include CBTPA, AGOA, the Andean Trade Preferences Act, as currently amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA), and the Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE), apply varying rules and are scheduled to be in effect for varying periods of time. All of that undermines the ability of both less sophisticated and highly experienced companies to ensure that they are complying with the rules and preparing the proper documents, and to do so efficiently.

The current regional and product segregated approach also means that each regional grouping of countries and their potential customers expends considerable energy and funds lobbying the U.S. Congress for amendments and extensions and competing with one another for Congressional attention and approval for programs aimed only at narrowly defined regions. That is counter-productive. A single consolidated U.S. preferences program is more manageable and sensible would more efficiently and effectively serve trade development objectives.

*Expand Product Coverage To Include All Consumer Goods, Including Apparel*

A single unified preference program must include all of the products that the beneficiary developing countries are best able to produce. The manufacture of apparel products, as well as home furnishings, are among those products that have served as the first rung on the ladder of development, yet they have been expressly excluded from consideration for benefits under the U.S. GSP program since its inception in 1975. As originally drafted, the U.S. GSP law barred benefits for products "subject to textile agreements." In 1996, with the international quota program scheduled to expire at the end of 2004 and the reference to "textile agreements" therefore about to be rendered meaningless, the Congress amended the exception for textiles and apparel to say that the President may not designate any textile or apparel article as an eligible article if it was not eligible on January 1, 1994, the year before the quota phase out process began. The result is that even though textile and apparel products are now truly inside the World Trade Organization and no longer

the awkward exception to WTO rules, the most important program the United States has to help developing countries further their economic development remains out of reach. Instead, these products are subject to far more limited and complicated preference programs, as discussed in greater detail below.

There is no longer any justification for excluding apparel and home furnishing products from a single U.S. preference program like the GSP program. Currently, 16 industrial countries have GSP programs. Other major developed countries, particularly the European Union, but also Japan, include textile and apparel products in their GSP programs.

Some in the U.S. textile industry have been quoted as saying they want to help the developing world maintain their share of the international production of textile and apparel products. The simplest and most effective way is to support an expansion of a single preference program to include apparel and home furnishings. Indeed, including apparel and home furnishing manufactures as eligible articles under an expanded GSP program represents the **positive** approach to supporting the ability of developing countries compete following the end of the international quota program, as opposed to the protectionist approach.

Importantly, the assumption that the reduction or elimination of apparel tariffs for all beneficiary developing countries will erode the preference currently provided to less and least developed countries who benefit from programs such as the AGOA is also misplaced. In the absence of quota restrictions that tightly limited access for suppliers with the capability to provide the quality, efficiency and value demanded by the U.S. market, preference programs like AGOA alone are insufficient to induce U.S. buyers to do business in countries that are beneficiaries under those programs. To the contrary, the generally more onerous origin rules that apply under U.S. preference (and to some extent, some free trade agreements) programs, including the increased risk of non-compliance, have offset some, if not most, of the supposed duty benefit in any event.

*A User-Friendly Rule of Origin Is Key*

Simply consolidating U.S. preference programs into a single unified program that includes apparel and home furnishings is not enough, however. Reform also must address the confusingly complex array of origin rules that have evolved in each of the various preference programs established for apparel. USA–ITA firmly believes that the GSP origin rules are appropriate for apparel and textile home furnishings and should be applied in place of far more complex and confusing rules that have been developed to date. Under the GSP origin rules, there must be a substantial transformation, 35 percent value added within the beneficiary country or countries, including up to 15 percent value added from United States components, and direct shipment to the United States.

In the context of apparel, this origin rule would likely mean that a "double substantial transformation" must occur, if fabric is sourced from other than a GSP eligible beneficiary supplier. Fabric invariably accounts for the overwhelming value of an apparel product—typically the fabric accounts for as much as 60 percent of the cost of a garment. Under existing rulings issued by U.S. Customs and Border Protection, to meet the GSP origin rules, fabric must be cut in a beneficiary developing country, which would constitute one substantial transformation, making that cut component a product of that beneficiary developing country. However, a second substantial transformation, in the form of sewing/assembly manufacturing operations, also must occur. These are significant manufacturing processes and clearly should be recognized as origin conferring for purposes of a preference program.

U.S. officials often talk about our preference programs as providing trade liberalization, but the reality is that the United States often negates that supposed expanded market access with complex and business-inhibiting origin rules that substantially restrict that access. This is particularly true in the apparel sector. It is time to stop giving on the one hand and taking away on the other.

The variances in the rules of origin among the various preference programs that apply to apparel under the regional programs are daunting, for all parties: for manufacturers in beneficiary developing countries, for input suppliers—which include U.S. manufacturers, for U.S. importers, and even for U.S. government officials responsible for implementing these programs. The result is that these programs create significant risks for participating companies, who have to be sure that they are in compliance, and that means additional costs.

For example, U.S. buyers considering sourcing product under preference programs must take into account:

- whether there are higher costs for the qualifying inputs,
- the initial (and continued) training involved to identify the relevant rules and processes,

- the additional paperwork necessary to demonstrate compliance,
- the additional staff required to oversee and handle the compliance issues, and
- the legal fees associated with ensuring and confirming compliance.

The plethora of different rules of origin under the different unilateral apparel preference programs (as well as those under the negotiated free trade agreements) only multiples these costs and often compels companies to limit the number of programs in which they participate. They must do so in part as a risk management measure, to reduce the potential for error (which can carry significant consequences in terms of a company's overall compliance record with U.S. Customs and Border Protection).

USA–ITA believes that these issues have actually discouraged participation in the preference programs, undermining their potential. What this means, ironically, is that because of the difficulty of these rules, including their limited flexibility, U.S. producers of fibers, yarns and fabrics are actually losing business. With a more flexible rule, such as the GSP rule of origin, U.S. manufacturers would win more business—including business they are steadily losing today.

U.S. preference programs need to match business realities rather than try to manipulate or steer business to particular manufacturers. A review of the data for the existing apparel preference programs makes clear that with each passing year, the case for reform along these lines has only grown stronger.

October 1st of each year marks the beginning of new quota periods for the Tariff Preference Levels (TPL) created in the four U.S. trade preference programs: AGOA, ATPDEA, CBTPA, and HOPE. While the first regional preference programs for apparel began in 2000, four additional TPLs have been created as recently as October 2008. Following are the original start dates for each of these preference program TPLs:

- **AGOA** Regional Fabric and Third Country Fabric Quota—October 1, 2000
- **AGOA** Third Country Fabric Quota—October 1, 2000 [breakout created in 2002]
- **ATPDEA** Regional Fabric Cap—October 1, 2002
- **CBTPA** Knit Apparel Regional Fabric Cap—October 1, 2000
- **CBTPA** T-Shirt Regional Fabric Cap—October 1, 2000
- **HOPE** Apparel—December 20, 2006
- **HOPE** Woven Apparel—December 20, 2006
- **HOPE** Knit Apparel—October 1, 2008

Analyzing trade data since these preference programs began, U.S. apparel imports from each originally grew with the introduction of duty-free benefits. In the early years, many of the limits filled by fifty percent or more. The CBTPA T-Shirt Regional Fabric Cap was completely used in 2002, 2004, and 2005. But there is a steady decline in recent years. The 2009 quota period ended with none of the limits even close to filling.

The only exception to the downward trend in TPL usage is Haiti, which has the newest preference program. The utilization of the HOPE Woven Apparel TPL has risen steadily since its creation in 2006. This TPL provides duty-free access to the U.S. market for woven apparel assembled in Haiti from fabric of any origin, a flexible and user-friendly rule of origin. There are no restrictions on the origin of the yarn or fabric, or on cutting or finishing. This TPL expires on September 30, 2018.

## Year-by-Year Utilization Rates for U.S. Apparel Preference Programs

| Percent Fill | September 30, 2009 | September 30, 2008 | September 30, 2007 | September 30, 2006 | September 30, 2005 | September 30, 2004 | September 30, 2003 | September 30, 2002 | September 30, 2001 |
|---|---|---|---|---|---|---|---|---|---|
| **AGOA** Regional Fabric and Third Country Fabric Quota | 15.75% | 16.37% | 21.03% | 23.06 | 34.28% | 37.96% | 38.38% | 58.39% | 17.05% |
| **AGOA** Third Country Fabric Quota | 30.50% | 30.91% | 36.68% | 43.36% | 64.40% | 69.02% | 62.59% | | |
| **ATPDEA** Regional Fabric Cap | 7.37% | 11.40% | 14.44% | 18.01% | 26.69% | 33.14% | 28.14% | N/A | N/A |
| **CBTPA** Knit Apparel Regional Fabric Cap | 14.81% | 14.43% | 14.98% | 43.17% | 63.58% | 46.11% | 51.73% | 51.78% | 28.95% |
| **CBTPA** T-Shirt Regional Fabric Cap | 63.34% | 56.84% | 71.60% | 99.67% | 100.07% | 100.05% | 84.82% | 100.00% | 74.34% |
| **HOPE** Apparel | 4.09**% | 4.95**% | 3.68*% | N/A | N/A | N/A | N/A | N/A | N/A |
| **HOPE** Woven Apparel | 22.81% | 14.37***% | 4.30*% | N/A | N/A | N/A | N/A | N/A | N/A |
| **HOPE** Knit Apparel | 2.07% | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

*Quota period from 3/20/2007–12/19/2007. **Quota period from 12/20/2007 & 2008–12/19/2008 & 2009. ***Original quota period of 12/20/2007–12/19/2008 changed effective 10/1/2008. Previous quota data period of 12/20/2007–10/1/2008 ended with the limit 14.37% filled. New quota period is October 1, 2008–September 30, 2009.*

Ultimately, it must be recognized that preference programs are a factor but not a motivator for most sourcing decisions by U.S. buyers. To ensure that the preference factor is a positive and not a negative, it is apparent that the rules must be universally understood and manageable. That is not the case today.

*Funding for Capacity Building Is Essential*

Ultimately, though, broad product coverage, user-friendly rules of origin and even lower wage rates cannot entice a U.S. retailer to source product in a particular factory if there are not also skilled workers who can produce quality products in the time and quantities necessary to meet the demands of the U.S. market. Instead of relying upon duty advantages, and the commitment of U.S. buyers to corporate social responsibility goals, these suppliers ultimately will achieve meaningful and long-lasting success only if they can provide the necessary quality, efficiency and value, including being able to transport those goods. That requires capacity building. Therefore, reform of the U.S. preference program system must include a significant investment in capacity building to provide developing countries the opportunity to create the infrastructure, manufacturing capacity, and trained workforce to meet the quality and compliance demands of U.S. companies.

*Conclusion*

USA–ITA strongly supports preference programs to help the less and least developed countries help themselves move up the development ladder and evolve into truly competitive suppliers of manufactured goods. But having a plethora of programs, with differing rules of origin requirements, with product exclusions and exceptions, and with differing expiration dates, and each program requiring separate legislation from the Congress to approve and renew them, has proven to be an unproductive means to achieve that objective, undermining the confidence of the U.S. business community in pursuing opportunities under these programs. Now is the time to reform these programs to create a single, comprehensive and user-friendly program.

USA–ITA looks forward to working closely with the Committee over the next months to reform and rationalize U.S. preference programs to make it a more vibrant part of U.S. trade policy to assist developing countries.

## Statement of the Republic of Mauritius

For the past decade, the Africa Growth and Opportunity Act (AGOA) has been a central element of the United States' trade and investment policy towards Sub Saharan Africa (SSA). AGOA provides unprecedented market access opportunities to SSA exporters with the ultimate objective of facilitating the integration of one of the poorest regions in the global economy.

Through its various provisions, the AGOA legislation aims at creating a more robust manufacturing sector in the SSA region through regional integration. However, since the enactment of AGOA, although exports to the U.S. have been rising in overall terms, due primarily to petroleum exports, manufactured exports have not been doing very well. The second largest export category from SSA to the U.S.—namely textile and apparel—has suffered from the adverse global economic conditions in the post Multi-Fibre Arrangement (MFA) era.

African countries have been exposed to overwhelming fierce competition from bigger developing countries in Asia with lower-cost labour and already well-developed textile and apparel sectors. Exports of textile and apparel from AGOA countries to the U.S. have declined by 25% (value) and 30% in volume between 2005 and 2008. Incidentally, exports of textile and apparel items from significant LDC apparel producers have increased by some 45% for the same time period. This has happened even without the same duty-free benefits enjoyed by SAA countries. It is a clear and undisputable fact that these countries have been the biggest beneficiaries of the MFA phase-out, while the SAA countries have been the biggest losers.

Moreover exports from the SSA region to the U.S. remain largely undiversified despite the vast market access opportunities brought in by AGOA. Numerous reasons account for this, among others poor infrastructure, lack of buyer-seller information, strict requirements for agricultural exports as well as stringent rules of origin requirements in certain cases.

In this perspective Mauritius fully supports providing development assistance to non-AGOA LDCs, but only on the condition that the price of such assistance not be borne by the AGOA beneficiaries through diminished opportunities for SSA exports. Accordingly, it is imperative for any preference reform proposal by the U.S. Congress to include improvements to the existing AGOA legislation so as to enable ben-

eficiary countries to continue to develop and integrate their economies and at the same time not to indirectly undermine existing AGOA preferences.

Consequently, the Preference Reform Program should take into consideration the following crucial elements:

(I) Make AGOA permanent with a view to providing greater predictability to investors.

The lack of predictability and stability created by the expiration of AGOA will drive investors/buyers away from Africa. Moreover, the uncertainty over whether AGOA non-LDCs will have apparel benefits after 2015 will drive buyers to other competitive LDCs outside Africa. In the event that different programs are applicable to LDCs and non-LDCs within Africa, regional integration will be undermined on the African continent.

(II) Renewal of the third country fabric provision till AGOA countries become competitive enough in textile production.

(III) Exclude from the Preference Reform Proposals those AGOA apparel categories which are very sensitive for Sub Saharan African countries, namely knit tops, woven shirts, sweaters and trousers.

These products account for 90% of Sub Saharan African countries' exports to the U.S. An alternative could be the adoption of an Earned Import Allowance Program (EIAP) whereby every garment made in AGOA countries and sourced by U.S. importers would give them the right to import an equivalent amount of apparel from the LDCs not part of AGOA. A higher ratio in favour of AGOA regional fabric would give an incentive to garment producers in Sub Saharan Africa and would also ensure that they do not deviate from the vertical integration process.

(IV) Relax rules of origin for canned tuna.

At present, the 35% value addition requirement coupled with the criteria of wholly obtained for the fish is too restrictive for AGOA countries which do not have a national fleet. We propose lowering the value addition to some 15% or to consider a change in tariff heading as originating criteria. Consideration could also be given to allow use of third country tuna in the production of canned tuna for some specified volume (e.g., 30,000 tons) for AGOA beneficiaries.

(V) Expand trade-related technical assistance and trade capacity building to encourage product diversification.

***27 November 2009***
***Embassy of the Republic of Mauritius***
***Washington, D.C.***

**Statement of the Bangladesh Garment Manufacturers and Exporters Association**

Bangladesh is one of the few Least Developed Countries (LDC) which has effectively pursued export-led industrialization since the early 1980s that enabled an increase in her exports from less than a billion U.S. dollars in early 1981 to more than US$15 billion in 2009. During the fiscal year 2008–09, 56% of Bangladesh's economy was involved in the global economy, which was only 21% in FY 1980–81. Export, import and remittance are the major sectors of Bangladesh's openness to globalization contributing 17.41%, 25.18% and 10.84% respectively to the country's GDP. Significantly enough, the share of manufacturing sector to GDP has been growing successively over the last decade, recorded at 17.2% of GDP in FY 2008–09. This clearly shows the economy's move to industrialization (manufacturing) which is significantly fueled by the Readymade Garment (RMG) industry in Bangladesh. As a consequence, per capita GDP is also on a rising trend which was recorded as US$621 in FY 2008–09.

From an almost unknown entity in the early 1980s, the RMG sector became a major share of exports in the mid-1980s and has strengthened its base in the country's export structure over time. There is no denying the fact that the Multi-Fibre Arrangement (MFA) quota system was a major factor which contributed to such achievement, while the policy supports by the Government of Bangladesh and the availability of a highly adaptive work force have also immensely helped the sector to groom-up to the present stage.

The rise of the RMG industry in Bangladesh is closely linked to its export penetration to the U.S. market. The U.S. is the major trading partner of Bangladesh and the single largest export destination. U.S. imports from Bangladesh are dominated

by the RMG products (HTS 61 and HTS 62), constituting 89.52% of U.S.'s total imports from Bangladesh in 2008 *(USITC Dataweb).* Currently Bangladesh is the third largest apparel exporting country to U.S. (after China and Vietnam) with an export figure of US$3.35 billion in 2008, making up 4.59% of U.S.'s total apparel imports in the same year. While USA has ratified a number of international agreements calling for enhancement of the role of trade in development and invests heavily in development programs in Bangladesh, it maintains strict import measures for Bangladeshi goods. Under the current U.S. customs law, only about 0.8% of goods coming from Bangladesh qualify for duty free import. This leaves the RMG items, the most significant export products of Bangladesh, paying a hefty average tariff rate of 16.67% (2008). The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and the government have been trying to obtain Duty Free and Quota Free (DFQF) access for apparel exports to the United States for many years. A number of trade preference bills took several years to become law, but no such bill could reach the floor of the House or Senate.

**a) Contribution of the Apparel Industry to Economic Development**

The RMG industry is at the backbone of the Bangladesh economy. Some of the significant contributions of the sector to the socio-economy of the country are:

- The apparel export earnings of Bangladesh increased from US$31.57 million in FY 1983–84 to US$12.35 billion in FY2008–09, which is 79.33% of the country's total export earnings in the same year.
- Employment in RMG sector stands at 3.5 million at the present, 80% of them are less privileged women.
- Female labor force participation in the country was only 8% in 1983–84 which increased to 18.1% in 1995–96 and 29.2% in 2005–06 (BBS), where they are to be primarily found in garment manufacturing industries.
- Fostering forward and backward linkage activities (e.g. fabric, yarn, professional services, bank and insurance services, real estate services, storage, machinery and cotton cultivation).
- The poverty level in Bangladesh has dropped from 49.8% in 2000 to 40% at present, and the contribution of the RMG sector to this reduction was one third.
- The readymade garment industry has been playing a vital role to move the economy out of aid dependency to trade dependent. The AID–GDP ratio of the country started to decline as soon as the Export-GDP ratio started to increase (visible difference since FY 1993–94 when the Aid-GDP ratio was 6.65 and Export-GDP ratio was 7.48, and these ratios are recorded as 3.48 and 17.87 respectively in FY 2007–08).
- The industry in Bangladesh has led to the development of the entrepreneurial spirit, allowing the individual to come to the forefront and develop individual's potential.
- The sector is contributing significantly to achieve the Millennium Development Goals. In a moderate Muslim country like Bangladesh, the garment industry has brought a social revolution to the country:
    - In the last two decades, the country has seen women's empowerment;
    - Poverty has been declining and primary education has increased;
    - Fertility rate has been declining and longevity of women has increased;
    - Child and women mortality rate has dropped.

**Competition in the Post-MFA Market:**

The 1 January 2005, abolition of the Multi-Fiber Arrangement (MFA) quota was a watershed event for this sector. Though Bangladesh did extremely well after the phase out of MFA, it is generally credited for the take-off of the Bangladeshi apparel industry in the 1980s and 1990s. The main beneficiaries of the MFA's demise are the developing country producers that enjoy economies of scale, productive labor, vertical integration, and underutilized capacity. However, the success of Bangladesh's RMG industry during the post MFA period was cushioned to a significant extent by the safeguard mechanism on China imposed by the U.S. and European Union. This safeguard mechanism was also lifted by EU from January 2008 and by U.S. from January 2009. As a result China's apparel exports started to surge in U.S. since the beginning of this year and threatening the market share of Bangladesh. Apart from facing high tariffs in U.S. market, producers in Bangladesh face significant structural impediments like inadequate infrastructure and power supply in the country.

**Impediments to Economic Development**

Bangladesh has been on the official United Nations list of LDCs ever since independence in 1971. With gross national income per capita of US$621, around 40% of the population live below the national poverty line. Despite growth in exports, the country struggles with a persistent merchandise trade deficit and infrastructure bottlenecks. Bangladesh is subject to recurrent and often devastating floods and tidal waves; natural disasters periodically wreak havoc on the economy in general. These constraints make it imperative that producers in Bangladesh not be further hindered by the barriers that their trading partners might erect. These problems, in one way or another, constrain the development prospects of Bangladesh.

On this note, the economy of Bangladesh depends greatly on its access to foreign markets. The United States also offers special treatment to many LDCs, but the preferences extended to Bangladesh are not as generous as those granted to most U.S. partners. Bangladesh and other LDCs in the Asia-Pacific fall outside the scope of these regional preference programs, as far as the following points are concerned:

- Of the LDCs, only those located in Asia and the Pacific are outside the geographic scope of special preference programs such as the AGOA and the CBI.
- The average tariff on all imports from LDCs was 3.8% in 2006. While this was high compared to the average tariff on imports from OECD countries (0.8%), it was low compared to the average 14.9% tariff on imports from Bangladesh.
- The average tariff on imports of apparel from Bangladesh was 16.67% in 2008, compared to similar products imported from Haiti (a CBI beneficiary) and Lesotho (an AGOA beneficiary).

The denial of duty-free access to major exports from Bangladesh to the U.S. market is a constraint on the socio-economic development of Bangladesh. Export-led growth, and especially exports of labor-intensive goods such as apparel, has long been a path out of poverty for developing countries. Trade in general, and especially exports of apparel, is a central element in the Bangladeshi development strategy. This sector provides employment for millions of poor and less skilled women, for whom work in apparel factories offers a means to provide for their families. The degree of access to the world's largest market is a key factor in the extent to which Bangladesh can produce these goods and provide jobs for these women.

**The U.S. Tariff Policy and Its Implications for the Apparel Industry of Bangladesh:**

**U.S. Imports from Bangladesh**

U.S. imports from Bangladesh totaled US$3.75 billion in 2008. It can be seen in the Annex 1, that the top ten imported products of U.S. constituted 99.37% of its total apparel imports from Bangladesh. Of the total U.S. imports from Bangladesh, only 0.58% imports (in dollar value) could avail the GSP benefit and the rest 99.42% (worth of US$3.72 billion imports) were denied the preference (table 2) and was subject to pay 15.32% tariff on average which is one of the highest amongst the top tariff paying countries to U.S.

**Some Notes on the U.S. Tariff Policy:**

Although quotas are no longer an issue for U.S. imports from Bangladesh, the same cannot be said for tariff. While the United States does extend preferential treatment to most LDCs through a variety of programs, there are substantial gaps in the coverage of duty-free treatment for both countries and products. The import tariff of U.S. raised about $25.79 billion in 2008 against its US$2.09 trillion imports (table 1). And a look at the revenues and the products reveals three basic points about the present U.S. tariff system:

- Tariffs are higher on consumer goods than on industrial goods.
- Within the consumer goods category, tariffs are low for luxuries and high on cheaper goods.
- The bulk of tariff revenue comes from two types of products: shoes and clothes. From table 1, out of U.S.'s 2.09 trillion dollars worth of imports, the clothing imports paid US$73 billion which is 3.49% of total imports. However, this scenario is opposite in the case of tariff earning. The revenue raised from the clothing import tariff was 34.88% of the total tariff revenue collected in 2008.
- Tariffs are lowest on luxury goods and highest on cheaper goods that poor families buy.

Far from receiving DFQF treatment in its access to the U.S. market, exclusion of apparel items in the U.S. GSP is the reason why Bangladesh (and other LDCs

depending on clothing industry) is amongst the top tariff paying countries among all U.S. trading partners. Table 2 shows that U.S. imports of apparel from Bangladesh during the same year was worth US$3.35 billion which is 89.52% of total imports from Bangladesh. In 2008 United States collected US$573.76 million worth of tariffs on goods imported from Bangladesh, of which $558.32 million was accounted for by clothing imports (HTS61 & HTS62).

**Why Trade Preferences Are Essential for Bangladesh**

The country depends greatly on its access to foreign markets. The clothing industry has remained the driving force behind Bangladesh's exports, accounting for over 77% of total exports during this decade.

**Bangladesh Faces Higher Tariffs**

The average duty on all imported products from Bangladesh was amongst the highest in 2008, and import tariff on clothing items from Bangladesh was even higher. The tariff collected by U.S. from Bangladesh in 2008 is equivalent of imposing US$3.98 in taxes on every person in the country, a country with per capita income of just US$621. On the other hand, in 2007 Bangladesh's exports to U.S. paid US$522.91 million worth of tariff and in the same year received US$49.14 million in Official Development Assistance from USA (more than ten times).

**The Need for Access to Foreign Markets**

In today's context, the market access issue bears utmost importance for strategizing sustainable economic growth of LDCs, particularly Bangladesh. Why? Because—firstly, the share of industry to GDP, particularly manufacturing sector, is increasing over other sectoral share. This indicates that the country's economy is rapidly heading toward industrialization. The Government of Bangladesh does have the vision to increase industry's share to GDP from 29% at present to 40% by 2021. Secondly—the export oriented industries have a greater role to play as the economy of Bangladesh has been getting increasingly exposed to globalization. Thirdly—our exports remain overwhelmingly concentrated to USA and EU. As Bangladesh is one of the highest tariff paying countries in USA, a preferential market access would help the country immensely to develop its industry and economy.

**The Existing Preferential Programs for LDCs Are Inadequate**

The United States has extended preferential access to developing countries ever since the Generalized System of Preferences (GSP) entered into effect in 1976, but excludes the commercially viable products of Bangladesh. Other programs that offer preferential access to the LDCs, as well as other developing countries, include the Caribbean Basin Initiative (CBI), which came into effect in 1984; the African Growth and Opportunity Act (AGOA), which came into effect in 2001; and the Haitian Hemispheric Opportunity through Partnership Encouragement Act, which came into effect in March 2007. Bangladesh must now compete in a market where some providers enjoy the advantage of duty-free access to the U.S. market (especially FTA partners of the United States), while others have massive economies of scale and ready access to low-cost fabric.

**Lack of Backward Linkage Supports**

Bangladesh does not grow cotton; neither is it an integrated producer of textiles and apparel. The country is primarily an assembler of imported inputs into finished garments. With the abolition in January 2005 of the Multi fiber Arrangement (MFA), the prime necessity was to develop backward linkage facilities (spinning, weaving, knitting, and dyeing-finishing) to ensure local supply of quality fabrics for the RMG industry, where the knitwear sector has already become quite self sufficient. However, U.S. knitwear imports from Bangladesh comprise around 25% and the other 75% goes for woven garments. Bangladesh has to compete in a market where some providers enjoy massive economies of scale and ready access to low-cost fabric.

**Bangladesh Is Not a Threat to U.S. Producers**

The U.S. apparel industry is in a process of contraction and consolidation, and this process has been underway for decades. Import penetration of clothing by U.S. is increasing than local production. That process would continue regardless of any changes that might be made in the market access granted to LDCs. From the available evidence, it seems too unlikely that elimination of remaining tariffs on Bangladeshi apparel will have any discernible effect on these trends. The U.S. industry has redirected itself to higher ends of the market. Producers of textiles and textile products have shifted towards segments in which they serve niche markets profitably. Bangladesh caters to the low end of the clothing market, and the real

competition in that segment is not with U.S. producers but among the Asian producers.

**Satisfying the Lower Income Consumers**

Imports of apparel from LDCs benefit U.S. consumers, and especially those lower-income consumers for whom clothing and other essentials comprise a major share of expenses. As the apparel items face the highest tariffs, inclusion of these items in the U.S. GSP scheme will bring in a win-win scenario for both U.S. consumers and LDC exporters, and thus allow the United States to do well by doing good.

**Commitment through WTO**

The decision taken at Hong Kong for industrialized countries to provide duty-free access to at least 97% of their tariff line, the developing countries could ensure that the duty-free initiative is meaningful to LDCs. Take apparel and accessories from LDCs (i.e., the sector subject to the highest average tariffs). In 2006, this sector accounted for $6.2 billion worth of U.S. imports from the LDCs. The first twenty 8-digit items in this category accounted for $4.6 billion (i.e., 74.7% of U.S. imports from the LDCs in this sector). An exclusion for 3% of all tariff lines can be translated, if one wished to do so, into something effectively approaching a 100% exclusion for the apparel and accessories sector.

**Non-discriminatory Treatment Is Essential for LDCs**

LDCs have been identified as a separate category on the basis of certain pre-defined criteria and indicators. Thus, making sub-categories within this group goes against the principle of non-discrimination among LDCs. Bangladesh (and Cambodia) deserve parity treatment with SSA LDCs. On top of it, only five African countries benefit from apparel exports to the U.S. Of these five countries, three are not Least Developed Countries, while Bangladesh and Cambodia are LDCs. The only country with a lower per capita income than the Asian LDCs is Madagascar. Even Lesotho has a higher per capita income. If the U.S.'s goal is to address poverty through trade preference programs, it hardly makes sense to exclude poor countries such as Cambodia and Bangladesh.

**Need for a Humane Trade Reform**

However, while discussing about the trade policy matters, this is not just about the statistics, it is more about livelihoods. It is not just about export earning and GDP, it is also about the millions of people producing these goods to lead productive lives and providing opportunities for future generations. The U.S. President has reaffirmed his commitment to using trade policy to promote sustainable economic growth in developing countries. Bangladesh's apparel industry is empowering women, which has had broader benefits for the society. Trade has been a good way for the developed countries to play a more proactive role in advancing the agenda for economic development of the poorer countries and it is time for the U.S. to play a more proactive role in this regard.

**Toward a More Development Oriented Preference Program**

Many significant trade preference programs take several years to become reality. The repeated introduction of the TRADE Act and the NPTDA has made significant progress in building support for the possibility of DFQF. There is a larger conversation going on with respect to preference programs in general and using a re-write of the GSP as the means by which DFQF status is given to the LDCs. This is by far the best bill we've ever seen as far as preferences reform.

**A Comprehensive Trade Preference Program**

We are expecting a comprehensive trade preference reform where the United States can meaningfully contribute to the development of the poorer countries. Though the Generalized System of Preferences or "GSP" scheme of the U.S. offers duty-free market access for 4800 products from qualified developing countries, including Bangladesh, it excludes the ready-made garment products which are of crucial commercial importance for countries like Bangladesh.

The U.S. should provide through its GSP schemes DFQF market access for all products originating from all LDCs as accorded in the Hong Kong Ministerial Declaration, or at least to ensuring commercially meaningful market access for the LDCs. We appreciate that the U.S. has offered through WTO a list of products (apparel items) for faster tariff reduction which covers 29 apparel items, LDCs have to long for the conclusion of Doha Round for its implementation.

Bangladesh's competitiveness in the U.S.'s apparels market would increase quite substantively if its apparel items are able to enter at zero duty. This was likely to increase Bangladesh's export of apparels to the U.S. by more than a billion U.S. dol-

lar. The U.S. apparel market is worth about US$80 billion, where Bangladesh's market share at present is about 4.59%. Bangladesh, thus, has a very good opportunity to increase her market share and foreign earnings from exporting apparels in the U.S. market, by taking advantage of the U.S. GSP.

**Conclusion**

Bangladesh is a democracy and special attention should be paid to advancing policies that spur economic development in this country. The industry has been progressing on all counts ranging from capacity strengthening to improvement of social and environmental standards. In September 2009 the U.S. Department of Labor (USDOL) published a survey report that found the garment industry of Bangladesh absolutely free of child labor. In order to encourage such progresses in LDCs, a U.S. GSP scheme allowing DFQF for apparel items would be immensely motivating and practical approach of U.S.

**Statement of Bangladesh Knitwear Manufacturers & Exporters Association**

Bangladesh Knitwear Manufacturers & Exporters Association (BKMEA) represents the knitwear[1] sector which is the largest export earning sector of Bangladesh. It is a national association for this sector recognized by the Government of the People's Republic of Bangladesh. Starting from 1996, BKMEA is now an association of more than 1593 members (October 2009). Knitwear contributes more than 41% share in the national export earnings with an amount worth of US$6.4 billion in 2008–09. Besides primary activities, BKMEA continuously is working for the development of this sector in the form of Research & Development, market promotion, Social Compliance, Productivity Improvement and other functions.

BKMEA always keeps close contact with the government of Bangladesh, Associations and Chambers, Non Government Organizations and others in policy making initiatives, development works and others.

**Duty Free-Quota Free (DFQF) Access: Why Bangladesh Needs It?**

Generally the least developed countries like Bangladesh's export basket is not diversified like that of the developed countries. Textile & Clothing is a dominating export sector in Bangladesh and RMG (HS 61 & HS 62) alone constitute 79.33% (FY 2008–09) of total export. Knitwear (HS 61) has the major share (41%) in the export pie of Bangladesh. Bangladesh Knitwear's more than 76% goes to the EU, about 15% to the USA and the rest to other markets. Woven garments about 50% goes to the USA and the rest to the EU and other countries.

Bangladesh mainly needs DFQF market access in the USA to reduce huge unemployment problem, poverty alleviation, increase women empowerment most importantly to ensure socio economic development. This sector is playing one of the most important roles to reach the goals of National Strategy for Economic Growth, Poverty Reduction and Social Development (PRSP). This access can facilitate Social Compliance initiatives of government and private bodies in the factory level through the factory owners own initiatives.

**Contribution of Apparel Sector in economic development of Bangladesh:**

The knitwear along with woven sector of Bangladesh is contributing not only in export earnings, but also employment generation, poverty alleviation, removing social and economic disparity, industrial development, development of financial sectors and others. More than 2.8 million people are directly working in this sector. More than 70% of them are women. The spillover impact of the direct employment generation and economic activities of this sector are quite large and this sector becomes the primary sector for further industrial development of Bangladesh. The share of apparel export value in GDP of Bangladesh is more than 13% in FY 2008–2009.

**Recession and Bangladesh Apparel Export:**

After October 2008, Bangladesh apparel sector observes the recessionary impact with a negative export growth of −7.5% (month to month). In the first three months of FY 2009–2010, Bangladesh apparel sector experienced −9.71%[2] growth which is alarming for our future development. Small and medium firms are mainly affected. Some of the factories had closed and there are many examples of job cut in this sector. Many firms are now in uncertainty with their future plans and employed labor

[1] In Harmonized Tariff Schedule, Knitwear falls under Chaptered HS 61.
[2] Compiled from data of Export Promotion Bureau of Bangladesh.

force. DFQF access to Bangladesh will help Bangladesh to recover from the current crisis and thus the USA can be a part of our development partner.

**Being a low exporter, Bangladesh is one of the highest duty paying countries in the USA:**

Bangladesh is the 10th largest duty paying country staying at the 54th position in terms of export value to the USA in 2008.[3] Bangladesh paid, in terms of duty, US$573.75 million by exporting only US$3.74 billion in 2008 of which US$3.35 billion was RMG, so it is evident that duty burden is heavy on RMG and so on to Bangladesh. Whereas France paid only US$391.23 million duty against export of US$43.37 billion and for England it is US$399.75 million against US$58.42 billion export to the U.S. market for the year 2008. The overall duty paying situation is almost similar for other developed countries. For a country like the USA with the size of the economy US$13.00 trillion the duty loss from Bangladesh means almost nothing, but this small opportunity will help Bangladesh to expand its business and increase foreign exchange earning which has huge socio-economic impact in the country.

Bangladesh receives about US$151 million foreign aid from USA in 2008 whereas we pay duty more than US$573 million in the same period. As a LDC with a 76% dependence on a single sector, Bangladesh believes these types of discrimination should be recovered or relaxed in order to expedite the development of export sectors of Bangladesh.

**Status of LDCs in the U.S. Market and the Position of Bangladesh?**

26 LDCs from Africa are getting preferential access to U.S. market under the African Growth and Opportunity Act (AGOA). Besides, 14 more countries are also getting the preferential access under AGOA but they are not LDC, they are[4]: Ghana, Kenya, Nigeria, Botswana, Cameroon, (Republic of) Congo, (Republic of) Cape Verde, Gabonese, Mauritius, Namibia, Seychelles, South Africa, and Swaziland, (United Republic of) Tanzania.

Again under the Caribbean Basin Initiative (CBI) 23 countries are getting preferential access to U.S. market, they are: Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. Among these countries only Haiti is a LDC, 3 are High-income-economies and 17 are Middle-income-economies.[5]

Whereas Bangladesh is not getting such benefit despite being a LDC with per capita income of US$599 only.[6] This picture should be changed and the country shall have 100% duty and quota free entry in the U.S. market for a better and equitable play ground with respect to other beneficiary countries.

**What Will Be the Effect on U.S. Local Industry?**

Bangladesh basically produces low value items where low cost labor is required and the process is in general not high tech or automated. These items are not feasible to manufacture in the U.S. where the labor cost is much higher compared to that of Bangladesh, so there is no question of disruption of local market. Moreover, the top 20 HS 8 digit level items have more than a 90% share of the total apparel export value of Bangladesh. It is an indication of how concentrated and how limited our export basket is. In such a position, it is not possible for Bangladesh to dominate U.S. apparel production houses.

Rather there is a high potential of growth in export of U.S. cotton, yarn, and fabric to Bangladesh as the country still has to import a large amount of raw materials for its RMG industry. It is worthy to mention here that the U.S. already is a major supplier of cotton (HS52) to Bangladesh and ranked 6th in 2004, with US$75.54

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[3] Compiled from USITC Data. Calculated on the basis of Customs Value and Total Calculated Duties.

[4] Ghana, Kenya and Nigeria are classified as Low-income economies by the World Bank (July 2006); in the same classification Cameroon, Congo, Namibia, and Swaziland are classified as Lower-middle-income economies and the rest are classified as Upper-middle-income economies. All these countries are from Sub-Saharan Africa.

[5] Aruba, Bahamas, and Netherlands Antilles are High-income-economies. Barbados, Belize, Costa Rica, Dominica, Grenada, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago are classified as Upper-middle-income economies and Dominican Republic, El Salvador, Guatemala, Guyana, Honduras, Jamaica, and Nicaragua are classified as Lower-middle-income economies. Except Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama all are Small Island Developing States.

[6] http://www.highbeam.com/doc/1P2-16742985.html, downloaded on December 1, 2009.

million, ranked 5th in 2005 with US$42.73 million and 6th in 2007 with US$64.05 million.[7]

**Social Effect in the U.S.:**

Most of the Bangladeshi products' price are by far lower than that of the major competitors, so the U.S. lower end consumers will be able to buy quality products at a cheaper price if Bangladesh is allowed DFQF in the U.S. market; as is mentioned earlier apparel products from Bangladesh will be at least 16% cheaper than that of competitors because of the zero duty effect. At the same time, these products cannot be manufactured in the U.S. locally because of the much higher wage in the labor market. So, there is clear benefit for the U.S. lower end consumers who want to buy quality apparel products at a cheaper price. For them Bangladesh offers the solution. **That is the social effect on lower end consumers is positive**.

We also do not see any disruption in the employment level. Available data from the Bureau of Statistics, U.S. Department of Labor shows that the unemployment level in all industry in the U.S. has fallen significantly after MFA phase out and before recession. The quota removal from the WTO member countries cannot have a dint in the employment condition, then allowing DFQF to Bangladesh should not have a negative impact on the U.S. employment condition.

**Social Effect in Bangladesh:**

The RMG sector employs more than 2.8 million workforces out of which roughly 70% are women.[8] Such a huge magnitude of women labor force has been able to engage in a formal sector through the RMG. In fact, RMG is the 3rd main sources of employment for women in the country after agriculture and domestic services. 70% of the total female employed in the country's manufacturing sector engaged in RMG.[9] Before the emergence of RMG in Bangladesh women generally worked in non-formal sectors. The majority of the female RMG workers come from households of lower socio-economic status and has fewer attractive economic opportunities.[10]

The sector contributed a lot in the human development particularly for women in the following areas:[11] Women empowerment, Gender equality, Improved health & nutrition, Reduced child marriage, Reduced infant mortality, etc., all of which have profound socio-economic effect in the context of Bangladesh.

The more market access for the sector means a lot more improvement of the women of Bangladesh. U.S. must not deny these unprivileged women from having a better way of life. Besides, the development in the sector also contributed a lot in the growth and development of the backward linkage industry of the country that also created a lot of jobs in the country.

**Spirit of Hong Kong Ministerial:**

The basic spirit of Hong Kong Ministerial on 97% duty free entry was to facilitate LDCs export to the developed nations. But in the U.S. market, most of our textile and apparel products are out of the 97% list of the USA and falls under 3% criteria. That's why, it is important for us to have the DFQF market access in all products including textile and clothing.

**DFQF Market Access will Reduce Aid Dependence:**

By this facility, Bangladesh will be able to increase trade in the USA which ultimately will help us to reduce foreign aid dependence and increase financing for development from our internal source.

**Concluding Remarks:**

The potential effect of providing DFQF market access to the local U.S. industry is positive, U.S. low end consumers will be benefited, and there is no negative impact foreseen on the U.S. employment level as well. The potential revenue loss to the USA will be minimum, direct revenue loss from loss of Duty can be offset by increase in cotton export from the USA.

On the other hand the DFQF opportunity will give Bangladesh to increase its export that has profound socio-economic impact on the country. It also will help us to recover from the current crisis in export due to recession. The facility will help

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[7] Based on data downloaded from Trade Map on December 1, 2009.

[8] For 90% of these women this is the first wage job (International Trade and Gender Equality—Has trade benefited female workers in developing countries?, Gurushri Swamy.)

[9] The case of Readymade Garment Industry in Bangladesh, Gurushri Swamy, June 2006.

[10] ibid.

[11] Women who joined RMG after marriage (at age 16) given birth to 1st child at 17; on the other hand, who joined unmarried, generally marry at 20 and have their 1st children at 21. This development must be seen as positive and supportive to women's health. Women have also gained respect in their families. (ibid).

Bangladesh to integrate more in world trade. Therefore, BKMEA, on behalf of the garments manufacturers and millions of workers working here, urges the USA to provide the Duty Free-Quota-Free access to Bangladesh and help to grow and eradicate poverty.

## Submission by the Centre for Policy Dialogue

### *Need for Inclusion of Apparels in the Revised US–GSP Scheme*

Over the past several decades the U.S. Generalized System of Preferences scheme (US–GSP scheme) has served an important role in advancing the interests of trade and development of low income and developing countries. Preferential treatment accorded to these countries allow their exports to enter U.S. market at less than most favoured nation (MFN) tariffs which provide exports of those countries substantial competitive edge. This has helped the recipient countries by way of enhanced export earnings, more employment, higher investment and greater socio-economic well being.

Regrettably, the US–GSP scheme, as it stands today, does not include most of the apparels items, which are major exports for many least developed countries (LDCs) of Asia and Africa. Whilst the concerns of African LDCs have been addressed through African Growth and Opportunity Act (AGOA) and of the Caribbean countries through Caribbean Basin Initiative (CBI), since 2002, whereby the apparels exports of these countries receive duty-free, quota-free (DF–QF) treatment, the 15 Asia Pacific LDCs are yet to receive similar treatment for export of apparels. A revised US–GSP scheme that provides DF–QF treatment to all apparels items originating from all LDCs will provide parity treatment to AP–LDCs (after seven years). It may be noted that a comprehensive US–GSP scheme will also benefit African/Caribbean LDCs which will have preferential market access under a more secured and predictable arrangement compared to initiatives such as the AGOA or CBI which have an element of uncertainty inherent in such bilateral initiatives. Providing DF–QF treatment to AP–LDCs will also benefit U.S. retailers and consumers who will have access to apparels at relatively lower prices.

### *Arguments Favouring Inclusion of Apparels Exports from AP–LDCs*

It is often said that AP–LDCs such as Bangladesh and Cambodia are performing well in the U.S. market even without DF–QF treatment under US–GSP scheme and hence there is no need to bring apparels items within the ambit of US–GSP scheme.

To this our response is thus:

> An LDC is an LDC according to certain criteria of low per capita income, overall underdevelopment of manufacturing sector, and susceptibility to various vulnerabilities including environmental. An LDC can not be similar to developed/developing countries in one particular sector, and LDC in all other respect! LDCs such as Bangladesh have had to put in a lot of effort to help graduate their export-oriented apparels sector to where it is today, and have to continue to support this sector even at present, through various fiscal, financial, institutional and policy support! Bangladesh had to have allocate her scarce resources to this sector, through zero/lower taxes, reduced interest rate, infrastructural support, compliance assurance, support for workers so that wages could remain low and various other allocations. Often this has meant depriving other sectors from financial and other resources which could have contributed to the development of those sectors. A low income country such as Bangladesh is doing everything to ensure that this one sector, apparels, that contributes about 80.0 per cent of her total global export, and about 90.0 per cent of her export to U.S., continues to perform well. If this support was not given this sector would not have been competitive—many people would not get jobs, many would fall below the poverty line and Bangladesh will be more entrenched in the poverty trap. Supporting competitiveness of this sector of Bangladesh through DF–QF treatment will allow Bangladesh to remain competitive and allocate some of her resources to other sectors which it can not do today. Thus, Bangladesh should not be penalised for her (limited) success in apparels. A revised GSP scheme that includes apparels will help Bangladesh in her efforts to improve her economic situation and help her graduate from the ranks of LDC, which is one of the major objectives of U.S. preferential scheme under the GSP.

It is pertinent to recall here that in 2008 average tariffs on Bangladesh's apparels in USA ranged from 12.0 per cent to 32.0 per cent (average 15.7 per cent), whilst the African/Caribbean LDCs have been entering the U.S. market at zero-tariff since 2002. In 2008 import duties imposed on Bangladesh's apparels at U.S. customs

points was $558.0 million ($405.80 million for Cambodia). Preferential access will provide AP–LDCs competitive edge which will help them to compete primarily with China and Vietnam which enjoy larger market share in U.S. Indeed, Bangladesh and Cambodia do compete with certain items of apparels exported by ⅔ African LDCs. However, what is being suggested is only similar treatment (after seven years). Besides, apart from providing DF–QF treatment under AGOA/CBI, USA also has a host of other support mechanisms in place to help African LDCs, which are also receiving substantial financial assistance from other sources. African LDCs can be supported through other additional measures as well.

***Financial Crisis and Its Impact on Apparels Exports of Bangladesh***

As is known, the other routes through which AP–LDCs could potentially receive more preferential treatment than now, for apparels, don't look promising at present. Progress in the Doha Round negotiations have been rather slow, and the possibility of receiving preferential treatment for apparels under the multilateral trading system is bleak. Bangladesh's good performance in terms of apparels export during the global economic crisis (in 2008) came at a high cost and was not easy. Bangladesh government had to allocate substantial amount of resources from its stimulus package to support her export-oriented apparels sector, taking resources away from other possible candidates and going for higher deficit finance this year, with possible economy-wide adverse consequences. Whilst apparels export growth has been sustaining, thus far, for Bangladesh, the lagged response of the ongoing financial crisis is becoming increasingly visible. Growth of export of apparels from Bangladesh in the first quarter of Fiscal Year 2009–10 (July-September) was (−) 9.68 per cent compared to matching period of FY2008–09 with apparels export for September, 2009 being particularly bad (posting a negative growth of (−) 26.74 per cent).

***Bangladesh should not be punished because of her hard-earned, limited success in apparels***

In view of the above, we strongly feel that the U.S. GSP scheme which has served the objective of assisting low income and developing economies, needs to be further revised to allow countries such as Bangladesh to enable them to make better use of the scheme towards their socio-economic development. It is to be noted that in 2008 only about less than 1.0 per cent of export value of Bangladesh to U.S. market was able to enjoy GSP treatment. It will be pertinent to remember that when the Doha Round negotiations are complete and implemented, tariff peaks (on apparels) will come down substantially (16 per cent tariffs will come down to about 5.5 per cent), and the value of preferential margin will come down significantly. It is thus important that apparels be included in US–GSP scheme now since the window of opportunity to benefit from US–GSP scheme will be fast shrinking in view of the expected fall in tariff rates.

It is also relevant to recall here that Bangladesh has been identified as one of the most vulnerable countries in terms of climate change adding to the complexity of the challenges she is facing and the need to allocate resources for attendant tasks of mitigation and adaptation.

In view of the above, we strongly urge the Ways and Means Subcommittee on Trade to kindly consider including apparels items in the revised US–GSP scheme, and thereby assist LDCs such as Bangladesh to address the challenges of developing their economies in an increasingly competitive global market.

## Statement of International Sugar Trade Coalition

### Granting DFQF Status to Sugar From LDCs Would Do More Harm Than Good to Developing Countries

The International Sugar Trade Coalition (ISTC) respectfully submits these comments for the record of the November 17, 2009 hearing by the House Ways and Means Trade Subcommittee on U.S. trade preference programs. ISTC urges that sugar be excluded from any reform of U.S. trade preference programs.

ISTC is a non-profit association representing sugar industries in developing countries from Africa, the Caribbean, Central and South America, Asia and the Pacific that are traditional suppliers of sugar to the U.S. market under the raw sugar tariff rate quota (TRQ), including: Barbados, Belize, the Dominican Republic, Fiji, Guyana, Jamaica, Malawi, Mauritius, Panama, the Philippines, St. Kitts and Nevis, Trinidad and Tobago, and Zimbabwe. ITC's members represent approximately one-half of the raw sugar TRQ allocations.

U.S. industrial users of sugar (such as chocolate and candy manufacturers) and certain free-trade think tanks and NGOs have suggested that least developed countries (LDCs), especially those in Africa, would benefit by extending duty-free, quota-free treatment (DFQF) to sugar imports to the United States from LDCs. Experience with the reform of the EU sugar regime has proven, however, that including sugar in DFQF initiatives actually does more harm than good to developing countries. For that reason, in its testimony presented at the November 17, 2009 hearing, the Common Market for Eastern and Southern Africa (COMESA) recommended that sugar should be excluded from DFQF initiatives. ISTC agrees.

**1. Access to the U.S. Sugar Market Is Valuable Because of the U.S. Sugar Program.**

In considering whether sugar should be included in DFQF for LDCs, one has to start with the question why LDCs want to export sugar to the United States in the first place. According to the International Sugar Organization (ISO) the vast majority—roughly 80%—of the sugar produced in the world is consumed within the country of origin. Most sugar-producing countries, including some LDCs, maintain the viability of their sugar industries through measures (including TRQs, subsidies, etc.) to ensure that the price of sugar in their internal markets is above their local cost of production.

There are only two major import markets where, over the past half century, sugar prices have been consistently above the world average cost of production: the EU and the United States. The EU price was traditionally significantly higher than the U.S. price, which made access to the EU market the most sought-after by sugar-exporting countries. But as a result of a WTO challenge brought by Brazil, Australia and Thailand, coupled with the impact of the EU's Everything But Arms (EBA) initiative, which extended DFQF to LDC sugar, the EU reduced its sugar reference price by 36%. Today, the U.S. and EU market prices are the closest they have been in decades. Depending on currency exchange and freight rates, the U.S. price may actually provide greater returns for some exporters from time to time. As a result, access to the U.S. market today is relatively even more attractive than ever before.

In addition to the premium-priced EU and U.S. markets, sugar is also traded on the so-called "world market," where prices are typically well below the world average cost of production.* Only the lowest cost sugar producers, Brazil, Australia and Thailand, intentionally target the world market. Other countries may occasionally dispose of surplus production on the world market, which only further depresses the world market price. No LDCs and no African countries (with the possible exception of South Africa) produce sugar with the intention of exporting to the world market precisely because the price is usually below their cost of production.

The U.S. sugar program ensures that the market price is above the cost of production through a combination of (1) TRQs on imports from traditional suppliers; (2) domestic marketing allotments to control the amount of domestic sugar in the market; and (3) "nonrecourse" loans to domestic sugar producers. Through these measures, the U.S. Department of Agriculture (USDA) balances the interests of domestic sugar producers, U.S. consumers, and traditional foreign suppliers, with the goal of maintaining a stable market. The resulting U.S. market price is in the mid-range of internal market prices around the world.

A total of 39 countries, all but two of which are developing countries, hold allocations under the U.S. raw sugar TRQ. (Australia and Taiwan are the developed quota holders.) The developing-country quota holders include four LDCs: Haiti, Madagascar, Malawi and Mozambique. Consistent with GATT Article XIII, quota shares under the TRQ are assigned on the basis of actual exports to the United States during a representative base period. Countries not assigned quota shares are not traditional suppliers to the U.S. market.

Sugar exports are the life's blood of many of these developing-country quota holders. Sugar exports represent as much as 24% of total GDP (*e.g.,* Swaziland) and up to 93% of agricultural revenues (*e.g.,* Fiji) for many these developing-country quota holders. Literally millions of farmers and workers earn their livings in the sugar industries of these developing-country quota holders. The non-LDC developing-country quota holders are significantly more dependant upon sugar exports than are the

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*Drought-induced damage to the cane crop in India caused world-market prices in 2009 to double and rise above the world average cost of production for the first time in more than 30 years. Raw cane sugar, which accounts for the great bulk of world sugar trade, is currently priced around $500 per metric on world markets and around $600 on the U.S. market. Sugar is traded on New York and London exchanges and is historically more volatile in price than crude oil.

LDCs (*i.e.,* sugar exports are a larger percentage of total exports for the non-LDC developing countries).

The U.S. sugar program is beneficial to developing-country quota holders because it provides them with access to a market where the price is consistently remunerative, *i.e.,* above their cost of production. Uncontrolled increases in the flow of sugar into the U.S. market risk undermining the U.S. price, reducing the revenues upon which developing-country quota holders rely. Developing-country sugar exporters need a balance between the volume of access and the value of that access, because *increased access at a price that is below the cost of production is worthless.*

**2. Granting DFQF to LDC Sugar Risks Destroying the U.S. Sugar Program, Which Is Already Vulnerable Because of NAFTA.**

The U.S. sugar program has remained in effect since 1982 with only relatively minor changes precisely because it has been effective in balancing the interests of domestic producers, U.S. consumers and traditional foreign suppliers—all at no budgetary cost to the U.S. taxpayer. This balance of interests has been seriously disrupted by the North American Free Trade Agreement (NAFTA), which gave Mexico DFQF access to the U.S. market. U.S. sugar imports from Mexico have sky-rocketed from 7,258 metric tons (MT) before NAFTA to 1.3 million MT during the just-ended 2008–09 quota year. In the meantime, U.S. sugar imports from the 39 traditional suppliers have fallen to the minimum level bound in the Uruguay Round (approximately 1.1 million MT), and the U.S. market price has become more volatile, jeopardizing sugar export revenues for the developing-country quota holders that depend on access to the U.S. sugar market.

The U.S. Administration learned its lesson from NAFTA. No subsequent FTA negotiated with a sugar-producing country has included DFQF treatment for sugar. Rather, all U.S. FTAs since NAFTA have strictly limited the volume of sugar to be imported duty-free under the FTA. The reason is simple: DFQF treatment for sugar is incompatible with maintaining a premium price.

Adding another major source of DFQF sugar to the U.S. market would seriously depress the U.S. market price, thereby further reducing sugar export revenues by all developing-country quota holders. Even worse, extending DFQF treatment to sugar from LDCs could collapse the sugar program completely, which would benefit neither current developing-country quota holders nor LDCs. Rather, the only beneficiaries of such an outcome would be (1) the U.S. industrial sugar users, who would then be able to source sugar at the lowest possible price; and (2) the lowest cost exporters of sugar, none of which are LDCs, primarily Brazil, Australia and Thailand.

Twenty-four LDCs are significant sugar producers. Of these, five are currently major exporters: Malawi, Mozambique, Myanmar, Sudan and Zambia. These five LDCs export an average of 1.1 million MT of sugar annually.

[The information was not received at time of printing.]

Total annual U.S. sugar consumption is about 9.5 million metric tons. Domestic producers by law are guaranteed the opportunity to supply 85 percent of that total. Traditional suppliers are guaranteed the opportunity to supply 1.1 million metric tons, about 11 percent, under WTO agreements. Mexico faces no limits and supplied about 1.3 million MT, over 12 percent of the market, in the 2008–09 marketing year. Massive oversupply and a price collapse is a serious risk. It has been reported that Malawi, Mozambique and Sudan are already expanding their sugar production dramatically (doubling it according to some sources) to take advantage of their new DFQF access to the EU under EBA. With the recent reduction in EU sugar prices, a result of EU sugar market reforms, some or even all of these increased LDC exports—as much as another 1.4 million MT, almost 15 percent of U.S. consumption—might be diverted to the U.S. market under DFQF. Supplies could equal over 120 percent of consumption, making it impossible to maintain the sugar price required by law without government purchases of sugar on an unprecedented and extremely costly scale.

But even that is not the worst case scenario. A newly-introduced bill, the New Partnership for Trade Development Act, H.R. 4101, would extend DFQF status to all AGOA beneficiaries, as well as the non-African LDCs. This group of 29 countries exports on average 2.8 million MT of sugar annually.

**Sugar Producing Countries Included in H.R. 4101**

**DFQF Access for Sugar to U.S. Market**

(Thousand metric tons, most recent three-year average)

| | Production | Imports | Consumption | Exports | Net Exports |
|---|---|---|---|---|---|
| **LDCs** | | | | | |
| Angola | 30 | 270 | 305 | | |
| Bangladesh | 125 | 1,067 | 1,219 | | |
| Benin | 11 | 43 | 39 | 9 | |
| Burkina Faso | 32 | 36 | 66 | | |
| Burundi | 20 | | 20 | | |
| Chad | 34 | 18 | 50 | | |
| DR Congo | 75 | 73 | 137 | 10 | |
| Ethiopia | 307 | 127 | 443 | 17 | |
| Guinea | 28 | 75 | 95 | 20 | |
| Haiti | 1 | 185 | 185 | | |
| Madagascar | 25 | 150 | 172 | | |
| Malawi | 297 | 1 | 180 | 137 | 136 |
| Mali | 37 | 40 | 75 | | |
| Mozambique | 297 | 169 | 175 | 296 | 127 |
| Nepal | 150 | 17 | 150 | 10 | |
| Niger | 15 | 50 | 65 | | |
| Sierra Leone | 62 | 15 | 34 | 41 | 26 |
| Somalia | 22 | 70 | 93 | | |
| Tanzania | 278 | 185 | 457 | 17 | |
| Togo | 5 | 40 | 45 | | |
| Uganda | 285 | 15 | 250 | 15 | |
| Zambia | 320 | 1 | 157 | 155 | 154 |
| *LDC Subtotal* | *2,456* | *2,648* | *4,413* | *727* | *443* |
| **Non-LDCs** | | | | | |
| Congo (Brazzaville) | 58 | 15 | 34 | 41 | 26 |
| Kenya | 529 | 234 | 724 | 45 | |
| Mauritius | 482 | 41 | 42 | 477 | 437 |
| Nigeria | 53 | 1,295 | 1,150 | 150 | |
| Senegal | 100 | 75 | 170 | 7 | |
| South Africa | 2,363 | 180 | 1,638 | 1,018 | 838 |
| Swaziland | 657 | | 306 | 350 | 350 |
| *Non-LDC Subtotal* | *4,243* | *1,840* | *4,064* | *2,088* | *1,651* |
| **Grand Total** | **6,698** | **4,488** | **8,477** | **2,815** | **2,093** |

(Source: USDA, Foreign Agricultural Service, November 11, 2009.)

There can be no serious debate over whether the U.S. sugar program could withstand additional imports of that magnitude. At a minimum, the U.S. sugar price would fall significantly, probably below the cost of production in almost all developing-country quota holders, thereby immediately slashing sugar export revenues by those developing countries that are already dependent upon exports to the United States. The sugar program would no longer be tenable.

As was experienced by the African, Caribbean and Pacific (ACP) countries in the reform of the EU regime, sugar export earnings by the developing country quota holders would plummet, tens of thousands of sugar workers would lose their jobs, and in some countries (Trinidad & Tobago and St. Kitts & Nevis in the case of the EU reform) the entire sugar sector would shut down, causing major economic dislocation and social upheaval.

Another policy option would be to replace the current U.S. sugar program with a more traditional commodity program (*e.g.,* deficiency payments). Under this model, U.S. sugar producers would be guaranteed a certain price, but imported sugar would trade at the so-called world market price, which as noted above is typically below the cost of production of all but a handful of countries. The result would be the loss of sugar export revenues by both current quota holders and LDCs, as sugar trade would be dominated by in Brazil (the world's largest and lowest-cost producer), and to a lesser extent Australia and Thailand. The only winners would be the large corporate sugar users, commodity speculators, and the handful of non-LDC lowest-cost sugar exporters.

The outcome would be a classic case of "robbing Peter to pay Paul," as existing trade by the developing countries that are already dependent on their sugar exports to the United States would be destroyed to make room for new imports from LDCs. The United States sugar program, which sustains a premium price for sugar by limiting supply, would likely be overwhelmed. Increasing poverty in one group of poor countries in the hopes of reducing poverty in another group of poor countries is not

a worthy policy goal. Indeed, there is a serious risk that even the LDCs would lose out, being replaced by the small group of super-competitive non-LDC sugar producers. The result would be increased sugar exports by Brazil, and increased poverty in almost all other sugar exporters, including the LDCs the DFQF initiative is intended to help.

For all these reasons, ISTC respectfully requests that sugar should be excluded from DFQF treatment in any preference reform legislation.

Respectfully submitted,

Harry Kopp
Vice President

November 30, 2009

**Statement of the Bangladesh Secretariat**

1. Bangladesh is one of the LDCs, making serious efforts for graduating from its present economic status within shortest possible time. Its efforts need to be supplemented by development partners so that the process can be expedited. Trade is used by Bangladesh as one of the tools for reducing poverty and ensuring economic growth.

2. Our development efforts however, have been facing enormous challenges due to global financial meltdown. It is apprehended that the current financial crisis would adversely affect the livelihoods of our poor people. The crisis has been affecting various sectors of our economy including exports, imports, remittences, portfolio flows, FDI and foreign aid. But, the severity of the effect seems to be more devastating for the relatively poor people who have less resources to face the crisis.

3. In this context, it is to be noted that a number of developed and developing countries have already come up with huge stimulus packages to overcome the present crisis. Since the poor countries do not have enough resources, they cannot support their enterprises to survive in the present crisis, even though this crisis was not generated by them. The stimulus packages in the developed countries have been reducing the competitiveness of the small exporters of the poor countries in the global market and posing further challenges for us. The present crisis along with the high import prices of food, fuel and fertilizer persisting since 2006 pose enormous challenge to our economy.

4. Bangladesh has already been experiencing about 12% down trend in its export growth compared to the last three months of the previous financial year. Even more worrying is the fact that the export of textile and apparels which account for 80% of our exports, has declined by 27% in the month of September for which we have the latest data, compared to September, 2008. The cumulative effect of all these issues have been pushing a huge number of people to severe poverty, and threatening the achievement of MDGs which the global community had committed on the eve of this millennium. In this context, an improved market access is extremely important to face the current crisis and continue the on-going development efforts.

5. The export basket of Bangladesh is extremely narrow and has only a few items in it. The duty-free and quota-free market access in the U.S. market, particularly for textile and apparels, is extremely important for Bangladesh. During 2008–09, export from Bangladesh was US$15,565.19 million of which RMG export accounted for US$12,737.6 million. The export of textile and apparels constitute about 81% of our exports.

6. The United States of America (USA) is one of the major trading partners of Bangladesh. About 26% of our export is destined to USA. During 2008–09, Bangladesh exported US$4052 million worth of products to USA, and RMG export constitute about 90% of the total export to USA. The major export item, textile and apparels, accounts for more than 90% of our export to the U.S. market. However, all these items fall in the tariff peaks, and Bangladesh pays around 16% duty in U.S. market, which is much higher than many OECD countries.

7. The tariff on apparels (as on other industrial goods) is expected to gradually come down under the Non-Agricultural Market Access (NAMA) negotiations in the WTO. This would mean that the gains from the duty-free market access for Bangladesh's apparels would erode over time. If USA doesn't provide zero tariff market access now, then such preferential market access would become less significant in the near future due to global reduction of tariffs. So, it is important that this facility is accorded as soon as possible so that countries like Bangladesh can be benefited from such scheme.

8. A further analysis of our export to USA shows that Bangladeshi apparel items compete mainly in low cost production for the lower end of the U.S. market. Bangladeshi exporters do not appear to compete with U.S. producers. Expansion of our export of RMG is directly linked with poverty reduction and women empowerment. A total of 2.8 million workers are directly employed in the RMG sector, of which more than 80% are female workers. A better market access for RMG products in U.S. market will undoubtedly help reduction in poverty and further empowerment of women as envisaged in Millennium Development Goals (MDGs).

9. The United States offers special treatment to most of the LDCs, but the preferences extended to Asia-Pacific LDCs including Bangladesh are not as generous as those granted to other regions. About 93% of all U.S. imports from Bangladesh are dutiable, and the average duty on all imports in 2008 was about 16%.

10. It is worth mentioning that Bangladesh paid $525 million duty on its export to the United States in 2008. That is equivalent of imposing $3.5 in taxes on every person in Bangladesh. When one considers that 29% of the Bangladeshi population subsists on less than $1 per day, such tax appears to be especially inappropriate.

11. By granting Duty Free Quota Free (DFQF) treatment to Bangladesh for its major exportable items, the United States would not only support Bangladesh, it will also benefit U.S. consumers, especially those low-income persons for whom clothing is a major item in the family budget. Moreover, trade with Bangladesh also benefits U.S. exporters. It may be mentioned here that during 2003–2007, the apparel industry of Bangladesh imported US$297.28 million worth of cotton from the United States. Bangladesh also imported fabric, textile machinery, buttons and other inputs. The beneficiaries include not only those producers who contribute to the Bangladeshi garment industry, i.e., cotton growers and manufacturers of textile machinery, but also farmers and other producers whose sales can rise in tandem with the rise of Bangladeshi people's purchasing power. Given the size of Bangladesh's industry, further opening of the U.S. market will have little impact on the U.S. apparel industry. American producers abandoned the low-end of the commodity clothing market years ago.

12. It is apprehended by some quarters that the developing countries and LDCs who are covered by the African Growth and Opportunity ACT (AGOA) and Caribbean Basin Initiative (CBI) would be harmed once Asia-Pacific LDCs are granted DFQF treatment. In reality, African and Caribbean countries would face fierce competition from India, China and Vietnam as they have strong backward linkages and export in bulk quantities. Moreover, not all AGOA and Caribbean countries are involved in textile and apparels sector. A closer scrutiny is thus required instead of considering all the AGOA and CBI beneficiaries in the same way thereby depriving the Asia-Pacific LDCs from their due.

13. Bangladesh has been putting enormous efforts to integrate itself to the global economy and has taken several important steps towards a more market-oriented economy. It still needs some flexibility and supports to overcome its supply-side bottlenecks and turn its comparative advantage into competitive advantage. A small gesture from U.S. by providing DFQF market access will not only enhance our export, it will ultimately help the millions of our poor workers and their families to earn a livelihood and come out of the vicious circle of extreme poverty.

14. Another issue, which is extremely unfair to Bangladesh, is the Annex 4 of the NAMA modalities of the WTO. As it stands now, in the context of Annex-4, Bangladesh, Cambodia and Nepal, would receive less favorable treatment than two developing DACs in terms of access for apparels in the U.S. market. As a result, Bangladesh, Cambodia and Nepal will need to pay about 6–8 percentage higher duties for the seven items included in the Annex-4 compared to the two developing DACs. These items cover more than 60% of export of Bangladesh to the U.S. market; export competitiveness of these items will be seriously undermined as a result of such treatment.

15. Bangladesh likes to reiterate once again that it should not be punished for its hard-earned and limited success in the export of apparels. In this time of crisis and hardship, the country has allocated precious resources to maintain the market share in the only sector where it has achieved some comparative advantage through painful efforts. While giving assistance to this sector, the country has to deprive a host of other sectors. It is fair that we would not be treated as a developed country for our success in a particular sector. We should be considered as an LDC because all our economic and social indicators clearly identify us as such.

Permanent Secretary
Ministry of Commerce
Bangladesh Secretariat

**Statement of the Chevron Corporation**

Pursuant to the notice on November 17, 2009, announcing the Subcommittee on Trade Hearing on the Operation, Impact, and Future of the U.S. Preference Programs, Chevron is pleased to submit comments for the record. Chevron commends the Subcommittee for its timely hearing. The United States has never before engaged in an in-depth review of its trade preference regime and this is an important initiative. The Generalized System of Preferences (GSP) was first enacted in 1974, and over the past 35 years four programs have been added: the Caribbean Basin Initiative (CBI—1983), the Andean Trade Preference Act (ATPA—1991), the African Growth and Partnership Act (AGOA—2000), and the Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE—2006).

Chevron strongly supports the preference programs, which promote trade with developing countries, help diversify their economies, and create a foundation for sustainable growth lifting millions out of poverty. Chevron is one of the largest investors in sub-Saharan Africa and has partnered with nations there for 70 years now. It has been a particularly strong advocate for AGOA, where it was one of the founders of the business coalition that pushed for the original passage of the program. The company has seen the real difference trade-enhancing programs can make in the region, particularly those like AGOA that are targeted toward small and medium-sized enterprises.

AGOA, ATPA, CBI, GSP and HOPE together represent a successful effort by the United States to open its market to over 130 countries around the world in the belief that trade expansion is a stairway to development. The programs have resulted in trade growing faster with countries that participate in the programs as compared with those that do not.[1] And, through various eligibility criteria, they have in turn helped to further U.S. policy goals such as improving protection of labor, human and intellectual property rights, combating illegal narcotics, and strengthening the rule of law and good governance.

Two of the programs—ATPA and GSP—expire at the end of 2009. Chevron believes they should be extended to ensure that those whose livelihoods depend on them continue to enjoy their benefits while Congress and the Administration undertake a review of these programs. As Congress examines reforms, Chevron urges it to consider changes that would strengthen the programs, ensure that that they support longstanding U.S. efforts to promote the rule of law and good governance, and limit the ability of governments with sustained records of behavior inconsistent with standard international norms to reap trade preference benefits. Chevron also believes it is critical that there be differentiated treatment for countries such as Ecuador that have flouted international standards on rule of law, investment disciplines, and investor protections. This differentiated treatment should involve, among other things, shorter extension periods and consideration of limited product coverage.

Chevron's experience in Ecuador is one example of why an increased emphasis on rule of law is appropriate, particularly with respect to ATPA. Chevron is involved in a long-standing dispute with the Government of Ecuador over responsibility for environmental impact in Ecuador's Amazon region. In Chevron's view, entities owned or controlled by the Government of Ecuador inappropriately continue to enjoy ATPA trade preferences despite that government's behavior in this case and its broader efforts to undermine the rule of law and investment protections for U.S. companies.

As brief background, in the nineteen seventies, eighties and early nineties a Chevron subsidiary was a minority partner in a consortium with Ecuador's state-owned oil firm Petroecuador to develop energy resources in Ecuador. When the consortium ended in the early nineties, Chevron's subsidiary remediated oil sites proportional to its share in the consortium, as agreed with the Government of Ecuador. The Government of Ecuador and Petroecuador thereafter signed agreements acknowledging that the subsidiary had successfully completed the remediation and fully released it from any further environmental liability related to the consortium.

After the partnership ended, Petroecuador continued to operate the project by itself for years with a well-documented record of oil spills and other serious environmental mismanagement, both in the sites that the Chevron subsidiary had remediated and in others where Petroecuador had responsibility for remediation but did not do so. In 2003, private plaintiffs filed a lawsuit in Ecuador against Chevron alone—not Petroecuador—for environmental remediation of the entire former concession area, seeking retroactive application of a law enacted in 1999. Chevron ac-

[1] U.S. Government Accountability Office, *U.S. Trade Preference Programs Provide Important Benefits, but a More Integrated Approach Would Better Ensure Programs Meet Shared Goals*, Report No. GAO–08–443, (Washington DC: Government Accountability Office, 2008), p. 19–20.

knowledges that there are environmental impacts in the former concession area, but it believes that the environmental condition is the direct result of Petroecuador's failure to fulfill its remediation obligations and not operate in an environmentally-sound fashion.

Chevron was prepared to see this dispute litigated. There have, however, been consistent efforts by the Government of Ecuador to interfere with the litigation and to direct a judgment against Chevron, including such actions as:

- Ecuador's President publicly committing to support the plaintiffs;
- Representatives of the Attorney General's office conspiring with plaintiffs' lawyers to undermine the integrity of the 1995 Settlement Agreement and the 1998 Final Release;
- Ecuador's Prosecutor General manufacturing illegitimate criminal indictments against Chevron counsel and others involved in the previous release agreements.

Chevron believes the actions of Ecuador's Executive and Judicial branches disregard Ecuadorian law, international obligations and norms, and Chevron's basic right to a fair hearing. It is sufficiently concerned about its inability to receive due process that on September 23, 2009, it filed an arbitration claim under the U.S.-Ecuador Bilateral Investment Treaty, investment agreements and international law.

Ecuador's continued disregard for the rule of law and due process extends well beyond Chevron's case and is recognized by many in and out of the U.S. government. The U.S. Department of State, the Office of the U.S. Trade Representative, Transparency International and the World Bank all have noted that there are serious concerns with Ecuador's judicial system and that rule of law in Ecuador is weak. Most recently, President Obama's June 30, 2009, report to Congress evaluating Ecuador's compliance with ATPA eligibility criteria noted continued concerns over the investment climate in Ecuador and the politicization of legal proceedings there.

Yet despite continued U.S. expressions of concern about Ecuador's actions and intentions, the Government of Ecuador appears determined to stay on its current course. At the end of October, Ecuador announced its intention to withdraw from 13 bilateral investment treaties, including the U.S.-Ecuador Bilateral Investment Treaty. This announcement builds on its earlier statement of intent to withdraw from the globally respected International Center for the Settlement of Investment Disputes (ICSID), where it has been a respondent in 13 cases. Ecuador is only the second country, out of 156 ICSID signatories, to do so; Bolivia is the other.

**ATPA Reforms to Better Promote Development and Reinforce Support for Rule of Law**

Despite its behavior, Ecuador continues to enjoy trade benefits under ATPA. Chevron supports ATPA's goal of assisting the people of Andean countries to develop their own export-related industries, and Ecuadorian businesses in many product areas, such as cut flowers and tuna, enjoy ATPA benefits. Ironically, however, a principal ATPA beneficiary is the Ecuadorian government itself. In 2008, petroleum products accounted for more than 94 percent (by value) of Ecuador's exports to the United States that were eligible for preferential treatment under ATPA. While a small number of private oil producers remain in Ecuador, state-owned Petroecuador is by far the largest producer and exporter. In 2008 alone, the Ecuadorian government saved an estimated $4.3 million in duties that would otherwise have been owed on Petroecuador's exports.

In the case of ATPA and Ecuador, the very government that renounces its international legal obligations is the prime beneficiary of ATPA. Chevron believes that any renewal or reform of ATPA therefore should increase the emphasis on the need for beneficiary countries to follow the rule of law, to better target benefits to private enterprise in beneficiary countries, and to require periodic reviews to ensure that the strengthened eligibility criteria are actually being met. Chevron also believes that given growing challenges facing U.S. companies in Ecuador that Congress should recognize these problems by differentiating ATPA extension for Colombia/Peru and Ecuador.

In particular, Chevron urges that Congress consider the following:

- ***Add A Criterion on "Rule of Law."*** Progress toward establishing and abiding by the rule of law, due process, and an impartial judiciary is mixed among the Andean countries. Adding an eligibility requirement to ATPA that beneficiary countries must adhere to international norms regarding the rule of law could help encourage those countries that are lagging behind to undertake much needed reform, and it would reinforce the interest of the administration and the Congress in ensuring fair and equitable treatment of U.S. firms and

workers around the world. The President should have the flexibility to withdraw or limit a country's benefits for conduct that violates core U.S. principles even if not otherwise specifically covered in the legislation. Chevron recommends the following new eligibility criterion:

> "The President shall not designate any country a beneficiary country under this chapter if such country fails to adhere to international norms on the rule of law and due process, including respect for an independent judiciary, and the fair administration of justice to U.S. citizens and corporations."

- ***Give the President the Discretion to Deny Benefits that Flow Primarily to the State.*** Ninety-four percent by value of Ecuador's ATPA-eligible exports to the United States are petroleum products, delivering a significant direct benefit to Ecuador through exports by Ecuador's state-owned oil company. While the President currently has the ability to limit ATPA benefits for any article, Chevron believes the Congress should make explicit the President's discretion to withdraw or limit benefits that flow primarily to the State, and that given Ecuador's flouting of U.S. concerns with its behavior, Ecuador should have its benefits so limited. Chevron is unaware of any U.S. company producing oil in partnership with Ecuador, so this action would not impact any U.S. company, and it would not affect the price of Ecuador's petroleum products to U.S. consumers, which is set in world markets. Chevron recommends the following provision:

> "The President may by proclamation limit or suspend the duty-free treatment provided by this chapter with respect to any eligible article if the majority of the total value of the article produced in the beneficiary country is produced by the state or a state-owned entity."

- ***Congress Should Note Ecuador's Continuing Problematic Behavior.*** In the last year, both Congress and the administration have recognized problematic behavior on the part of Ecuador. The bill that extended the operation of ATPA through the end of 2009 segregated Ecuador for special scrutiny, and the President issued a report on ATPA in June of 2009 which noted concerns with Ecuador's behavior, including its politicization of a lawsuit against Chevron, its withdrawal from the International Centre for Settlement of Investment Disputes, and its imposition of higher tariffs and quotas on a large number of imports. Ecuador continues to flout these concerns by continuing to politicize the lawsuit against Chevron and vowing to defy arbitration decisions in favor of foreign investors and adverse to the government, with President Correa even stating that "[W]e are not going to let these multinational companies continue to treat us like colonies." Any preference program reform or extension should acknowledge these ongoing problems to avoid the appearance of rewarding Ecuador despite its lack of progress on these areas of Congressional and Administration concern.
- ***Require Comprehensive, Periodic Reporting.*** The Congress should require consistent, periodic reporting every six months on the operation of ATPA. Such reporting will give added importance to monitoring compliance with eligibility criteria as well as provide information on the impact on the program on local economies, including promotion of export diversification.

The U.S. trade preference programs are successfully helping to lift people out of poverty around the world. They represent the United States extending a helping hand, not a hand-out, to those who want a better life, and Chevron remains committed to supporting the programs. As the Subcommittee examines trade preference reform, Chevron urges it take into account how these programs may more effectively address the increasingly important issues of respect for rule of law and due process globally by beneficiary governments. Chevron appreciates this opportunity to provide input to the Subcommittee and would welcome further dialogue.

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## Statement of the African Coalition for Trade, Inc.

### Preference Reform Must Not Be Allowed To Destroy AGOA

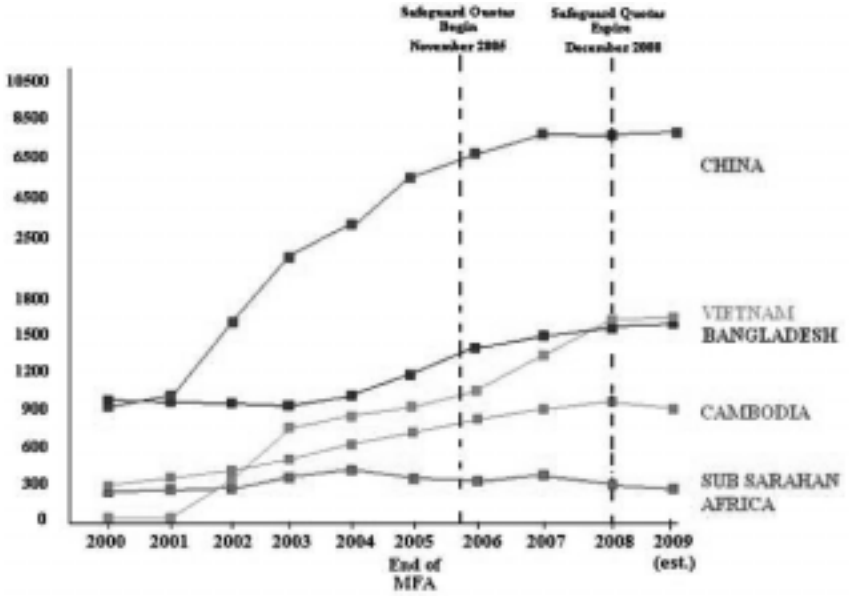
The African Coalition for Trade, Inc. (ACT) appreciates the opportunity to submit these comments for the record of the November 17, 2009 hearing on U.S. trade preference programs held by the Trade Subcommittee of the House of Representatives Committee on Ways and Means.

ACT is a non-profit association of African private sector groups involved in trade with the United States, especially under the African Growth and Opportunity Act (AGOA). ACT's members come from the private sectors in Botswana, Kenya, Lesotho, Madagascar, Mauritius, Swaziland, South Africa, Tanzania, Zambia and Zimbabwe. ACT has been a leading spokesperson for the African private sector throughout the development, enactment, implementation and amendment of AGOA.

AGOA has been the United States' most successful program for encouraging economic development and poverty reduction in Africa. Since its enactment in 2000, AGOA has been the cornerstone of U.S. economic policy concerning Africa. Although U.S.-Africa trade has grown in virtually all sectors, apparel trade has been AGOA's biggest success. In response to the trade preferences created by AGOA, African apparel exports to the United States nearly tripled during AGOA's first five years in effect, 2000–2004. An estimated 300,000 new jobs were created in the African textile and apparel sector, providing livelihoods for nearly two million people, many of whom were sustained by subsistence agriculture before AGOA.

But this dramatic and widely-acclaimed success proved to be fragile. With the end of the Multi-Fiber Arrangement (MFA) system of quotas in 2005, the infant African textile and apparel industry was subjected to unprecedented competition from much larger and well-established apparel producers in Asia, especially China, Bangladesh, Cambodia and Vietnam. With the end of the MFA quotas, U.S. imports from these Asian apparel giants skyrocketed. On the other hand, AGOA apparel exports to the United States have fallen by 30% since 2005, and an estimated 100,000 AGOA-created jobs have been lost in Africa.

By contrast, Asian least developed countries (LDCs) that would benefit from preference reform proposals, especially Bangladesh and Cambodia, have fared much better. As illustrated by the following graph, since the end of the MFA, U.S. apparel imports from Bangladesh have surged by 50%, and imports from Cambodia are also up 40%. While apparel imports from Cambodia have declined somewhat during 2009, Cambodia remains a significant net winner from the expiration of the MFA quotas. U.S. apparel imports from Cambodia for the 12 months ending September 2009 are up 21% from 2004 levels. By contrast, Africa is one of the primary losers from the restructuring of global apparel trade that followed the expiration of the MFA. ACT's members in the textile and apparel industry in Africa report that much of the business they have lost since 2005 has shifted to Bangladesh and to a lesser extent Cambodia.




Accordingly, it must a bedrock principle that any general action on preference reform must: (1) do no further harm to AGOA; and (2) strengthen and extend AGOA

to make Africa more competitive. To that end, ACT respectfully recommends that any general preference reform legislation should:

a. **Renew AGOA on a permanent (or at least long-term) basis** comparable to the permanent Caribbean Basin Initiative (CBI) program to provide greater stability and predictability sought by investors and U.S. buyers. By contrast, the recently introduced New Partnership for Trade Development Act (NPTDA), H.R. 4101, would allow AGOA to expire in 2015 (or 2019 if there is a successful conclusion to the Doha Round), thereby sending the exact opposite message to investors and buyers and discouraging them from continuing to do business with Africa in the interim.

b. **Renew on a permanent (or at least long-term) basis the AGOA third-country fabric provision**, which has been the key to AGOA's success. On the other hand, the NPTDA would create a new rule of origin for non-AGOA LDCs that would allow them to use fabric from any origin, provided it is cut and sewn in an LDC beneficiary. This generous rule of origin is the *de facto* functional equivalent of AGOA's third-country fabric provision. Extending it to already-competitive LDC apparel giants like Bangladesh and Cambodia will seriously undermine AGOA and further accelerate the exodus of the apparel industry from Africa to Asia.

c. **Eliminate the distinction between LDCs and non-LDCs under AGOA**. Greater regional integration is another key to the future success of AGOA. Accordingly, the AGOA distinction between LDCs and non-LDCs should be eliminated so that all AGOA beneficiaries would have access to third-country fabric and the provision for non-apparel textile products. The LDC/non-LDC distinction under AGOA discourages regional integration and is counterproductive. As a corollary, any preference reform initiative should provide full benefits to all AGOA beneficiaries, including those that do not meet the UN LDC definition, such as inter alia Ghana, Kenya, Mauritius, Nigeria, South Africa and Swaziland. Again, the NPTDA takes the opposite tack and would eliminate all benefits for AGOA's non-LDCs when AGOA expires in 2015 (or 2019). The uncertainty that would be created by the NPTDA would drive investors and U.S. buyers away from AGOA's non-LDCs and would seriously handicap Africa's efforts at regional integration.

d. **Expand AGOA to encompass all currently-excluded agricultural products other than sugar**. Sugar trade is a special case and requires special treatment, as was recognized by the Deputy Secretary General of the Common Market for Eastern and Southern Africa (COMESA) in his testimony at the November 17, 2009 hearing. The International Sugar Trade Coalition (ISTC) has submitted a statement for the record of the Ways and Means Trade Subcommittee's hearing that explains in detail the need for excluding sugar from duty-free, quota-free (DFQF) treatment in any preference reform legislation. ACT endorses ISTC's statement.

e. **Revise the AGOA rule of origin for canned tuna**. A number of African countries (including Ghana, Kenya, Mauritius and Senegal) export canned tuna to the EU, but exports to the United States are extremely small even though canned tuna is already theoretically eligible for duty-free under AGOA. This is because the applicable rule of origin is too restrictive. Relaxing the rule of origin would create a new product likely to be successful under AGOA. The current 35% value-added requirement could be replaced with a simple tariff shift requirement or reduced to 10% value added, coupled with a tariff shift. This change is necessary because the cutting, processing and canning that is done on-shore in Africa typically adds only about 10%-15% of the final value of the canned tuna. It is impossible to meet the current 35% requirement without a substantial local-flag fishing fleet, which no country in Africa has. (Africa meets the 35% requirement for exports to the EU by cumulation with the value created by catching the fish on EU-flag ships. This works for exports to the EU because there is a large EU-flag fishing fleet that serves Africa, but there is no comparable U.S.-flag fleet.)

f. Any preference reform initiative should also include significant support for **trade-related infrastructure development and trade capacity building in Africa.**

But even these AGOA enhancements will not be sufficient to save the African textile and apparel sector if already-competitive Asian LDCs like Bangladesh and Cambodia are given DFQF access to the U.S. apparel market. Indeed, consideration of providing DFQF benefits to LDCs must start with the premise that trade preferences are intended to help uncompetitive countries become more competitive. But

extending duty preferences to already-competitive industries is contrary to the policy justification for trade preferences.

The NPTDA recognizes the serious threat that extending DFQF to apparel from Bangladesh and Cambodia would pose to AGOA. To try to minimize that threat, the NPTDA would impose a tariff rate quota (TRQ) on imports from Bangladesh and Cambodia of key apparel product categories that are of critical importance to the survival of the AGOA: cotton or manmade fiber (MMF) trousers and slacks (Categories 347, 348, 647, 648); cotton or MMF knit shirts and blouses (Categories 338, 339, 648, 649); cotton and MMF non-knit shirts and blouses (Categories 340, 341, 640, 641); and cotton and MMF coats (Categories 333, 334, 335, 633, 634, 635, 643, 644). These product categories represent approximately 90% of apparel imports under AGOA and roughly 50% of apparel imports from Bangladesh and Cambodia.

ACT does not believe that the NPTDA's proposed TRQ will prevent the decimation of AGOA. This seems self-evident from the fact that U.S. imports of these products, especially from Bangladesh, are currently increasing even on a duty-paid basis. Giving in-quota duty-free status to these key products will only provide further encouragement for U.S. buyers to shift their orders from Africa to Bangladesh and Cambodia.

Two witnesses at the November 17, 2009 hearing testified that all textile and apparel products from already-competitive LDCs (*i.e.,* Bangladesh and Cambodia) should be excluded from DFQF eligibility to prevent preference reform from destroying the AGOA apparel industry. (*See* testimony presented by the National Council of Textile Organizations and COMESA.) An alternative would be to exclude those key textile and apparel products identified above from already-competitive LDCs from DFQF eligibility.

Another alternative approach, however, would link the availability of DFQF treatment for apparel from already-competitive LDCs to the survival of the AGOA apparel sector, thereby creating a win-win for Africa, Bangladesh and Cambodia. To encourage greater sourcing of apparel from Africa under AGOA, an Earned Import Allowance Program (EIAP), similar to those already in effect under DR/CAFTA and the Haiti Hope program, would apply to allow U.S. importers to import apparel from already-competitive LDCs on a duty-free basis. By importing garments made in AGOA countries, U.S. importers would earn the right to import an equivalent volume of sensitive apparel duty-free from Bangladesh and Cambodia. In order to encourage vertical integration, which is critical to the future competitiveness of the African textiles and apparel industry, the EIAP would include double duty credit for garments imported from Africa that are made from African-origin fabric.

By including the foregoing measures in any preference reform legislation, Congress can simultaneously strengthen AGOA and provide benefits to non-AGOA LDCs. ACT would be pleased to provide any further information or assistance the Trade Subcommittee may require.

Respectfully submitted,
Paul Ryberg
President

## Statement of the Coalition for GSP

The Coalition for GSP is pleased to have the opportunity to provide the following views to the Ways and Means Committee on the operation of U.S. preference programs. In particular, we intend to focus our comments on the importance of preference programs to American competitiveness, and on ways in which U.S. preference programs can be improved so that their contribution to American competitiveness is maximized.

The Coalition for GSP is an ad hoc group of U.S. companies and trade associations that use the Generalized System of Preferences (GSP) program to improve their competitiveness, as farmers, manufacturers, and suppliers of consumer goods to American families. Over the years, GSP has become an integral part of our businesses. Our members import a wide range of goods under GSP, from auto parts to jewelry to plywood to batteries to spices. We therefore have first-hand knowledge about how preference programs works—and don't work—in U.S. company raw material and finished good sourcing plans.

Preference Programs Matter—to Americans

When thinking about whether or not U.S. preference programs "work," one's focus tends to be on whether they work for the beneficiary countries. This of course is appropriate as preference programs are designed to promote poverty-eradicating development in poor countries.

Less common is a related consideration: how do they work for the American farmers, manufacturers, retailers and other importers who also use them? Preference programs succeed in their primary goal—promoting growth in developing countries through trade—only if U.S. companies find them attractive to incorporate into their sourcing and investment/production plans. U.S. companies will do so only if the benefits of the preference programs contribute positively to their "bottom lines," if the programs can be relied upon, and if the rules and regulations associated with claiming program benefits are not so complicated as to be more trouble than the benefits are worth.

Preference Programs Reduce Costs

U.S. preference programs extend duty-free treatment to imports of selected products from selected beneficiary countries. Although on average U.S. most-favored-nation duty rates are among the lowest in the world, for many individual products they can be quite high (see Table 1)[1]. The U.S. market is very competitive, so any program that saves U.S. farmers, manufacturers, retailers and other importers money—even pennies—can be highly attractive. GSP alone saved U.S. importers nearly $850 million in duties in 2008.[2] The motivation to source from a preference-eligible country can therefore be strong.

Preference Programs Improve U.S. Competitiveness and Support U.S. Jobs

A study conducted by The Trade Partnership for the U.S. Chamber of Commerce found that the impact of GSP on a variety of sectors of the U.S. economy is significant.[3] It concluded:

- GSP keeps American manufacturers and their suppliers competitive. In 2005, three quarters of U.S. imports using GSP were raw materials, parts and components, or machinery and equipment used by U.S. companies to manufacture goods in the United States for domestic consumption or for export. Electrical equipment and parts, and transportation vehicle parts are significant imports under GSP.
- American families also benefit from GSP. Finished consumer goods typically sold by retailers accounted for 25 percent of GSP imports in 2005. Jewelry sold at lower price points was the most significant item.
- GSP is particularly important to U.S. small businesses, many of which rely on the program's duty savings to compete with much larger companies.
- Annual sectoral benefits to consumers of GSP products range up to $273 million.
- GSP imports support U.S. jobs. Direct and indirect jobs associated with moving aggregate GSP imports from the docks to farmers, manufacturers and ultimately to retail shelves totaled nearly 82,000 in 2005.

*RECOMMENDATION:* In addition to thinking hard about ways in which U.S. preference programs might be changed to achieve certain policy goals, U.S. policy makers need to consider closely the impacts of changes on American companies and their workers.

Preference Programs Can Be Improved

As key as duty savings can be, however, our preference programs suffer from some important flaws that can lessen the enthusiasm for their use, and consequently limit their effectiveness in contributing to U.S. competitiveness and in promoting development that ultimately opens new markets for U.S. exports and investment. These include their stop-and-start nature, their inapplicability to many of the products made by developing countries, and their complicated nature.

**The Frequent Expirations of Preference Programs Discourage Importers and Investors From Using Them**

American companies' ability to use the duty-free benefits available under U.S. preference programs is most effective when they know those benefits will be available by the time they need to import the products of interest to them. While the time from design to order to importation varies for each company, for some it can be quite long. For example, some products take as long as one year from design to importation. For others, the products are advertised in catalogues with a shelf life

[1] The list of products in Table 1 is by no means exhaustive, nor does it always show the highest tariff rate in a given product grouping.

[2] See http://tradepartnership.com/pdf_files/2009_GSP_Update.pdf. p. 12.

[3] The Trade Partnership, "Estimated Impacts of the U.S. Generalized System of Preferences on U.S. Industry and Consumers," prepared for the U.S. Chamber of Commerce, November 1, 2006, http://www.tradepartnership.com/pdf_files/2006NOV_GSP_Impacts.pdf.

of at least six months. In all cases, U.S. importers need to know what the duty-status will be for the imported product at the very beginning of that process.

If American companies can count on receiving duty savings under a preference program, they can incorporate those important cost savings into their pricing. But if the program expires mid-stream in the order-to-delivery process, importers can be caught with a serious financial burden. They cannot always adjust prices to customers to pass on the unexpected duties. So American companies have to evaluate the risk of losing the preferences mid-stream against the benefits of the duty savings. If the program is likely to expire, they often cannot incorporate the duty savings into their sourcing plans, and prices to customers will need to be higher to offset the risk.

The damage frequent program expiration causes to investment decisions can be just as great, if not greater. Needless to say, the pay-back from a foreign investment—e.g., opening a new factory, ensuring that there is adequate infrastructure to support it, training workers—can take several years to happen. U.S. companies would thus be reluctant to begin new sourcing relationships that require such investment if they are predicated on the need for duty-free benefits under a preference program that may expire.

With those planning constraints in mind, it is not surprising that the short-term renewals of GSP in the 1990s, compared to the long-term period from 2001–2006, affected usage of that program. From July 1993 through September 2001, Congress renewed GSP in fits and starts (largely due to the need to meet "pay-go" constraints). Planning sourcing using GSP was difficult if not impossible. Over this period, from 1994 to 2001, U.S. imports under GSP actually declined an average 2.2 percent annually. But in 2001 Congress renewed GSP for six years, and as a result, imports from GSP beneficiary countries to the United States increased by an average of 13.2 percent annually.

A long term for any preference program (the ideal of course would be permanence) is therefore important in encouraging sourcing from countries that do not yet have the infrastructure or production capability to be competitive suppliers of preference-eligible products. The Chart below shows how the long-term renewal of GSP increased interest in sourcing from beneficiary countries. To the extent that some of Coalition members are interested in investing in new overseas production relationships, they need time to grow these suppliers. Short-term renewals of the program do not encourage this, and keep them focused on existing sources, whether they are GSP beneficiaries or not.

*RECOMMMENDATION:* Make U.S. preference programs permanent.

The Inapplicability of Preference Programs to Important Products Made by Poor Countries Encourages Sourcing from More-Competitive Suppliers in Asia

One of the greatest frustrations for both developing country producers and U.S. purchasers is that the longest-lived and biggest U.S. preference program—GSP—does not cover imports of products best produced by labor-intensive developing countries. Most notably, these products include apparel and footwear.

Bangladesh—a "least-developed country" by any measure—offers the best example. U.S. GSP benefits applied to just 0.6 percent of Bangladesh's total exports to the United States in 2008, while 90 percent of Bangladesh's total exports to the United States are dutiable apparel products. Similarly, only 0.2 percent of Cambodia's total exports received GSP duty-free treatment, with 98 percent of the total exports to the United States being dutiable apparel products. Despite their classification as least-developed beneficiary countries, Bangladesh and Cambodia face trade-weighted tariffs averaging 15 and 17 percent, respectively, compared to an average of 0.7 percent on imports from the United Kingdom. As a result of these high tariff rates, the United States collected more duties on imports from Bangladesh ($574 million) and Cambodia ($407 million) in 2007 than it did on imports from the United Kingdom ($400 million) or France ($391 million).

The benefits of extending preferences to products developing countries are best positioned to make are demonstrated by the impact of the African Growth and Opportunity Act (AGOA). AGOA provides U.S. duty-free treatment (under stringent conditions, see below) to apparel imported from beneficiary countries. AGOA is widely viewed as responsible for the development of tens of thousands of jobs in apparel production in Lesotho, for example. The 2007 U.S. Trade Representative report on the operation of AGOA listed five new textile or apparel-related investments motivated by AGOA benefits, in Lesotho, Malawi, Mali, Swaziland, and Uganda.[4]

[4] Office of the U.S. Trade Representative, "2007 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act," May 2007, p. 27.

From the U.S. perspective, Members of the Committee should consider that an importer considering whether to source apparel with duties applied will evaluate the costs and benefits offered by Bangladesh, for example, compared to China or Vietnam, for example. For many apparel products, China or Vietnam offer cost, quality and/or delivery advantages Bangladesh cannot replicate. A savings of the 15 percent average duty on imports from Bangladesh therefore would be meaningful, increasing the incentive to source from Bangladesh rather than China or Vietnam.

*RECOMMENDATION:* Extend permanent preference benefits to all products made by developing countries.

Complicated Rules of Origin Frustrate the Use of Preferences

Another problem with U.S. preference programs is the variety of rules of origin, some of which can be quite complicated, particularly for new-to-export foreign producers. The simplest of all rules of origin is GSP's 35 percent value added rule. To qualify for benefits, a product must be the growth, product or manufacture of a beneficiary country and the sum of the cost or value of materials produced in the beneficiary country plus the direct costs of processing must equal at least 35 percent of the appraised value of the good.

But the rules get much more complicated for apparel imported under AGOA or the Caribbean Basin Trade Partnership Act (CBTPA) preference program. (Remember that apparel generally is not eligible for GSP benefits.) Under AGOA, for example, U.S. importers must ensure that apparel meets *11 separate detailed requirements.*[5] Because these rules of origin are so restrictive, a special—but limited—more liberal rule of origin had to be established (the so-called "third country fabric" rule). It is that rule that has promoted the development of apparel sourcing in sub-Saharan Africa.

The documentary evidence required by the various rules of origin requirements can be burdensome. It is not uncommon for U.S. importers to conclude that the paperwork involved in ensuring that a product complies with the preference program's rules of origin represents a "cost"—and a risk if U.S. Customs finds the evidence insufficient—that is not worth the effort. When the whole cost package is evaluated—purchasing from a preference country with duty savings but risk associated with demonstrating that the rules of origin have been met, versus purchasing from a non-preference country that offers less risk, higher cost (from duties) but better quality or delivery certainty—the latter supplier often wins the order.

*RECOMMENDATION:* Simplify the rules of origin used to qualify for preferences.

**Conclusion**

GSP is a preference program that generally works. It works for very poor countries and it works for American farmers, manufacturers and consumers. There are changes the Committee could enact to make preference programs work better, for beneficiary countries *and* for their U.S. customers. In evaluating those changes, Members should consider their impacts not only on beneficiary countries but also on U.S. companies and workers.

**Letter from the Sugar Alliance of the Philippines**

November 30, 2009

The Sugar Alliance of the Philippines (the Alliance) respectfully submits these comments for the record of the November 17, 2009 hearing by the House Ways and Means Trade Subcommittee on U.S. trade preference programs. The Alliance asks that sugar not be accorded duty-free, quota-free treatment in any reform of U.S. trade preferences.

The Sugar Alliance of the Philippines is an umbrella group of national and regional associations of Philippine sugarcane planters, millers, refiners, and traders. The Alliance is a member of the International Sugar Trade Coalition (ISTC), which has separately submitted comments to the Subcommittee for the record. The Alliance endorses those comments.

The Philippines holds the third-largest share, after Brazil and the Dominican Republic, of the U.S. tariff-rate quota for raw cane sugar. The Philippine share of the minimum quota, which the U.S. is committed to provide under agreements negotiated in the World Trade Organization, is about 142,500 metric tons per year, valued in most years at around $60 million. Exports to the United States account for about six percent of Philippine sugar production.

[5] For the excruciating details, see .

The World Bank calls the Philippines a low-middle-income country, with a 2008 population of about 89 million and a per capita income under $1,900 per year.* The sugar industry is one of the country's largest employers, providing about 500,000 jobs (most of them seasonal) in the fields and another 100,000 jobs in mills and refineries, or in the trade.

The plantation image that many people have of sugar in the Philippines is false. Land reform put an end to the reign of the sugar barons. Almost all sugarcane farms in the country are small, and many are tiny. There are about 61,000 sugar farms in the Philippines. More than three fourths (47,000) are five hectares (about 12.5 acres) or less; these account for about 20 percent of production. At the other end of the scale, less than one percent of the farms have more than 100 hectares, and these also account for about 20 percent of production. Employment is high (1.3 workers per hectare) because productivity is low. Small scale pushes up costs, as does the relatively high cost of fertilizer. Nevertheless, the industry assesses producers a fee on each bag of sugar to fund social programs through the Sugar Industry Foundation (www.sifi.org.ph).

The comments from ISTC explained that the world market price is almost always below the average global cost of production. That condition can persist because sugar markets are deeply distorted by trade barriers, subsidies, taxes, and other policies maintained by many producing countries to protect rural employment, farm income, and food security, or to serve other social and economic purposes. For the Philippines as for many other producing countries, the world market is a residual market, used only after domestic markets and premium-price export markets have been fully supplied. Even though Philippine production costs are below global averages, they are not low enough to make sales to the world market profitable in normal times.

The Sugar Alliance of the Philippines is concerned that, as ISTC explained, granting additional suppliers unrestricted access to the U.S. sugar market will erode the system of supply management on which the premium U.S. price depends. Without a premium price, the U.S. market holds little or no value for the Philippines, or for most developing-country sugar exporters. For this reason, the Sugar Alliance of the Philippines asks that sugar not be accorded duty-free, quota-free treatment in any reform of U.S. trade preferences.

Respectfully submitted,

Harry W. Kopp
*Washington Representative*

**Statement of the Ecuadorian-American Chamber of Commerce**

*I. Introduction*

The Ecuadorian-American Chamber of Commerce of Quito (AMCHAM Quito) is an organization whose Mission is to foster commerce and investment between the United States and Ecuador. We are a non-partisan organization that bases its advocacy efforts on technical criteria and a core commitment to rule of law and corporate social responsibility.

The growing importance of foreign trade in the Ecuadorian economy has become its engine of growth and development. Without preferential market access conditions in stable markets, Ecuador would have experienced a much more profound impact from the global economic crisis. Of all the preferential trade arrangements in which Ecuador is involved, the Andean Trade and Drug Eradication Act (ATPDEA) has become the corner stone of an export promotion policy used by the private sector. The ATPDEA has helped Ecuadorian private industry craft a major policy mechanism to achieve the law's fundamental objective: curbing the production, transportation, and sale of controlled narcotic substances.

Since its enactment in 1991, the ATPDEA, and its predecessor the ATPA, have become a significant U.S. foreign policy success story. Their impact has had tremendous importance for both Ecuador and the United States in the commercial, employment, migratory pressure, social well-being, and war on drugs arenas.

ATPDEA has promoted investment, export-oriented production, and the development of regional and intraregional supply chain integration, all of which have stim-

*World Bank Atlas method, 2008. The Philippines per capita income is below that of one LDC (Angola), and below that of the following countries that would receive duty-free, quota-free treatment under HR 4101: Republic of Congo, Mauritius, South Africa, Swaziland.

ulated employment growth both in Ecuador and in the United States. The USITC estimates that 225,000 direct and indirect jobs in the U.S. are dependent on imported flowers. As the second largest exporter of flowers to the U.S. in the world, a large portion of these jobs can be attributed to Ecuador.

In addition, given the integration of various production chains throughout the Andean region, it is important that all countries currently benefitting from ATPDEA maintain their ATPDEA beneficiary status. This is particularly true in areas such as textiles and apparel, where materials are imported intra-regionally and included in apparel that is ultimately exported to the U.S., and holds regardless of other trade agreements that do not necessarily make allowance for norms related to accumulation of origin that ATPDEA clearly includes.

Ecuador's exports to the United States totaled $8.4 billion in 2008, a 37% increase over 2007. During the first 10 months of 2009, Ecuadorian exports to the U.S. market have decreased significantly in dollar terms, largely because of a drop in commodity prices and, to a lesser degree, to the reduction in demand due to the effects of the world economic crisis. Most Ecuadorian products exported to the U.S. entered the country duty free under the ATPDEA. In addition to traditional exports such as petroleum, bananas, shrimp, coffee and cocoa, over $300 million of exports to the U.S. came from newer, non-traditional ATPDEA-dependent industries such as fresh cut flowers, broccoli, wood articles, tropical fruit (e.g., mangoes, pineapples), tuna, and textiles during the first semester of 2009. These industries alone have created over 400,000 jobs in Ecuador. These jobs are located in the Northern provinces near the border with Colombia, a region known for both its poverty and its susceptibility to drug cultivation. As the benefits of ATPDEA take root in Ecuadorian export industries, benefits spread to newer sectors, a larger number of products benefit from the scope of items covered by the preferences system, and still more jobs are created.

*II. Trade between the U.S. and Ecuador under ATPDEA and under the Context of the Current Global Economic Crisis*

**Trade Figures and Balance of Payment Issues**

The Ecuadorian export sector has seen and experienced serious repercussions derived from the current global economic crisis, resulting in a substantial reduction of international trade generally and, to a much lesser degree, in bilateral trade flow between Ecuador and the U.S. The reduction in the volume of Ecuadorian exports to the United States during the first semester of 2009 has been minimal. In terms of value, however, the impact has been significantly greater as a function of the drop in the price of oil and other commodities.

The United States continues to be Ecuador's largest trading partner. The U.S. accounted for just under half of Ecuador's 2008 total exports, and for 19% of Ecuador's total imports. This trend held in the first semester of 2009, with the difference that the U.S. share of Ecuador's exports dropped to 36%, while the share of total imports actually increased by about a third to 25%. The trade surplus that existed for Ecuador for the first six months of 2008 has been significantly reduced from $3.3 billion to $471 million for the same period in 2009. More, all of this happened in spite of the Balance of Payments safeguard measures taken by the Government of Ecuador (GOE) early in the year, the United States remaining the Ecuador's largest trading partner.

Ecuadorian exports to the U.S. covered by ATPDEA have grown continually during the past years. Since 2005, as a result of the numerous short term extensions and the recent economic crisis which affected demand in U.S. markets, the trend initially stagnated and then saw a sharp drop in the first nine months of 2009. Nevertheless, we expect that, as new trade data become available, it will show that this contraction could have been much worse had it not been for the benefits of the ATPDEA.

United States/Ecuador trade figures continue to show a robust, mutually beneficial bilateral trade relationship despite the economic crisis and the sharp drop of export commodity prices. Despite the significant decrease in Ecuador's exports in the first six months of 2009, due mainly to the sharp decline of oil prices, the balance of trade between the two countries for the same period favored the United States by $914 million. It is important to remember that, in an attempt to improve the competitiveness of its industries, the Government of Ecuador enacted a unilateral tariff reduction in 2008, eliminating tariffs for over 3000 products used as raw materials and capital goods. Despite the pressure on its balance of payments, Ecuador's commitment to maintaining a zero tariff for these goods has remained unaltered. U.S. exports have benefited greatly from these tariff reductions, especially when most countries feel pressure to revamp protectionist practices because of the global economic recession. From this perspective, it is understandable that

the non-petroleum trade balance between the two countries has not only remained positive for the U.S., but also has improved year after year.

As one of the most open economies in the region (close to 70%), Ecuador's exposure to the world market is extremely high. Further, its dollarized monetary economy makes Ecuador even more vulnerable to changes in international markets. With this in mind, it is not hard to see that the global economic crisis has had a significant impact on the generally positive trends noted above. Having adopted the U.S. dollar as its national currency, Ecuador is unable to manipulate its monetary policy by printing money—external sources become the primary points of origin for getting money into the country. As a result of this factor, the major decreases in exports and in remittances from Ecuadorian citizens living abroad have resulted in a significant contraction in liquidity levels. These liquidity issues have generated potentially severe consequences in the Ecuadorian economy overall, leading to recent increases in unemployment and an overall drop in the well-being of the general population.

Under the circumstances, Ecuador's management of its Balance of Payments becomes a crucial element in dealing with the local impact of the global economic crisis. The government of Ecuador has chosen to mitigate these impacts by adopting safeguards to restrict imports in an effort to sustain liquidity levels and minimize potential negative impacts. AMCHAM Quito has invited the Government of Ecuador to consider additional measures, actions focused on the capital account of the balance of payments, as alternative mechanisms that would allow the economy to maintain liquidity levels required to assure the maintenance of the monetary and exchange systems and a money supply that will lessen the negative effects of contracting external demand. It should be recognized that just as the Ecuadorian Government presented a strong case for these measures to the World Trade Organization (WTO) Committee on Balance of Payments in June 2009, the GOE has also considered all recommendations made by the WTO membership. This has led the GOE to amend its original measures to fully comply with its WTO obligations. Despite the macroeconomic difficulties experienced by Ecuador, the Government has observed the procedures and content of WTO rules and has shown a high degree of transparency regarding the measures taken to face the problems generated by the global economic crisis.

The Ecuadorian government has focused current measures on final consumer goods and made an effort to maintain its policy of keeping liberal tariff lines for raw materials and capital goods to support local industry competitivity, a position that benefits the U.S. since the majority of products exported to Ecuador are raw materials and capital goods.

We are convinced that if the Ecuadorian economy begins to show signs of recovery, these will come, to a great extent, from external sources, particularly exports. In this sense, the renewal of ATPDEA preferences will play an important role, a role that is consistent with G–20 commitments to avoid reducing market access opportunities that could worsen the global economic crisis or hinder the prospects of recovery.

**Employment Generation**

The intent of the ATPA passed by the U.S. Congress in 1991 was to spur the development of alternative industries to assist Ecuador and other Andean countries in the war against drugs. Because of this Act, numerous non-traditional ATPDEA dependent industries have flourished in Ecuador, industries that are labor intensive and, in many cases, involve worker compensation that is better than in coca-leaf cultivation.

The economic growth stimulated by ATPA/ATPDEA beneficiary industries has enabled Ecuador to generate employment for over 400,000 workers, representing about 8% of the total working population. This makes the ATPA/ATPDEA related employment rate in Ecuador the highest in the entire Andean region. In addition, the majority of jobs are held by women who are the primary breadwinners in many Ecuadorian households. In short, the ATPA/ATPDEA has had a tremendous impact in reducing extreme poverty and improving living standards in Ecuador by providing attractive labor alternatives to coca leaf cultivation, alternatives taken advantage of by the local population.

It is also important to note that most ATPDEA-dependent industries are located in the northern highland provinces near the border with Colombia. The alternative represented by these industries has not only deterred the spread of coca-leaf production, but has also served to provide employment opportunities for the up to 500,000 Colombians, many of them refugees, who have crossed the border into Ecuador. Finally, these industries have also helped reduce both legal and illegal emigration to

the U.S., contributing to another important foreign policy objective of all three countries.

**Compliance with ATPDEA eligibility criteria**

Although AMCHAM Quito is well aware that conditions to attract Foreign Direct Investment (FDI) in Ecuador cannot be portrayed as ideal, it is also true that accomplishing this is even more complex under the current circumstances where the country's legal framework needs to be restructured in light of the adoption of a new Constitution. Nevertheless, we have to acknowledge that, at this juncture, we do not see fundamental circumstances that could compromise Ecuador's compliance with the ATPDEA's eligibility criteria. As the country evolves in the restructuring of its legal framework, we hope that the investment climate will follow a more positive path.

We see the development of a bilateral dialogue between both governments as extremely positive and constructive, and that a broad and mutually agreed upon agenda including topics related to security, trade and investment, immigration and cooperation has been structured. The development of these conversations at a very important diplomatic level gives us hope that the Ecuadorian Government is willing to improve and preserve the longstanding positive relationship that Ecuador has had with the United States. This process is extremely conducive to addressing any differences in a proactive and positive manner, allowing room for discussion of topics that may be of interest to either party.

AMCHAM Quito applauds the significant steps taken by the GOE to improve conditions for worker rights. These efforts comply with international standards established by the International Labor Organization conventions signed by Ecuador. Improvements are clearly visible regarding efforts to reduce and eventually eradicate all forms of illegal child labor conditions, directly attributable to the government's strict policy of inspection and verification of working conditions, an effort implemented by a large team of inspectors with access to appropriate resources necessary to carry out such a difficult task.

Industries that have flourished thanks to ATPDEA have created businesses that are competing successfully in the global economy. They have adopted rigorous international standards related to environmental practices and labor standards in order to comply with import requirements, particularly in the U.S. and in the European Union. They have also developed a strong commitment to Corporate Social Responsibility strategies, a commitment that has extended ATPDEA further through corporate construction of schools and health facilities that have improved the standard of living for workers and their families, as well as for the communities in which they operate.

We understand the concerns of the U.S. Administration regarding the compliance of ATPDEA eligible countries with international protection standards for intellectual property rights. U.S.T.R. 2009 Special Report 301 states that "Ecuador's Intellectual Property Institute continued to make progress in 2008 towards eliminating its backlog of pending patent applications. Further, Ecuador has established special IPR units for investigations and seizures of pirated and counterfeit products." These are just some of the efforts made by Ecuadorian authorities to improve the business environment and strengthen the rule of law in a vital sector of the economy, efforts that have the full support of the private sector.

On October 23 of this year, the government of Ecuador enacted a Presidential Decree declaring access to medicines in the "public interest," authorizing the issuance of compulsory licenses for any and all medicines, with the exception of "cosmetic, beauty, and personal hygiene medicines and in general all those that are not for treating diseases." This decree impacts issues of Intellectual Property Rights and is of concern to many of AMCHAM's members.

The WTO establishes legal requirements for the process of requesting and issuing compulsory licenses. Compulsory licenses, through which a government allows someone else to produce a patented product or process without the consent of the patent owner, are limited exceptions to patent rights that should only be used in extraordinary circumstances (WTO TRIPS Art. 31). The Government of Ecuador has indicated that it will respect WTO and other international standards in the application of this decree before granting any compulsory license. AMCHAM will continue to monitor developments on this front closely to ensure that the government complies with all this commitment regard compulsory licensing.

**Counternarcotics Efforts**

Ecuador has enjoyed an extremely positive track record in terms of drug eradication, seizures and interdiction. The 2007 U.N. World Drugs Report ranked Ecuador sixth in the world in terms of drug seizures. The recent report on International

Narcotics Control Strategy issued by the U.S. Department of State also notes the Ecuadorian government's accomplishments in "the discovery and destruction of nine cocaine producing laboratories, 182 FARC facilities (bases, houses, camps), the eradication of 10 hectares of coca, and the confiscation of weapons, communications equipment, and other support equipment."

The same document reports on corruption issues, stating that "as a matter of policy, the GOE does not encourage or facilitate the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances, or the laundering of proceeds from illegal drug transactions." In addition, the report discusses alternative development and notes that the U.S. Agency for International Development (U.S.AID) continued to work to support Ecuadorian government efforts to provide social and productive infrastructure, strengthen local government, and open opportunities to expand licit economic activity as part of its northern border development master plan.

In this regard, it is also important to mention that Ecuador received full certification through 2008 with the United States on counternarcotics issues under the Foreign Assistance Act, as described in the "International Narcotics Control Strategy Report" of February of this year. Additionally, in recent days the Governments of Ecuador and the United States have signed new bilateral cooperation agreements to jointly pursue efforts to fight illicit drug trafficking. These agreements renewed commitments to share information, coordinate actions and provide assistance to meet a commonly defined objective. The implementation of the ATPDEA preferences is precisely the recognition of a successful partnership in the war on drugs.

The Ecuadorian private sector is also doing its part in regional efforts against narcotics trafficking. The Business Alliance for Secure Commerce (BASC) has spearheaded a initiative to implement security procedures in order to ensure that trade is free of illegal drugs, terrorism, or any other illicit activity. BASC is a not for profit organization made up of some 200 companies that participate actively in BASC's training, auditing, and capacity building programs whose systems are being continuously evaluated to maximize effectiveness. BASC members have considerable investments in security equipment, and have generated employment for personnel skilled in the use of sophisticated systems. Activities that BASC members have undertaken include:

1) audits—over 400 from 2007 to date;
2) in-house capacity building programs—on average 20 per month, and
3) the investment of considerable sums to ensure the transparency of the logistics chain.

**Rule of Law and Government Procurement Issues**

Rule of Law remains an important topic. AMCHAM Quito has always actively supported the principles of rule of law and corporate social responsibility in both private and public institutions. We have consistently taken direct action to urge the Ecuadorian government to resolve business disputes within the mechanisms established in contractual agreements, and to abide by the corresponding orders from designated Tribunals and Arbitration Courts. To our knowledge, contractual disputes between the GOE and U.S. companies have either been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or adequate, mutually agreed upon and effective compensation arrangements made under the applicable provisions of international law, such as in the case of City Oriente.

AMCHAM Quito is concerned about, and has weighed in on, government actions that weaken Ecuador's legal investment framework and its ability to attract foreign investors, including the government's recent decision to withdraw from its bilateral investment treaties (BIT) with the U.S. and other countries. We understand, however, that this action is expected to be the first step in a renegotiation of the bilateral investment treaties that Ecuador has with the U.S. and other key trade partners. Our organization will continue to monitor discussions on this issue and to actively support an open and stable investment structure that is attractive to foreign investors.

We are also aware that the application of transparent, nondiscriminatory, and competitive procedures in government procurement is one of the ATPDEA's eligibility criteria. In this sense, the GOE has worked toward the improvement of procedures and greater transparency in government procurement through the creation of a new official body charged to execute legislation in this area, and through the implementation of open, electronic bidding mechanisms to increase levels of transparency.

*III. Conclusion*

We believe that the vision held by U.S. policymakers when enacting ATPA/ATPDEA has unquestionably yielded positive results, particularly in the case of Ecuador. Although ATPA/ATPDEA has a minimal effect on the overall U.S. economy, it has certainly contributed to securing fundamental foreign policy objectives of mutual interest to both countries and should be continued.

The data show that the short-term renewals of the preferences, while continuing the support from one perspective, also destabilize impacted industries and reduce the effectiveness of the initiative. Many of the industries that benefit from ATPDEA, including, but not limited to apparel, flowers and certain agricultural products, require predictability and planning to be able to set production levels and export targets. In some instances, these lead times are as much as twelve to eighteen months and have a significant impact on ability to maintain employment levels. From this perspective, it is important that the ATPDEA be extended for a longer period than has been the case in recent years if the preferences are to have the full extent of their intended impact. Proposals providing for extensions of two or more years provide various ATPDEA dependent industries with the ability to plan their investments, increasing employment stability and the benefits of the program in Ecuador's counternarcotics efforts.

## Statement of the Embassy of the Kingdom of Lesotho

The Honourable Chairmen Levin and Rangel,

On behalf of the Embassy of the Kingdom of Lesotho, I have the pleasure to submit these comments for the record of House Committee on Ways and Means, Trade Subcommittee's hearing on U.S. Trade Preference Program, which was held on November 17, 2009:

### Introduction

The Embassy of Lesotho is pleased to present its comments for this important hearing on the operation, impact, and future of U.S. trade preference programs. The government and the people of Lesotho are major beneficiaries of the U.S. African Growth and Opportunity Act (AGOA) and remain deeply grateful for the United States' commitment to expanding U.S. and sub-Saharan African economic relations. As Congress considers reforming U.S. preference programs, the Government of Lesotho stands ready to assist in providing clarification on our own experiences with AGOA and recommendations on how other developing country partners may benefit from U.S. trade preference schemes.

### Lesotho's Experience with AGOA

From the perspective of Lesotho and the rest of Africa, any review of U.S. trade preference programs must begin with AGOA, which has been the foundation of U.S. trade and economic policy concerning Africa for the past decade. AGOA has been perhaps the United States' most successful trade preference program, and this can be well illustrated with the case of Lesotho.

Following its qualification under AGOA in 2001, Lesotho's garment industry grew by leaps and bounds. By 2004, Lesotho's apparel exports to the United States had grown to US$456 million, and the apparel industry workforce had grown to 53,000, making it the largest formal sector employer in the nation. In fact, the textile and garment sectors in Lesotho account for 50% of total national employment. Some 85% of the workers in Lesotho's apparel industry are women, many of whom are the sole-breadwinners of their household. Lesotho has also developed strong labor unions and labor enforcement institutions, and boasts higher wages for apparel workers than in most major apparel exporting countries, ensuring that the prosperity of the apparel industry impacts the lives of Basotho workers. These positive developments were echoed throughout Africa, with apparel exports to the U.S. almost tripling and more than 300,000 new jobs created, supporting an estimated 3 million people across the continent.

Lesotho's experiences with U.S. preferences center on special benefits under AGOA relating to the apparel sector known as AGOA's 'special rule for least developed countries' or the 'third country fabric rule'. Thanks to AGOA's simple rules of origin and generous tariff line access, Lesotho was able to attract foreign investment into its small existing textile and apparel sectors, including a US$120 million denim fabric mill. However, despite significant foreign investment with an aim towards creating vertically integrated textile and apparel export industry, Lesotho remains dependent on AGOA's generous rules of origin for the majority of its exports to the US. Because of this 'special rule,' the apparel sector grew to become the largest for-

mal sector employer in Lesotho, with the majority of production aimed at export to the U.S. market. The sector currently employs approximately 39,000 individuals, down from the 2004 peak of 53,000. Despite this decline, without AGOA's special rule for African LDCs, this private sector development would not have been possible in the first place.

In addition to direct employment through the textile and apparel sectors, the apparel industry has spurred economic development in related industries, including packaging, shipping, and apparel inputs. These sectors represent additional employment above and beyond strict apparel sector employment. Lesotho has also benefited from preferential trading arrangements with the EU dating to as early as 1995, but AGOA remains the most successful preferential trading arrangement with respect to both job creation and export response.

**Sectoral Challenges**

Despite such generous treatment from our major trading partners, these tremendous gains were short-lived, as the expiration of the Multi-Fibre Arrangement (MFA) or Agreement on Textiles and Clothing (ATC) in 2005 for the first time exposed the infant garment industry in Lesotho and across Africa to unfettered competition from long-established, super-efficient—and often state-subsidized—Asian apparel giants, including China, Bangladesh, Cambodia and Vietnam. Since 2005, U.S. apparel imports from Asia have skyrocketed, while those from Africa have fallen sharply. For example, since 2005 U.S. apparel imports from Bangladesh are up 50% and from Cambodia up 40%, while imports from Lesotho are down 25% and from all AGOA countries down more than 30% over the same period. Apparel sector employment in Lesotho has fallen to 39,000, a drop of 26%. Across Africa, it is estimated that more than 100,000 jobs have been lost, a decline of fully one-third from the employment level in 2005. In short, Africa's apparel industry is under serious threat, and the economic lifeline created by AGOA is in jeopardy.

Extension of AGOA-like preferences to already-competitive Asian apparel powerhouses like Bangladesh and Cambodia as part of a preference reform initiative will only accelerate the decline of the African apparel industry and will be the final nail in the coffin of AGOA. Development in Lesotho's apparel sector remains a constant challenge as our producers face fierce competition from these very well established producers. Additionally, vertical integration of Lesotho's textile and apparel sectors has remained slow due to the lack of regional capacity, the competitiveness of vertically integrated operations in sub-Saharan Africa, and the slowdown in the global economy. The lack of vertical integration in these sectors means that Lesotho remains almost entirely dependent on AGOA's third country fabric provisions for export to the U.S. market. Without this provision, Lesotho's exporters cannot compete with other established global exporters.

While accounting for Lesotho's dependence on AGOA for export to the U.S. market, another significant challenge facing Lesotho's apparel sector relates to developments beyond the scope of AGOA and other preferential trading arrangements. Lesotho's apparel industry has not yet recovered from the 2005 expiration of WTO Multi-Fibre Arrangement (MFA) apparel quotas. Lesotho's apparel exports to the U.S. peaked in 2004 at over $455 million, declining sharply to $390 million in 2005 upon expiration of the MFA. Exports have declined each year since, with sharp declines from 2007 to 2008, and even more substantial losses thus far in 2009 (see table 1 below). Competition in the global apparel sector remains fierce, with the greatest competition coming from Asia. In fact, since 2005, a number of countries in Asia, including China, Bangladesh, Cambodia, and Vietnam, have all witnessed substantial increases in their share of the U.S. apparel market, while sub-Saharan Africa's apparel exports have declined.

**AGOA as a Model for Reform**

Despite these challenges AGOA remains a successful model. AGOA's annual review process has spurred important reforms across sub-Saharan Africa, and the annual AGOA Forum has proved a successful model for advancing implementation issues and broader trade facilitation agreements between the U.S. and Africa. While the temporary nature and stunted extension of AGOA benefits has limited the investment response achieved under AGOA, Lesotho does remain a case study in how simple, generous, and targeted trade benefits may spur industrial development in even the most remote and underdeveloped regions. Additionally, it is important to note that the Government of Lesotho (GoL) has pursued a variety of additional efforts to support development of the textile and apparel sectors, including the development of industrial infrastructure, discounted rates on factory rent, and a variety of labor development and tax incentive programs. These programs have been critical

to ensuring investment response from abroad and necessary in terms of facilitating export from small and large producers alike.

**Adding EIAP to the U.S. Preference Toolkit**

While granting direct apparel benefits to super-competitive industries in Asia would devastate African industry, a means exists to reinforce AGOA while at the same time offering limited preferences to Bangladesh and Cambodia. Fashioned after the "Earned Import Allowance Programs" (EIAP) already in effect under CAFTA/DR and the Hope for Haiti program, the proposed AGOA EIAP program would allow U.S. apparel importers to earn the right to import apparel duty-free from Bangladesh and Cambodia by continuing to import apparel from Africa under AGOA.

Under the proposed AGOA EIAP, qualified U.S. apparel importers would earn credits authorizing the duty-free importation of a corresponding square meter equivalent (SME) volume of apparel from Bangladesh and Cambodia by first importing apparel from Africa under AGOA. For apparel imported from Africa made with third-country fabric, the corresponding duty credit would be one-for-one. In order to encourage vertical integration in the African textile-apparel sector, which will enhance the competitiveness of the industry, the duty credit would be two-for-one for apparel made in Africa using regional yarn/fabric.

This EIAP proposal creates a win-win for Africa and Bangladesh/Cambodia. It rewards U.S. apparel buyers who continue to source in Africa, while at the same time providing a corresponding preference for Bangladesh and Cambodia. In addition, the EIAP provides an incentive for investment in the upstream textile sector in Africa, which in time will enhance Africa's ability to compete with already-competitive Bangladesh and Cambodia.

**Recommendations for U.S. Policies and Programs**

As Congress considers changes to trade preference programs, the Government of Lesotho provides the following key messages for consideration:

- As a prerequisite for reform, Congress should move in the near term to extend certain key aspects of the current framework of U.S. preferences, including programs such as AGOA, and critical portions of AGOA, such as the special rule for least developed countries, or 'third country fabric'. This will provide the policy consistency needed to provide for a stable investment environment. By contrast, allowing AGOA to expire in 2015 sends exactly the wrong message to investors and buyers and will only exacerbate the closure of factories in Africa. Likewise, continuation of the third-country fabric provision is essential to maintaining the critical mass of the African apparel sector that is a prerequisite to increasing its competitiveness.
- Congress should work to focus benefits more broadly on least developed countries, and specifically on job-creating industries which require assistance in these countries. This is the path to real poverty reduction, as Africa has witnessed to an extent under AGOA.
- Congress should account for the fact that expanding the U.S. trade preference scheme will impact current preference program beneficiaries, and work to limit any negative impacts. Congress should account for the industrial competitiveness of beneficiary countries which are added to any new preference scheme, and ensure that preference benefits are focused on industries which require relief in order to gain foothold in the U.S. market. This point is particularly important as Congress considers, as some have already proposed, granting apparel preference to the extremely competitive industries of least developed countries such as Bangladesh and Cambodia. Should the U.S. confer any new apparel related trade benefits to these already super-competitive countries, sub-Saharan Africa and other regions around the world will lose market share—in some cases entirely—directly to these new trade preference program beneficiaries, resulting in the loss of hundreds of thousands of jobs in both LDC and non-LDC countries.
- In order to create new incentives for trade with all LDCs, without undermining the position of AGOA beneficiaries, Congress should consider the above outlined AGOA EIAP program to allow U.S. apparel importers to earn the right to import apparel duty-free from Bangladesh and Cambodia by continuing to import apparel from Africa under AGOA.
- Congress should work to couple trade preference to trade capacity assistance and enact new investment incentives to encourage vertical integration of the textile and apparel industries in LDC AGOA beneficiary countries.
- Congress should consider enacting new funding for industrial infrastructure related to textile and apparel production and support additional financing

mechanisms for private sector investments in the water, power, and transportation infrastructure sectors. The global financial crisis has exacerbated the cost of capital for these already capital intensive projects, making government intervention or special partnership mechanisms all the more necessary.

**Conclusion**

If urgent measures are not taken to address the above challenges, there is a very serious likelihood that in only a few years, sub-Saharan African developing and least developed countries like Lesotho will face economic collapse in their nascent textile and apparel industries. This would mean the loss of thousands of jobs in the world's poorest region and the unraveling of much of the progress achieved by AGOA and other preferential trade programs aimed at encouraging development through trade in Africa. We remain hopeful that Congress will not introduce changes that will negate achievements attained under preference programs like AGOA.

The GoL welcomes the continued engagement and support from the U.S. to facilitate trade development in Africa, and the opportunity to work with investors and our other international partners in trade to facilitate investment in Lesotho's textile and apparel sectors.

I again thank the Committee on Ways and Means, Subcommittee on Trade for the opportunity to contribute to this important hearing.

Yours sincerely,

David Mohlomi Rantekoa
Ambassador of the Kingdom of Lesotho to the United States of America

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**Statement of the Emergency Committee for American Trade**

ECAT appreciates the opportunity to provide these comments on the renewal of the Andean Trade Preference Act to the Subcommittee on Trade of the House Committee on Ways and Means.

ECAT is an association of the chief executives of leading U.S. business enterprises with global operations. ECAT was founded more than three decades ago to promote economic growth through expansionary trade and investment policies. Today, ECAT's members represent all the principal sectors of the U.S. economy—agriculture, financial, high technology, manufacturing, merchandising, processing, publishing and services. The combined exports of ECAT companies run into the tens of billions of dollars. The jobs they provide for American men and women—including the jobs accounted for by suppliers, dealers, and subcontractors—are located in every state and cover skills of all levels. Their annual worldwide sales exceed $2.7 trillion, and they employ more than 6.4 million persons. ECAT companies are strong supporters of agreements to eliminate tariffs, remove non-tariff barriers and promote trade liberalization and investment worldwide.

**ATPA Should Be Renewed for Peru and Colombia**

ECAT strongly supports the Andean Trade Preference Act (ATPA) program, which has produced important economic opportunities and diversification in the Andean region and strong economic relationships between the United States and Peru and Colombia. ATPA has been vital to sustain hundreds of thousands of jobs in the formal private sector of those countries. Both Peru and Colombia have successfully used this program to promote economic diversification and new opportunities, while also strengthening their own legal systems and respect for the rule of law.

While ECAT very much wants to see a stronger, more reciprocal relationship with Colombia through the passage and entry-into-force of the U.S.-Colombia Trade Promotion Agreement, ECAT strongly supports the continuation of ATPA benefits to Colombia and Peru and the continued extension of the ATPA program for these countries by Congress. While the U.S.-Peru Trade Promotion Agreement has entered into force, it is important to ensure a continuation of benefits to Peru to address co-production issues with Colombia.

As discussed below, however, ATPA should not be extended automatically to countries that are turning their back on respect for the basic rule of law.

**Ecuador Should Not Be Rewarded by Continued ATPA Benefits**

With respect to Ecuador, ECAT is very concerned about continued breaches of the basic rule of law that are occurring in Ecuador, particularly with respect to foreign investors and foreign investment. These concerns have been amplified and docu-

mented by numerous independent and authoritative sources, including the U.S. State Department, Transparency International and the World Bank. As discussed below, Ecuador should not be rewarded for these actions by a continuation of ATPA benefits.

As found by the State Department in its annual human rights report on Ecuador released in February 2009, there are major concerns with Ecuador's government and judicial system.

§ ". . . there continued to be problems in the following areas . . . corruption and other abuses by security forces; . . . and corruption and denial of due process within the judicial system."

- While the constitution provides for an independent judiciary, in practice the judiciary was at times susceptible to outside pressure and corruption. The media reported extensively on the susceptibility of the judiciary to bribes for favorable decisions and resolution of legal cases and on judges parceling out cases to outside lawyers who wrote judicial sentences on cases before the court and sent them back to the presiding judge for signature. [The Ecumenical Human Rights Commission] CEDHU further asserted that judges occasionally reached decisions based on media influence or political and economic pressures."

§ "The law provides criminal penalties for official corruption; however, the government did not implement the law effectively. The World Bank's worldwide governance indicators reflected that government corruption was a serious problem." [1]

The President's report to Congress on June 30th and the U.S. Department of State's 2009 Investment Climate Statement [2] both reinforce this finding of the deteriorating rule of law in Ecuador.

Of particular concern is also Transparency International's most recent annual report of corruption that puts Ecuador in the category of "rampant corruption," with a score of 2.2 out of 10 on the index. Ecuador is listed at 146 out of 180 worldwide, and is identified as one of the most corrupt countries in the Western Hemisphere.[3]

The World Bank Governance Indicators similarly put Ecuador near the bottom on its rule of law measurement, with a rating of −1.23 (on a scale of −2.5 to 2.5).[4] Notably, this rating has declined in recent years, showing that Ecuador is moving farther away from a rules-based system.

In July 2009, Ecuador formally deposited its denunciation of the International Center for the Resolution of Investment Disputes (ICSID), the World Bank forum established for the impartial and independent resolution of international commercial disputes. On October 28, 2009, Ecuador also announced that it would denounce investment agreements with several countries, including the United States, evincing a deteriorating situation.

Numerous U.S. and other foreign businesses have experienced first hand corruption, expropriation, and a lack of governance in sectors that span the Ecuadorian economy, including construction, energy and telecommunications.

Given these basic gaps in the rule of law, ECAT urges a reconsideration of Ecuador's eligibility when ATPA is extended beyond the end of the year. Congress needs to look closely at denying ATPA benefits entirely to Ecuador, suspending those benefits or, at a minimum, ensuring that the Administration has the tools to prevent Ecuador's government from benefiting from any ATPA renewal. That could include, in particular, limiting Ecuador's future ATPA benefits to non-state-dominated sectors, such as light manufacturing and agriculture.

**Bolivia's Benefits Should Remain Withdrawn**.

With respect to Bolivia, ECAT notes that, like Ecuador, there has been a continued deterioration in the rule of law, as reflected in the President's June 30th report to Congress and the U.S. Department of State's 2009 Investment Climate State-

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[1] **Country Reports on Human Rights Practices**, 2008 Human Rights Report: Ecuador (Feb. 25, 2009), at http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119158.htm.

[2] **Determinations and Report of the President Concerning the Review of Ecuador and Bolivia under the Andean Trade Preference Act** (June 30, 2009) accessed at http://www.ustr.gov/webfm_send/1184; **U.S. Department of State Investment Climate Report: Bolivia** (Feb. 2009), accessed at http://www.state.gov/e/eeb/rls/othr/ics/2009/117668.htm.

[3] **Transparency International Corruption Perceptions Index 2009**, at http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table; **Transparency International, Corruptions Perceptions Index—Regional Highlights: Americas**, http://www.transparency.org/policy_research/surveys_indices/cpi/2008/regional_highlights_factsheets.

[4] **World Bank, Aggregate Governance Indicators (1998–2008)**, at http://info.worldbank.org/governance/wgi/pdf/wgidataset.xls.

ment.[5] We believe, therefore, that Bolivia's benefits under the ATPA program should remain suspended.

## Statement of the Center for Global Development

The Center for Global Development (CGD)[1] is an independent, nonprofit policy research organization that is dedicated to reducing global poverty and inequality and to making globalization work for the poor. This focus on pro-poor globalization is at the heart of my research on trade preference reform. Trade has been a part of economic development for centuries. It has the potential to be a significant force for reducing global poverty by spurring economic growth, creating jobs, reducing prices, and helping countries acquire new technologies. U.S. trade policies can have an enormous impact—for good or ill—on developing countries, our own economy, and global security. The U.S. has one of the most open markets in the world, but remaining trade barriers hit poorer countries especially hard. The special needs of the poorest countries should be front and center as Congress debates preference reform.

And preference reform is not just about doing good for others, it would be good for U.S. economic and security interests as well. By opening opportunities for growth and development, improved access for exports from poor countries contributes to political stability and, over time, expanded markets for U.S. exports.

### *Why U.S. Trade Preference Programs Matter for Poor Countries*

Increased trade and market access help poor countries generate resources, stimulate investment, create jobs, participate in the global economy, and reduce poverty. While the U.S. has improved and expanded programs that provide preferential market access for developing countries, notably for Haiti and sub-Saharan Africa, important gaps in product and country coverage remain. For example:

- Despite broad coverage under the African Growth and Opportunity Act (AGOA), important agricultural products, including sugar, dairy, and peanuts, are still subject to quantitative restrictions. As a result, Ethiopia and Zambia have zero access to the U.S. sugar market.
- Least-developed countries (LDCs) in Asia that export labor-intensive manufactured goods, particularly apparel, face an average tariff that is more than three times higher than the average tariff on all U.S. imports.
- For all beneficiaries, frequent, short-term renewals—and occasional lapses—in trade preference programs undermine the incentives for firms to invest in potential export sectors in poor countries.

### *Leveraging U.S. Reform to Promote Global Preference Reform*

Recognizing the potential for trade to create jobs and reduce poverty, the international community enshrined the objective of duty-free, quota-free (DFQF) market access for LDCs in developed countries in the United Nation's Millennium Declaration in 2000. While substantial progress has been made since then, no country has fully delivered on that commitment. The European Union often touts its "Everything But Arms" program, which provides *nominal* access for 100 percent of exports from LDCs, but its rules of origin are far more restrictive than the U.S. AGOA program and they often block access in practice. No rich country outside Europe has achieved 100 percent product coverage, though Canada has arguably the best overall program because it reformed its rules of origin while also expanding coverage to roughly 99 percent of imports.[2]

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[5] **Determinations and Report of the President Concerning the Review of Ecuador and Bolivia under the Andean Trade Preference Act** (June 30, 2009) accessed at http://www.ustr.gov/webfm_send/1184; **U.S. Department of State Investment Climate Report: Bolivia** (Feb. 2009), accessed at http://www.state.gov/e/eeb/rls/othr/ics/2009/117852.htm.

[1] The Center actively engages policymakers and the public, through a combination of research and strategic outreach, to influence the policies of the United States, other rich countries, and such institutions as the World Bank, the IMF, and the World Trade Organization to improve the economic and social development prospects in poor countries. CGD was recently ranked among the world's top think tanks (number 15 out of several thousand such research organizations) in an independent survey-based ranking published in *Foreign Policy* magazine.

[2] Kimberly Ann Elliott, Opening Markets for Poor Countries: Are We There Yet? CGD Working Paper No. 184 Washington: Center for Global Development, October 2009. While AGOA comes out relatively well in this international comparison, the basic U.S. GSP for LDCs lags far behind other high-income OECD members and is ahead of only South Korea's limited program. To encourage early delivery on the MDG commitment to provide DFQF for LDCs, CGD created a working group on global trade preference reform earlier this year. For information on the activities of this group, which expects to issue its final report early next year, go

Congressional action on preference reform in early 2010 would strengthen U.S. leadership in promoting global change to make trade work for the poorest countries. With a strong U.S. reform in hand, President Obama could press his colleagues at the G–20 summit in Canada to implement the goal of full market access for LDCs prior to the U.S. Summit's progress review of the Millennium Development Goals in September.

***Recommendations for Reforming U.S. Trade Preferences***

The following policy recommendations for reforming U.S. trade preference programs for LDCs and other small poor countries reflect my own research[3] and the proposals endorsed by a broad coalition of U.S. business, labor, NGO and research groups last spring[4] as well as the legislation recently introduced by Congressman James McDermott (D–WA):[5]

- Implement 100 percent duty-free, quota-free (DFQF) market access.
- Use the Generalized System of Preferences (GSP) rule of origin requiring 35 percent domestic value-added with the following amendments:
  - as long as there is substantial transformation, allow LDC beneficiaries to count inputs sourced from other developing countries, or FTA partners, toward the 35 percent threshold;
  - define substantial transformation for apparel as cutting and sewing operations.
- Make all preference programs permanent and predictable, beginning with DFQF reform.

These critical reforms could be implemented either by amending the existing GSP program for LDCs, consistent with the U.S. reform coalition proposals noted above, or by amending AGOA and creating a new program for LDCs, as recommended in Congressman McDermott's bill. And, as noted above, the international impact of reform would be greatest if this is done in the first six months of next year.

***Preference Reform and American National Interests***

Recent joint research with colleagues at the International Food Policy Research Institute (IFPRI) shows that full DFQF market access would have important benefits for LDCs.[6] In addition, increased trade with LDCs would have important benefits for U.S. foreign policy by strengthening the development leg of the emerging U.S. national security strategy. By increasing investment and creating jobs in poor countries, it would contribute to political stability and, over time, expand markets for U.S. exports as incomes rise.

In the United States, the traditional consumer benefits and the adjustment costs for U.S. firms and workers would be small. The 49 UN-designated LDCs account for approximately one percent of total U.S. imports and only one half of one percent of non-oil imports (see attached table). The joint CGD–IFPRI research confirms what these numbers suggest: The impact of implementing 100 percent DFQF for LDCs would be indiscernible for the U.S. economy as a whole and the effects on competing U.S. production would be small, ranging from essentially no impact on sugar production to a reduction of roughly one-half of one percent for textiles and less than that for apparel. Assuming that the number of jobs falls proportionately with the estimated decline in production, and even doubling the estimated decline, DFQF for LDCs would result in fewer than 8,000 job losses in these industries. Moreover, while a small number of jobs might be lost in those sectors, jobs would be gained in other sectors. For example, while sugar cane and beet production is mostly mechanized and creates very few jobs, thousands of jobs in the confectionary industry have been lost in recent years due to plant closures blamed on high sugar prices.

Another concern about expanded access for Asian LDCs is that it would reduce benefits for existing AGOA beneficiaries. The agricultural sector, however, which employs the majority of poor Africans, would gain from a DFQF reform that removes remaining restrictions, especially if it is coupled with increased support for

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to http://www.cgdev.org/section/initiatives/_active/reformingtradepreferences/global_trade_preference_reform.

[3] See Elliott op cit., and Antoine Bouet, David Laborde, Elisa Dienesch, and Kimberly Ann Elliott, The Costs And Benefits Of Duty-Free, Quota-Free Market Access For Poor Countries: Who And What Matters, CGD Working Paper, Washington: Center for Global Development, forthcoming.

[4] http://www.igdleaders.org/sections/newsmedia/newsmedia_headlines_4-22-09.asp.

[5] http://www.house.gov/mcdermott/pr091120.shtml.

[6] Bouet et al., op cit.

infrastructure development and technical assistance to help African producers meet U.S. food, plant, and animal safety standards. Concerns about expanded preferences for non-African LDCs usually center on apparel, while ignoring potential gains from improved agricultural access. Moreover, 90 percent of AGOA apparel exports come from five countries and are highly concentrated in a relatively small number of tariff lines. If any restrictions are placed on the exports of major apparel suppliers, as in the McDermott legislation, they should be drawn as narrowly as needed to shelter core African exports.

In sum, expanded market access for LDCs would offer opportunities for thousands of people, mostly young women, to pull themselves and their families out of extreme poverty. Because these countries are small and poor, the short-run impact on the U.S. economy would be small. In the long run, however, the benefits of better integrating trade with our broader development policies and helping to lift these countries out of poverty would be far greater.

## Statement of the Government of Trinidad and Tobago

Chairman Levin, Ranking Minority Member Brady, and distinguished Members of the Committee, the Republic of Trinidad and Tobago welcomes this opportunity to share with you our views on the operation of the Caribbean Basin Initiative (CBI), a program launched in 1983 to facilitate the economic development and export diversification of the Caribbean Basin economies.

### *Introduction*

Before addressing the operation of the program, let me begin by stating how proud we were to host the Fifth Summit of the Americas in April 2009 and the Heads of State and Government of the Commonwealth in November 2009. Several Members from the Ways and Means Committee were part of the Congressional delegation that attended the Summit, led by Chairman Rangel and Chairman Engel of the House Foreign Affairs Subcommittee on the Western Hemisphere. For us, it was an historic event. President Obama set a tone of openness and goodwill that heralds the beginning of a new era in inter-American relations.

This message could not come at a better time given the negative economic and social consequences of the current global crisis. After several years of steady, albeit modest, growth, total U.S. merchandise imports from the Caribbean Basin countries have declined sharply—by 25 percent—so far this year.[1] As Prime Minister Manning stressed at the Summit, given the enormity of the crisis, "Unilateral action alone will likely be ineffective. There is a need for even greater economic and commercial ties among the countries of the Americas." Renewal and rejuvenation of the CBI program can play an important role in helping to arrest this abrupt decline in CBI imports and in continuing to strengthen bilateral trade, as well as regional trade among the countries of the Caribbean Basin.

My submission will focus on four areas. First, I would like to highlight Trinidad and Tobago's recent performance with regard to CBI eligibility criteria. Second, I want to emphasize the importance of timely program extension and of retaining those program aspects that have done well. Third, I want to stress the need to reinvigorate the program in light of CAFTA–DR's entry into force. In particular, the Government of Trinidad and Tobago is advancing a specific proposal that we respectfully ask be included in any preference program extension that might take place later this year or next. Finally, I will explain briefly how our proposal would benefit Trinidad and Tobago, our Caribbean neighbors, and the United States of America.

### *I. Eligibility Criteria*

First, with respect to our recent performance, Trinidad and Tobago has met all the CBI eligibility criteria and more. Our government already has the "Triple Crown" of a double taxation agreement, a bilateral investment treaty and an intellectual property rights agreement with the United States. In November 2008, we took another quantum leap forward in providing TRIPS-plus intellectual property protection by acceding to the WIPO Internet Treaties, which update our TRIPS obligations to protect online digital content.

[1] Given the changing composition of CBI beneficiaries during the years of CAFTA's rolling entry-into-force, this statement includes both current and former CBI beneficiaries. Total U.S. imports grew every year between 2005 and 2008, for a compound annual growth rate of 3 percent. Jan.-July 2009 data are latest available.

In making the transition from an oil-based economy to one based on natural gas, we also have become an even more important source of energy security for the Americas and are now the largest supplier of liquefied natural gas (LNG) to the United States. We worked closely with the United States in developing the energy conservation, renewal and security themes that had such a prominent role at the 5th Summit of the Americas this spring, and we have advocated for a similar agenda when we hosted the Commonwealth Heads of Government Meeting in November 2009.

***II. Essential Program Elements***

The Caribbean Basin Initiative is a broad program aimed at promoting the diversification of beneficiary Latin American and Caribbean economies and expanding their exports. The CBI program is comprised of two parts, namely:

a) the Caribbean Basin Economic Recovery Act (CBERA) which offers duty-free entry to the United States on a permanent basis for a broad range of items from CBI beneficiary countries; and,
b) the U.S.-Caribbean Basin Trade Partnership Act (CBTPA). The CBTPA is the most recent piece of CBI legislation and provides preferential, but temporary, access to the U.S. market similar to Mexico's under the North American Free Trade Agreement (NAFTA).

CBTPA became effective on October 1, 2000, and is scheduled to expire after September 30, 2010. It has two key features: 1) it allows specific textile and apparel articles to enter the United States free of duty or restrictions on quantity, provided certain conditions are met; and 2) it extends NAFTA parity to non-textile articles that were previously excluded from duty-free treatment under CBERA.[2]

*Program Participation and Extension*—Between 5–13 percent[3] of our exports benefit from duty-free treatment under CBERA. While permanent in U.S. legislation, we are very grateful that the Obama Administration recently secured a needed WTO waiver until end-2014. CBERA benefits will be even more important to Trinidad and Tobago in the future, as Trinidad and Tobago is slated to graduate from the GSP program effective January 1, 2010.

Even more important in our case, however, are CBTPA's benefits, as CBTPA extends duty-free treatment to our exports of petroleum and petroleum products. Were CBTPA to expire in September 2010 as provided in existing legislation, it could have a tremendous negative impact on Trinidad and Tobago's exports because almost one-quarter of all our exports to the United States would be subjected to higher tariffs.

For all these reasons, it is critical for Trinidad and Tobago to continue to be among CBI's beneficiary countries and for CBTPA be extended in a timely manner prior to its scheduled expiration. Expiration of CBTPA would be disadvantageous to the United States as well, since without CBTPA the export sales of U.S. textile manufacturers to the Caribbean would fall; the cost of many oil-based products would rise; and U.S. consumers would no longer benefit from a source of low-cost imports for products that otherwise carry some of the highest U.S. tariff rates.

*Ethanol*—Trinidad and Tobago is the fourth major supplier[4] of ethyl alcohol to the United States. Under current U.S. policy, ethanol imported into the United States is subject to two customs duties: an ad valorem tariff rate of 2.5 percent and a secondary tariff of 54 cents per gallon. However, under the Caribbean Basin Initiative, ethanol may be imported duty free.[5] CBI governments and ethanol producers have worked for years in a bipartisan manner to maintain and support the duty free ethanol preference provisions in CBI and to ensure that Congress understands the important and complementary role played by CBI ethanol in U.S. renewable energy initiatives. These CBI duty exclusions have provided opportunities to

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[2] These products are enumerated under Section 211 of the CBTPA. They include imported footwear, canned tuna, petroleum and petroleum products, watches and watch pans. handbags, luggage. flat goals, work gloves and leather wearing apparel, when qualifying as CBTPA originating goods. A third feature of CBTPA provides duty-free treatment to certain beverages made with Caribbean rum.

[3] Five percent is based on trade statistics compiled by the Ministry of Trade and Industry. The Seventh Report to Congress on the Operation of CBERA, prepared by USTR on the basis of U.S. trade data, suggests CBERA imports may be as large as 13 percent of U.S. imports from Trinidad and Tobago.

[4] After Brazil, Jamaica and El Salvador, and ahead of Costa Rica, South Africa and Canada.

[5] If produced from at least 50 percent local feedstock (e.g., ethanol produced from sugarcane grown in the CBI beneficiary countries.) Up to 7 percent of the U.S. market may be supplied duty-free by CBI ethanol containing no local feedstock (i.e., ethanol from other countries can be shipped to a dehydration plant in a CBI country for reprocessing).

develop an environmentally friendly industry in the Caribbean which contributes to fuel efficiency and less fossil fuel pollution in the United States.

Given the importance of Trinidad and Tobago to the energy security of the United States, the Government of Trinidad and Tobago recommends that the CBI ethanol duty-free regime be maintained unchanged so as not to further disrupt our current relationship in energy trade, especially as the value of our ethanol exports to the United States already has plummeted by almost 70 percent so far this year. This important benefit can assist our own recovery once U.S. demand for ethanol returns as the U.S. economy rebounds.

*Merchandise Processing Fee*—Finally, it is imperative that the CBI program retain its current exemption from Custom and Border Protection's merchandise processing fee (MPF).[6] All of the U.S. free trade agreements currently operating in the Americas (NAFTA, Chile, CAFTA–DR, Peru) have this exemption. Without it, duty-free imports from CBI countries would be at, roughly a 5 percent price disadvantage to similar goods from FTA countries.

***III. Creative Thinking for the Next Phase***

The United States is Trinidad and Tobago's largest trading partner, absorbing approximately 60 percent of our exports and providing 25 percent of our import needs. The Government of Trinidad and Tobago is seeking to diversify its economy in order to reduce our economy's dependence on the energy sector and to achieve self-sustaining growth. In this regard, the Ministry of Trade and Industry is leading efforts to develop seven sectors which have the potential for significant employment generation and revenue earnings.[7] As part of its diversification drive, Trinidad and Tobago is seeking to exploit the production and export potential in the downstream energy industries. One of these sectors—printing and packaging—would use our natural gas resources to diversify inter alia into products derived from local polypropylene and polyethylene.

Regrettably, we are seeing these plans dashed. While we applaud the CAFTA–DR's economic reforms and opening to the United States, the ability of these six counties to declare CAFTA origination for their production has robbed the operation of the CBI program of critical energy.[8] If one looks at just duty free U.S. imports from the current (remaining) 19 CBERA beneficiary countries, along with preferential U.S. imports from the eight CBTPA beneficiaries, the growth of U.S. imports under the CBI program has been flat since the passage of CAFTA–DR in 2005. CBI imports were $3.45 million in 2005 and an almost identical $3.47 in 2008. Even more alarming, CBI imports are down 56 percent so far this year, more than twice the rate I mentioned at the beginning of my submission for total imports from Caribbean Basin countries.[9] It stands to reason that as former CBI beneficiaries have more and better options for claiming preferential access to the market for their production there is less opportunity for those remaining to make use of the CBI program for its intended purpose—"to facilitate the economic development and export diversification of the Caribbean Basin economies."[10]

Only a few years ago, Trinidad and Tobago could have packaged goods for retail sale that had been substantially transformed in the CAFTA–DR countries and the article would still have qualified as a CBI originating good if it could meet the CBI value-added rule. There would have been no concept of transshipment between Central America/the DR and the other CBI beneficiaries.[11] Most importantly, while the

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[6] The merchandise processing fee (MPF) is 0.21 percent ad valorem on formally-entered imported merchandise, subject to a minimum fee of $25 per entry and a maximum fee of $485 per entry.

[7] Selected by the Standing Committee on Business Development (SCBD), a public-private advisory committee to the Cabinet, the seven sectors include: yachting; fish and fish processing; merchant marine; music and entertainment; film; food and beverage; and printing and packaging.

[8] For purposes of determining the value-added requirement § 27030)(1)(13) the term "beneficiary country" includes "former beneficiary countries" but the merchandise must have been produced in a current beneficiary country, i.e., substantially transformed into a new or different article of commerce in a current beneficiary country.

[9] U.S. CBI imports during Jan.–July 2008 were $2.2 billion, and only $1.3 billion during the comparable 2009 period.

[10] USTR Website, http://www.ustr.gov/trade-topics/trade-development/prefernce-programs/caribbean-basin.

[11] CAFTA's transshipment prohibition precludes packaging CAFTA-originating goods in Trinidad and Tobago because such goods lose their CAFTA-origin. CAFTA states that originating goods that subsequently undergo any operation outside of the territories of the Parties to the FTA other than unloading, reloading, or other processes necessary to preserve the condition of the good will lose their originating status. CBP has long held that under this provision packaging for retail sale deprives otherwise eligible goods of their originating status.

packaging operation itself would not have conveyed CBI origin, it would not have ruled out CBI origin either. Indeed, the packaging materials (if of CBI origin) would have counted toward the CBI value content rule just as the CAFTA–DR inputs would.[12] That is no longer the case. § 2703(a)(2)(a) specifically states that "mere" packaging operations in CBI beneficiaries are not sufficient to establish duty-free treatment under CBI. Thus, rather than a potential pool of $13 billion of goods to package for retail sale and still claim the CBI duty preference, Trinidad and Tobago is limited to what is left in the current CBI beneficiaries' qualifying pool of merchandise, or only $3.5 billion.[13]

*Legislative proposal*—We believe this unintended situation, which drastically curtails Trinidad and Tobago's development opportunities, needs to be addressed as soon as possible. Proposed draft language appears in an attachment, and we would be happy to work with the Congress and USTR to refine it. But the fundamental idea is simple—production that occurs in the six CAFTA–DR countries that would otherwise qualify as originating under CAFTA–DR can be shipped to a CBI country and count as CBI originating content if the good is packaged in the Caribbean using local material.

Moreover, there are precedents for this approach involving Haiti and the Dominican Republic in the sensitive area of textile and apparel exports.[14] Both of these precedents are a way around a special trade regime's prohibition against transshipment, including performing packaging operations in another country.

Applying this experience to Trinidad and Tobago's packaging goals, we would propose amending Section 2703 of the Caribbean Basin Economic Recovery Act to permit duty-free treatment to apply to any article that undergoes production in a former beneficiary country and packaging for retail sale in a current beneficiary country if (1) the article produced in the former beneficiary country would otherwise be eligible for duty-free treatment under CAFTA–DR; (2) the packaging materials and containers originate in a CBI country; and (3) the product is imported directly into the customs territory of the United States from the CBI country that performs the packaging.

We believe our legislative proposal is consistent with the past Congressional finding that "The Caribbean Basin Economic Recovery Act . . . represents a permanent commitment by the United States to encourage the development of strong democratic governments and revitalized economies in neighboring countries in the Caribbean Basin" and the policy of the United States is to "seek the participation of Caribbean Basin beneficiary countries in . . . [a] free trade agreement at the earliest possible date." (Both from the "United States—Caribbean Basin Trade Partnership Act" at 19 USC 2701.). Further, the term "former beneficiary country" has the benefit of already being defined in the statute at 19 U.S.C. 2702.

Importantly, our proposal would just restore the status quo ante. Prior to CAFTA's entry into force, an article produced in Central America would not have lost its CBI eligibility by virtue of being packaged in Trinidad and Tobago. As such, the Government of Trinidad and Tobago respectfully requests that this correction be included in any bill to extend U.S. preference programs that might occur later this year. Some urgency applies as the Caribbean is being negatively affected by the global financial crisis. Real GDP fell sharply in 2008 from 3.4 percent in 2007 to 1.5 percent in 2008, and the IMF projects a further contraction (-0.2 percent) in

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[12] Generally 35 percent for items eligible under CBERA and CBTPA's NAFTA parity articles, with a maximum of 15 percent of the appraised value produced in the customs territory of the United States.

[13] In 2008, goods claiming a CAFTA–DR preference were valued at $9.4 billion, while goods claiming a CBI preference were $3.5 billion.

[14] The first exception is an amendment to CBTPA contained in Public Law 109–53, the CAFTA–DR Implementation Act. The intent of the provision is to honor a CAFTA side letter that allows articles that were eligible for CBTPA treatment prior to CAFTA, and that are co-produced by enterprises in a CAFTA Party and a CBTPA beneficiary country, to continue to be eligible for CBTPA benefits after CAFTA's entry into force, even though the CAFTA Party would no longer be a CBTPA beneficiary. (The actual drafting of the provision limited its application to situations involving Haiti and the Dominican Republic.) The second exception also is an amendment to CBTPA, this time in the "Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2008" (HOPE II). HOPE II permits certain textile and apparel articles to be "imported directly from Haiti or the Dominican Republic," regardless of which country completed the step that conferred origin.

2009 before the Caribbean stages a modest recovery in 2010 (1.5 percent).[15] Trinidad and Tobago has also been severaly impacted by these developments -. In fact, real GDP growth for Trinidad and Tobago has already dropped precipitously from 13.3 percent in 2006 to 3.4 percent in 2008 and the IMF expects it to fall further to 0.5 percent in 2009. We therefore need economic alternatives to help counter these disruptive impacts.

***IV. Benefits of Legislative Proposal for the Region***

Our proposal can lead to a deepening of local industry, a greater share of value accruing to the Caribbean, and more product diversification in the CBI program. Moreover, Trinidad & Tobago is committed to playing a leadership role in combating new threats to the stability, rule of law, and democratic process in the Caribbean.

*Direct Benefits for Trinidad and Tobago*—The Printing and Packaging Sector is one of several that have been selected for further development by Trinidad and Tobago in keeping with its diversification thrust T&T's printing and packaging industry will get a shot in the arm based on plans[16] to establish a plastics industry through complexes for the production of ethylene, polyethylene, propylene and polypropylene. Important downstream polyethylene and polypropylene manufacturing opportunities include film sheeting, containers, bottles and caps, bags, bowls and cups, future locally-produced inputs for an expanding packaging industry.

*Direct Benefits for the Caribbean*—Trinidad and Tobago has fully implemented the obligations of the CARICOM Single Market and Economy (CSME)[17] which provides for the free movement of goods produced in the region, the free movement of accredited skilled personnel and the provision of services provided through a locally established company.

Both CBI rules and the Single Market encourage other Caribbean countries to participate in this benefit. They may do so in a number of ways. First, they can send their own products to T&T for more sophisticated packaging, producing a more competitive product of better quality, price and consumer appeal. Second, they can package CAFTA items locally using T&T materials or other materials produced in the Caribbean, e.g., baskets woven from plant reeds. Third, university graduates of any Single Market country can take advantage of the increased employment opportunities in Trinidad and Tobago for operators, supervisors and apprentices within the local printing and packaging industry, as well as for design artists, advertising and marketing specialists. Finally, Caribbean countries may form strategic alliances within the printing and packaging industry, with its key linkages to many other sectors.

Trinidad and Tobago also has active programs that could assist its CARICOM partners to take advantage of this new opportunity. The main component of the CARICOM Trade Support (CTS) program is a U.S. $16+ million fund established by the Government of Trinidad and Tobago, which is to be disbursed as a loan on an interest free basis to firms in other CARICOM countries to procure technical assistance for business development projects. The Packaging and Printing Industry (PPI) Strategic Plan also calls for enhanced training. For example, last year the world renowned Graphic Arts Technical Foundation (GATF) of the United States designed a two-day training program focused on Caribbean printers and graduates to help fill the technical expertise and skilled manpower that are critically needed in this sector.

*Indirect Benefits for the Caribbean and the United States*—The strategic and geographic importance of Trinidad and Tobago within the Caribbean and CARICOM cannot be overstated. Trinidad and Tobago has taken a leadership role in advocating for stronger economic integration and security measures within CARICOM. Our strong economic relationship with CARICOM helps curb illegal immigration to the United States in search of better opportunities. Our stable and democratic government provides a role model for other countries.

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[15] The 2007–2008 Caribbean averages are from the recent ECLAC publication, "América Latina y el Caribe: Series históricas de estadísticas económicas, 1950–2008," found at *http://www.cepal.org/deype/cuaderno37/datos/4.1.2.xls*. Projections are from the International Monetary Fund, World Economic Outlook, Crisis and Recovery, April 2009, p. 90, and include Haiti and the Dominican Republic. Both sources provide the same data for Trinidad and Tobago.

[16] See, for example, the world-scale Lurgi/Bassell Gas to Polypropylene Complex which is under evaluation.

[17] All of the 13 member states of the CSME except Suriname are also CBERA-eligible beneficiaries. CBERA beneficiary countries that are not members of the CSME include Aruba, Bahamas, British Virgin Islands, Haiti, Netherland Antilles and Panama.

Further, Trinidad and Tobago cooperates with the United States on a full range of issues from drug interdiction and health issues to counterterrorism and security affairs:

- The Caribbean is the midway point between illicit drug producers in the South and consumers in the North, with profits from the drug trade often dwarfing the legal economies of CARICOM countries. In 2008, the U.S. Drug Enforcement Agency and its local counterparts seized over 10 tons of cocaine transiting into or through Trinidadian waters.[18] To assist in securing the country's coastline, in 2009 the Government upgraded the Coast Guard HQ in Chaguaramas; two new marine interceptors will form the back bone of a revamped Police Marine Unit, while four more are scheduled; and Trinidad's Coast Guard is expected to receive three of an anticipated six Austal built 30 meter patrol boats (go fast boats).
- With drug trade comes guns and violent crime. Trinidad and Tobago is heavily invested in regional security to help address the fact that the Caribbean now has one of the highest per capita murder rates in the world.[19] To deal with this surge, in May 2009, Trinidad and Tobago signed an "etrace" Memorandum of Understanding with the U.S., an innovative program that uses the Internet to help combat illicit trafficking in firearms.
- As a demonstration of Trinidad's commitment to the region, the CARICOM Implementation Agency for Crime and Security is now headquartered in Port-of-Spain, and our Prime Minister has portfolio responsibility in the CARICOM "Cabinet" for Crime and Security.
- As the largest U.S. supplier of liquefied natural gas (LNG), Trinidad and Tobago plays an important role in Caribbean energy security. Recognizing this, a team of USG experts carried out a vulnerability assessment in 2008 and prepared a report with recommendations on critical infrastructure protection efforts.
- In July 2008, Trinidad and Tobago enacted the "Immigration (Advance Passenger Information) Act, 2008." Further, the Government established the Trinidad and Tobago Immigration Document Examination Laboratory to counter the fraudulent use of travel and identity documents.
- The Government of Trinidad and Tobago cooperates in U.S. extradition proceedings. Notably, in June 2008, the Government approved the extradition of two Guyanese and one Trinidadian accused of plotting to blow up New York's JFK International Airport.

***Conclusion***

The Caribbean Basin Initiative continues to be of tremendous importance to Trinidad and Tobago. Nonetheless, the advent of CAFTA has left the CBI program as less than the sum of its previous parts. We have advanced one thus far one, legislative "fix" to this problem that would support the Government of Trinidad and Tobago's efforts to diversify its economy and increase opportunities to generate employment and new business ventures throughout the region. Given the number of U.S. preference programs that are about to expire, it is inevitable that there will need to be a bill to renew them. We hope the Ways and Means Subcommittee will give our proposal careful consideration and seize the opportunity to restore key aspects of the CBI program. We undertake to add to this dialogue in the coming weeks as we seek to partner with the United States Congress in strengthening the commercial relationship between the United States and the Caribbean.

Thank you for this opportunity to provide our views.

Attachment:

***ATTACHMENT: PROPOSED LEGISLATIVE CHANGES TO 19 U.S.C. 2703***

**Amend § 2703(a) to add:**

(7) Notwithstanding paragraphs I and 2. The duty-free treatment provided under (a) **shall apply** to any article that would otherwise be eligible for duty-free treatment under CAFTA–DR if—

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[18] Fact Sheet on Counternarcotics and Law Enforcement Country Program: Trinidad & Tobago, U.S. Department of State, January 20, 2009, can be found at *http://www.state.gov/p/inl/rls/fs113700.htm*.

[19] H. Res. 865, introduced by Rep. Yvette Clarke (NY–D) in 2007, calls on the United States to work with Caribbean countries to address crime and violence in the region. The Resolution was highlighted in the House Committee of Foreign Affair's work on the Merida (Third Border) Initiative.

(A) Such article is packaged for retail sale in a beneficiary country using packaging containers and material that originate under (a); and
(B) The article is imported directly from a beneficiary country into the customs territory of the United States.

**Amend § 2703(b)(5) to add:**

**(I) Articles that undergo production in a former CBTPA** *beneficiary* **country and packaging in a CBTPA beneficiary country**

(i) Notwithstanding subparagraph (a)(2)(A), duty-free treatment shall apply to any article referred to in subparagraphs (A) through (F) of paragraph (1) that would otherwise be eligible for duty-free treatment under CAFTA–DR if—

(A) such article is packaged for retail sale in a beneficiary country using packaging containers and material that originate under (a): and
(B) the article is imported directly from a beneficiary country into the customs territory of the United States.

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**Statement of Jamaica Chamber of Commerce**

**INTRODUCTION.**

The potential for the following trade recommendations is to support the Caribbean designated Third Border of the United States, with the Region's endeavour to regain a level of prosperity in order to monitor effectively the area under its purview, through a new enhanced version of the CBI as the best way forward following the world recession, to engender a resurgence of Caricom/US trade and investment, particularly in the expanding Services sector, while reducing Jamaica's trade deficit with the US.

Jamaica has a significant and escalating trade deficit with the US. Briefly in 2007, the value of imports was US$2.7 billion that has increased in 2008 to US$3.3 billion, while preliminary returns for 2008 indicate that Jamaica has a trade deficit with the U.S. of US$2.3 billion, rising from US$1.9 billion in 2007. In Jamaica's case the U.S. is therefore the primary beneficiary under the CBI.

The fact that the merchandise trade balance of most Caricom countries with the U.S. is negative, though not for Caricom as a whole, should not be surprising for a Region in which most member states are competitive in their Services sector rather than goods. This also explains in part, why the CBI has not been fully utilised in the past.

Jamaica and Caricom need to look forward to a beneficial access arrangement under the new CBI in perpetuity, so that all Caricom countries could benefit from the advantages of CBERA and CPTBA and enhanced tariff and quota concessions, in addition to more flexible rules of origin, addressing non-tariff barriers and other border measures, that affect effective market access and extending the scope of coverage beyond the trade in goods to include the trade in services, now the fastest growing sector in Jamaica and Caricom, with an increase in investment and other consequential economic areas.

Trade and economic co-operation relations between Caricom and the U.S. are currently covered under a narrow range of trade related instruments. The CBERA and the CBTPA which enhances CBERA, collectively referred to as CBI, provide unilateral duty free access for nearly all goods, which accounts for a diminishing share of the total exports of most Caricom beneficiary countries with rapidly growing export sectors. The U.S. also has Bilateral Investment Treaties with Jamaica, Grenada and Trinidad and Tobago.

**THE CBI BENCHMARK.**

The Caribbean Basin Initiative (CBI) 1983 refers to the following unilateral legislation enacted to promote U.S. trade and investment in beneficiary countries. The following are elements of the CBI:

- 1983 Caribbean Basin Economic Recovery Act (CBERA)
- 1990 Caribbean Basin Economic Recovery Expansion Act
- 2000 Caribbean Basin Trade Partnership Act (CBTPA)

CBERA offers duty free access to the U.S. market for a range of goods from 24 beneficiary countries. CBERA acquired a waiver under Article XXV of GATT 1947 valid to December 31st 2014, under which over 90% of Jamaica's exports of goods enter the U.S. market duty-free. CBERA continues to provide duty-free entry to the U.S. on a permanent basis that was granted on 30th August 1990 through amend-

ing the original CBERA 1983 legislation, although a WTO waiver is required for extension of the preferences it provides. These preferences together with additional expected access opportunities that may be granted should be included in the new enhanced CBI that would also apply to services.

The discretionary nature of both CBERA and CBTPA that together constitute CBI does not provide a secure foundation for the future Caricom/US trade relationship recommended to be anchored in perpetuity on an enhanced CBI arrangement. Such an indefinite arrangement would also be attractive to investors given the market access stability that would remove the susceptibility to reversal by Congress or through executive stipulation concerning either country of product eligibility. For example, under CBERA, the beneficiary status of a country can be ended or suspended by the President at any time. Such an uncertain environment should be varied to be attractive for future investors.

Further, the CBERA rules of origin have impaired the value and effectiveness for beneficiary countries. The origin criterion of substantial transformation limits the full preference potential for countries whose technological and manufacturing enterprises are still at the developing stage. These countries which comprise the majority of Caricom island states, are the smallest economies in the hemisphere, and should therefore be viewed asymmetrically.

Additionally, CBI beneficiaries have consistently referred to the difficulty with the excessive, onerous and complex certificate of origin documentation work and customs implementing rules, along with quotas and other non-tariff barriers mainly in the area of phytosanitary (SPS) regulations, which constitute significant and increasing entry barriers to goods from Caricom states. As the U.S. progresses with third country bilateral trade agreements, the beneficial value and effectiveness of the CBI for Caricom states continues to be eroded. Cognisance of the foregoing observations should therefore be seen as necessary to restore the full value and effectiveness of CBI in perpetuity together with the inclusion of services, now the principal sector for growth in the Region.

**SERVICES.**

As mentioned earlier services exports form the bulk of most Caricom countries and the sector has the largest potential for growth in the Caribbean. Caricom could gain net trade and investment benefits if services were included in the new enhanced CBI. Such gains would depend on the relaxation of the following barriers:

- Citizenship requirements
- Residency requirements
- Different requirements at the state level for professional services
- Slow processing of U.S. H–1B visas
- Ownership restrictions
- Non-mutual recognition of qualifications
- Capital and security requirements and differential taxation requirements

The U.S. has advised its domestic industries about the investment opportunities available in Caricom. A government sponsored U.S. Trade Mission is due to visit the Region shortly to examine the investment opportunities before the end of this year.

In 2004 U.S. services exports valued US$340 billion, with a trade surplus of approximately US$48 billion. Services exports grew almost 100% over the last 10 years, representing 30% of U.S. exports. According to the office of the USTR it is estimated that services such as accounting, finance, insurance, education, medicine, engineering, travel, tourism, construction, express delivery, advertising, retailing, telecommunications, computer services and environmental services account for approximately 70% of the U.S. economy's output.

In Caricom services comprise more than 75% of GDP and 73% of GDP in the case of Jamaica. In most of the smaller Caricom states, in many instances a similar percentage exists in terms of overall exports. However, more than 70% of Caricom's services exports consist of tourism or travel services. The range of Caricom's services is however in need of diversification, due to the overdependence on tourism which is a very fickle industry vulnerable to unpredictable dislocation by unexpected world events. This is particularly true in the case of Jamaica that has created two homegrown world class hotel chains.

Cross border supply of services offers potential for Caricom providers, given their small and limited capital base, which inhibit commercial presence in foreign markets. Caricom service providers currently supply services to the U.S. through electronic media used for example by designers, architects and data processing entities. There is room for expansion which could be facilitated by the recognition of qualifications and accreditation of Caricom service providers and their regulation.

**CONCLUSION.**

It is recommended that a future trade relationship between Caricom and the U.S. be considered and built on the acquis of the CBI, including both goods and services and incorporating an appropriate level of reciprocity that should be acceptable and satisfy both Caricom and U.S. goals.

The terms of the new arrangement should be indefinite, aimed at expanding Caricom exports of goods and services, increasing investment, with protection for Intellectual Property Rights and food security. Improvements should include increased tariff and quota concessions, more flexible rules of origin, removing non-tariff barriers, and increased market access. Opportunities to improve the growth of the Region's trade in services should be given priority as Caricom and Jamaica in particular have a competitive advantage and a strong interest in securing new markets for their services exports. As the U.S. is Caricom's main trading partner, Caricom states would benefit significantly from a liberalised services environment that should also prompt increased investment in the Region.

The U.S. continues a policy of negotiating bilateral FTAs with hemispheric and other third countries, that to ensure a long term foundation for Regional trade with the U.S., it is necessary to secure existing trade benefits for both goods and services by establishing a new customised relationship compatible with Caricom's level of development, resources and capacity to produce both goods and services, commensurate with the obligations to be undertaken in the new trade framework.

ANTHONY GOMES
DIRECTOR, JAMAICA CHAMBER OF COMMERCE

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**Statement of the International Sugar Trade Coalition**

The International Sugar Trade Coalition (ISTC) respectfully submits these comments for the record of the November 17, 2009 hearing by the House Ways and Means Trade Subcommittee on U.S. trade preference programs. ISTC urges that sugar be excluded from any reform of U.S. trade preference programs.

ISTC is a non-profit association representing sugar industries in developing countries from Africa, the Caribbean, Central and South America, Asia and the Pacific that are traditional suppliers of sugar to the U.S. market under the raw sugar tariff rate quota (TRQ), including: Barbados, Belize, the Dominican Republic, Fiji, Guyana, Jamaica, Malawi, Mauritius, Panama, the Philippines, St. Kitts and Nevis, Trinidad and Tobago, and Zimbabwe. ITC's members represent approximately one-half of the raw sugar TRQ allocations.

U.S. industrial users of sugar (such as chocolate and candy manufacturers) and certain free-trade think tanks and NGOs have suggested that least developed countries (LDCs), especially those in Africa, would benefit by extending duty-free, quota-free treatment (DFQF) to sugar imports to the United States from LDCs. Experience with the reform of the EU sugar regime has proven, however, that including sugar in DFQF initiatives actually does more harm than good to developing countries. For that reason, in its testimony presented at the November 17, 2009 hearing, the Common Market for Eastern and Southern Africa (COMESA) recommended that sugar should be excluded from DFQF initiatives. ISTC agrees.

**1. Access to the U.S. Sugar Market Is Valuable Because of the U.S. Sugar Program.**

In considering whether sugar should be included in DFQF for LDCs, one has to start with the question why LDCs want to export sugar to the United States in the first place. According to the International Sugar Organization (ISO) the vast majority—roughly 80%—of the sugar produced in the world is consumed within the country of origin. Most sugar-producing countries, including some LDCs, maintain the viability of their sugar industries through measures (including TRQs, subsidies, etc.) to ensure that the price of sugar in their internal markets is above their local cost of production.

There are only two major import markets where, over the past half century, sugar prices have been consistently above the world average cost of production: the EU and the United States. The EU price was traditionally significantly higher than the U.S. price, which made access to the EU market the most sought-after by sugar-exporting countries. But as a result of a WTO challenge brought by Brazil, Australia and Thailand, coupled with the impact of the EU's Everything But Arms (EBA) initiative, which extended DFQF to LDC sugar, the EU reduced its sugar reference price by 36%. Today, the U.S. and EU market prices are the closest they have been

in decades. Depending on currency exchange and freight rates, the U.S. price may actually provide greater returns for some exporters from time to time. As a result, access to the U.S. market today is relatively even more attractive than ever before.

In addition to the premium-priced EU and U.S. markets, sugar is also traded on the so-called "world market," where prices are typically well below the world average cost of production.* Only the lowest cost sugar producers, Brazil, Australia and Thailand, intentionally target the world market. Other countries may occasionally dispose of surplus production on the world market, which only further depresses the world market price. No LDCs and no African countries (with the possible exception of South Africa) produce sugar with the intention of exporting to the world market precisely because the price is usually below their cost of production.

The U.S. sugar program ensures that the market price is above the cost of production through a combination of (1) TRQs on imports from traditional suppliers; (2) domestic marketing allotments to control the amount of domestic sugar in the market; and (3) "nonrecourse" loans to domestic sugar producers. Through these measures, the U.S. Department of Agriculture (USDA) balances the interests of domestic sugar producers, U.S. consumers, and traditional foreign suppliers, with the goal of maintaining a stable market. The resulting U.S. market price is in the mid-range of internal market prices around the world.

A total of 39 countries, all but two of which are developing countries, hold allocations under the U.S. raw sugar TRQ. (Australia and Taiwan are the developed quota holders.) The developing-country quota holders include four LDCs: Haiti, Madagascar, Malawi and Mozambique. Consistent with GATT Article XIII, quota shares under the TRQ are assigned on the basis of actual exports to the United States during a representative base period. Countries not assigned quota shares are not traditional suppliers to the U.S. market.

Sugar exports are the life's blood of many of these developing-country quota holders. Sugar exports represent as much as 24% of total GDP (*e.g.,* Swaziland) and up to 93% of agricultural revenues (*e.g.,* Fiji) for many these developing-country quota holders. Literally millions of farmers and workers earn their livings in the sugar industries of these developing-country quota holders. The non-LDC developing-country quota holders are significantly more dependant upon sugar exports than are the LDCs (*i.e.,* sugar exports are a larger percentage of total exports for the non-LDC developing countries).

The U.S. sugar program is beneficial to developing-country quota holders because it provides them with access to a market where the price is consistently remunerative, *i.e.,* above their cost of production. Uncontrolled increases in the flow of sugar into the U.S. market risk undermining the U.S. price, reducing the revenues upon which developing-country quota holders rely. Developing-country sugar exporters need a balance between the volume of access and the value of that access, because *increased access at a price that is below the cost of production is worthless.*

**2. Granting DFQF to LDC Sugar Risks Destroying the U.S. Sugar Program, Which Is Already Vulnerable Because of NAFTA.**

The U.S. sugar program has remained in effect since 1982 with only relatively minor changes precisely because it has been effective in balancing the interests of domestic producers, U.S. consumers and traditional foreign suppliers—all at no budgetary cost to the U.S. taxpayer. This balance of interests has been seriously disrupted by the North American Free Trade Agreement (NAFTA), which gave Mexico DFQF access to the U.S. market. U.S. sugar imports from Mexico have sky-rocketed from 7,258 metric tons (MT) before NAFTA to 1.3 million MT during the just-ended 2008–09 quota year. In the meantime, U.S. sugar imports from the 39 traditional suppliers have fallen to the minimum level bound in the Uruguay Round (approximately 1.1 million MT), and the U.S. market price has become more volatile, jeopardizing sugar export revenues for the developing-country quota holders that depend on access to the U.S. sugar market.

The U.S. Administration learned its lesson from NAFTA. No subsequent FTA negotiated with a sugar-producing country has included DFQF treatment for sugar. Rather, all U.S. FTAs since NAFTA have strictly limited the volume of sugar to be imported duty-free under the FTA. The reason is simple: DFQF treatment for sugar is incompatible with maintaining a premium price.

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*Drought-induced damage to the cane crop in India caused world-market prices in 2009 to double and rise above the world average cost of production for the first time in more than 30 years. Raw cane sugar, which accounts for the great bulk of world sugar trade, is currently priced around $500 per metric ton world markets and around $600 on the U.S. market. Sugar is traded on New York and London exchanges and is historically more volatile in price than crude oil.

Adding another major source of DFQF sugar to the U.S. market would seriously depress the U.S. market price, thereby further reducing sugar export revenues by all developing-country quota holders. Even worse, extending DFQF treatment to sugar from LDCs could collapse the sugar program completely, which would benefit neither current developing-country quota holders nor LDCs. Rather, the only beneficiaries of such an outcome would be (1) the U.S. industrial sugar users, who would then be able to source sugar at the lowest possible price; and (2) the lowest cost exporters of sugar, none of which are LDCs, primarily Brazil, Australia and Thailand.

Twenty-four LDCs are significant sugar producers. Of these, five are currently major exporters: Malawi, Mozambique, Myanmar, Sudan and Zambia. These five LDCs export an average of 1.1 million MT of sugar annually.

Total annual U.S. sugar consumption is about 9.5 million metric tons. Domestic producers by law are guaranteed the opportunity to supply 85 percent of that total. Traditional suppliers are guaranteed the opportunity to supply 1.1 million metric tons, about 11 percent, under WTO agreements. Mexico faces no limits and supplied about 1.3 million MT, over 12 percent of the market, in the 2008–09 marketing year. Massive oversupply and a price collapse is a serious risk. It has been reported that Malawi, Mozambique and Sudan are already expanding their sugar production dramatically (doubling it according to some sources) to take advantage of their new DFQF access to the EU under EBA. With the recent reduction in EU sugar prices, a result of EU sugar market reforms, some or even all of these increased LDC exports—as much as another 1.4 million MT, almost 15 percent of U.S. consumption—might be diverted to the U.S. market under DFQF. Supplies could equal over 120 percent of consumption, making it impossible to maintain the sugar price required by law without government purchases of sugar on an unprecedented and extremely costly scale.

But even that is not the worst case scenario. A newly-introduced bill, the New Partnership for Trade Development Act, H.R. 4101, would extend DFQF status to all AGOA beneficiaries, as well as the non-African LDCs. This group of 29 countries exports on average 2.8 million MT of sugar annually.

There can be no serious debate over whether the U.S. sugar program could withstand additional imports of that magnitude. At a minimum, the U.S. sugar price would fall significantly, probably below the cost of production in almost all developing-country quota holders, thereby immediately slashing sugar export revenues by those developing countries that are already dependent upon exports to the United States. The sugar program would no longer be tenable.

As was experienced by the African, Caribbean and Pacific (ACP) countries in the reform of the EU regime, sugar export earnings by the developing country quota holders would plummet, tens of thousands of sugar workers would lose their jobs, and in some countries (Trinidad & Tobago and St. Kitts & Nevis in the case of the EU reform) the entire sugar sector would shut down, causing major economic dislocation and social upheaval.

Another policy option would be to replace the current U.S. sugar program with a more traditional commodity program (*e.g.,* deficiency payments). Under this model, U.S. sugar producers would be guaranteed a certain price, but imported sugar would trade at the so-called world market price, which as noted above is typically below the cost of production of all but a handful of countries. The result would be the loss of sugar export revenues by both current quota holders and LDCs, as sugar trade would be dominated by in Brazil (the world's largest and lowest-cost producer), and to a lesser extent Australia and Thailand. The only winners would be the large corporate sugar users, commodity speculators, and the handful of non-LDC lowest-cost sugar exporters.

The outcome would be a classic case of "robbing Peter to pay Paul," as existing trade by the developing countries that are already dependent on their sugar exports to the United States would be destroyed to make room for new imports from LDCs. The United States sugar program, which sustains a premium price for sugar by limiting supply, would likely be overwhelmed. Increasing poverty in one group of poor countries in the hopes of reducing poverty in another group of poor countries is not a worthy policy goal. Indeed, there is a serious risk that even the LDCs would lose out, being replaced by the small group of super-competitive non-LDC sugar producers. The result would be increased sugar exports by Brazil, and increased poverty in almost all other sugar exporters, including the LDCs the DFQF initiative is intended to help.

For all these reasons, ISTC respectfully requests that sugar should be excluded from DFQF treatment in any preference reform legislation.

Respectfully submitted,

Harry Kopp
Vice President

**Submission of the National Association of Manufacturers**

The National Association of Manufacturers (NAM) represents the U.S. manufacturing industry and is comprised of thousands of firms of all sizes, in all manufacturing sectors and in all 50 states. We are pleased to have this opportunity to share the NAM's views with regard to the Andean Trade Preferences Act (ATPA), which expires at the end of this year, as well as comments on the U.S. Generalized System of Preferences (GSP) program, which also expires at the end of this year.

The NAM supports the U.S. preferences programs, including GSP and ATPA, as a means of aiding economic development in emerging economies and encouraging those countries to respect important norms of international commerce. This should include: due regard for property owned by U.S. citizens; intellectual property protection; equitable and reasonable access both to markets and basic commodity resources; observance of labor and environmental provisions; and actions to reduce distorting investment practices and policies. Preferences programs should not be viewed as an entitlement.

**Andean Trade Preferences Act (ATPA)**

The National Association of Manufacturers strongly supports renewal and reform of the ATPA before the end of the year. We note that President Obama's Trade Policy Priorities document, issued February 27, 2009, by the Office of the U.S. Trade Representative, also spoke of the need for "renewal and reform" of U.S. preference programs, including the ATPA.

Our strong preference is for the Congress and the Administration to work together over the coming month to enact reform of U.S. preference programs to ensure they are effectively supporting U.S. economic interests and broader global policy priorities. It is also important that this policy review focus on eligibility for benefits, in order to ensure that benefits are going to appropriate developing countries and to those partner countries that are playing constructive roles internationally.

Although the strong preference of the NAM is for the review and reauthorization of ATPA to be concluded in 2009, if the press of other business means that Congress cannot conduct a careful review and recalibration of the ATPA programs this year, the NAM would recommend another short-term (perhaps six or twelve months) extension of the program. This should be combined with a firm commitment from the Administration and Congressional leadership to conduct a thorough review and reform of ATPA and other preference programs before the expiration of the extension.

The track record of countries granted benefits under ATPA is mixed. On the positive side, the NAM believes that Colombia and Peru have consistently upheld their responsibilities with regard to the ATPA, and that the growth and development through increased trade with the United States as a result of ATPA benefits has been strong, positive and integral to both nations' economic growth. On the negative side, both Ecuador and Bolivia have not upheld key requirements of the ATPA program, particularly with regard to respect for foreign investment, and the NAM is extremely concerned that blanket extension of ATPA to either country would simply reward bad behavior.

The United States has negotiated bilateral Free Trade Agreements (FTAs) with both Peru and Colombia that, once fully implemented, will render their need for ATPA benefits moot, as U.S. tariffs will be reduced to zero for nearly every product imported from Peru and Colombia. The U.S.-Peru FTA has been implemented, although some Peruvian products face longer phase-in periods of U.S. tariffs that will benefit from extension of ATPA benefits. The U.S.-Colombia FTA is pending approval from the United States Congress and, without ATPA, Colombia's exports to the United States will suddenly face tariffs. As a result of the positive growth and development provided to both nations by the ATPA, the NAM strongly endorses extending ATPA benefits to Colombia and Peru until such time as both FTAs are fully implemented.

The situation with respect to Ecuador and Bolivia is, unfortunately, very different from the favorable developments we see in Colombia and Peru. In Ecuador, we continue to see deterioration in rule of law, judicial independence, corruption and other important areas. President Obama's determination and strong public statements of

June 30, 2009, clearly reflect those same concerns. The Government of Ecuador was put on very clear notice that its performance under ATPA criteria was inadequate, and that improvement would be necessary for Ecuador to retain its ATPA eligibility beyond the six-month extension the President approved through December 31, 2009. The NAM strongly supported the Administration's results-oriented approach toward Ecuador in the June review and urges the Congress to adopt a similar approach to Ecuador in the renewal of ATPA.

Unfortunately, there has been no improvement from the Ecuadorian Government.

Indeed, the situation has continued to deteriorate. Since the President's June 30 decisions on ATPA eligibility, Ecuador had continued to abuse foreign and domestic investors, including using the judiciary and police as harassment arms for the political leadership, rather than independent bastions of and protectors of democracy and rule of law. Over the past five months we have also seen the President of Ecuador issue decrees to revoke patent protections for international pharmaceutical and agricultural chemical manufacturers and threaten to annul many of Ecuador's longstanding investment treaties including the Ecuador-U.S. Bilateral Investment Treaty (BIT) which has been in force and benefiting both parties since 1997.

Some have argued that criticism of Ecuadorian behavior or any questioning of its eligibility for ATPA benefits is simply reflecting concerns over one particularly contentious investment dispute. We at the NAM want to be very clear—the NAM is indeed very concerned by Ecuador's abusive treatment of any foreign investor, obviously with special attention to investments by NAM member companies and American companies. There have been some high-profile cases of very disturbing treatment of large American investors; and the NAM and other leaders in the U.S. business community have spoken out and will continue to speak out very strongly. But our overall policy approach and our concerns toward Ecuador are far, far broader. Ecuador's established behavior and its credible threats for further abuses endanger broad swaths of our member companies, large and small—e.g. pharmaceutical manufacturers, chemical manufacturers, natural resource companies, and anyone who has made good faith investments in Ecuador.

In light of these regrettable but undeniable developments, the NAM strongly recommends that, if the ATPA program is extended in some form beyond December 31, 2009, Ecuador's eligibility be suspended based on its failure to meet the eligibility criteria. We further recommend that in renewing the ATPA legislation, provision be made for the Administration to restore eligibility for ATPA benefits if and when the Administration certifies that a country has come back into compliance with the eligibility criteria.

The case of Bolivia is similar to that of Ecuador. The NAM supported the actions of Congress and the Administration over the past year in handling Bolivia's status under the ATPA. On June 30, 2009, President Obama suspended Bolivia's ATPA eligibility. We believed then, and reaffirm today, that this was the correct decision in light of the performance of the Government of Bolivia in important areas including rule of law and counter-narcotics. The NAM recommends that Bolivia's eligibility for ATPA benefits continue to be suspended.

**Generalized System of Preferences (GSP)**

GSP is a very important trade preference program created and maintained by the United States to promote the economic development of developing countries through trade. The program is particularly important for manufacturers who cannot source domestically and cannot meet the *de minimis* requirement for a duty suspension bill.

Although GSP provides preferential duty-free entry for products from 133 designated beneficiary countries, we understand that the vast majority of the benefits are enjoyed by only a handful of eligible countries. We also understand that the GSP should benefit the countries that need it the most. Thus, we understand that this review of the GSP program should find ways to get more countries to benefit from the program.

At the Hong Kong World Trade Organization (WTO) Ministerial in December 2005, there was a political commitment by Trade Ministers, including the United States, to provide duty-free/quota-free market access for at least 97 percent of tariff lines from Least Developed Countries (LDCs). Ministers also agreed to take steps to progressively expand beyond 97 percent—but to take into account any impact on other developing countries at similar levels of development as LDCs.

The implementation of this political commitment was agreed to be accomplished on an autonomous basis, through countries' respective preferential trade regime, such as GSP. The United States certainly needs to live up to the commitment it made to LDCs at the Hong Kong WTO Ministerial.

Notwithstanding these important considerations, the NAM wants to stress another dimension of the program—its contribution toward reducing costs for U.S. manufacturers who utilize inputs that are not produced or available in America. This facet of the GSP program helps to improve the competitiveness of manufacturing in America. Eliminating GSP benefits on components that have no U.S. supplier or counterpart will mean that the U.S. manufacturer must pay a higher duty, which must then be passed on to its customers through a price increase.

Thus, we urge you to undertake a careful review of the products that are covered by GSP to ensure that we do not raise costs for U.S. manufacturers. While we understand the requirements of the law, we want to ensure that this review of the GSP program does not hamper the competitiveness of U.S. firms.

The NAM looks forward to working with the Administration and Congress to reform and renew American trade preference programs to make them more effective and better able to promote U.S. policy objectives.

**Statement of the Lesotho Textile Exporters Association**

The Lesotho Textile Exporters Association (LTEA) wishes to take this opportunity to submit written comments for the record following the hearing on November 17, 2009, on the U.S. trade preference programs. We wish to express our appreciation and support for the benefits granted under the African Growth and Opportunity Act (AGOA), and inform you about the success of this program and the challenges ahead. As the Committee and the U.S. Congress continue their deliberations on reforming preference programs to ensure that they truly work for poor countries, we urge that careful focus is placed on making certain that AGOA benefits are not eroded. We applaud the United States' Congressional intent to help all least developed countries; however, we must recognize the limitations and diversity of industry development within those individual countries and factor such differences into any reforms.

Proposals to grant significant duty-free access to non-AGOA least-developed countries (LDCs) with highly developed apparel exporting industries would likely result in U.S. companies switching their AGOA sourcing to Asia. As the U.S. Congress tries to strike a delicate balance between the interests of LDCs from different regions, LTEA hopes to serve as a constructive voice in the process. One creative approach to solve this conflict of interest among LDCs would be for the U.S. Congress to ensure textile and apparel imports from AGOA countries maintain a competitive position in the U.S. market against prolific producers in other LDCs by establishing an *earned credit program for imports from such countries.*

**WHO WE ARE**

LTEA was established in 1993 with a membership of seven factories. Our membership grew to thirty companies in 2004, when textile and apparel exports under AGOA reached their peak. Since then, however, our membership has decreased together with the decrease of AGOA textile and apparel exports. Today, our Lesotho-based organization is composed of twenty-one apparel factories and one denim mill. In general, these factories produce fleece jackets; knit t-shirts and trousers; twill, corduroy and other woven trousers; and denim jeans. Approximately eighty-percent of these products are exported to the United States market.

**THE SUCCESS OF AGOA**

AGOA was enacted in October of 2000. Lesotho's exports to the U.S. that year totaled $140 million. Lesotho saw a large increase in investment following its designation as an AGOA beneficiary country and qualification for apparel benefits in April, 2001. This investment in turn yielded an increase in exports to the United States, as specifically envisioned by the Act. The most significant investment project was the construction of a new denim fabric mill, Formosa Textiles at a cost of USD$120 million. In 2004, Lesotho saw its highest levels of AGOA textile and apparel exports to the U.S. at $456 million. Last year, the country's AGOA exports were approximately $374 million—much lower than 2004 but still considerably higher than before AGOA.

The apparel industry currently employs over 39,000 people and remains the largest formal employer in Lesotho. These jobs have helped bring stability to a country in which the unemployment rate is conservatively estimated at forty-percent. The wider economic stimulus provided by the apparel industry has indirectly created countless jobs in the communications, transportation, trade, housing, retail, food, and other sectors. Furthermore, the majority (eighty-five percent) of workers in the

apparel industry are women, many of whom have become their families' sole breadwinners following the decline of jobs for men in the South African mining industry.

One of the objectives of LTEA is to ensure its members adhere to the tenets of Lesotho's Labour Code; our association does not accept factories who do not abide by these laws. In our industry, factories are required to keep employment records and maintain them for periodic inspection by the Ministry of Labour and Employment. Factories must also abide by the codes of conduct of U.S. buyers sourcing from Lesotho, who also conduct periodic compliance audits. In fact, the apparel industry has become a standard model for labor practices throughout the country. Child and forced labor are not an issue in the apparel industry and we have encouraged the Government of Lesotho to partner with the International Labour Organization (ILO) to develop and enact a Labour Code that criminalizes child and forced labor in all industries throughout the country. Starting next year, Lesotho and the ILO will put in a place a *"Better Work Program"* that will enable the country to market itself as an ethical sourcing destination. LTEA has been an active partner in the formulation of this program, and will be active in its implementation.

**CHALLENGES AHEAD**

Despite the initial growth of the apparel industry, great challenges remain for Lesotho to bring its people out of poverty. The country's per capita GDP is among the lowest in the world and the prevalence of HIV/AIDS among adults is almost one in every four. Estimates indicate that five people in Lesotho depend on the salary of one worker.

These circumstances make it crucial for the U.S. to maintain its support of sub-Saharan Africa through AGOA and other similar programs. Furthermore, it is imperative that any new preference program rules and beneficiaries do not disadvantage Lesotho and other sub-Saharan countries relative to other exporters to the U.S. and risk the loss of the progress that AGOA has brought thus far.

The continued success of the textile and apparel industry in Lesotho depends on avoiding erosion of the small U.S. market share through which the country has gained a foothold. Initiatives to grant duty-free access to highly competitive textile and apparel industries from Asia will have a disastrous effect on Africa's apparel industry. We have already seen examples of the damage such industries can have on Lesotho. In 2005, for example, ten factories were closed in the country and exports dropped fifteen-percent when the U.S. textile and apparel quota system was completely phased out. The current global economic downturn has drastically decreased orders, resulting in the closure of five more factories since the end of 2008. July 2008 employment figures of 45,310 persons have dropped to 39,229 in July 2009. Under these circumstances, it is imperative the U.S. Congress help Lesotho and other sub-Saharan countries continue on a path of success without further regression.

As we mentioned in a letter submitted on November 13, 2009, to Ways and Means Committee Chairman Rangel, a proposal to grant significant duty-free access to non-AGOA LDCs with highly developed apparel export industries we believe would result in U.S. companies switching their AGOA sourcing to Asia and *result inmass closure of factories for LTEA members.* As stated previously, in countries like Lesotho where so many jobs depend on the well-being of the apparel and textile sectors, such an outcome would be catastrophic.

**SOLUTIONS MOVING FORWARD, EARNED IMPORT ALLOWANCE PROGRAM**

While we maintain the position that offering duty-free status to non-AGOA LDCs with highly developed apparel export industries will bring undesired adverse consequences to sub-Saharan Africa, we are conscious of the worsening economic conditions affecting not only our region but all LDCs around the world. Poverty is a monster that must be banished not only from Africa but around the globe. Therefore, in the event the U.S. Congress is seriously considering offering duty-free status to non-AGOA countries, we urge you to also consider the creation of an earned credit program to ensure the well-being of the apparel industry in AGOA countries.

We suggest creating an earned credit mechanism similar to the type that has been successfully implemented in Haiti and the Dominican Republic. This program would:

- Balance the interest of the AGOA countries in maintaining competitive access to the U.S. market,
- Create incentive for further vertical investment in AGOA countries, and
- Provide benefits to non-AGOA LDCs.

Under this program, U.S. importers could earn the ability to import apparel duty-free from non-AGOA LDCs provided they have imported the same quantity of similar apparel from an AGOA country. The apparel could be made of fabric of any origin to be eligible for this 1 for 1 earned import allowance. This 1 for 1 ratio could increase to 2 for 1 in order to create an incentive to use sub-Saharan fabric in AGOA apparel production. If a U.S. importer purchased apparel made in an AGOA country from AGOA fabric, it would earn credit to import twice as much of a similar type of apparel from a non-AGOA LDC. The apparel from the non-AGOA LDC could be made of fabric of any origin to be eligible for this 2 for 1 earned import allowance. The earned credits would be in the same product category of apparel sourced from the AGOA country.

We would be pleased to provide our expertise in working in sub-Saharan Africa and assist you in the process of developing this credit program. Our association could work with other stakeholders to garner additional support for this concept. We would also be glad to provide the U.S. Congress with ideas for other initiatives that would benefit AGOA countries, such as extending the third country fabric provision for the full duration of the AGOA preference program and making certain amendments to the rules of origin.

**CONCLUSION**

We extend once again our deep appreciation and warm support for AGOA and other similar U.S. sponsored programs. These programs offer hope for opportunities and economic prosperity to millions of impoverished people in sub-Saharan Africa. Nevertheless, the economic well-being of Lesotho and others in the region remains fragile. We cannot yet compete against the prices offered by LDCs with highly developed apparel export industries. We ask the U.S. Congress to avoid jeopardizing the progress made by sub-Saharan textile and apparel producers over the last nine years and recognize the need for continued incentives to support our common goals of prosperity and stability. We look forward to working with you in this effort.

Best regards,

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**Statement of the Campbell Soup Company**

Campbell Soup Company (Campbell) appreciates the opportunity to offer these comments on the operation and impact of the U.S. preference programs, which are currently being reviewed by the House Ways and Means Trade Subcommittee. Campbell supports a long-term extension of the Generalized System of Preferences (GSP) program to maintain the benefits of the program to the U.S. processed food sector, its employees and customers.

Campbell, headquartered in Camden, New Jersey, is an American manufacturer and marketer of branded convenience food products with annual revenues of $7.9 billion and a workforce of more than 17,000 people. Campbell products are sold in 120 countries around the globe and include well-known brands like *Campbell's, Pace, Prego, Swanson, StockPot, V8,* and *Pepperidge Farm.*

Campbell urges the U.S. House of Representatives to renew the GSP for an extended period of time. Repeated short-term renewals add uncertainty to sourcing and business planning decisions. Campbell does not see a significant need to overhaul the GSP program, but should Congress determine there is a need to further study U.S. trade preference programs, it should extend the GSP program without amendment for two years (through December 31, 2011) at a minimum.

**II. *GSP Extension Critical for U.S. Processed Foods Sector***

As prices for agricultural inputs rise, U.S. processed food companies such as Campbell are looking at every available means to contain costs for U.S. consumers. The extension of the GSP program beyond December 31, 2009 is an important component to avoiding price increases, since several GSP beneficiary countries, such as Argentina and Brazil, are also major suppliers to the U.S. processed food sector.

A lapse of the GSP program, or a removal of one or more of the major beneficiary countries from the GSP program, would harm U.S. companies, their employees, and consumers. The GSP program provides an important tool to the U.S. processed food industry in its efforts to keep costs down and to strengthen its global standing. An increase in input costs would harm the competitiveness of U.S. processed food producers, threatening U.S. exports.

The GSP program benefits not only U.S. consumers, but also a substantial number of U.S. workers whose jobs are tied to the value-added production, sales, marketing, finance, transportation and customer service of U.S. processed foods. Recent calculations place annual GSP-related savings in import taxes at nearly $1 billion.

Failing to renew GSP would lead to higher prices for American consumers and threaten U.S. jobs.

**III.** ***Limitation of GSP Benefits Would Benefit China, Not Least Developed Countries***

Any changes to the GSP program should not limit the eligibility of current beneficiaries. The removal of GSP benefits for major beneficiary countries would in all likelihood only benefit non-GSP suppliers such as China. Least-developed countries (LDCs) do not have the capacity to meet the demand of most U.S. food processors.

Studies from the U.S. International Trade Commission (ITC) have highlighted how U.S. preference programs help the development of beneficiary countries as opposed to those countries whose exports do not receive special access to the U.S. market. A limitation or removal of GSP benefits for countries such as Argentina and Brazil, both major food ingredient suppliers to the United States, would not promote additional export competitiveness in other GSP beneficiary markets, but would likely shift sourcing to China.

As stated in a U.S. Government Accountability Office (GAO) report on U.S. trade preference programs, "[W]e repeatedly heard concerns that China, or sometimes other countries, would be most likely to gain U.S. imports as a result of a beneficiary's loss of preferences." In fact, the ITC has shown that China competes against LDCs in 202 products, whereas Brazil's competition with LDCs is limited to only four product categories.

**IV.** ***The GSP Program Is An Important Development Tool***

The GSP program represents good policy because it contributes significantly to the economic growth, exporting capacity, and integration of developing nations into the world economy. In particular, the GSP program has been instrumental in reinvigorating Argentina's exports after that country's 2001–2002 economic crisis. During 2001–2004, Argentine exports to the U.S. grew by 27%, but exports of GSP-eligible products grew by 187% following the designation and re-designation of a variety of Argentine products in 2001 and 2002. In the case of Brazil, GSP benefits have contributed to the country's development by promoting more exports. As a result of increased GSP exports to the U.S., approximately 300,000 jobs have been created in Brazil, according to 2007 figures from the ITC. These positive economic developments would be in jeopardy with the removal of GSP benefits from these countries. The United States should be promoting economic ties with these key countries in Latin America, not severing them.

**V.** ***Trade-Enforcement Leverage Would Be Lost by Limiting GSP Eligibility***

The GSP program also provides the United States leverage in seeking specific economic liberalization in foreign markets. The ability of the Executive Branch to limit or suspend GSP benefits for a country is a powerful tool for the U.S. trade officials to seek changes in the practices of a beneficiary country. As noted in a GAO report, ". . . the leverage associated with [GSP] preferences creates an opportunity to secure improvements in IPR and labor protections."

The record of the GSP program has repeatedly shown that "country practice" petitions have afforded the Office of the U.S. Trade Representative (USTR) the leverage to encourage developing countries to reduce significant barriers to trade in goods, services and investment and to provide enforcement of IPR. This leverage has resulted in increased market access for U.S. exports and improvements in policies of importance to the U.S. Government. The removal of GSP preferences would result in the loss of this leverage.

**VI.** ***Conclusion***

In summary, Campbell strongly opposes any efforts to limit, suspend, withdraw or otherwise amend the current GSP program eligibility list. Letting GSP expire, even temporarily, or reducing its benefits in any way, would impose an onerous hardship on U.S. companies and impair their competitiveness abroad. It would also harm U.S. economic influence. Campbell urges the U.S. Congress to extend the GSP program in its current form for an extended period of time. At a minimum, the GSP program should be extended for two years until December 31, 2011.

Kelly D. Johnston
Vice President, Government Affairs

**Statement from the Government of Thailand**

Participation in the Generalized System of Preferences (GSP) program is important to Thailand, especially during these times of economic uncertainty. The GSP program aims to promote economic growth and development and to improve the living standards of people in developing countries by providing exporters with better access to the U.S. market. Participation in the GSP program has enabled many Thai businesses and manufacturers, especially small and medium-sized enterprises (SMEs), to be competitive in the U.S. market. The Government of Thailand—along with Thai manufacturers and businesses—strongly encourages the U.S. Congress to renew the GSP program, which is set to expire on December 31, 2009, on a long-term basis that would allow developing economies like Thailand to continue to grow and become more competitive.

As a developing economy, Thailand has benefited from the GSP program and has expanded its exports, which in turn has led to sustained economic growth and marked poverty alleviation in Thailand. Nevertheless, Thailand continues to face significant development hurdles, particularly given the onset of the current global economic crisis. Thailand has experienced continued economic contraction with negative GDP growths of 4.2% in the fourth quarter of 2008. The overall Thai economy in the second quarter of 2009 decreased by 4.9% after falling by 7.1% in the first quarter of 2009. In addition, U.S. imports from Thailand under the GSP program has declined by 24.3% from January—September of 2009. Therefore, the tariff preferences afforded to eligible products from Thailand under the GSP program have helped Thai manufacturers face the crisis and export their products to the U.S. market by "cushioning" them from facing detrimental declines in trade under the current recession. GSP duty savings also help put Thai manufacturers and suppliers on a level playing field with lower-cost producers in other countries. Revocation of the GSP program would thus harm Thailand's competitiveness under the GSP.

Preferences afforded to Thai products under the GSP program provide meaningful economic opportunities. By making Thai exports more competitive in the U.S. market, the GSP program helps to support manufacturing jobs in the Thai economy and helps Thai workers find employment opportunities that pay well and enable them to support their families and keep their children in school. The 4.5 million jobs created under the GSP program partly provide opportunities for Thai women, low-skilled workers, and minority groups who otherwise have relatively few economic alternatives.

The GSP program's list of eligibility criteria also encourages Thai businesses to improve labor practices, protect intellectual property rights (IPR) and treat U.S. investors fairly. These incentives effectively encourage Thai businesses to improve their practices, operations and working conditions and improve the manufacture of Thai products that meet both international obligations and business demands. Consequently, the requirements for participation in the GSP program have helped bring about economic and legal reforms in Thailand, which has led to improvements in the rights of workers, enhanced rule of law and a better local business climate.

Although Thailand exports a variety of goods to the U.S., only a small share of what the U.S. imports from Thailand benefit from the GSP program. In 2008, U.S. imports from Thailand under the GSP program totaled USD 3.5 billion which only accounts for 15% of the total U.S. imports from Thailand that year which totaled USD 23.5 billion or only 1.2% of Thailand's share of the total U.S. market. Nonetheless, this small share of Thai GSP-eligible exports, especially cultural heritage products like gems and jewelry, to the U.S. is extremely important to a large number of Thai manufacturers that count on the savings that the preference program affords them. Thai SMEs and manufacturers rely on the GSP program today more than ever and view the program as a key resource that helps them face the turbulent global economy.

It is also worth mentioning that the GSP program greatly aids American consumers, importers, retailers by lowering prices and increasing choices. Because of the tariff preferences afforded to products from Thailand under the GSP program, Thai manufacturers and exporters are able to sell their products at competitive prices in the U.S., providing American consumers with more variety and selection of products that they can purchase. This can be seen through industries like jewelry in which the benefit is not limited to American consumers but also extends throughout the supply chain including American workers, service providers, distributors, importers, and retailers. It is estimated that for every dollar earned in the Thai economy another six dollars is generated in the American economy.

As the Ways and Means Trade Subcommittee and U.S. lawmakers undertake the review of the GSP program, the government of Thailand would like to reiterate the importance of the GSP program as an effective tool to promote social development

and economic growth. A long-term extension of the GSP program would allow for better predictability and certainty for both Thai exporters and U.S. importers in their future business planning. However, any revisions to the thresholds for CNL waiver limits, country graduation, and product removal should be carefully considered for the program to be more effective and beneficial to developing economies such as Thailand.

**Statement of the Embassy of the Republic of the Fiji Islands**

The Embassy of the Republic of the Fiji islands wishes to express its appreciation to the Subcommittee on Trade of the House Committee on Ways and Means for convening this hearing on this vital subject.

The Generalized System of Preferences (GSP) is the oldest and most broadly based of the U.S. preference programs, first enacted by Congress in the Trade Act of 1974. Today, 131 developing countries are beneficiaries, with forty-four countries receiving additional benefits as least-developed beneficiaries. All GSP beneficiaries receive duty-free treatment for nearly 3500 tariff lines, and least-developed countries receive duty-free treatment for an additional 1400 tariff lines.

The GSP program provides preferential duty-free treatment for 3,448 products from Fiji. In 2007, Fiji exported $69.7 million to the United States under the GSP program. The products mainly consist of mineral water ($56.7m), molasses ($4.3m), raw cane sugar (3.4 million), dasheens ($1.8m), and cane molasses ($1.6 million). Imports are up 32.percent over 2006, when $52.8 million in goods were imported from Fiji under GSP. Approximately 45.6 percent of all U.S. imports from Fiji in 2007 entered under the GSP program. This compares to 36.2 percent of all imports in 2006. In 2008 Fiji exported $70,055,968 to the United States under the GSP program and from January this year 2009 to September this year 2009 Fiji has exported $34,245,733 to the United States under the GSP program.

Preferences programs like GSP assist developing countries like Fiji in our efforts to build up domestic industries and increase exports. However these preference programs also help U.S. businesses and families. They are a major source of imports and products for U.S. businesses, including small- and medium-sized companies, and include important partnership opportunities between U.S. workers and businesses, and workers and businesses in beneficiary developing countries. Imports under these programs also lower costs for U.S. consumers and producers. For example, in 2008, duty-free treatment under GSP resulted in a total savings of approximately $850 million. In 2005, according to the U.S. Chamber of Commerce, 75 percent of U.S. imports entering duty-free under GSP were raw materials, components or equipment used by U.S. companies to manufacture goods either for domestic consumption or export. The Chamber also found that GSP is particularly important to U.S. small businesses, many of which rely on the program's duty savings to compete with much larger companies. Maintaining lower costs for U.S. small- and medium-sized enterprises is particularly important as companies struggle to recover from the economic downturn.

The GSP however is weeks away from expiring. We submit that the stability of GSP which is the U.S.'s largest program is essential to it being effective. When the U.S. has extended its programs in the past sometimes it is only for a few months or a year. No one who has ever run a business would want to invest in a climate that is so unstable. Such programs need to be long-term. In view of the very short time remaining before the program expires on December 31, 2009, we would propose that Congress provided immediately a five-year extension or some similar long term period.

Thank you.

**Letter from the Federation of Industries of the State of Sao Paulo**

Dear Chairmen Rangel, Levin, Ranking Members Camp and Brady:

The American Chamber of Commerce in Brazil (AMCHAM) and the Federation of Industries of the State of Sao Paulo (FIESP) strongly support the extension of the General System of Preferences (GSP) and are pleased to have the opportunity to provide the following views to the House Committee on Ways and Means on the U.S. preference programs operation.

Established in 1919, AMCHAM Brazil is the largest bi-national association in Latin America and the largest of 105 American chambers of commerce outside the United States. Its 5200 corporate members represent all sectors of the economy and

employ approximately 1.6 million people. With offices in ten major Brazilian cities, AMCHAM's mission is to serve its members by influencing public policy in Brazil and the U.S. in a constructive manner, to promote trade, investment and corporate citizenship.

FIESP is the major regional manufacturing association in Brazil representing 133 national and state-level sectoral trade associations, encompassing over 140,000 companies that account for 45 percent of Brazil's industrial GDP, 60% of its manufactured goods exports, 53 percent of its industrial wages and more than 10 million jobs. If one considers companies that have plants in other regions of the country but that are in any case based in the State of Sao Paulo, FIESP's representation reaches almost 80% of the country's industrial GDP. Therefore, FIESP acts as a mediator between industry and the Brazilian government.

GSP is an important economic as well as trade tool between Brazil and the United States. Not only do the Brazilian people benefit from GSP in terms of jobs and economic growth but U.S. companies and citizens benefit by being able to source materials and products at lower costs. Additionally, GSP is a symbol of the relationship between the U.S. and Brazil and is the only formal trade agreement that we have. To that end, we intend to focus our comments on three key factors that are critical in the deliberative process: (i) the importance of GSP for Brazil and the U.S.; (ii) Brazil and Least Developed Countries (LDCs); (iii) the effect of removing GSP benefits from Brazil.

**The importance of GSP for Brazil and the U.S.**

The GSP has historically contributed for the development of Brazil by means of export promotion. Provided that Brazil takes part in the group of developing countries it is fundamental that the GSP benefit is maintained to not restrict country's path towards development.

While Brazil has made economic progress over recent years, we still unfortunately have a .807 World Human Development Index rating according to the United Nations Development Program. Some cities still present a HDI below countries such as Cape Verde, Laos and Equatorial Guinea. GSP is one tool that Brazil can use to help grow jobs in our poorest regions and build a strong economic platform. We estimate that the number of jobs directly and indirectly linked to Brazilian exports through GSP, reached approximately 232,000 in 2008.

As importance as economic factors, GSP can also act as an incentive. For example, the criteria of eligibility for the program encourages the practice of certain measures, important for Brazilian as well as U.S. companies, such as the observance of intellectual property and labor rights. Illegal merchandise seizures has more than doubled since 2005 and in 2007 Brazil was removed from the priority watch list. With regard to labor rights, Brazil has ratified 10 of the ILO conventions.

In addition to the economic relevancy for Brazil, U.S. consumers benefit from the GSP program with Brazil. Products or materials that are imported through the GSP program by American companies are less expensive than if sourced in other countries.

**Brazil and Least Developed Countries (LDCs)**

Although Brazil occupies a seat among the developing countries, the country has been extremely concerned about the socioeconomic improvement in other developing countries, especially regarding LDCs.

The cooperation with LDCs has been one of the top priorities in the country's foreign policy, opening up the route to strengthen the relationship with this group of countries, resulting in increasing figures for trade, investment, capacity building, technology, humanitarian aid, among others. With respect to these and other areas, several agreements have been signed totalizing an amount of 253 agreements with LDCs.

Moreover, Brazil has undertaken several measures to promote a most favorable trade with LDCs. One of them is Brazil's involvement in the Global System of Trade Preferences (GSTP), making tariff concessions in a large number of tariff lines, benefiting LDCs with preferences reaching up to 100 percent.

Last but not least, it should be emphasized that the Brazilian government is currently discussing with the private sector effective ways to develop new market access opportunities for Haitian products in Brazil as a way of promoting long term investments in production within the Caribbean country.

In addition to the proactive policies Brazil is working towards with LDCs, we examined product competion with the LDCs. Using USITC statistics, we reviewed the top 10 sectors for LDCs and the top 30 products of LDCs. Brazil does not compete with LDC's in any of these sectors or products and Brazil continues to increase LDC's exports.

**The effect of removing GSP benefits from Brazil**

While Brazilian exports through GSP do not compete with those of LDCs in the top 30 products, Chinese products do compete in every category. If Brazil were not able to participate in the GSP program much of the materials and inputs currently sourced from Brazil would be sourced from China instead. The great shipping distance alone would increase costs for consumers and products would take longer to get to their destination. Removal of Brazil from the GSP program likely leads to increased costs to American consumers and increased competition from China.

**Conclusion**

In many respects, GSP is more than a preferences program. While serving as an economic tool, GSP also represents the bilateral relationship between the U.S. and Brazil." The share of GSP in the total U.S. imports in 2008 represents only 0.13 percent, while the total Brazil exports under GSP represents almost 10 percent of the total exports to U.S. Considering this figures, the non-renewal of GSP would mean front-page notice in Brazilian press while probably not garnering nearly the same attention in the United States. As the only formal relationship between our two countries, GSP takes on a greater symbolic importance of the U.S. friendship with Brazil.

Economically, loss of GSP would represent a thousand of job losses for Brazilian economy, not to mention the losses for American companies, as importing duty free they are lowering the costs of their products to sell to American consumers.

In 2008, U.S. imported $2.7 billion under GSP from Brazil. The process of renewal or extension seriously affects the planning of companies using the program. In this sense we believe that a possible expiration, even with a retroactive application of the tariffs, may compromise the development of business enterprises and result in harm to the private sector.

Brazil shares the United States' goal to help LDC's though economic partnership and we continue to work with our government on robust programs for other LDCs.

FIESP and AMCHAM appreciate the opportunity to submit these comments to the Committee on Ways and Means for its consideration during the current review of the GSP. We look forward to answering any questions you may have.

Sincerely,

Mário Marconini
*International Negotiations Director*
*Federation of Industries of the State of Sao Paulo*

Gabriel Rico
*CEO*
*American Chamber of Commerce Brazil*

**Letter from God's Pantry Food Bank**

Dear Congressman Chandler:

The United States Department of Agriculture recently reported that over 49 million Americans were food insecure in 2008, a 36% increase over 2007. Food banks across the country are reporting that the newly unemployed are coming to ask for food to help avoid hunger. As the External Relations Coordinator, I submit the following statement for the record for the November 19, 2009 hearing titled "Food Banks and Front Line Charities: Unprecedented Demand and Unmet Need" to make sure my concerns regarding the increase in food insecurity and the need for Congressional action are heard.

In one year, my food bank has experienced a 32% increase in demand. At our food bank, we are seeing a dramatic increase in working clients and first-time clients who have never before needed emergency food assistance. In our food bank, lack of employment and the fledgling economy was cited as the main reasons that numbers grew. With unemployment at 11.2% in our state, demand is likely to continue to grow for some time. Between the newly unemployed and those who already were struggling to make ends meet, the economic downturn is putting more pressure on our nation's food banks to meet the unprecedented need.

I respectfully request your assistance as a member of the Ways and Means Committee in three ways. First, please support new funding to make critically important changes to child nutrition programs through the upcoming reauthorization of the

Child Nutrition Act. No child should ever have to wonder where their next meal is coming from, and a greater investment in child nutrition programs will help ensure that no child in America ever has to face a day without food again. Second, support additional funding to help food banks meet the enormous increase in demand over the past year. Third, sign on as a cosponsor and ask your colleagues to support H.R. 3227, the Food Samaritan Hunger Relief Tax Incentive Act. This bill would permanently expand the Section 170(e)(3) deduction to all business taxpayers, giving small businesses and farmers economic certainty in tax planning and utilizing the deduction to help us feed more of our neighbors. It would also increase the amount of the deduction to full fair market value (not to exceed twice cost) for two years, to help meet the growing demand for food assistance due to the sustained economic downturn.

These three priorities will help food banks join in the fight to meet the nutritional needs of the over 49 million Americans who are food insecure. Your support is critical at this difficult time. Thank you for your consideration. I hope you will join in this fight and that you will visit our food bank to see the challenges we and your constituents are facing each day.

Sincerely,

Amanda P. Brajuha
*External Relations Coordinator*
*God's Pantry Food Bank—Lexington, Ky.*

**Letter from Michael Smiddy**

Dear all who sit on the Trade Subcommittee,

I have been following the testimony this week on tariffs on Cambodian textiles.

Cambodian children die every day from simple, preventable causes. 30% of Cambodians have to survive on less than $1 per day.

The U.S. National Council of Textile Organizations is complicit in these deaths. It has been reported here that the Council has argued against allowing Cambodian people to export their way out of poverty.

Cambodia is one of the poorest countries in the world. I suggest you come here and visit naked children scavenging through a rubbish dump to survive before you decide to put handcuffs on the Cambodian economy and a major source of poverty reduction.

Yours faithfully,

Michael Smiddy
*Phnom Penh*

**Statement of the National Milk Producers Federation**

The National Milk Producers Federation (NMPF) appreciates this opportunity to provide comments on the above referenced hearing issue. NMPF is the national farm commodity organization that represents dairy farmers and the dairy cooperative marketing associations they own and operate throughout the United States.

The constituency represented by NMPF has a substantial interest in any discussion of modifications to existing U.S. preference programs or consideration of the creation of new preference programs. The U.S. dairy industry is the second largest agricultural commodity subsector, as measured by farm cash receipts, generating approximately $35.4 billion in farm receipts from sales of milk in 2007. There were over 57,000 commercial dairy farms in the U.S. in 2007, each generating an estimated average of 8.5 jobs at the dairy farm and dairy processing plant level, for an estimated national total of approximately 487,000 domestic jobs, not counting jobs at other levels in the agricultural and food industry, such as input suppliers, distribution, retailing and food service. By any measure, the U.S. dairy industry is a major domestic industry.

NMPF recognizes that there is broad Congressional support for U.S. preference programs for developing countries. However, accompanying our unilateral trade openings through these preference programs has also been a long-standing principle

that limits on the full scope of product coverage applicable under these programs are also important.

The dairy producer community has taken great strides over the past several years to move towards embracing the positive opportunities that balanced and two-way trade can provide. This has led NMPF to support the vast majority of recently Free Trade Agreements negotiated over the past few years because in our view (and within the scope of the FTA's dairy provisions) they created a level playing field for competition and the potential to increase dairy trade to both countries' benefit.

Preference programs by their very design, however, provide for only one-way trade into the U.S. Because of this, we believe the current scope of limitation for dairy products in the preference programs is entirely appropriate.

There are currently a number of in-quota tariff lines included in the various programs which provides a savings of the small in-quota duty that would otherwise be assessed on import of these products into the U.S. However it is fully appropriate that no over-quota dairy tariff lines are included in existing programs. (The attached list contains all over-quota lines with notable dairy content in them.)

***For all preference programs (with the possible exception listed below regarding Least Developed Countries), it is critical that no changes be made to the scope of dairy tariff lines included in the preference programs, nor to the binding WTO quotas that limit the in-quota benefits provided to some countries for specific in-quota tariff lines.***

NMPF is aware that a key point of discussion regarding future preference program changes is creating expanding market access for all Least Developed Countries (LDCs). NMPF believes that the 2005 U.S. WTO Hong Kong Ministerial commitment to provide open access for LDCs for virtually all products (97%) is best fulfilled as part of the WTO Doha Round Negotiations. This coordinated timing is useful both in order to maintain interest of the LDCs in a final agreement and in order to try to ensure that this concession is carried out as part of the larger package of commitments countries are anticipated to ultimately agree upon.

However, in light of pressure by some to advance at least a portion of this initiative independent of the Doha Round, we are including comment on it. The following comments pertain to LDC countries only. We recognize that some proposals for greater preference program coverage for LDCs also include other non-LDC countries. We oppose extending beyond the current level of preference program coverage and access for any non-LDC.

NMPF is well aware that LDCs are in particularly precarious positions and that there is a broad desire to help in the development goals of these most challenged nations. Should the U.S. move to do this by further unilaterally expanding market access for these countries; however, it is essential that we ensure that the full scope of any new benefits within the dairy realm are targeted very narrowly to the LDCs themselves and not to other trading partners that would seek to take advantage of these new access opportunities.

Milk is a commodity that can be transformed many ways and manufactured into a wide range of possible ingredients for further formulation in dairy products (e.g. skim milk powder used in cheese manufacturing) or other products (e.g. whey products used in various bakery products). It is because of this broad mutability that our FTAs have included very specific rules of origin that cover most (but regrettably not all) dairy lines of concern to our members in order to ensure essentially that dairy products being sent under the benefit of that FTA are made from milk produced in that country and not from imported dairy ingredients sourced from around the world.

In the situation of unilateral concessions to LDCs (which are typically not large milk producers themselves) extremely tight rules of origin on dairy products and ingredients are essential in order to ensure that the program's benefits are being made available to the individual LDC country itself and not to other major dairy producing countries that would seek to take advantage of back-door opportunities for access into the lucrative U.S. market. Such evasiveness does not occur now under the U.S. preference programs because any benefits provided do not allow for in-quota/duty-free access that exceeds U.S. WTO tariff-rate-quota limits. However, an LDC program that sought to do just that—create the possibility for non-U.S.-FTA partners to send quantities that could result in imports that exceeded U.S. WTO tariff-rate quotas at low to zero duty—would certainly create a very strong incentive for the EU, Australia, New Zealand, Brazil, Argentina and other major dairy exporting nations to use that access to ship dairy ingredients such as milk powder or butterfat to LDCs for some small amount of further processing, effectively circumventing U.S. trade programs.

Therefore, should efforts to improve unilateral market access into the U.S. for LDCs move forward, they must include the strict product-specific rules of origin

cited below to ensure that other countries do not take advantage of this program to quietly ship dairy products into the U.S. through LDCs. The following rules of origin would be strict enough to ensure that the LDCs are able to take advantage of the DFQF access for their own milk production, but that other countries will not be able to ship product through the LDCs in order to abuse this new program.

*Rules of Origin should exclude preferential access to:*

*(a) a non-originating material classified under headings 0401 through 0406 of the Harmonized System, or a non-originating chocolate/food preparation classified under subheading 1806.20, 1806.32, or 1806.90; a non-originating infant preparation classified under subheading 1901.10; a non-originating mix or dough classified under subheading 1901.20; a non-originating dairy preparation classified under subheading 1901.90 or 2106.90; a non-originating animal feed classified under subheading 2309.90; or a non-originating casein/caseinate classified under heading 3501 that is used in the production of a good classified under headings 0401 through 0406 of the Harmonized System;*

*(b) a non-originating material classified under headings 0401 through 0406 of the Harmonized System, or a non-originating chocolate/food preparation classified under subheading 1806.20, 1806.32, or 1806.90; a non-originating infant preparation classified under subheading 1901.10; a non-originating mix or dough classified under subheading 1901.20; a non-originating dairy preparation classified under subheading 1901.90 or 2106.90; a non-originating animal feed classified under subheading 2309.90; or a non-originating casein/caseinate classified under heading 3501, that is used in the production of the following goods:*

- *chocolate/food preparations classified under subheading 1806.20, 1806.32 or 1806.90;*
- *infant preparations classified under subheading 1901.10;*
- *mixes and doughs classified under subheading 1901.20;*
- *dairy preparations classified under subheading 1901.90 or 2106.90;*
- *ice cream and edible ices classified under heading 2105;*
- *beverages containing milk classified under subheading 2202.90;*
- *animal feeds classified under subheading 2309.90;*
- *or casein and/or caseinates classified under heading 3501*

Again, in principle, NMPF does not agree with providing an "early harvest" of commitments made during the ongoing multilateral negotiations for any specific countries. However, if a decision is made to provide greater duty-free, quota-free treatment to LDCs, this access *must* be accompanied by the forms of safeguards suggested in these comments. NMPF would vigorously oppose allowing the intent of providing greater access for our poorest trading partners to inadvertently provide defacto open access to WTO members other than LDCs by allowing them to abuse this voluntary measure. This possibility is very likely if careful steps are not taken to prevent such an occurrence. We believe that the regulations suggested here, accompanied by regular monitoring of the imported products, are necessary to effectively avoid such a development.

***Over-Quota "Dairy" Tariff Line***

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**Statement of the National Retail Federation**

*November 17, 2009*

The Honorable Sander M. Levin
Chairman
Ways and Means Trade Subcommittee
United States House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

RE: *Hearing: Operation, Impact, and Future of the U.S. Preference Programs*

Dear Chairman Levin:

On behalf of its members in the U.S. retail industry, the National Retail Federation (NRF) welcomes the opportunity to submit these comments to the Ways and Means Trade Subcommittee regarding the operation, impact, and future of the U.S. trade preference programs, including how U.S. preference programs fit into retailers' sourcing strategies.

The **National Retail Federation** is the world's largest retail trade association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.6 million U.S. retail establishments, more than 24 million employees—about one in five American workers—and 2008 sales of $4.6 trillion. As the industry umbrella group, NRF also represents over 100 state, national and international retail associations

**Introduction**

The retail industry has strongly supported U.S. trade preference programs for developing countries, such as the Generalized System of Preferences (GSP), the African Growth and Opportunity Act (AGOA), the Caribbean Basin Initiative/Caribbean Basin Trade Preferences Act (CBI/CBTPA), the Andean Trade Preferences and Drug Eradication Act (ATPDEA), and the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act. U.S. retailers have used the preference programs to import a variety of consumer goods. In the process, they have provided needed export markets for poor countries, jobs and economic opportunity for people in those countries, particularly women, and greater value to U.S. consumers, particularly lower-income Americans, on products they need and want.

**Importance of Preference Programs to U.S. Retailers**

Retailers source the globe for the consumer products they sell to their customers. Retailers are also experiencing the most challenging time for their businesses in decades as U.S. consumers become increasingly price-conscious due to the adverse impact the current economic climate has had on jobs, housing prices, and incomes.

For better or for worse, U.S. government policies, rules, and programs play an important role in retail sourcing decisions and strategies. While the weight of each factor varies with the retailer, in general, retailers look at a number of criteria in deciding who will supply the products they sell—ability to meet product quality and quantity specifications within a target price point, reliability in meeting order deadlines, compliance with codes of conduct, and (landed-duty (i.e., overall) cost. While cost is not usually the only factor driving sourcing decisions, it is an increasingly important consideration as competition for the consumer dollar among retailers has become more intense. In addition, U.S. tariffs are quite high for many consumer goods sold by retailers, notably apparel (15.8 percent trade-weighted average non-preferential tariffs), glassware (14.2 percent), footwear (10.4 percent) and bicycles (9.8 percent), to name a few. Preference programs can contribute significantly to lowering some portion of the overall cost by eliminating the tariffs, particularly as many high-tariff consumer goods are typically those that developing countries are most able to produce.

Retailers make use of every U.S. preference program offered, however, the industry's enthusiasm for these programs varies depending on how "business friendly" and easy to use the program is. From a retail/importer perspective, GSP has a very workable rule of origin and applies to most developing countries. However, GSP does not cover products of major importance to retailers, including apparel and footwear. AGOA, CBTPA, and ATPDEA cover apparel and footwear; however, these programs have much more complicated rules of origin that are more difficult to administer and raise compliance costs, thereby discouraging many retailers from using them. Each of these programs also expires periodically, which creates unpredictability for sourcing plans, which is costly to retailers who must maintain complicated supply chains and make long-range business decisions in a just-in-time environment.

While Congress approved a two-year extension of the CBTPA and HOPE preference programs as part of the 2008 farm bill, GSP and the ATPDEA expire on December 31, 2009, after a short-term extension. NRF and the retail industry have consistently advocated long-term renewals of these programs, and, most immediately, for renewal before the expiration date. In addition, based upon our long experience with these programs, we would like to suggest ways they all could be improved.

**How to Make Preference Programs Better**

Notwithstanding their benefits, the preference programs have several flaws that prevent them from fully achieving their goal of assisting developing countries to integrate and engage more successfully in the world economy. Therefore, we endorse efforts in Congress to ensure that our trade preferences operate more effectively for both beneficiary countries and U.S. users of the programs, who are an essential component to their success.

First, the preference programs share one major problem that we have frequently discussed regarding the free trade agreements. There are simply too many programs with too many separate, and in some instances, complicated rules. In addition, these programs are temporary and require periodic reauthorization with the recurring challenge of securing sufficient offsets under Congressional budget rules. These problems create inefficiencies, added costs, and unpredictability that can become significant disincentives to using the programs.

To correct this problem, the current programs need to be consolidated into one permanent program with one set of simple and easily-administered origin rules. To this end, we recommend adoption of the current GSP rules that determine origin based on substantial transformation plus 35 percent value added.

Another problem with the preference programs is that many of the poorest countries lack the ability to take full advantage of the benefits they have been provided due, in part, to inadequate infrastructure, inability to obtain investment capital, limited access to raw materials and other inputs, and a low-skilled and poorly-trained workforce. In many instances, the duty preferences are simply not enough to overcome these substantial hurdles, which impose sizable costs on U.S. companies seeking to do business in those countries. Therefore, capacity building and trade financing are essential elements in any successful effort to assist developing countries and allow them to take advantage of the benefits they have been provided.

We caution, however, that reducing or eliminating preferences for certain more advanced developing countries, such as India and Brazil, will not result in any significant shift in preferential trade to the least developed countries. Instead, that trade will move either to China or other more advanced developing countries, such as Turkey. In addition, such action would be very disruptive and costly to the business operations of U.S. companies that have relied on program.

Finally, it is essential to expand product coverage, particularly on products such as apparel and footwear, that developing countries are most capable of making, but are still subject to substantial U.S. tariffs.[1] In most instances, these products are already imported to a significant degree, and the largest supplier is China. Making these products eligible for duty-free treatment would assist developing countries to gain a stronger foothold in the U.S. market and compete more effectively for business in the global economy. Continuing to exclude these products will not protect U.S. manufacturers from import competition, will limit retail sourcing options beyond China, and will hinder achieving the development goals of our preferences regime.

We have learned much, both good and bad, from the many preference programs the United States has extended to developing countries since 1974. In contemplating how U.S. preference programs could be revised, we should aim to keep the good and jettison the bad.

Among the "good" lessons, we know that many U.S. duties present significant cost hurdles to importing products from any country, but particularly least developed countries, and programs that eliminate those duties do encourage trade with the beneficiary countries. We know that those costs savings, creating business for poor countries, also get passed down to the final prices of the goods retailers sell.

The "bad" lessons include restrictions inserted into the preference programs, typically to appease the protectionist objectives of some domestic industry that feels threatened by import competition. These restrictions make sourcing from developing countries under a preference program difficult for importers as well as developing country exporters, as they require a sophisticated technical knowledge of the rules of origin that many do not have, and the risk of exposure to legal and financial penalties for even small mistakes. Examples include the "yarn forward" rule of origin in the original version of AGOA that made sourcing apparel from sub-Saharan Africa nearly impossible and necessitated the addition of exceptions to that rule to ensure that this initiative could actually promote trade in these products.

Other, more sweeping restrictions include the exclusion from GSP benefits of broad categories of products that just happen to be those goods that least developed countries are most competitive at making. Apparel and footwear are two significant examples. The conclusion is that the value and commercial viability of market access is directly dependent on what the rules are—bad rules that are overly complicated and restrictive kill trade; good rules that are consistent with how compa-

[1] Some of the largest trade barriers imposed by the United States are on consumer goods imported from least developed countries. For example, three high-tariff products that are produced mainly in LDCs—footwear, textiles and apparel—account for only 7 percent of U.S. trade, but fully one half of all duties collected by customs. Not only do these trade barriers hurt the economies and workers in some of the poorest countries in the world, but the assessed duties are highly regressive, falling most heavily on poor Americans.

nies actually conduct business and manage their supply chains will promote trade and investment.

Another significant problem associated with current trade preference programs is their temporary nature. Congress must pass legislation authorizing these programs, which typically has an expiration date. Lead-times for retailers from the time a product is ordered to the time it arrives on a store shelf are typically six to nine months. Therefore, as a preference program expiration date approaches and the ability of Congress to pass a timely extension becomes questionable, retailers and others are forced to make alternative sourcing plans. This disruption becomes yet another disincentive to using these programs.

Thus, the chief goal of preference programs—poverty reduction through increased trade—is frustrated by product restrictions and narrow rules of origin in current U.S. preference programs, and by their temporary nature. We should not make the same mistakes with any changes Congress contemplates to our preference programs.

NRF appreciates the opportunity to comment on U.S. preference programs and looks forward to working with the Committee on any legislative initiatives it may take to improve the operation of these programs.

Sincerely,

Erik O. Autor
*Vice President, Int'l Trade Council*

cc: The Honorable Kevin Brady (R–TX), Ranking Member
The Honorable John S. Tanner (D–TN)
The Honorable Chris Van Hollen (D–MD)
The Honorable Jim McDermott (D–WA)
The Honorable Richard E. Neal (D–MA)
The Honorable Lloyd Doggett (D–TX)
The Honorable Earl Pomeroy (D–ND)
The Honorable Bob Etheridge (D–NC)
The Honorable Linda T. Sánchez (D–CA)
The Honorable Geoff Davis (R–KY)
The Honorable Dave Reichert (R–WA)
The Honorable Wally Herger (R–CA)
The Honorable Devin Nunes (R–CA)

**Statement of the Nien Hsing Textile Co., Ltd.**

AGOA Must Be Reinforced To Continue Its Success

Nien Hsing Textile Co., Ltd. is pleased to submit these comments to the Trade Subcommittee of the House of Representatives Committee on Ways and Means in connection with its November 17, 2009 hearing on reform of U.S. trade preference programs.

Nien Hsing is a specialized vertically-integrated denim fabric and jeans manufacturer. Our manufacturing process consists of yarn spinning, dyeing, weaving, cutting, and sewing, culminating in the final jeans product. Our current investments include denim mills and/or garment factories in Lesotho, Mexico, Nicaragua, Cambodia, Vietnam, and Taiwan, with annual worldwide production of three million dozen pairs of jeans and a workforce of over 22,000 workers in least developed countries around the world. Nien Hsing is the largest denim fabric and jeans apparel producer in Africa and employs approximately 9,000 workers in Lesotho. Our Lesotho denim plant (known as Formosa Textile in Lesotho) has a capacity of 27 million square meters annually. This denim plant uses exclusively African-origin cotton, consuming approximately 16,000 tons of cotton annually from Malawi, Zambia, Mozambique, Tanzania, and Benin, thereby adding value to cotton that otherwise would be exported as a raw commodity and creating additional jobs in Africa.

The African Growth and Opportunity Act (AGOA) was a huge success during its first five years in effect, 2000–2004. U.S. apparel imports from Africa nearly tripled, and as a result, more than 300,000 new jobs were created in Africa, supporting an estimated 3 million people in a dozen African countries. Indeed, during that time AGOA was the United States' most successful trade preference program. Attracted by AGOA's incentives, Nien Hsing invested $120 million in its denim mill and jeans factory in Lesotho, which was the largest single investment under AGOA.

The success of the AGOA textile and apparel program was completely dependent upon the duty-free preference for the AGOA LDCs, which makes apparel produced

in AGOA countries cost-competitive with Asian countries like Bangladesh, Cambodia, and Vietnam. This duty preference, approximately 16% on cotton apparel, offsets the higher costs of production in AGOA LDCs due to geographic disadvantages, poor infrastructure, longer lead time, more expensive transportation costs, and higher labor costs as compared to Asian LDCs like Bangladesh.

But AGOA's stellar success changed in 2005 when, pursuant to the Uruguay Round Agreements, the Multi-Fiber Arrangement (MFA) system of quotas expired, exposing AGOA's infant apparel industry to unfettered competition from super-efficient Asian apparel giants, including China, Bangladesh, Cambodia, and Vietnam. Since 2005, U.S. apparel imports from Asia have skyrocketed, while those from Africa have fallen sharply. Roughly one-half of the jobs AGOA created in Africa have already been lost, as U.S. apparel importers have shifted their orders to Asia.

**Imports from Various Regions Before and After the End of the MFA**
**2000 vs. 2004 vs. 2008**

| Region | 2000 msme | 2004 msme | 2008 msme | % Growth 2000–2008 | % Growth 2004–2008 |
|---|---|---|---|---|---|
| World | 16,035.349 | 19,950.996 | 22,694.220 | 41.5% | 13.8% |
| China | 929.159 | 2,972.523 | 7,788.499 | 738.2% | 162.0% |
| Vietnam | 29.991 | 777.055 | 1,527.711 | 4,993.9% | 96.6% |
| Bangladesh | 966.612 | 941.685 | 1,436.252 | 48.6% | 52.5% |
| Cambodia | 253.682 | 634.683 | 888.651 | 250.3% | 40.0% |
| India | 399.232 | 609.338 | 882.856 | 121.1% | 39.1% |
| ASEAN Region | NA | 3,468.490 | 4,681.212 | NA | 35.0% |
| Pakistan | 330.206 | 519.282 | 692.916 | 109.8% | 33.4% |
| CBI (non-CAFTA) | 274.233 | 228.231 | 235.646 | −14.1% | 3.3% |
| CAFTA | 3,376.667 | 3,790.834 | 3,379.441 | 1.2% | −10.9% |
| **Sub Saharan Africa** | **164.161** | **440.300** | **305.964** | **86.4%** | **−30.5%** |
| Andean Region | 159.199 | 252.745 | 157.583 | −1.0% | −37.7% |

The trend lines are clear. If nothing is done to maintain the African apparel industry, in a few years it will disappear. Nien Hsing in particular is currently giving serious consideration to closing its Lesotho operations due to the loss of orders to competitors in Asia, especially in Bangladesh. If this is allowed to happen, AGOA, the cornerstone of U.S. economic policy concerning Africa for the past decade, will become just another failed experiment. And worse yet, if AGOA-style trade preferences are extended to already-competitive Asian LDCs like Bangladesh and Cambodia, the demise of the African textile and apparel sector will only be accelerated.

A bedrock principle of any reform of U.S. trade preference programs, therefore, must be to do no more harm to AGOA. The conventional response to this conundrum is to exclude textile and apparel products from any new preferences to be extended to already competitive LDCs, especially Bangladesh and Cambodia. But it is possible to provide trade preferences to textiles and apparel products from Bangladesh and Cambodia without harming—and indeed actually further reinforcing—the AGOA textile and apparel sector.

Patterned after the "Earned Import Allowance Programs" (EIAP) already in effect under CAFTA–DR and the HOPE Act for Haiti,[1] this new AGOA proposal would allow U.S. apparel importers to earn the right to import apparel duty-free from non-African least developed countries (LDCs)[2] by importing apparel from Africa under AGOA. This "more than duty-free" incentive for continuing to source apparel from

[1] *See, e.g.,* Harmonized Tariff Schedule (HTS) of the United States, Section XXII, Chapter 98, Subchapter XXII, U.S. Note 27 and Subheading 9822.06.05; Presidential Proclamation 8323, 73 Fed. Reg. 72677 (November 28, 2008); Department of Commerce Interim Regulations, 74 Fed. Reg. 3563 (January 21, 2009).

[2] Non-African LDCs eligible to participate in the AGOA EIAP would be those meeting the United Nations definition of LDCs.

Africa will provide the additional encouragement necessary for the AGOA apparel program to survive the unprecedented competition from Asian apparel giants.

Under the proposed EIAP for AGOA, qualified U.S. apparel importers would earn credit authorizing the duty-free importation of one square meter equivalent (SME) of eligible garments from non-African LDCs for every importation of one SME of the same type of garments under AGOA made with third-country fabric. In addition, in order to encourage vertical integration in the African textile-apparel industries, which will in turn increase the competitiveness of these industries by cutting lead times and transportation costs, qualified U.S. apparel importers would earn credit authorizing the duty-free importation of two SMEs of eligible garments from non-African LDCs for every importation of one SME of garments under AGOA made with African-origin fabric.

The duty-free credits to be earned under the AGOA EIAP could only be used to import garments in the same MFA product category as the AGOA garment importation that generated the credit. For example, duty-free credits earned by importing Category 347/348 trousers under AGOA could only be used to import Category 347/348 trousers from a non-AGOA LDC. Likewise, duty credits from importing Category 338/339 knit shirts from Africa could only be used to import Category 338/339 knit shirts from non-AGOA LDCs. This like-product limit is intended to prevent imports of one type of product from undermining other types of products.

The AGOA EIAP could be administered by the Department of Commerce Office of Textiles and Apparel (OTEXA), along the lines of the existing EIAPs. *See, e.g.,* OTEXA's interim regulations for the CAFTA–DR EIAP, 74 Fed. Reg. 3563 (January 21, 2009).

Other important changes to AGOA that would help retain U.S. orders in the African textile and apparel sectors would be to extend both the overall AGOA authorization and the third-country fabric provision beyond their current expirations in 2015 and 2012, respectively. Nien Hsing proposes these provisions should be made permanent. Such an extension should help provide stability and continuity in the AGOA apparel sector.

Nien Hsing appreciates the Committee's consideration of its suggestions on these important issues, which are critical to the continued success of AGOA. Nien Hsing will be happy to provide any additional information requested by the Committee.

Respectfully submitted,

John Chen
Chairman
Nien Hsing Textile Co., Ltd.

**Picard Bangladesh Limited, letter**

Dear Sir,

I am writing on behalf of Picard Bangladesh Limited, a premier exporter of leather goods in Bangladesh. Our company mainly produces leather goods for the European market where we enjoy GSP.

We would like to appeal to the U.S. Congress to consider Bangladesh for GSP as the U.S. is already our biggest market for exports. Despite the world wide recession and its consequent aftershocks, Bangladesh has been the fourth speediest economy to recover. With the advantage of a competitive labour force and recent return of democracy and political stability, the country has a huge potential in the coming years.

At present Bangladesh is a least developed country with one of the highest poverty levels in the world as well as one of the densest populations per capita. However the country is taking giant leaps towards industrialization, and our large population is acting as a competitive advantage as we have a huge pool of skilled and semi-skilled labour force available to us at a competitive price.

Apart from the textiles and readymade garments sectors, Bangladesh is also coming up in a number of other sectors such as the leather goods and footwear sector, shipbuilding and repairing, export of raw and finished jute products, pharmaceuticals and chemicals and fisheries sectors. Since the U.S. is the biggest market in the world, it would be greatly beneficial for Bangladeshi exports to obtain a tariff free access to this market.

I would like to request the Committee to consider Bangladesh as a viable country for receiving GSP, and would like the name of my company to be included in the printed record of the hearing.

**Statement of the Office of International Trade Negotiations Ministry of Trade and Industries of the Republic of Panama.**

**Comments of Panama related to *U.S. Preference Programs***

Chairman
**Sander M. Levin**
Committee on Ways and Means
Subcommittee on Trade

Dear Sir:

By these means the Republic of Panama submits written comments related to our experience as a beneficiary country of the United States Preference Programs, according to the Ways and Means Trade Subcommittee request about the evaluation of the operation and impact of the U.S. preference programs, the lessons learned from the circumstances where the preference programs have been successful and identifying opportunities for improvement in areas where challenges remain.

From the 1980s The United States of America provides preference programs such as: *the Caribbean Basin Initiative (CBI)* and its subsequent expansions *and the Generalized System of Preferences (GSP)* to countries of Central America and the Caribbean in order to promote their growth and economic development. Through these preference programs the region had the opportunity to increase its trade with the United States.

Throughout the years, the CBI and the GSP had been a strategic tool for the Panamanian exports, since approximately 96% of our exports to United States market get tariff free treatment. It has been, thanks to such preference programs that the United States of America has become our main trade partner.[1] Indeed, as of June 2009, Panamanian exports of goods to United States market were about US$161.9 millions.

Currently, Panama exports to the U.S. market agricultural products such as: melon, pineapple, fruit juices, legumes, yam, and watermelon under CBI and GSP preference programs.

In addition, our industry sugar is one of the most significant within our export sector that totally depends on the benefits provided by those preference programs. As a matter of fact, the U.S. market is the principal market of sugar exports from Panama through a quota on the basis of tariff exoneration.

Also, some industrial products such as glass bottles, aluminum profiles, articles of plastic, articles of jewelry and fisheries obtain benefits from the CBI and GSP programs.

On the other hand, the trade preferences granted by the CBI and GSP programs are major incentives to attract investors from the United States and other countries to our region and creates substantial flow of investment and trade growth to the basin.[2]

Summarizing we can say that the Republic of Panama, as a beneficiary country of those preference programs, has obtained benefits such as: the increase of exports and production, generation of employment, and a positive effect over the balance of payments.

Despite all the benefits and advantages of the U.S. trade preference programs, Panama would like to take this opportunity also to mention some aspects which could be considered in order to improve their effectiveness and positive impact.

For example, the complex and disparate rules within to and across programs have generated significant challenges hindering some countries from utilizing preference programs. Trade capacity building assistance can help overcome these constraints, providing economic aid that enables countries, especially developing and poorest countries, to more effectively take advantage of preference programs and boost overall capacity to engage in trade.

On the other side, most preference programs are temporary and granted ever shorter duration periods, requiring frequent Congressional renewal. In recent years, expiring trade preference programs have been extended for very short periods—two years or less. The uncertainty created by short-term and extensions discourages long-term investment and undermines the potential effectiveness of preference programs for sustainable development and poverty reduction.

Taking into account the considerations herein expressed Panama shares the opinion to create a single, comprehensive and permanent preference program with sim-

[1] Annex I shows Exports from Panama to United States during period 2006–2008 under CBI and GSP preference program.

[2] Annex II shows Panamanian Companies that export to United States.

plified rules to encompass existing programs and enhance their effectiveness. We strongly believe that such a program would increase opportunities for all developing countries to benefit as much as possible from global trade while, at the same time, creating certainty for exporters, importers and investors.

At the same time, Panama realized that negotiating a Free Trade Agreement with the United States was both necessary and convenient. First, because as we mentioned before, the United States of America is our most important trading partner and significant investor. Second, even though CBI and GSP had been quite beneficial, Panama was looking for a reciprocal, stable relationship, based on a scheme of rights and obligations rather than unilateral concessions.

However, although the negotiation of the Trade Promotion Agreement (TPA) between Panama and United States were successfully concluded, it is still pending in the U.S. Congress. It is for this reason it is essential for the Republic of Panama to continue as a beneficiary of the preference programs provided by United States until the TPA is approved by the U.S. Congress and fully implemented. Otherwise, Panama would not be in equal footing to compete with other countries of the region which are already enjoying the Dominican Republic Central America Free Trade Agreement (DR CAFTA) with the United States.

Finally, we can say without a doubt that the U.S. trade preference programs have played a decisive role in the U.S. policy to improve the economic developing of many countries, including the Republic of Panama, and the experience shows that they had a positive impact in the region.

The Government of the Republic of Panama, through the Ministry of Trade and Industries, appreciate very much the opportunity to express before the Committee on Ways and Means our comments about the experience of being a beneficiary country of the U.S. trade preference programs and encourages the Committee to continue granting and improving those preference programs according to the countries suggestions and the interest of the United States.

With nothing further, accept, Sir, the assurances of our highest consideration.

**Francisco Alvarez De Soto**
Deputy Minister of International Trade Negotiations

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**Retail Industry Leaders Association, letter**

*December 1, 2009*

The Honorable Charles Rangel
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Dave Camp
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

**RE: Written Comments for the Record, Hearing on the Operation, Impact, and Future of the U.S. Preference Programs**

Dear Chairman Rangel and Ranking Member Camp:

On behalf of the Retail Industry Leaders Association (RILA), I am pleased to submit comments to express strong support for Congressional action to enhance, simplify, harmonize, and add long-term predictability to the U.S. trade preference regime. As you are aware, the Generalized System of Preferences (GSP) and Andean Trade Preference Act (ATPA) programs both expire at the end of the year. RILA urges Congress to act as soon as possible to renew both programs while broader reform proposals are discussed.

By way of background, RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry—retailers, product manufacturers, and service suppliers—which together account for more than $1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

Trade preference programs, including the GSP, ATPA, African Growth and Opportunity Act (AGOA), Caribbean Basin Trade Partnership Act (CBTPA) and other initiatives are important development tools. Reducing tariffs and establishing dependable sourcing options are also essential for successful retail supply chains. Retailers rely on these programs as part of their sourcing strategies, and RILA is committed to promoting flexible, meaningful and simple-to-use preference programs that will assist development in the world's poorest countries and offer American families the opportunity to purchase a variety of high-quality products at affordable prices.

RILA has been working closely with an informal coalition of importers and development NGOs to support trade preference reform. RILA supports the consensus recommendations put forward by that group.

RILA also provides these further clarifications as Congress considers changes to the U.S. trade preference regime.

- **Congress should provide duty-free benefits to all least developed countries, regardless of where they are located.**

The current patchwork of preference programs discriminates against some of the world's poorest countries. Congress should provide trade preference benefits to allow all of the world's poor people the opportunity to create a better future for themselves through trade and development. In particular, Congress should provide more trade preference benefits to Bangladesh and Cambodia. Poverty levels in Bangladesh and Cambodia are similar to those in Africa, and are worse by some indicators. Consider the following measures of poverty provided by the World Bank:

| | Bangladesh | Cambodia | Sub-Saharan Africa |
|---|---|---|---|
| GNI per capita | $470 | $540 | $952 |
| % of malnourished children under 5 | 27 | 39 | 28 |
| Literacy (% of population over 15) | 47 | 74 | 59 |
| Life expectancy at birth | 64 | 59 | 51 |

- **The requirements, scope of product coverage, and rules of origin in the current patchwork of U.S. trade preference programs should be harmonized to promote consistency and integration.**

The current patchwork of preference programs makes it difficult for importers to utilize all the different programs. Some retailers don't have the resources to understand and follow a multitude of different rules to ensure compliance. The result is that these programs are under-utilized, particularly for smaller suppliers such as Haiti where complicated rules are a barrier to entry for investors looking for new suppliers. Importers will sometimes decide that it is safer and easier to stay with sourcing rules they already understand rather than attempt to decipher new rules that apply only to a particular small supplier market especially when the benefits are only short-term. Congress should harmonize the rules across programs so that they are simpler to use and are understood by both importers and beneficiary countries.

- **There should be one simple and straightforward 35% value-added rule of origin for all products, including textiles and apparel.**

There are numerous examples of uncertainty and unpredictability created by complicated rules of origin and their varying interpretations by U.S. Customs and Border Protection. To eliminate this uncertainty and unpredictability, RILA believes everyone would benefit from a simple 35 percent value-added rule of origin. For textiles and apparel, RILA believes that Congress should clarify in the statute that the traditional interpretation of value-added would apply, which means that the value of fabric would qualify if it is cut and sewn (or knit to shape) in an eligible country (regardless of where the fabric was made).

- **Preference programs should have broader product coverage to include those products that are most commonly produced in poor countries.**

U.S. tariff rates are often regressive, and poor countries pay more in duty costs than their more developed counterparts. This is because typical products made in poor countries (such as textiles, apparel, footwear and agricultural products) face higher tariffs than the typical products made in advanced countries (such as high-tech products and heavy manufactured products, which are often duty-free).

As Ed Gresser with the Democratic Leadership Council has documented repeatedly, least developed countries such as Cambodia or Bangladesh face tariffs that are 15 times higher than those applied to wealthy nations and oil exporters. For example, Bangladesh, Cambodia and Pakistan together send approximately $9 billion a year in clothing and towels exports to the United States—and pay $1.3 billion in tariffs on those shipments. Meanwhile, Britain and France ship more than ten times that amount—$100 billion a year—to the United States in airplanes, wines, medicines, and information technologies, and pay approximately $750 million in tariffs on those shipments. This disparity in tariff treatment on products typically made by poor countries underscores the need to expand the product coverage of U.S. preference programs.

- **There should be a clear and predictable standard and process to determine eligibility for countries and products.**

RILA recognizes that U.S. trade preference programs include eligibility for both countries and products to ensure that beneficiaries and the programs are meeting certain policy goals. These eligibility criteria are important, and it is equally important that predictability be built into the decision-making process so that users of these programs, such as retailers, can expect and plan for any changes to product or country coverage.

- **Congress should enact a long-term extension of preference programs to foster longer-term investments and sustainable development.**

In recent years, Congress has provided short-term, last-minute renewals of preference programs. For example, the GSP and ATPA programs expire in one month; the Caribbean Basin trade preference program expires in nine months; and key provisions of AGOA are scheduled to be phased out in a few years. Such short-term durations and last minute extensions are disruptive, and the risk that benefits may expire or be withdrawn discourages investment that developing countries desperately need to be able to benefit from the preference programs.

- **There should be a strategic view to address country and product "graduations" that encourage additional bilateral and multilateral trade between and among the United States and developing countries, rather than eliminating duty-free treatment after certain thresholds are met.**

Advanced developing countries are significant users of U.S. trade preference programs—and that is a positive development that should be encouraged. Rather than attempting to limit duty-free benefits for advanced developing countries, policymakers should seek to expand our trading relationships with those countries and encourage more bilateral and multilateral trade.

RILA appreciates the opportunity to provide these comments, and we look forward to working with the Committee to promote, expand, and simplify trade preference programs to benefit the United States' poorest trading partners as well as American businesses and families that rely on competitively priced imports. If you have any additional questions, please contact me by phone at (703) 600–2046, or by email at stephanie.lester@rila.org.

Sincerely,

Stephanie Lester
**Vice President, International Trade**

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**Statement of the U.S.-India Business Council**

**U.S. House of Representatives**
**Committee on Ways & Means**
**Subcommittee on Trade**
**Submission for the Record**

*for*

**Hearing on the Operation, Impact, and Future of the U.S. Preference Programs**
***Submission made by the U.S.-India Business Council***

The U.S.-India Business Council (USIBC) is the premier business advocacy organization focused on promoting U.S.-India business ties. USIBC is comprised of near-

ly 300 American companies trading with and investing in India, joined by 30 Indian multinational companies with growing investments throughout the United States. We are grateful for the opportunity to present this written submission to the House Ways & Means Committee, Subcommittee on Trade, detailing our support for the renewal of the Generalized System of Preference (GSP) program and the continuation of GSP benefits for Indian producers.

***The Indian Economy***

As a development tool, GSP benefits address the needs of the Indian economy in a direct and constructive manner. India's GDP growth, while rapid in comparison to that of the United States at a projected 5.4% in 2009, is not yet at a level that can bring meaningful poverty reduction and broadly inclusive growth to the country. The World Bank estimates that 820 million Indians—about 75% of the population—today live on less than $2 a day, and the country's per capita income stood at only $983 in 2007. While India's economy may be advancing, it has not yet reached a level of development in line with the world's advanced exporting countries that no longer require the benefits of a preference program to compete in overseas markets.

Some 60% of India's population is employed in subsistence level agriculture, while only 12% are employed through industry & manufacturing. In order to bring significant numbers of citizens out of poverty, more Indians will need to shift their means of employment to commercial agriculture and manufacturing. Economic development programs such as GSP can help to incentivize this shifting of the labor mix to these higher value added industries, and thereby support the poverty alleviation efforts already underway in the country.

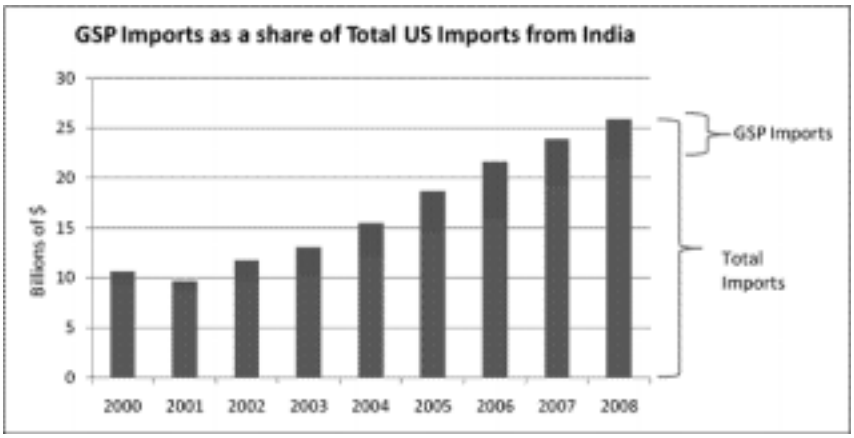
***U.S.-India Trade***

India is the 5th largest economy in the world but only served as the 15th largest U.S. trading partner, ranking 18th in imports and 16th in exports in 2008. As India has unilaterally reduced its tariffs to a peak rate of 10%, U.S. exports to India have steadily increased in value, nearly doubling between 2006 and 2008—a testament to the mutually beneficial nature of the U.S.-India trade relationship. While absolute values of trade remain small in comparison to countries of similar size, such as China, the growth potential for Indian imports and U.S. exports is significant.

In 2008, GSP imports represented only about 15% of total imports from India, and were largely concentrated in the categories of jewelry, automobile components, certain chemicals and carpets. The program has served as an effective impetus for a growing trade relationship and can continue to underscore the interests of the United States in supporting the development of India's economy and the basic livelihoods of its people.

Corporations seeking to provide high quality products to American consumers at the lowest possible cost also stand to benefit greatly from the GSP program. One American retailer is able to provide low value-add manufactured products, such as ball point pens, potpourri and lamps to consumers at competitive prices due, in large part, to the GSP benefits accorded to India on these products.

Until the revocation of GSP benefits for gold jewelry from India, a major American retailer had sourced the bulk of this product from India. After revocation of these benefits in 2007 and 2008, Indian imports have fallen drastically and much of the product sold in the U.S. is now sourced from China. As a result, a large portion of the estimated 325,000 Indian jobs dependent on jewelry exports to the U.S. are in jeopardy in a country where annual GDP per capita is already amongst the lowest in the world.




Likewise, the loss of India's GSP benefits from prior revocations have generally benefited developed and advanced developing nations the most. For instance, China has become a primary exporter of stainless steel flanges and brass lamps. In the case of wind powered electric generators, developed countries such as Denmark, Spain and Japan increased their exports to the U.S. when India's GSP benefits were lost in 2006. In fact, of the top 20 exporters of wind powered electric generators, exports from India are the only ones to have lost value between 2006 and 2008. American retailers and importers have often stated that, without GSP benefits, Indian products will be phased out in favor of Chinese and other economically advanced country products—a claim that has been well evidenced by recent trade data.

Today, of India's top 20 GSP products, China ranks amongst the top five exporters to the U.S. in 15 and among the top two exporters in eight of the products. Similarly, Canada and Mexico rank in the top five exporters for 11 of the 20 products, each. If these products, too, lose GSP benefits, it will most likely be developed countries such as China, Canada and Mexico, not least developed nations, that benefit most from India's loss. Such an outcome would be at odds with the Congressionally-mandated objectives of the GSP program.

***The U.S.-India Partnership***

As the oldest and largest free-market democracies in the world, the U.S. and India are natural allies and natural partners with a strong bilateral partnership that spans the most pressing strategic, economic and geopolitical questions facing the world today. Relations between the governments of both countries have consistently improved, and India today serves as a key ally for the United States in a volatile region. As India's economy has matured, its corporations have invested in the U.S. market and are creating jobs here in industries like manufacturing and IT services, while American firms now often collaborate with their partners in India to develop new technologies for use around the world.

India's newly constituted government has reiterated its commitment to a strong multilateral trading system, including a successful conclusion to the Doha Round of world trade talks. Economic development support from the United States through the GSP program will serve to strengthen the ability of the government to push forward on Doha and domestic market reforms which have the potential to positively impact the operations of American investors in India.

The Obama Administration, like those which preceded it, has illustrated its support for a strong, multi-faceted partnership with India. Included is a recognition that the development of India's economy is good for the U.S. and is part of global efforts to alleviate poverty. As India's leaders push forward to bring hundreds of millions out of poverty, developmental tools like GSP will bolster their efforts both politically and economically.

EMBASSY OF THE UNITED REPUBLIC OF TANZANIA
WASHINGTON, D.C.

Ambassador

**Ref: No. WE/T.10/25C/9** November 16, 2009

The Honorable Charles B. Rangel
Chairman, Committee on Ways and Means
House of Representatives
2354 Rayburn House Office Building
**WASHINGTON, DC 20515.**

(Fax) 202-225-0816

Dear Chairman Rangel:

As representatives from across Africa, beneficiaries of the African Growth and Opportunity Act (AGOA), and advocates for economic development in the region, we are writing to express our concerns with a proposal that has been made to extend duty free benefits for apparel produced in Bangladesh and Cambodia.

In Sub-Saharan Africa, the innovative trade preference program that you worked so hard to create, advance and enhance has created good jobs for hundreds of thousands of apparel workers in some of the world's poorest countries. AGOA now produces two-way trade between the United States and Africa in textiles and apparel that totals more than $1 billion. As a result of this landmark legislation, tens of thousands of workers and hundreds of thousands of their family members have seen their lives lifted from poverty. In turn, the extension of these duty free benefits has created major industries that now provide crucial economic stability across the continent.

We are convinced that enactment of a proposal to grant duty free treatment to apparel export giants such as Cambodia and Bangladesh would cause massive loss of jobs in the poorest African countries and Haiti - - with catastrophic economic consequences.

Bangladesh is the third largest exporter of apparel in volume terms to the United States. And Cambodia, with only 15 million people, is already exporting three times more apparel than the entire AGOA region (39 African countries). Bangladesh alone already has 2.5 million jobs in the garment industry - - nearly ten times the number in AGOA countries.

Bangladesh and Cambodia are already among the lowest priced producers in the world and are by any reasonable standards already super competitive without trade preferences. Under this

new proposal, importers and retailers would get new duty savings of nearly one billion dollars a year. Bangladesh recently predicted an increase in exports from $10 and $25 billion over the next five years. We also note that recent statistics released by the US Commerce Department's Office of Textiles and Apparel shows that Bangladesh exports of apparel grew at a double digit rate even during the recession in 2009 - while all other major suppliers, (China aside) fell, some quite dramatically.

Over the last five years, these countries have built up large and competitive apparel sectors. Since 2004, apparel imports from Bangladesh and Cambodia have increased by 63 percent, an enormous increase that totals $2.1 billion dollars - - that growth alone amounts to nearly twice the total volume of AGOA. In the two product categories that make up 82 percent of Africa's apparel exports to the US, Bangladesh and Cambodia have seen an almost 250 percent increase since 2004. In contrast, AGOA countries' exports in these two categories have fallen by 25 percent and 50 percent, respectively.

The facts clearly demonstrate that Bangladesh and Cambodia are growing while Africa, Haiti and other regions that the United States Congress has clearly indicated deserve special assistance are struggling for survival.

Adoption of duty free access for Bangladesh and Cambodia would amount to taking from the weakest to give new advantages to the powerful. We strongly urge you to help us to preserve the jobs that benefit so many of our citizens by rejecting proposals that would further concentrate apparel trade in a small handful of countries.

We extend our best wishes, and thank you for your longstanding commitment to our nations and people.

Sincerely,

**Ombeni Sefue**

STATEMENT SUBMITTED FOR THE RECORD

BY KASEY CRONQUIST

ON BEHALF OF

THE CALIFORNIA CUT FLOWER COMMISSION

PUBLIC HEARING ON TRADE PREFERENCE PROGRAMS

HOUSE WAYS AND MEANS SUBCOMMITTEE ON TRADE

U.S HOUSE OF REPRESENTATIVES

WASHINGTON, DC

NOVEMBER 17, 2009

**Introduction**

On behalf of the California Cut Flower Commission, I am providing information to the House Ways and Means Committee on the impact the Andean Trade Preferences and Drug Eradication Act has had the domestic cut flower sector.

The CCFC is a state commission, created by the state legislature to promote California grown cut flowers and foliages. The CCFC is overseen by the California Department of Food and Agriculture and is funded by assessments on state growers.

We applaud the twin goals of trade preference programs such as ATPDEA of promoting commerce and discouraging activities associated with the cultivation and trafficking of illegal drugs. Broadly speaking, the ATPDEA and GSP help advance the economic and security objectives of the United States and created opportunities for people in developing countries. It is not surprising that these preference programs have long had broad bipartisan support in Congress and had the backing of Democratic and Republican presidents.

However, it is important for Members of Congress to realize that duty-free access to the U.S. market can have a significant and adverse impact on specific industries. The

domestic cut flower industry has endured significant challenges as a result of the ATPDEA. While growers in Colombia and other Andean countries have benefitted from having access to the large U.S. market, California growers are engaged in an unending struggle to adapt and compete. I hope this testimony will be useful to the Committee as it undertakes a review of trade preference programs and as it considers possible further trade liberalization with Colombia.

**A Snapshot of the Domestic Cut Flower Sector**

There are approximately 250 growers of flowers and foliage distributed throughout the state. The largest operation is the Sun Valley Group in Arcata. Most of growers are small, family-owned operations that go back generations. While there are flower growers in nearly every state, the greatest concentration of growers is in California. California growers accounted for 78 percent of the wholesale value of sales of all domestically grown cut flowers in 2008.[1]

Given the concentration of growers, the industry is very important to the state of California. As Americans continue to lose jobs and public officials search for ways to create or sustain jobs, the Committee should know that the cut flower industry employs almost 15,000 people in California and represents as $10.3 billion industry. Here are some details from a study by Tootelian & Associates, commissioned in June 2008, by Fleishman-Hillard, Inc. on behalf of the CCFC:

- The total economic impact in terms of business activity created by cut flower growers', wholesalers', and retail florists' expenditures in California is nearly $10.3 billion.
- Cut flower growers, wholesalers, and retail florists spent a combined total of nearly $3.8 billion in 2007. For every dollar these businesses generate in revenue, they return more than 92 cents to the California economy.
- Cut flower growers, wholesalers, and retail florists employ approximately 14,580 people. Their economic activities help create about 121,950 jobs in California.

[1] USDA, NASS, *Floriculture Crops 2008 Summary* (Apr. 2009) at 10.

- The total economic impact in terms of business activity created just by cut flower growers', wholesalers', and retail florists' expenditures for salaries and wages is nearly $3.3 billion. This equals more than $9.0 million per day for every day of the year.

- The economic activities of cut flower growers, wholesalers, and retail florists also generate nearly $730.1 million in additional taxes--or more than $2.0 million every day of the year. These tax dollars help fund programs within California. We market nearly 300 million dollars worth of flowers and nearly 30 million

California's unique climate allows its growers to produce some of the finest cut flowers in the world. We use the latest technologies to produce and efficiently transport flowers to market, ensuring that consumers receive fresh, high quality products. We protect the health and safety of our workers and meet some of the highest environmental standards in the world. California growers abide by these standards because they recognize the link between their long-term viability and wise stewardship of the land and water.

**Historic Experience under ATPDEA**

The Andean region, particularly Colombia and Ecuador, is well suited for flower growing. It has ideal climates, available land, and an ample supply of labor. As far back at the 1980s, Colombia's rapidly developing flower production sector was aggressively targeting the U.S. market. Growers there benefitted from their government's support and dumped product in the U.S. market. Only after a trade remedy case was brought against Colombia did they agree to end the unfair trade practices and begin a period of relative cooperation with American producers to ensure trade was conducted in a fair manner. That is not to say that competition resumed on a level playing field.

Workers in Colombia and other Andean countries often toiled in appalling conditions. Birth defects ad sicknesses resulting from exposure to pesticides were widely reported and wages were far below what workers in the U.S. received. In addition, environmental standards in Colombia and other countries were generally far less rigorous than those in the United States.

Conditions have improved markedly over the last decade. At the end of May 2008, a group of California growers journeyed to Colombia as the guests of Asocolflores, the Colombian counterpart to CCFC. Although wages in Colombia are still far below those paid in the United States, we discovered a mature industry that maintains much higher standards for workers' health and safety than just ten years ago. The Colombian growers have adopted many state-of-the-art techniques for growing and quality control and the United States has helped encourage this industry's growth.

The ATPDEA was a turning point for the Andean floral sector. It helped catapult Andean countries, notably Colombia, to among the top flower producers in the world. The United States is their primary market. The U.S. Agency for International Development, meanwhile, has helped workers adjust as they transitioned from the perilous world of drug cultivation and trafficking to productive work in Colombia's floral sector.

Meanwhile, conditions have grown dire for many U.S. growers concentrated in California. In testimony provided to the U.S. International Trade Commission in July 2008, the CCFC detailed how California flower growers have faced a significant decline in their share of the U.S. market since the ATPDEA became law in 1991. Studies by the ITC itself over the last 15 years, for which the CCFC has provided data, chronicle the extraordinary gains by Andean countries in the domestic market – and the proportionate loss in market share by U.S. growers.

In 1991, California cut flower growers represented almost two-thirds of the United States floral market. Today they represent just over twenty percent. In contrast, in 2008, the Andean countries accounted for 79.4 percent of U.S. cut flower imports by value, up from 78.9 percent in 2007.[2]

In 2008, cut flower imports from Colombia alone, at $502 million, were greater than the total wholesale value of sales of U.S.-grown cut flowers, at $403 million.[3]

California growers have responded to this new competition with characteristic resourcefulness and innovation. They have cultivated new products, and developed better growing, harvesting, storage, and transportation techniques. They have also

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[2] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics for HTS 0603.
[3] USDA, NASS, *Floriculture Crops 2008 Summary* (Apr. 2009) at 10; U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics for HTS 0603.

differentiated our products from imports. For example, they have marketed our ability to respond to special orders quickly. But there is a limit to what even the most resourceful industries can accomplish in the face of formidable and aggressive import competition.

In my ITC testimony, I outlined the experience of the VanWingerden family. They started growing carnations in the 1960s. Carnations are popular and resilient but they need a lot of labor to produce. So when Colombia started growing carnations and began competing with their labor force, the VanWingerdens needed to move on, uproot their crop and start over.

They then began producing Crysanthumums. Crysanthumums or "mums" were also a hearty flower that was very marketable in the United States. Then however, Colombia began importing the "mums" and at price that made it impossible to compete. Once again, the VanWingerdens needed to uproot that crop and start over.

They currently produce high quality gerbera daisies. Recognizing that gerberas are a bit more sensitive and fragile, transportation over boat or plane would be extremely hard on the life of this flower, so Colombia would have to make the necessary investment in technology to compete with this particular flower.

California still enjoys the competitive advantage of growing and transporting this particular product domestically. However, in 2008 a group of California growers, including some members of the Van Wingerden family, saw first hand how Colombia is getting into the gerbera business. It is just a matter of time before Colombia is competing directly on this product as well. In addition, it was clear that this is an industry ready to expand. This is evident in the contracts for U.S universities for research on improving growing techniques and post harvest treatment techniques in Colombia. We fully expect Colombia to become even more competitive in the years to come.

CCFC's concern is that you can diversify an industry to death. The number of domestic growers is down significantly since the early 1990s and the trend continues. The number of growers of cut flowers in the United States fell from 407 in 2006 to 365 in 2008.[4] Just two and a half years ago, when I become CCFC executive director/ambassador, there were 70 assessed growers in California – that is with sales of

[4] USDA, NASS, *Floriculture Crops 2008 Summary* (Apr. 2009) at 5. The number of growers includes only those with $100,000 or more in annual sales. Since 2005, USDA started collecting data on the industry from only 15 states which account for the majority of production and sales.

$500,000 or more. Now there are 59. Import competition has caused some growers to exit the flower business or merge to survive.

It is clear we will continue to face significant competition from cut-flower imports. Cut flower imports from Andean countries have grown significantly in recent years, rising by 68.5% percent from 2002 to 2008.[5] In 2008, total U.S. imports of cut flowers were $803 million. Meanwhile the wholesale value of all domestically produced cut flower sales in the United States was just $403 million in 2008, a decline of 5 percent from 2007.[6]

**Transportation: A Chief Challenge and Possible Solution**

The huge volume of cut flowers from Andean countries has spurred the development of an efficient transportation and distribution hub in Miami. Jumbo jets brimming with Colombian flowers arrive every day in the port of Miami. Over the past 20 years competition among transportation companies for loads with rates has flourished. California growers, meanwhile, have continued to lose their ability to generate the kind of volume that can compete for those same rates. This has driven up the cost of their goods in comparison of those from Andean countries.

Over the last two years, growers come together and come up with a way of meeting the import competition and thriving. It is a new transportation/distribution model. It will bring growers' costs down, keep people working, take trucks off the road, and reduce the industry's carbon foot print. We have been working with lawmakers and Administration officials to make it feasible to go ahead with this project.

**Conclusion**

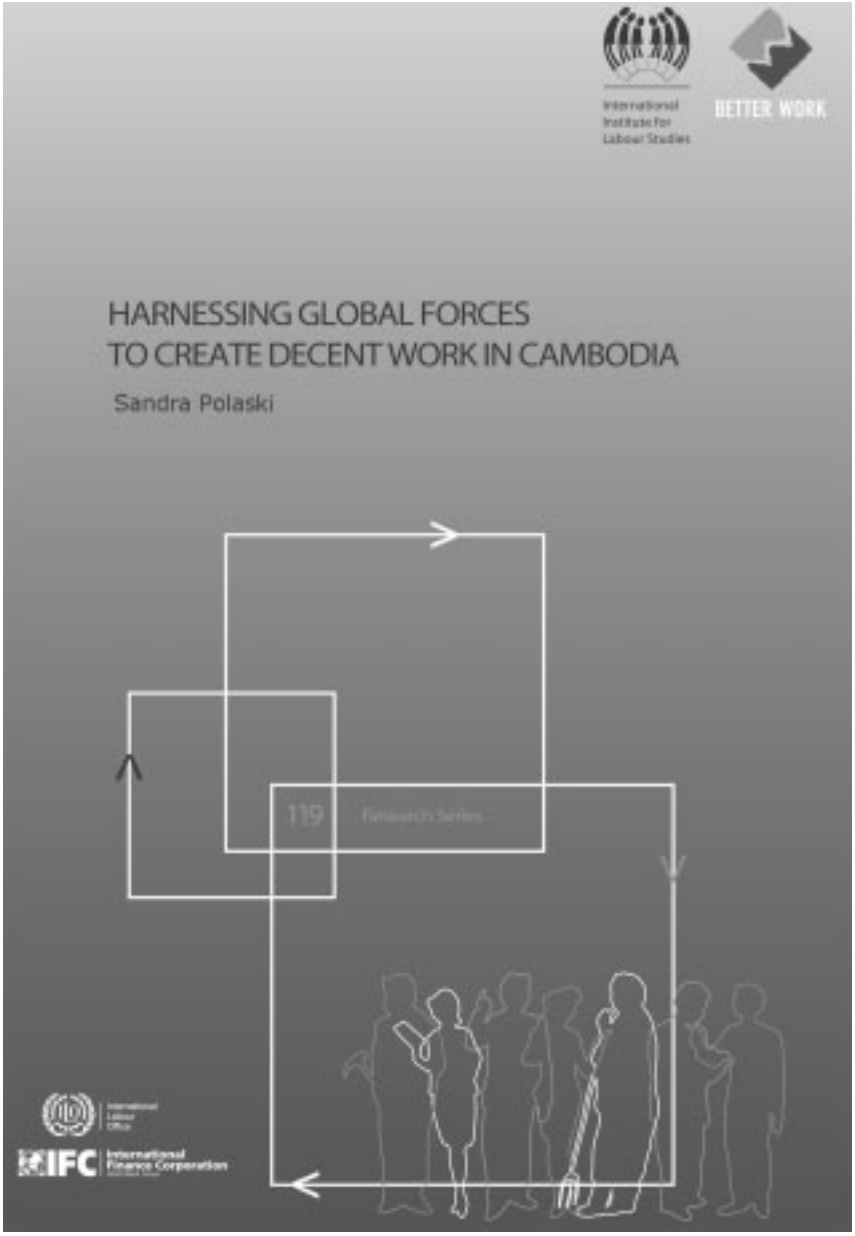
In general, California growers believe in the benefits of trade, welcome competition, and have risen to meet it, so long as trade is conducted in a fair manner and consistent with internationally-recognized rules. They recognize that many businesses

[5] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics for HTS 0603.
[6] USDA, NASS, *Floriculture Crops 2008 Summary* (Apr, 2009) at 4; U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics for HTS 0603.

and workers in the United States and Andean countries have benefitted from our expanded trade relationship. They also recognize the specific benefits of imports for U.S. consumers, importers, distributors, and retail florists. The more that flowers are part of every day life, the better.

However, as Congress considers extending yet again the ATPDEA and a possible free trade agreement as early as next year, CCFC feels it is important for this Committee and all Members of Congress to appreciate the often insurmountable challenges this policy has had on California flower growers. Permanent duty-free treatment under an FTA could and should spur additional investment in the floral sector in Colombia. Given the tenuous position for many growers, especially during this deep and stubborn recession, even modest increases in import competition could drive some growers from the market. This could destroy jobs and traditions that go back generations.

The growers are looking at ways to adjust to inevitably steeper competition. They want to remain a vibrant part of California's economy and a reliable, environmentally-friendly source for florists and the millions of homes, offices, public spaces, and places of worship made more beautiful with flowers.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HARNESSING GLOBAL FORCES
TO CREATE DECENT WORK IN CAMBODIA
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# HARNESSING GLOBAL FORCES TO CREATE DECENT WORK IN CAMBODIA

BY SANDRA POLASKI*

* At the time this Discussion Paper was completed, Sandra Polaski was a Senior Associate at the Carnegie Endowment for International Peace in Washington, DC and Director of its Trade, Equity and Development Program.

# HARNESSING GLOBAL FORCES TO CREATE DECENT WORK IN CAMBODIA

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## Preface

The present paper analyses one of the most comprehensive and promising attempts to promote compliance with labour standards through trade arrangements. In this case, positive incentives to comply with labour standards offered under the Bilateral Textile Agreement between the United States and Cambodia were combined with responsibility by the ILO for monitoring of compliance. The project has been viewed as a success by the governments involved, the relevant business actors (including global buyers) and Cambodian workers themselves.

The paper provides an in-depth analysis of the context in which the project came into existence, its main features, and the factors and mechanism that contribute to its alleged success. Importantly, the text also discusses how the project may serve as a guideline for strengthening the links between trade and labour standards in other countries and beyond the garment sector.

Such an approach becomes all the more pivotal following the economic crisis, where concerns have risen concerning the threat of protectionism on the one hand, and the spectre of greater downward pressure on wages and working conditions on the other hand. The Cambodian trade agreement provides one of the most important innovations on how to enhance complementarities between trade liberalisation and social progress. It has also served as a model program for interventions at the factory level to improve working conditions. The new ILO-IFC Better Work program is taking this experience into other countries where both trade agreements and supply chain relationships put pressure on governments and businesses to improve conditions for workers. Better Factories Cambodia and Better Work are demonstrating the potential of globalization to improve outcomes for workers, businesses, and countries.

Raymond Torres
Director
International Institute for Labour Studies

Ros Harvery
Director
Better Work
IFC/ILO

## 1. Overview

For the past nine years, a path-breaking policy experiment has harnessed global forces to create employment and improve working conditions in the small Southeast Asian nation of Cambodia. The fundamental strategy is to improve labor conditions, verify the improvement through monitoring by a respected international organization and use the results to create a "safe haven" for production and sourcing by international firms who wish to avoid reputation risk. The policy was pioneered in the apparel sector, which is the main exporting industry in Cambodia and the largest source of formal private sector employment.

The International Labour Organization (ILO), a specialized agency of the United Nations, conducts ongoing monitoring of conditions in the apparel factories.[2] The results are published in highly transparent reports that detail compliance or non-compliance by each factory with national labor laws and internationally agreed basic labor rights.[3] Industry synthesis reports are posted on the internet and available to all interested parties. Until the end of 2004, these reports were used by the United States government as a key input for decisions under an innovative scheme that allowed Cambodian apparel producers increased access to the US market in exchange for improved working conditions and labor practices.

An important element of the experiment that was largely unanticipated but has proven critical to its ongoing success is the use of the ILO reports by private retail apparel firms that buy from Cambodian producers. These buyers, conscious of their brand reputations, use the reports to determine whether their supplier firms comply with labor standards. Where there are problems, they encourage the firms to remedy them. If supplier firms refuse or repeatedly fail to improve, the buyers shift orders to other firms that have demonstrated better compliance with labour laws and better workplace practices.

The information provided by the ILO changes the incentives facing private actors, including both the international buyers and the supplier factories. The international firms now know the full range of labour conditions in their supplier firms and the other apparel firms in the country. Armed with this knowledge, they can effectively protect their reputations. The factory owners have direct economic incentives to come into compliance with labour laws and to improve working conditions, because by doing so they can attract orders.

The project combines roles for national governments, international organizations, firms at the global and local level and trade unions in previously untried ways. The experiment warrants attention by policy makers elsewhere for two reasons. First, it

[2] The ILO is a specialized agency of the United Nations system.

[3] The member states of the ILO, currently 183 nations, have agreed that all workers have certain fundamental rights, regardless of the level of development of their country. These include the right to freedom of association and collective bargaining, freedom from forced labor, restrictions on employment of children and elimination of the worst forms of child labor, and freedom from discrimination in employment. *ILO Declaration on Fundamental Principles and Rights at Work*. Geneva, June 1998. Available at www.ilo.org.

introduces novel policy tools that can help developing countries insert themselves into the global production system and create needed employment without sacrificing decent wages and treatment for workers. These new policy tools now have a record of effectiveness that can be examined and replicated by others. Second, the project relies primarily on private sector forces, while utilizing limited but essential public interventions to correct for market failures. The resulting system effectively aligns the interests of private sector actors more closely with public objectives.

As policy makers search for effective ways to engage global production systems for local development and employment objectives, the Cambodian experiment offers new and successful methods that can be replicated elsewhere. This study provides a description of the project, analysis and insights about the underlying mechanisms that determined its success, and guidance for replicating it in other countries.

**2. Genesis of the experiment**

Cambodia is one of the least developed countries in the world. It entered the modern global economy late, partly because of civil strife from the 1960's through the 1980's. As the country stabilized in the 1990's, it sought to make up for lost time in its economic development. One important strategy aimed to transform a handful of state-owned textile and apparel factories into an export industry and to attract new foreign direct investment into the sector, in order to earn foreign exchange and to create jobs for the underemployed Cambodian workforce. The apparel industry requires relatively low levels of investment and limited skills on the part of workers. It is typically the first step in the process of industrialization and Cambodia was eager to take it.

The global apparel trading system was governed for 40 years by a system that allowed countries to set quota limits on the textile and apparel exports from any one country that could enter their markets.[4] The quota system was codified in the Agreement on Textiles and Clothing of the World Trade Organization (WTO), in force until January 2005.[5] Because Cambodia was a latecomer to the apparel industry, it was not party to that system and therefore had no quotas. It was free to sell into the large, affluent markets of the US and EU, for example, but at the same time those countries were free to limit or cut off access at will in the absence of negotiated agreements. Notwithstanding that risk, willing investors from Hong Kong, Taiwan, China, South Korea and other countries bought, leased or built apparel factories in Cambodia. Buyers from the US and Europe also arrived, in part to circumvent the export limits they faced when purchasing from other countries under the global quota system.

[4] The quota system dates back to the 1960's and reflected the fact that these industries were important sources of exports, income and jobs in many countries, both rich and poor. To address concerns of domestic industries and workers in rich countries, while allowing poor countries to grow out of poverty, successive international agreements were negotiated over several decades that allocated shares of guaranteed access to rich country markets. As developing countries' capacity grew, they began to push for a phase-out of the system, and this was finally agreed in the negotiations that created the World Trade Organization in 1995. The quota system was phased out over ten years and completely eliminated on January 1, 2005.

[5] The Agreement on Textiles and Clothing succeeded the Multi-Fibre Arrangement or MFA in 1995.

The infant apparel industry grew rapidly. From virtually no apparel exports in 1994, exports had grown to almost half a billion dollars in value by 1998.[6] The share going to the US increased rapidly, to the point that in 1998 the domestic US textile and apparel industries called for import restraints. Meanwhile in Cambodia, the growing workforce in the apparel factories had become increasingly discontent with conditions. The workers turned for help to labor unions, many affiliated with political parties. Demonstrations and strikes became increasingly common. In June of 1998, supportive labor groups in the US petitioned the US government to review claimed abuses of workers' rights in Cambodia's apparel factories.

In response to the pressures from the US textile industry and US labor groups, the US government initiated negotiations with Cambodia to bring it under the quota system. The converging issues came at a time when the US government was increasingly interested in experimenting with ways to link trading privileges with support for labor rights.[7] US and Cambodian negotiators worked out a three-year apparel trade agreement for the period 1999-2001 that established fixed quotas for the twelve largest categories of apparel exports. However, in a unique step, they agreed that if the Cambodian government were able to ensure substantial compliance by the apparel factories with that country's labor laws and internationally agreed labor rights, the new quotas would be increased on an annual basis.[8] The parties agreed to consult twice each year during the three-year agreement to identify the key labor problems and ways to address them. These consultations established practical goals for each semiannual period, which were used as benchmarks to determine whether to grant the quota increase for the subsequent year.

Both parties recognized that a reliable source of information on the actual practices and conditions in the factories would be needed for the quota determination. The capacity of the Cambodian government to inspect private firms and enforce national labor laws was extremely weak. It was tacitly acknowledged that reporting by government inspectors was not credible as a basis for the quota decisions. Alternatively, private for-profit and not-for-profit monitoring groups existed, but none were deemed to have the credibility to provide the basis for significant government decisions that would have broad economic impacts. To fill the gap, the two countries turned to the ILO, an arm of the United Nations system with responsibility for setting international labor standards and supervising compliance. The ILO had a well-established supervisory system to review the conduct of governments, both through periodic examinations of their compliance with ratified international labor conventions and in response to complaints raised by trade unions and others.[9] However the organization had never monitored the private sector and had never engaged in on-site inspection of workplaces. The request from the US and Cambodia to take up a new role evoked a cautious response from the Director General of the organization, Juan Somavia, and provoked debate within the ILO

[6] "Cambodia: Selected Issues and Statistical Appendix", IMF Country Report No. 03/59, International Monetary Fund, Washington, DC, March 2003, p. 9.

[7] Polaski, Sandra, "Protecting Labor Rights through Trade Agreements: An Analytical Guide", *Journal of International Law and Policy*, Vol. 10, No. 1 (Fall 2003), p. 14.

[8] US-Cambodia Bilateral Textile Agreement, available at: http://199.88.185.106/tcc/data/commerce_html/TCC_2/Cambodiatextilebilat.html.

[9] See ILO website, www.ilo.org.

bureaucracy and governing body.[10] After a deliberative process, Somavia decided that the ILO should support a project that was seen to have value by both of the governments involved and that had the backing of employers and trade unions in the target country.[11]

**3. Key elements of the policy**

The two key innovations that launched the original project have been identified: the creation of a trade agreement that provided positive market access incentives as a reward for improved labor conditions; and the inauguration of a new monitoring role in the private sector by an international public agency. We first examine each of these elements separately and explore the context in which the innovation arose. We then turn to a discussion of how the elements of the strategy interacted and were adapted to work more effectively.

*Linking trade and labor rights*

The idea of trying to improve international labor standards and working conditions by linking them with trading privileges has been discussed at least since the early twentieth century, but the first practical attempts to implement such a linkage date from the mid-1980s.[12] The first instruments to be created arose under the multilateral trading system, which from the early 1970s allowed countries to extend special trade preferences to developing countries for the purpose of aiding their development. Under this exception, wealthy nations can lower tariffs or extend other market access privileges unilaterally to poorer countries without violating WTO rules that forbid discrimination among trading partners. In 1983, the US made participation in such preferential trade programs conditional on respect for labor rights by developing country recipients.[13] In 1993, the US took a further step by including a labor provision as part of a negotiated free trade arrangement.[14] A side agreement to the North American Free Trade Agreement (NAFTA) required the parties to effectively enforce their own labor laws.[15] If a party failed to do so, it could risk being fined by the other parties or, in extreme cases, losing some of the trade benefits created by the pact.

Both the preference programs and the NAFTA labor side agreement can be viewed as creating a disincentive for bad labor practices. Countries are granted trade privileges

[10] The ILO is governed by a unique structure that includes the governments of the 178 member countries (controlling half of the votes in decisions), employers' organizations (one quarter of votes) and labor unions (one quarter of votes).

[11] Conversation with the author, Geneva, Switzerland, January 19, 2000. See also Elliott, Kimberly Ann and Richard B. Freeman, Can Labor Standards Improve under Globalization? Washington, DC: Institute for International Economics, June 2003, p. 117.

[12] Polaski, op. cit., pp. 13-15.

[13] Such programs are permitted under the Generalized System of Preferences (GSP) of the World Trade Organization. The European Union also created a similar link between respect for labor rights and market access under its GSP+ programs.

[14] Free trade agreements are also permitted under the rules of the WTO, if they cover essentially all trade. The trade privileges can be considered "WTO-plus" and a withdrawal from such an agreement would return trade to the rules established in the WTO.

[15] The North American Agreement on Labor Cooperation (NAALC), agreed between Canada, Mexico and the US in August 1993. Available at www.naalc.org.

that could later be withdrawn if the party fails to comply with the labor obligations.[16] The US-Cambodia Textile Agreement, by contrast, created a positive incentive to improve practices. The country was guaranteed a baseline level of access to the US market, while additional quota would be granted annually for progress on labor conditions during the previous period. The incentive was purely positive in that nothing would be lost but something could be gained through improvement of labor conditions. Significantly, the strategy changed the incentives facing the private sector to be more closely aligned with those of the government and labor force. Improved labor conditions would expand the market in the subsequent year. The effectiveness of the reward was enhanced by the close temporal connection between the behavior of firms and government in one year and the rewards that would flow from good behavior during the following year. It was also a significant departure from previous trade-labor linkages in that the arrangement was repeated year after year, thereby creating the potential for continuing improvements.

Based on the actual performance of the Cambodian government and garment sector, the US government decided to award a 9 per cent increase in each of the quotas for 2000 and again for 2001.[17] The parties were pleased with their experiment and agreed to extend the trade pact for three additional years, from 2002 through 2004. Across-the-board quota increases of 9 per cent, 12 per cent and 18 per cent were awarded for those years.

*Monitoring of the private sector by the ILO*

The second innovative mechanism in the Cambodian experiment is the novel role for the ILO. To make the quota decisions, the US needed credible and timely information on actual labor conditions in Cambodian apparel factories. The Cambodian government was not an effective source of such information. As noted above, Cambodia had been engaged in civil strife or outright war for much of the last 30 years, and is still struggling to establish full rule of law. The state is generally weak and faces severe resource constraints. Civil servants, including labor inspectors, are woefully underpaid. As a result, it is difficult to attract and hold competent inspectors. The average wage of a civil servant is the equivalent of US$28 per month.[18] By contrast, the minimum wage in the apparel industry in Cambodia is $50 per month, and the average monthly wage in the sector is about $77.[19] By any account, the pay of government inspectors does not provide an acceptable minimum standard of living, and therefore second and third jobs that compete for inspectors' time are the norm, not the exception. Taking bribes from employers is also common. Under these circumstances, the role of the national public authorities in inspecting workplaces and ensuring compliance with labor laws was a goal to be pursued over the medium term. It was not a reliable source of information for the immediate purposes of the textile agreement. At the same time, a growing apparel sector that created

[16] Verma, Anil, "Global Labour Standards: Can we get from here to there?" Centre for Industrial Relations and Rotman School of Management University of Toronto, December 2002. Available at: http://www.fu-berlin.de/lira2003/papers/track_3/Workshop_3_4_Verma.pdf

[17] Elliott and Freeman, op. cit., pp. 117-118.

[18] IMF Country Report No. 03/59, op. cit., p. 27.

[19] ILO, Better Factories Cambodia, "Cambodian Garment Industry: Challenges and Opportunities", April 2008. Available at: http://www.betterfactories.org/ILO/aboutIndustry.aspx?z=3&c=1.

jobs and profits was part of the solution to the problem of government capacity, as it would increase the tax base and resources for essential government functions. So while building public capacity to enforce labor laws was desirable, a short-term solution was needed to fill the information gap.

It was possible to engage private actors to monitor the worksites. Over the course of the 1990's, the creation of corporate codes of conduct and the need to monitor their implementation created an array of private actors. They ranged from for-profit accounting firms such as KPMG and PricewaterhouseCoopers (PwC) and specialized for-profit auditing groups like Intertek Testing Service, to non-profit social auditing groups such as Verité and non-profit multi-stakeholder groups like the Ethical Trading Initiative, Fair Labor Association and Social Accountability International. However none of these groups had established credibility at an international level among the diverse groups affected by the textile agreement, including employers, investors, buyers, labor unions, consumers and governments. There was no clear, credible leader in the field of labor auditing. Nor was there a widely accepted auditing standard or methodology.

Good information is a prerequisite for any well functioning market, and in this case it was essential to public decision making as well.[30] In the absence of national public capacity or satisfactory international private capacity, the two governments faced the necessity of finding an agent to supply the missing information. They turned to the ILO, which was established by the Treaty of Versailles in 1919 and is the oldest agency in what would become the UN system. Over the years, the ILO had gained extensive experience in evaluating labor practices in countries at all levels of development and possessed an established record of neutrality. However it lacked experience in monitoring private sector workplaces. As global economic integration accelerated in the 1990's and labor markets became increasingly integrated, rich country governments felt increasing pressure from domestic constituents to address poor labor conditions abroad as a way to maintain labor conditions at home. It was natural that policy makers grappling for means to address the new challenges would turn to the ILO to play new roles. For most of the 1990's, however, the new roles envisioned were in the public sphere, and entailed functions such as technical assistance and capacity building for ministries of labor in the developing world. The unprecedented US-Cambodia agreement, with its requirement for reliable, timely and credible information about actual factory conditions, pushed the ILO to move beyond its traditional scope of action in the public sphere. Arguably, this foray into the private domain may prove to be a critical element of continued relevance for the ILO, as the system of global production makes it more difficult for national labor ministries and labor inspectorates to effectively maintain and enforce their country's labor laws.

*How the mechanisms worked and were adjusted*

The experiment was put in place through two formal agreements: the textile agreement that began January 1, 1999 and an agreement between the ILO and the Cambodian government, garment manufacturers and trade unions to launch the

[30] The problem of imperfect information is a widely recognized impediment to well-functioning markets. See for example Joseph Stiglitz, "Information and the Change in the Paradigm in Economics", in *The Nobel Prizes 2001*, ed. Tore Frangsmyr (Stockholm: The Nobel Foundation, 2002), pp. 472-540.

monitoring initiative, signed on May 4, 2000.[21] The two agreements operated independently, but in complementary ways. The potential quota bonus created an incentive for the Cambodian government and the factory owners to improve labor conditions in order to obtain the economically valuable increases in access to the US market; and the ILO monitoring program provided critical information for the bonus decisions. However there were shortcomings in the arrangement launched by these agreements that might have greatly limited the project's effectiveness. A first shortcoming was that the ILO monitoring program, as created, provided for voluntary participation by factories. By contrast, the quota bonus was awarded to the country based on the overall performance of the apparel sector. The voluntary nature of participation meant that information would be incomplete, and perhaps unrepresentative, to the extent that factories chose not to participate. Further, it created a perverse incentive for firms to stay out of the monitoring program, because those factories that did participate would bear the burden of improvement while non-participating firms could share the increased bonus without the costs of better labor practices (a "free-rider" problem, in economic terms). The government of Cambodia recognized the danger that voluntary participation posed to the new scheme and stepped in to remedy it by issuing a regulation (the Cambodian term is prakas) that limited the availability of export licenses to the US to those firms participating in the monitoring program.[22] This resulted in full participation and allowed the ILO monitors to generate information covering the entire sector. The Cambodian government's innovative action demonstrates that even a relatively weak and resource-constrained government can find ways to leverage its power by creative use of those instruments that it does control, such as export licensing and quota allocation.

A second potential shortcoming was that the ILO monitoring program required public reports on conditions in the factories, but left unclear whether the information would be provided in an aggregate form or would identify conditions in individual factories by name. As the monitoring program began, this issue remained unsettled. After discussions among the multiple stakeholders, the ILO decided to issue reports in two stages. A first round report would present aggregate results for all firms that had been inspected. These "synthesis reports" would give a profile of problems in the sector without naming individual firms. However, after a period of time was allowed for remediation of any problems found, the ILO monitors would re-inspect each factory for compliance. Factories that had not remedied violations of national labor laws or international labor standards found on the first visit would be identified by name in a subsequent report, with details of each area of non-compliance. This decision established a very high level of transparency regarding factory conditions, significantly higher than that provided by any private monitoring programs that currently exist.

## 4. Current status of the project

The international apparel quota system ended on January 1, 2005, and the US-Cambodia textile agreement, which was based on that system, expired at the same time. Anticipating the changes that would ensue in global apparel trade, the Cambodian

[21] Because of delays in launching the monitoring project, decisions on the quota increases for 2000 and 2001 were made without the benefit of information from the ILO monitoring project.

[22] *Prakas* No. 108 MOC/M2001, Cambodian Ministry of Commerce, March 28, 2001.

government and the country's apparel manufacturers concluded that the value of good labor standards and transparency would survive because of the demonstrated utility of the policies to buyer firms.[23] In 2003, they asked the ILO to continue the monitoring program for three years beyond the end of the Agreement on Textiles and Clothing. As the end of the quota system neared in late 2004, the World Bank Group's Foreign Investment Advisory Service (FIAS) conducted surveys among apparel buyers, finding that buyers rated Cambodia's labor standards higher than those of regional competitors, and that the buyers would continue to purchase garments from Cambodia if credible monitoring by the ILO were to continue.[24] The Cambodian government ensured that the project would continue to operate on an industry-wide basis after the quotas expired by making continued participation in monitoring a condition for receiving export licenses.[25]

The Cambodian government and the ILO developed a long-term plan to continue the monitoring program and eventually make it self-sustaining. The project has been renamed "Better Factories Cambodia" and expanded to include training programs on how to achieve and maintain good labor standards. The results of ILO monitoring are now reported through a sophisticated internet-based system that allows closer tracking of violations and improvements.[26]

## 5. Analysis of the policy

The Cambodia policy experiment is a successful example of combining roles for the public and private sectors to achieve goals that support broad economic and social objectives while contributing to the success of private firms. While the role of the private sector has been important from the beginning and has become paramount since the end of the apparel quota system, the experiment would not have been successful without the two seemingly small public interventions already mentioned, one by the Cambodian government to require participation in the monitoring program of all exporting firms, and the other by the ILO to provide full transparency of monitoring results.

These policy interventions together created an unprecedented incentive for private firms to comply with labor norms. By providing extensive, specific, reliable information to all actors regarding labor conditions and legal compliance across the entire Cambodian apparel sector, both the international buyers and the apparel factory owners now knew the full range of labor conditions in all apparel firms in the country.[27] International buyers who were concerned about working conditions and/or their brand reputations now were able to choose among supplier factories on the basis of good information about their

[23] Siphana, Sok, Secretary of State for Commerce, Royal Kingdom of Cambodia, speaking at the World Bank Group's International Conference on Public Policy for Corporate Social Responsibility, Country Session 1, October 8, 2003.

[24] World Bank, "Overseas buyers plan to continue purchasing Cambodian garments after 31 December", Press Release No. CMB2004/01, December 3, 2004.

[25] ILO, Better Factories Cambodia, "About Better Factories". Available at http://www.betterfactories.org.

[26] Agence France Presse, "Cambodia: UN labour body expands monitoring of Cambodia's garment factories", 11 February 2005.

[27] Interviews with factory managers and buyers, reported in Kolben, Kevin," Trade, Monitoring, and the ILO: Working to Improve Conditions in Cambodia's Garment Factories", *Yale Human Rights & Development Law Journal*, Vol.7 (2004), p. 105-106.

labor practices. Under conditions of transparency, the factory owners now had multiple incentives to come into compliance with labor laws and to improve working conditions. While the textile agreement and quota system were still in force, they stood to gain increased market access to the US and faced peer pressure from other firms, whose own quota expansion would be at risk if other factories failed to comply. Thus the arrangements eliminated the free-rider problem and increased the incentives for collective action. Perhaps most important, the factories could attract orders based on compliance and would lose them for noncompliance. This incentive has continued after the end of the quota system and is now the primary incentive for labor compliance.

The Cambodia experiment marks the first time that credible information about labor conditions in a developing country's workplaces has been accessible to both public and private actors at the local, national and international levels. It thus provides an unprecedented opportunity to evaluate the importance of information and to witness the effect on market participants' behavior. As noted, the initial effect was to align the incentives facing private firms with Cambodia's twin public objectives of winning more market access to the US while creating employment and improved labor incomes. However the private sector dynamic, which changed the direction of orders toward compliant firms, became increasingly important over time.[28] This can be seen by examining the evolution of apparel exports. From 1999 through 2002, apparel exports from Cambodia to the US of items that were covered by quota limits increased by 44.8 per cent, from a value of US$433 million in 1999 to US$627 million in 2002. Over the same period, apparel exports that were not covered by the quotas (in other words, types of garments that had neither guaranteed access to the US market nor limits on that access) increased by 302 per cent, albeit from a smaller base of US$83 million in 1999 to US$334 million in 2002.[29] This indicates that buyers were attracted to place orders with factories that were compliant with labor norms even when they were making decisions on items that were not restricted by quota and thus would not benefit from the labor-based quota increases. Collectively, these incremental buyer decisions shifted the composition of Cambodia's apparel exports. In 1999, only 19 per cent of exports were of non-quota items, while by 2002, 53 per cent of exports were not under quotas.

The economic basis for the changed behavior by international buyers can be understood as an insurance function or as risk mitigation. The ILO monitoring and reporting system provides a form of reputation risk insurance to global apparel retailers who source their goods in Cambodia. While labor conditions are still far from perfect in the country's apparel factories, as discussed below, ILO monitoring reveals any serious abuses. The detailed ILO factory monitoring reports are provided to the individual factories soon after the monitors' visits, to allow them to begin remediation. Most buyers now pay a subscription fee to Better Factories Cambodia and can download these reports from the program`s website once they are published. reports when they are received, rather than waiting for the periodic public reports in which the ILO describes non-compliance in each factory.[30] Buyers can insist on rapid remediation to eliminate or reduce risk to their reputations. A failure by a factory to address the problems can lead to loss of orders, as the buyer shifts to other factories with better practices. Over time, this

[28] Kolben, op. cit., p. 106.

[29] IMF Country Report No. 03/59, op. cit., p. 9.

[30] Kolben, op. cit. pp.105-106.

has led to a general upgrading of labor conditions and practices in the country's apparel sector, as non-compliant firms go out of business and compliant firms expand. This further mitigates risk to international buyers who source from Cambodia.

Although most apparel buyers have their own internal codes of conduct and undertake factory compliance inspections themselves or contract with for-profit or non-profit monitoring agencies to do so, none of these efforts have the high credibility of the ILO system. Purely self-regulatory schemes may assure buyers that their suppliers are not violating laws or codes of conduct, but they have little credibility with the public and other interested actors because of the potential conflict of interest between the firm's incentive to cut costs and its desire to avoid reputation risk. This perceived conflict of interest is compounded by the lack of transparency of many private sector self-monitoring efforts, creating a potentially large credibility gap. A respected third party such as the ILO, whose governance structure includes governments, trade unions and employer organizations, has interests in the monitoring process that broadly correspond to the combined interests of the workers, firms and governments involved in the monitoring scheme. The high level of transparency that the ILO adopted in its reporting also enhances the credibility of results through another channel: the specificity of the reports allows for challenges by any actors that hold contrary information. This operates as a reality check and reinforcement of the credibility of the ILO. Another advantage of the ILO is that has had a long-term presence in Cambodia, and workers and others can access its staff on an ongoing basis to share information or complaints, in contrast to the private sector auditors who typically fly in for a one or two day inspection. It is hard to imagine a purely self-regulatory scheme that could achieve the ILO's level of credibility and effectiveness.

The Cambodia policy experiment also gave rise to progress in the factories through channels other than the ILO monitoring program. During the period of annual consultations under the US-Cambodia Textile Agreement, the two governments identified and addressed gaps in Cambodia's regulatory regime that hindered the implementation of labor laws. The Cambodian labor law, which was drafted with the assistance of the ILO and adopted in 1997, is a modern law incorporating all of the basic international norms. However the law left many institutional and procedural lacunae that were meant to be filled through regulations, known in Khmer as *prakas*. Few of these regulations had been enacted and the resulting procedural gaps included such basic matters as the method for a union to establish its status as the legitimate representative of workers in a factory and thus gain the legal right to engage in collective bargaining with the employer. Another missing regulation involved the creation of an arbitration council, which was foreseen in the law as a venue to resolve workplace disputes without the need for strikes by workers, lockouts by employers, or intervention by government inspectors and courts.

These gaps came to be a major focus of the semiannual meetings between the Cambodian and US governments. Progress on drafting and issuing the most critical *prakas* sometimes was used as a benchmark by the US in judging whether to award a quota bonus.[11] The Cambodian government often sought US and ILO assistance in drafting the procedural regulations. Draft *prakas* were reviewed with employers'

[11] Public meetings between the US and Cambodian governments, June 4, 2001 and November 30, 2001, in which the author chaired the US government delegation.

organizations and trade unions for further modification before being enacted. Gradually, procedures were put in place that allowed for orderly determination of worker, union and employer rights and obligations.[32] The arbitration council *prakas* was issued and the body was established with further assistance from the ILO. The arbitration council is now functioning and commands wide respect from employers, trade unions and workers in the private sector. From its establishment in 2003 through 2008, 650 cases had been filed with the council.[33] A digest published by the council after its first year of existence showed that 85 per cent of the disputes had been resolved, either through awards or voluntary agreements.[34] Large numbers of workers and managers have now had the experience of peaceful settlement of disputes based on neutral interpretation of laws and contracts, as well as the more intangible but significant experience of participation in a rules based system that serves their interests. Thus, the labor consultations mandated by the textile agreement provided an impetus and contributed to the articulation of institutions that extended the rule of law and dispute settlement in Cambodia. These mechanisms are likely to have positive spillover effects on the broader political system. Lessons from other developing countries suggest that nations that create institutions to successfully resolve distributional conflicts enjoy stronger and steadier growth than those that do not.[35]

## 6. Impact on Employment and Working Conditions in Cambodia

The impact of the quota bonus and monitoring experiment has been positive for employment and working conditions in Cambodia's apparel sector by many measures.[36] At the most basic level, the increases in quota and the decisions by reputation-conscious buyers to source their products from Cambodian factories have been key drivers of a very large increase in output and employment in the sector. In 1998, before the textile agreement took effect, apparel factories employed about 80,000 workers. By late 2008, apparel employment stood at 350,000.[37] These jobs make up a major share of scarce formal sector employment and are among the highest paid jobs for low skilled workers in the country. The overwhelming majority of employees in the sector are young women, aged 18 to 25, from rural households. To put the desirability of these jobs in context, the minimum monthly wage in the sector (US$50) is greater than the entire average monthly household income in rural areas (US$40).[38] Average monthly apparel wages are about

[32] For example, *Prakas* No. 305 established procedures to determine the representation status of unions. Issued by MOSALVY (Cambodian Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation), November 22, 2001.

[33] See Arbitration Council web site at http://www.arbitrationcouncil.org/eng_index.htm.

[34] Ibid, see "Digest #2" of 2004.

[35] See for example Dani Rodrik, "Institutions for High-Quality Growth: What They Are and How to Acquire Them", *Studies in Comparative International Development*, Vol. 35, No. 3 (Fall 2000).

[36] For example, an extensive list of positive results is included in a speech by Lorne W. Craner, US Assistant Secretary of State, "Corporate Social Responsibility at the State Department", March 11, 2004. Available at: http://www.state.gov/g/drl/rls/rm/30962.htm.

[37] ILO, Better Factories Cambodia, Quarterly Newsletter No. 12, December 2008. Available at http://www.betterfactories.org.

[38] IMF Country Report No. 03/59, op. cit., p. 13.

US$77, and many workers earn more through production incentives and overtime. Remittances by workers to their families in the countryside have been credited with living many rural households out of poverty. According to an Asian Development Bank survey, 90 per cent of those surveyed regularly send a major portion of their monthly income home to ensure that their families have enough food to eat and are able to send younger siblings to school rather than putting them to work.[39]

Another measure of the impact of the experiment can be found in the ILO monitoring reports. Twenty-one reports had been issued by December 2008.[40] Each report covers a group of factories that were visited by the ILO monitors. After the first visit, the details of compliance or non-compliance with national labor laws and international labor standards are reported, in an aggregated form, for that group of factories. The ILO then allows those factories a period of several months for remediation of any problems found, while it visits a different group of factories. Later, it revisits each group, noting which recommendations (called "suggestions" in the ILO reports) have been acted upon and which have not been remedied. In a subsequent report, the ILO publishes these findings, identifying each factory by name and noting whether it has complied with the suggestions or not.

The reports show that on their first visit, ILO monitors typically found a mixed pattern of compliance and non-compliance by factories.[41] Compliance was generally good in two key areas of basic labor rights: there was little or no child labor and no forced labor. Gender discrimination was not a widespread problem in hiring or wages, however discrimination on the basis of pregnancy was fairly common and isolated instances of sexual harassment were found. Widespread problems were found in incorrect payment of wages and excessive hours or forced overtime. Violations of health and safety laws were common, including both minor and more serious infractions. Problems with freedom of association—the right to form unions and bargain collectively—were found in a relatively small number of factories, although the violations found were sometimes very serious.

The pattern of initial findings was in itself somewhat encouraging. Before the advent of the ILO monitoring project, a British Broadcasting Corporation (BBC) program had interviewed two ostensibly underage workers in a factory that supplied apparel products to Nike. While many knowledgeable observers questioned the accuracy of the program, Nike ended its contracts with the factory and left Cambodia. After the ILO began its monitoring program and issued its first report, Nike returned to place orders in Cambodia and continues to do so. Although Nike had internal monitoring mechanisms in place before the BBC report, the company knew that its own internal findings would not be sufficiently credible to counter the damaging report. The ILO's findings, by contrast, command global respect and thus provide real value to global firms.

The ILO monitors make detailed suggestions to managers of each factory to correct the deficiencies identified. In the early years of the program, monitors returning to the

[39] Asian Development Bank, "Preventing Poverty and Empowering Female Garment Workers Affected by the International Trade Environment". Available at: http://www.adb.org/gender/country/cam005.asp.

[40] ILO Synthesis Reports on the Working Conditions Situation in Cambodia's Garment Sector. Available at: http://www.betterfactories.org.

[41] Ibid.

factories found that some progress had been made by the majority of factories in correcting the problems identified. A tabulation of the first group of synthesis reports to cover monitoring and re-monitoring of the same group of factories found that about 60 per cent of factories had implemented between one-third and two-thirds of the ILO's suggested corrections, while an additional 8 per cent of factories had implemented more than two-thirds of the recommendations.[42] A small group of factories came into full compliance with the ILO recommendations. Figure 1 shows the responsiveness of factories to ILO recommendations. The factories are sorted into three categories: those with relatively few deficiencies on the first inspection (fewer than 20 of the 156 items required improvement), those with 20-39 deficiencies, and those with 40 or more deficiencies. For each group, the figure presents the percentage of problems that were corrected between the first and second visits (less than one-third, one-third to two-thirds, or greater than two-thirds of suggestions implemented).[43]

As factories have been revisited multiple times in ensuing years, there has been a declining trend in the number of problems found. In some important areas, such as wages (including compliance with laws on minimum wage, overtime payment, and other payments), performance has improved considerably. Figure 2 summarizes re-monitoring results for wages.[44] In the factories that had been visited over the first four years of the program, the number of violations found declined on each monitoring visit.

The ILO reports also show progress over time on respect for workers' legal right to freedom of association and collective bargaining. There were few examples of unions successfully establishing themselves in Cambodian apparel factories before the US-Cambodia textile agreement and the ILO monitoring program began. By 2004, there were about 500 registered factory level unions.[45] In 2007, 79 per cent of the factories monitored had at least one union and the ILO estimated that 40 to 50 per cent of the sector workforce belonged to unions.[46] The monitoring reports also document some progress in health and safety, although few firms were in full compliance with the law and ILO suggestions.

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[42] Tabulation of Third, Fifth and Eighth ILO Synthesis Reports on the Working Conditions in Cambodia's Garment Sector (these reports covered the same group of factories) by Jacob Steinberg, Junior Fellow at the Carnegie Endowment for International Peace, May, 2004.

[43] ILO monitors report areas of non-compliance as suggestions for improvement. As of 2004, suggestions are standardized and represent one specific non-compliance finding. In the early years of the program, however, suggestions used by monitors were not thoroughly standardized. Sometimes different wording was used for the same violation or multiple violations were noted in one suggestion. For this reason, the methodology of summing up suggestions based on publicly available synthesis reports may lack accuracy in the early years of the program (approximately 2001 to 2004). Research conducted by Better Work based on original documents from monitoring visits, however, has produced findings in line with the results published in this paper.

[44] Tabulation of the First through Fifteenth ILO Synthesis Reports on the Working Conditions in Cambodia's Garment Sector by Kristopher Nordstrom, Terry Sanford Institute of Public Policy, Duke University, April 2006.

[45] Raghwan, Raghwan, "Uncomfortable but Taking Part—Cambodia's Unions and the PRSP", in ILO, ed. "Trade Unions and Poverty Reduction Strategies , special issue of *Labour Education*, Vol. 2004/1-2, No. 134-135, pp. 55-58. Available at http://www.ilo.org/public/english/dialogue/actrav/publ/134/index.htm.

[46] ILO, Better Factories Cambodia, Quarterly Newsletter No. 6, October 2006, p.3; "Cambodian Garment Industry: Challenges and Opportunities", April 2008. Available at http://www.betterfactories.org.

The ILO reports continue to provide a source of useful and reliable information about conditions in the factories and progress on remediation of problems. Although many problems remain, it is remarkable that so many factories have made rapid changes and corrections to practices that routinely confront apparel workers in many developing countries.

## 7. Benefits and costs

Many of the benefits of the quota bonus and monitoring experiment are direct, quantifiable and substantial. The augmented quota allowances themselves constituted a clear benefit to the Cambodian government, apparel firms and workers. For example, in 2002, the value of the quota bonus was US$56.4 million (calculated by multiplying the 9 per cent additional quota for that year times the share of exports under quota, valued at US$627 million).[47] About 13,000 jobs were created by the increased exports that year, and workers earned total wages of US$9.5 million at those jobs. As the quota bonus grew to 12 per cent in 2003 and 18 per cent in 2004, the value to all parties increased. The earnings of apparel firms and workers also translated into increased tax revenue for the government.

Beyond the quantifiable contribution of the quota bonuses, the risk mitigation that the good labor practices and monitoring offered to buyers led to their increased sourcing from Cambodia. Although it is impossible to calculate a precise level of orders attributable to the risk mitigation effect, the earlier discussion of growth in non-quota exports suggests that this effect was even larger than the quota increases, with attendant contributions to exports, employment, wages and taxes.

The ILO monitoring program has led to benefits for Cambodian apparel workers beyond the creation of jobs. They are now more likely to be paid the wages to which they are entitled under law, to receive appropriate overtime pay and bonuses, to work in safer and healthier workplaces and to enjoy freedom of association, which in turn gives them the wherewithal to further improve wages, benefits and treatment through their collective bargaining strength.[48]

The costs of the program have been surprisingly modest. Total funding for the initial three-year monitoring project was US$1.4 million. The US and Cambodia governments contributed US$1 million and US$200,000, respectively, and the Garment Manufacturers Association of Cambodia contributed US$200,000. Spread over three years, with an average of 200,000 workers in the sector during that period, the annual cost per worker was US$2.33 and the annual cost per factory was US$2,333. These costs compare very favorably to private monitoring schemes in the region, where the cost of factory inspections and certification that the factory conforms to a buyer's code of conduct can range as high as $10,000.[49] The current annual cost of the monitoring project, after

[47] IMF, IMF Country Report No. 03/59, p. 9.

[48] Elliott and Freeman, op. cit., p. 118.

[49] Nguyen Manh Cuong, Deputy Director, International Cooperation Department, Ministry of Labor, Invalids and Social Affairs, Government of Viet Nam, speaking at the World Bank Group's International Conference on Public Policy for Corporate Social Responsibility, Country Session 1, October 8, 2003.

additional features were added to assist factory managers and workers, is about US$3 per worker, or US$2800 per factory.[50]

The program has been cost effective primarily because of personnel costs. The project director and assistant director are hired by the ILO at competitive international salaries, reflecting the substantial experience and expertise required by the positions. However the monitors and other staff are hired locally in Cambodia, at salaries that are attractive by Cambodian standards, but very economical by international standards. The director trains the local monitors and exercises oversight to ensure that the monitoring meets international norms. The local monitors (there are currently about twenty) are carefully selected and generally have been praised by all parties.[51] Because the monitors are paid at levels that are attractive in Cambodia, they are less vulnerable to the temptation to corruption faced by low-paid government labor inspectors. In addition, all monitoring visits are carried out by teams of two and the teams visiting particular factories are rotated to minimize the risk of bribes. The structure of salaries in the project makes it possible to carry out activities at a level of competence that commands international credibility while paying most salaries at the level of the local labor market. One reason for the high costs of many private monitoring programs is that auditors are typically paid at international salary or consultant levels and are flown in for inspections from distant locations with attendant travel, housing and per diem costs.

The cost-effectiveness of the local hires is further enhanced by their equally important non-monetary contributions. The local hires speak Khmer and thus are able to communicate with both workers and employers. As local residents, they are well positioned to meet with workers and unions away from the work place when necessary. By contrast, private auditors who are not locally based may have difficulty communicating with workers and may not inspire their confidence, particularly if the only contact is in the workplace where workers may feel intimidated by their managers. A final benefit of this approach is that the locally hired monitors acquire important technical, process and conflict management skills that add to the store of the society's human and social capital.

Cost-effectiveness is further promoted by charging international buyers for access to the monitoring reports produced for their suppliers. Buyers can now purchase subscriptionjs online and receive detailed monitoring reports. Some major international buyers have begun to contribute additional sums to sustain the project.[52]

Financial support for the project has also broadened as international development agencies witnessed the gains in economic development, employment creation and poverty alleviation that Cambodia was able to achieve through this innovative approach. Additional funding is now provided by the World Bank's International Finance Corporation, the Agence Française de Développement (AFD), the Asian Development Bank (ADB), and New Zealand's International Aid and Development Agency (NZAID).

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[50] ILO, Better Factories Cambodia, "Funding". Available at http://www.betterfactories.org.

[51] International Labor Organization and US Department of Labor, *Mid-term Evaluation Report* of the project, "Ensuring that Working Conditions in the Textile and Apparel Sector in Cambodia Comply with Internationally-recognized Core Labour Standards and the Cambodian Labour Law", Phnom Penh, February 2003.

[52] A list of firms that contribute is available at: http://www.betterfactories.org/donors.aspx?c=1.

## 8. Lessons and conclusions

The Cambodian policy experiment can be judged as a success measured against its ambitious objectives: to increase apparel exports, improve economic growth, and improve working conditions and worker rights in the country. The policy continues beyond the framework in which it was originally conceived (the apparel quota system that ended in 2005) primarily because of the benefits it provides for private firms. However even in the current private sector-driven context, the policy continues to provide benefits to the wider society in terms of employment, working conditions, the dispute settlement mechanism and participation of workers' representatives in policy setting for the sector.

The experiment is a rare example of a new policy idea and its successful implementation in the globalized production system. When such successes occur, it is useful to search for lessons that can be learned to inform policy making elsewhere, and we turn to that topic in this final section. Five distinct characteristics of the innovative Cambodian policy can be identified as essential to its success.

### A. Positive incentives

An important innovation was the manner in which trade privileges were linked with improved labor rights. Labor provisions had been included in other trade agreements and trade preference programs by the US and some other governments, but those provisions operated as negative incentives.[15] In those arrangements, trade privileges were granted to the trading partner with the condition that they could later be revoked if governments failed to address existing problems, if labor conditions deteriorated or if new violations were discovered. In negotiating terms, the privileges were front-loaded and the accountability was back-loaded (if it happened at all).

By contrast, the textile agreement with Cambodia created a positive incentive that operated prospectively. The additional market access (quota) was not granted until the Cambodian employers and government met pre-established benchmarks of progress on labor conditions, resolved specific problems and upgraded legal instruments. The improvements had to be demonstrated first, and then the commercial reward followed. The difference in impact of positive and negative incentives can be substantial. Looked at from the perspective of the recipient country, a positive incentive system requires real changes in behavior in order to access the desired market reward. Under a negative incentive system, continuing improvement in labor standards may be less likely once the desired market access has been granted, for several reasons. The deterrent effect of a general and vague conditionality may be discounted by the recipient. From the perspective of the granting country, it may be politically unappealing to employ a negative incentive, because revoking privileges already granted can disrupt ongoing economic activities. Partly as a consequence, negative incentives are typically employed only in cases of egregious abuse of labor rights. This can limit the efficacy of such arrangements to achieve incremental, sustained progress on labor rights and conditions.

[15] Polaski, op. cit., pp. 21-22.

In this case innovation went beyond the substitution of positive for negative incentives. The positive incentives were structured in a way that required progress in each annual period to gain a quota increase for the following year. The repetitive nature of the exercise elicited more progress than a one-time qualifying period could achieve. It allowed modest, feasible steps to be taken and rewarded rapidly, as part of the repeated annual exercise. This aspect of the policy design is particularly important, because many of the labor problems encountered in developing countries are complex and difficult to solve in one stroke.

For countries that wish to fashion a positive incentive for improvement of labor conditions, the initial incentive granted to Cambodia is not available because the quota system has ended. However there are many other positive incentives that could be granted by developed to developing countries to achieve labor goals. Many restrictions still confront developing country exports and policy makers could link expansion of trade benefits to progress on labor rights and other developmental objectives. For example, bilateral free trade agreements, which typically phase out tariffs over a period of many years, could accelerate those tariff reductions or offer tariff benefits beyond the basic reductions if agreed benchmarks were met on labor standards.

**B. Goal setting**

The semi-annual consultations between the US and Cambodian governments proved to be an important mechanism for harnessing the positive incentives to practical goals. Benchmarks were set that could be achieved in a six to twelve month period. The goals ranged from major structural changes, such as the issuance of necessary regulations and creation of institutions, to the remediation of specific, egregious problems in particular factories. Once the ILO monitoring reports became available, an overall goal in each period was the demonstration of effort and steady progress by factories in remedying identified problems.

The short-term goals were agreed in consultations between the two governments, and the views of apparel factory managers and workers' organizations were also sought. The involvement of all relevant Cambodian actors in the discussions meant that the resulting goals were widely known. The specificity of the goals meant that all actors understood what was expected. The challenge faced by the parties was to identify goals that were sufficiently ambitious to contribute to significant and sustained progress in labor rights, while recognizing the constraints on the Cambodian actors.

Policy makers seeking to replicate this approach should include a frequent consultative process that sets ambitious but realistic objectives and takes stock of progress. It would be desirable to include all affected actors in the consultations.

**C. Role of an international intergovernmental organization**

As noted above, the Cambodia monitoring program marked the first time the ILO had inspected factories or directly monitored private sector behavior. The organization proceeded in a careful, deliberative manner, which slowed the development of the program somewhat. However in the process it built consensus among relevant actors at each step and developed an iterative approach to problem solving on issues that arose. This careful process was an important factor in the success the monitoring program has enjoyed.

The experience has built a strong new capacity within the ILO that is highly relevant to the needs of its constituencies elsewhere. The organization has now created a capacity to replicate the monitoring and other aspects of the Cambodia program in other countries. A new entity, called Better Work, has been established at the ILO headquarters in Geneva in conjunction with the International Finance Corporation. Three countries, Jordan, Haiti, and Vietnam, have already launched programs with Better Work and several other countries are exploring programs.

As countries struggle to achieve economic growth while advancing social equity, particularly during the current global economic downturn, they can call upon the ILO to use its newly developed skills to monitor and provide credible information about their workplaces.

The role of the ILO in Cambodia is illustrative of a function that could also be assigned to other intergovernmental agencies that deal with different substantive matters. As an example, an effort known as the Kimberly Process, a scheme to stop trade in diamonds that fuel and finance civil wars in Africa, recently agreed that self-regulatory efforts by the diamond industry required more aggressive oversight by governments and greater transparency of information about traded diamonds.[54] This role could be played effectively by intergovernmental organizations.

**D. Transparency**

One aspect of the Cambodia monitoring program that has been indispensable to its success is the high level of transparency that the ILO provided through its reports. As discussed, this transparency allowed governments, firms, trade unions and other interested parties equal access to the information generated. The reports served a multiplicity of purposes in the hands of different actors and reinforced the common interests they shared. Any future monitoring role for the ILO or other intergovernmental agency should replicate at least an equal level of transparency.

The question arises whether private auditing groups could substitute for an intergovernmental organization to provide monitoring with a similar degree of transparency and credibility. Currently, no private sector group has attempted this level of transparency. Those groups that monitor labor conditions in factories abroad generally have been unwilling to identify the specific factories inspected and the findings, both positive and negative, in those factories. Some multi-stakeholder monitoring groups have improved their transparency in recent years, but reporting typically covers only a small percentage of factories or buyers. Without specific information about individual factories outside actors are not in a position to act on the information and a useful check on the accuracy of reports is lost if workers or others who might possess conflicting information are not able to identify the firms involved. Unless private monitoring groups were to report with full transparency to all interested actors, it is unlikely that they could fill the role of providing sufficient information to improve the functioning of markets, generate the progress on workplace performance that was achieved by the ILO in Cambodia, and provide effective reputation risk insurance to factories and buyers.

[54] Financial Times, "Conflict diamond curbs agreed", November 10, 2006.

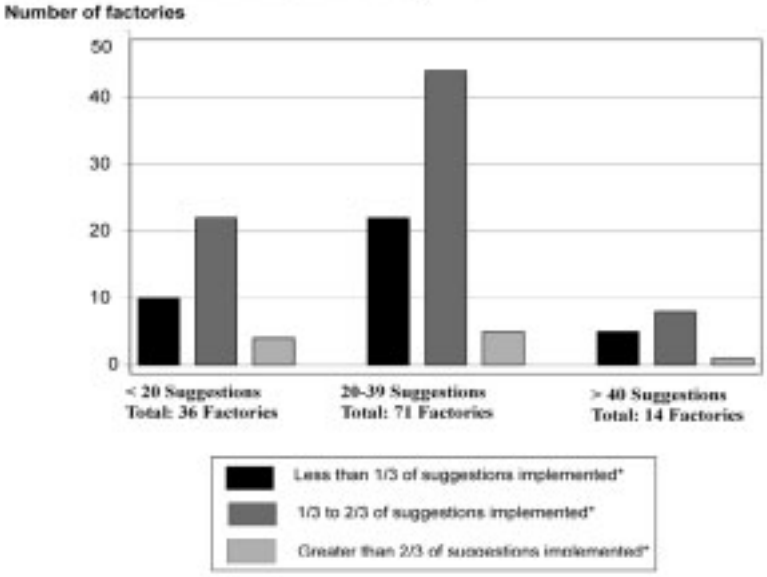
**E. Role of governments**

The apparel industry in Cambodia was a major beneficiary of the policy experiment, but did not initiate it. The multiple firms in the sector faced a classic coordination problem in which all firms would be better off with increased market access in the form of quota and increased purchasing by international buyers. However individual firms did not want to lead the effort, without assured participation by all, to avoid bearing disproportionate costs of improving labor conditions. The role of the Cambodian and US governments in initiating the policy, and the role of the Cambodian government in requiring sector wide participation, were essential.

The Cambodian government had strong interests in creating the policy and ensuring its success. The interests encompassed economic, social and political objectives. In the economic realm, the gains to be achieved included increased exports, which would stimulate overall economic growth, increased employment and increased fiscal revenues. The societal goals of the government were to improve the employment opportunities, incomes and working conditions of Cambodian workers. Because the apparel sector offers the best employment available to unskilled workers in Cambodia, expanding the number of positions was a major goal of the government. In addition to direct employment opportunities, growth in the apparel sector also had a beneficial economic effect on households, mainly in the countryside, which received remittances from the young, largely female workforce drawn from rural households. At the political level, worker unrest was rising in the years after Cambodia achieved peace in 1991. In a polity where disputes had long been resolved through violence, the creation of economic opportunity and peaceful means for addressing distributional disputes was a significant breakthrough.

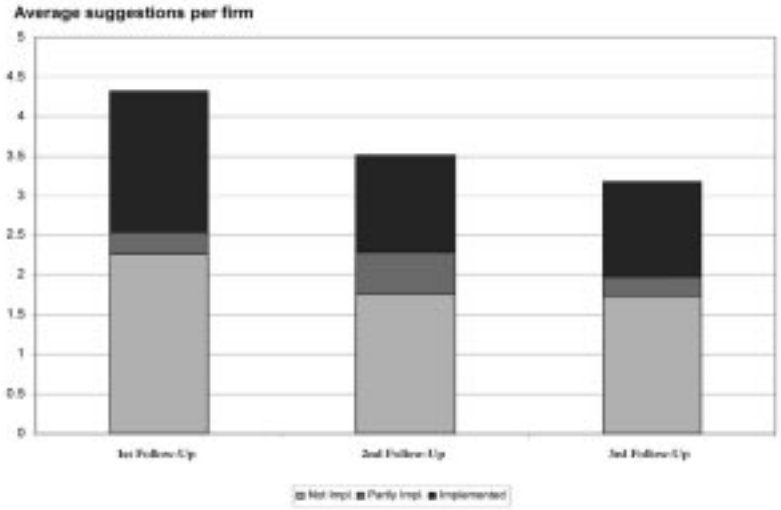
Due to resource and capacity constraints, the government had very limited ability to achieve its goals through direct governmental interventions such as inspection, fines or judicial settlement of disputes. In this case, the government effectively leveraged the policy instruments it did possess, such as the ability to negotiate market access abroad and the granting of export licenses, to elicit greater compliance by firms. Even least developed countries such as Cambodia have instruments with which to achieve more favorable terms for their insertion into the global economy, by leveraging international norms and intergovernmental capacity to their own purposes.

**Figure 1: Re-visited factories: Response to ILO suggestions**




* Includes suggestions partly implemented and in the process of being implemented
Source: Tabulations of ILO Third, Fifth, and Eighth Synthesis Reports on the Working Conditions Situation in Cambodia's Garment Sector

**Figure 2: Incidence and remediation of wage problems**




Source: Tabulation of ILO First through Fifteenth Synthesis Reports on the Working Conditions Situation in Cambodia's Garment Sector by Kristopher Nordstrom, Terry Sanford Institute of Public Policy, Duke University, April 2006.

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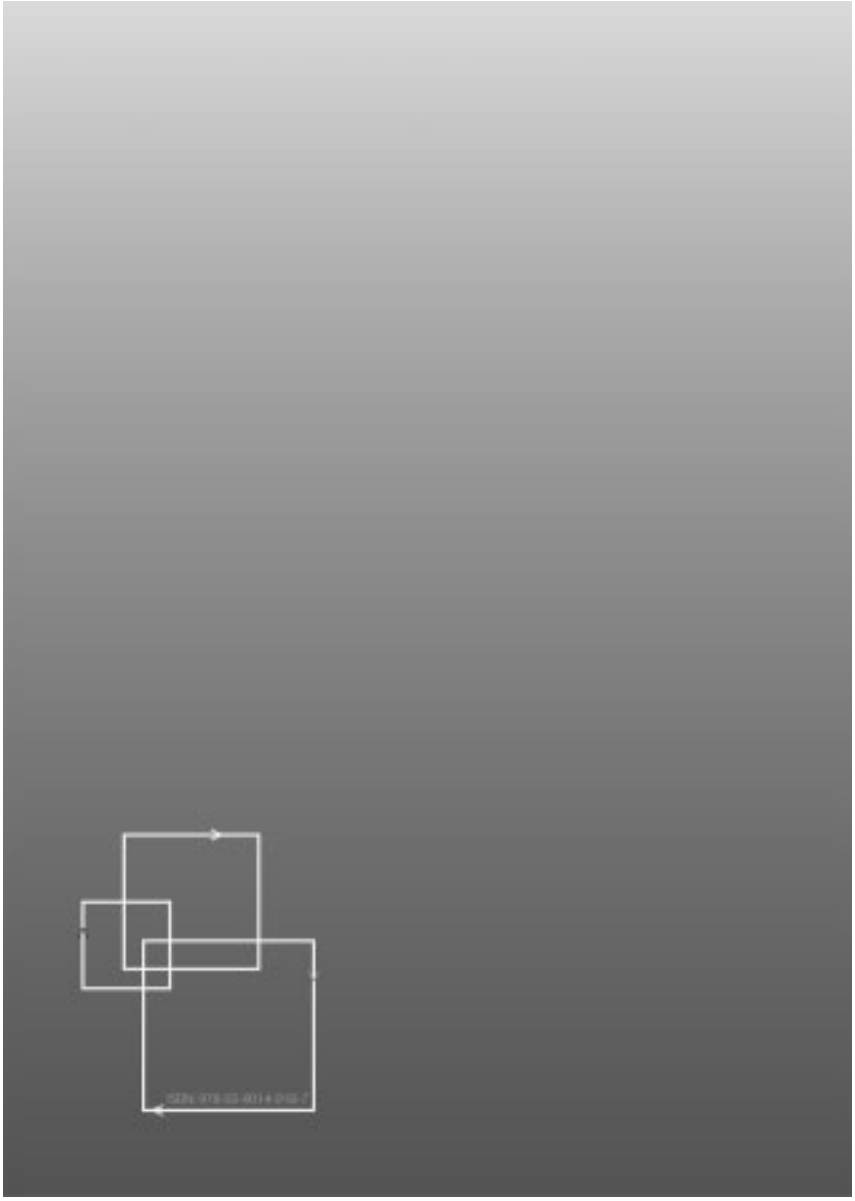

**Written Statement of ONE**

for consideration by the Subcommittee on Trade of the House Committee on Ways and Means

**Summary**

The subcommittee's hearing on the Operation, Impact, and Future of the U.S. Preference Programs offers the opportunity to consider how US preference programs can be strengthened to increase the opportunities for the poorest countries while ensuring the gains that African countries have made under AGOA are not undermined. ONE urges the subcommittee to not only review market access issues but to take a comprehensive approach to how trade policy can foster economic growth in developing countries, with particular attention to the unique challenges of sub-Saharan Africa.

ONE advocates that the review therefore considers how the U.S. trade preference programs can:

- operate in a more predictable, reliable and simple fashion;
- promote broad-based economic development in beneficiary countries;
- take account of beneficiaries' particular development needs; and
- as far as possible, be coordinated with the preference programs in other major economies.

Market access under AGOA has been a tremendous help for the continent, but truly ensuring that trade can help African economies grow and engage in the global economy will require capacity building as well—especially in light of some ensuing erosion of those preferences. To this end, ONE will only support an expansion of duty-free quota-free access to the U.S. market to all least developed countries (LDCs) if "supply side" constraints including insufficient infrastructure, weak institutions, and lack of local and regional markets are addressed so that Africa's gains can be preserved and built upon.

**Background**

ONE appreciates the subcommittee's initiative to take a comprehensive review of existing trade preference programs and to consider how they have been working and how they can be improved. As the subcommittee is aware, there is considerable evidence that trade that facilitates market-led, sustainable and broad-based economic growth is a vital tool for reducing poverty in the world's poorest countries, many of which are in sub-Saharan Africa. The U.S. trade preferences for developing countries, including those granted under Generalized System of Preferences (GSP), African Growth and Opportunity Act (AGOA) and other preference programs, have played an important role in creating trading opportunities and growth in those countries.

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For example, since its enactment in 2000, AGOA has sparked critical economic opportunities to people throughout Africa. U.S. imports from AGOA-eligible sub-Saharan African countries have steadily risen, growing by nearly 30 percent in 2008 alone. AGOA has created more than 200,000 jobs in these countries, and studies show that a significant portion of those jobs have gone to women. These gains are important, and reveal that AGOA can have a significant impact on African economies even though it is also widely acknowledged that AGOA has not yet fulfilled the full potential envisioned when it was created. It is critical that this review considers how to ensure its success going forward while addressing trade preferences on a global scale.

**Greater predictability, reliability and simplification**

The U.S. preference programs are characterized by complex rules of origin, eligibility requirements and procedures. The purpose of the eligibility criteria is to provide incentives for beneficiary countries to adopt policies and practices that will have the greatest positive impact on their sustainable development. However, the current eligibility criteria have been criticized for creating confusion and uncertainty over whether the country will qualify for the benefit and for how long, and therefore constrain these countries from making informed business decisions. A set of clear, commercially meaningful and achievable eligibility criteria is needed to allow beneficiary developing countries achieve and retain eligibility. Whenever possible, progress towards meeting eligibility criteria should be encouraged and supported, including through targeted capacity building assistance. The complexity and strictness of the rules of origin requirements can make preference programs difficult to access, and the costs to exporters and importers to meet these complicated rules can be more than the tariff savings afforded by the preference program.

ONE recommends that the programs are reviewed with the aim of making them simple to use and more predictable for the producers, exporters and importers in the poorest countries and the U.S., while also considering the special needs of many African countries and ensuring their gains through AGOA are not undermined. In the meantime, as the subcommittee undertakes this review, ONE urges the timely and longer-term renewals of all existing trade preference programs in order to ensure that benefits are not interrupted.

**Promoting broad based product coverage**

To achieve the goals of promoting sustainable development and economic growth, preference programs must cover all products that beneficiary countries are capable of producing to ensure the most developmental impact and stimulate value-added production opportunities.

AGOA succeeded in attracting some U.S. investment particularly in the textile and apparel sectors of the African economy, and sparked important successes in countries such as Lesotho, which has become the leading sub-Saharan African exporter of apparel to the U.S. with AGOA exports in 2007 valued at more than $300 million, up from $129.6 million in 2001. However, despite these pockets of success, AGOA has still not fully lived up to its potential. 93% of AGOA exports in 2007 were energy-related, which benefit only a small segment of society. The scope of the products covered by AGOA should be expanded to include items such as sugar, beef and footwear, which could become successful export products.

**Taking account of beneficiary needs**

The ability of the world's poorest to produce and deliver goods demanded by regional and global markets is constrained due to lack of sufficient infrastructure, institutions, and local and regional markets. Development assistance and trade capacity building can be used to unleash this potential, but they are often disconnected from trade policies. U.S. development and trade policies need to be better integrated to increase policy coherence and ensure that trade can better contribute to development.

A mechanism for coordinating whole-of-government approaches to global development is needed. Such a mechanism must be mandated to integrate trade policies vis-à-vis developing countries to ensure that development assistance and capacity building are aligned with existing preference programs to help developing countries take advantage of the trade opportunities that exist. Agencies engaged with U.S. trade policy such as the Office of United States Trade Representative (USTR), the Department of Commerce, Overseas Private Investment Corporation (OPIC) and the U.S. Export-Import Bank should be tasked to consider the developmental goals of poor countries as part of their mission. There also needs to be a system in place that takes into account development expertise in trade policy areas. A clear instruction from Congress and President Obama to these agencies to include development concerns and enhance their staff capacity with development experts will enable the preference programs to achieve their intended objectives of poverty reduction and may have an overall positive impact on the US economy.

ONE urges this subcommittee to work with other committees to increase funding for trade capacity as the subcommittee reviews the U.S. preference programs. The Millennium Challenge Corporation (MCC) and the President's agriculture initiative both provide opportunities to continue to improve capacity in Africa and elsewhere, including poor infrastructure. The regional trade and competitiveness hubs in sub-Saharan Africa, the U.S. Agency for International Development (USAID) funded programs to assist, enhance and broaden trade between the U.S. and the region, have created important success stories throughout Africa but some are coordinating activities for more than 15 countries. The trade hubs are inexpensive and cost-effective; more trade hubs should be opened in critical and emerging African markets.

**Consistency of bilateral preference programs**

There is considerable analysis which shows that AGOA and other U.S. trade preferences programs can have greater impact if other developed countries such as the EU, Canada and Japan and emerging economies such as India, Brazil and China can work to align their programs with one another. For example the Institute for Development Studies found that the complexity of different country schemes was a major deterrent for developing country exporters, especially those entering a market for the first time[1]. Producers and exporters in poor countries currently have to understand and comply with each of the different bilateral programs. At past G8 Summits, the U.S. has pledged to work with other G8 countries to examine the merits of existing preference schemes in order to achieve further improvements, but this has not yet been implemented in any systematic manner. Harmonizing the rules of origin, standards and regulations such as the sanitary and phytosanitary measures would enable beneficiary

[1] Making Trade Preferences More Effective, Christopher Stevens and Jane Kennan, Institute of Development Studies, 2004.

countries to export to a wider range of developed country markets and allow beneficiary countries to utilize the programs fully.

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December 7, 2009

TO: The Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

I submit the enclosed statement ("Redesign the 'Fast Track' to Free-Trade Ratification") for inclusion in your committee's published hearing on "U.S. Trade Preference Programs" (a hearing conducted on November 17, 2009).

The first half of my statement reveals my long involvement with trade policy -- preferring advocacy of a fully multilateral free-trade strategy indispensably including a well-designed economic-adjustment program. The second half of my statement advocates an innovative way to ensure "fast track" ratification of any trade agreement (preferential or otherwise) the president negotiates. "Fast track", to date, has never been a proper way to seek Congressional approval of trade agreements the president may negotiate.

Now 91 years old, freelancing these days on issues I profess to know a lot about, I have been diligently concerned with trade policy for over half a century. The enclosed reprint from the Journal of Commerce 27 years ago is just one indication of my long concern with trade policy in the national interest -- especially my preferring a fully multilateral free-and-fair trade strategy rather than an array of preferential trade agreements.

Sincerely,

David J. Steinberg

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Redesign the "Fast Track" to Free-Trade Ratification

I have been advocating a definitively free-trade policy since the mid-1960s, when I was chief economist (later also the executive director) of the Committee for a National Trade Policy, a nongovernment organization dedicated to freer world trade in the national interest. It was a time when most Americans who today call themselves "free traders" avoided this label, preferring to be known as advocates of "freer trade" or a "liberal trade policy". My explicit advocacy of free trade at that time was not favorably regarded (because considered unrealistic) by trade-policy officials of our government and proponents of freer trade in the business community.

Continuing my advocacy of a definitively free-trade policy backstopped by a well-designed domestic adjustment program, I in 1974 established (and became president of) a new organization -- the U.S. Council for an Open World Economy -- dedicated to a multilateral U.S. free-trade strategy with well-designed dimensions in both domestic and foreign-economic policy in the overall national interest.

When our government began negotiating bilateral free-trade agreements with a few individual countries in the 1980s, I took exception to that version of a free-trade policy, not only because I preferred a fully multilateral free-trade strategy, but also because I was concerned that not enough attention was given to backstopping free-trade agreements with a well-designed domestic policy ensuring that free-trade agreements advanced, not only the overall national interest, but also the interest of every state in the Union (and every U.S. offshore territory as well).

Currently free-lancing on this among other issues, I continue to oppose (except for foreign-policy emergencies) the negotiation of free-trade agreements with individual countries or selected groups of countries (for example, the North American Free Trade Agreement and the Central American Free Trade Agreement) -- not only because these agreements are not the fully multilateral free-trade strategy I prefer, but especially because (a) they result in discrimination against countries not signatory to such agreements, and (b) the policy lacks well-designed attention to the problems various U.S. states and offshore territories may encounter from implementation of these free-trade agreements.

Absence of a statutory requirement of well-designed, nationwide preparedness for the adjustment problems various sections

of our country may encounter from the free-trade agreements the president sends to Congress for ratification currently prompts my opposition to outright renewal of the so-called "fast track" method of Congressional ratification of trade agreements -- the limitation of Congressional options to an up or down vote on the agreement under consideration.

Reform of the Ratification Process

Reforming the process of trade-agreement ratification should be more extensive than insistence that free trade be fair trade -- usually defined as insistence that the country or countries accorded free-trade status should enforce the labor standards enunciated by the International Labor Organization of the United Nations, and appropriate environmental standards as well. Nor would ensuring the adequacy of the longstanding trade-adjustment-assistance program be enough -- a program that helps workers who lose their jobs to import competition retrain for new employment. Much more than all these assurances is needed to make sure that free trade with the particular foreign country (or countries) adequately serves, not only the overall national interest of the United States, but also the interest of every state in the Union (and every U.S. offshore territory as well).

To fulfill these standards, there should be a statutory requirement that, when the president of the United States sends a free-trade agreement to Congress for ratification, Congress -- as a condition for ratification -- should be confident that the agreement will indeed serve, not only the overall national interest, but also the interest of every U.S. state and offshore territory. To fulfill this expectation, the statute on trade-agreement ratification should require Congress to invite the governors of all the states and territories to (a) identify major problems their respective jurisdictions would predictably encounter from the particular free-trade agreement, and (b) identify federal-government assistance that may be needed to help address these problems.

In anticipation of such concerns, the president (through appropriate executive branch officials) should be expected to seek information on adjustment problems likely to result from contemplated free-trade agreements. He should (a) take steps he has the authority to take to help solve such problems, (b) urge steps particular state and local governments should take, and (c) advocate steps Congress itself should take to facilitate successful adjustment to likely adjustment problems.

With these reforms, the process of trade-agreement ratification -- heretofore an up-or-down vote known as "fast track" -- would be put on the right track.

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# Washington Lobbyist Campaigns For Long-Term Free Trade Strategy

By RICHARD LAWRENCE
Journal of Commerce Staff

WASHINGTON — Reagan administration trade policy, however, "bold" it may seem to administration officials, is "very inadequate," says David J. Steinberg.

And Washington's "liberal trade policy" lobby, he insists, is myopic, made up of people who focus on "short-term" problems with little sense of perspective. They "wallow," he says, in "fuzzy concepts like liberal trade, freer trade and fair trade."

What the world needs now, argues Mr. Steinberg, this city's longest campaigning free trade lobbyist-advocate, is a "free trade charter," which, he suggests, the administration should propose at this November's ministerial meeting of The General Agreement on Tariffs and Trade.

The charter, calling for the eventual free international flow of goods, services and capital, would set the kind of long-term goal, he says, that nations need to peel away impediments to trade and investment, not only this year or next but through the rest of this century.

He applauds the Reagan administration for its free trade "philosophy" and its proposals to negotiate international rules on services trade and investment, but, he contends, it must set the world's sights higher, toward ultimate free trade.

Mr. Steinberg, who heads the U.S. Council for an Open World Economy, a non-profit public advocacy unit, admits to being an "idealist," but not an "ideologue."

He rejects free trade for free trade's sake. It must be accompanied, he emphasized in an interview, by "fair trade," in which nations, especially the industrial countries, adhere to the same competitive rules.

Free trade also can come only with sound domestic and social policies, which promote competitiveness and "full employment," he says. Again, despite the recently enacted tax benefits to business, the Reagan program of regulatory relief and antitrust policy reviews, Mr. Steinberg contends the government is not doing enough to make U.S. industry competitive in "the world market."

He opposes government "Japanese-style" where "sunrise" industries are singled out and "sunset" industries marked for "extinction." There is "too much simplistic talk about giving up old-timers like textiles and shoes," he says. Neither does he favor government help for industries whose survival depends on the government.

But, he contends, the government needs a "coherent redevelopment strategy" for helping industries with competitive problems. It must, he argues, look more deeply into their problems and take practical actions — in federal regulations, tax and antitrust policy, financing or worker retraining — to help restore their competitiveness.

He cites the Carter and Reagan efforts for the steel and auto industries as along the lines of government help he advocates, but even in those cases he feels the government could do more, especially in the way of systematic followup.

But Mr. Steinberg has one big caveat. Import restrictions should be the "measure of last resort" in any industry redevelopment program.

The government, he contends, should alter its procedures for industries seeking import quotas or higher tariffs. Instead of weighing only whether to restrict imports, it should consider the more basic steps it could take to make the industry competitive.

"The time has come to reform the pig-in-a-poke" approach to industry import problems, he says. If import controls are applied, the American public has "a right to know" how the industry will use them to revitalize itself. It also has the right to know, he says, how the government assesses the industry's plans.

Mr. Steinberg scores the Reagan administration's decision to virtually end the trade adjustment assistance program, by which firms hurt by imports won financial and technical help and workers received cash allowances, job search, retraining and relocation benefits.

The program was always "inadequate," he says, but at least it was in the direction of the kind of "redevelopment" program America needs. Phasing out trade adjustment assistance is "unwise, in social, economic and political terms."

Mr. Steinberg entertains few illusions about "the selling" of his "free trade charter," here or abroad. Most people in government, he concedes, regard it as "a far out idea," not "politically palatable." Getting the major nations to discuss such a charter would be "a most formidable undertaking," he admits.

Yet he insists that eventually its time will come, if the United States and President Reagan himself makes the clarion call. He foresees support for such a charter developing primarily among the more "enlightened" business groups, although, so far, he says, most multinational corporations have seemed surprisingly shortsighted.

## *David J. Steinberg, Defender of Free Trade*

Journal of Commerce Staff

WASHINGTON — David J. Steinberg, a Harvard graduate in government and economics, was a Marshall Plan official in the early 1950s before becoming a Washington economic consultant and eventually chief economist executive director of the Committee for a National Trade Policy.

The committee, financed largely by multinational companies, was the first Washington-based group organized to promote freer world trade. Formed in 1953, it was disbanded 20 years later. Since then, Mr. Steinberg has led his own public advocacy group, financed by companies and individuals. But, he emphasizes, he represents his own views, not necessarily those of his contributors.

DAVID J. STEINBERG

Mr. Steinberg, over the years, probably has delivered more testimony on trade policy before congressional committees than any other person. He prides himself on trying to keep the government "honest" on foreign trade matters, particularly import policy.

Examples include the continuing "Buy American" strictures Congress places on Defense Department procurement of textiles, apparel and specialty metals. Such "sacred cow" subsidies, he maintains, need "probing." They have been around for years, he says, yet nobody in government knows their cost or periodically assesses whether they are still needed.

His direct involvement in U.S. trade policy dates back to 1961, when as chief trade policy consultant for the Senate Commerce Committee he helped prepare a report from which President Kennedy drew ideas for the landmark 1962 trade expansion act.

In 1970, Mr. Steinberg, with then-senator Paul Douglas, drafted a nationally circulated petition endorsed by 3,000 U.S. economists opposing the protectionist threat of the day, which became popularly known as the Burke-Hartke bill.

His books include "The Sterling Area, Art American Analysis," "Cambodia, Its People, Its Society, Its Culture" and "The U.S.A. in the World Economy."