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# HEARING ON PRESIDENT OBAMA'S TRADE POLICY AGENDA WITH U.S. TRADE REPRESENTATIVE MICHAEL FROMAN

## HEARING

BEFORE THE

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

ONE HUNDRED THIRTEENTH CONGRESS

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# HEARING ON PRESIDENT OBAMA'S TRADE POLICY AGENDA WITH U.S. TRADE REPRESENTATIVE MICHAEL FROMAN

**THURSDAY, JULY 18, 2013**

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

The committee met, pursuant to call, at 9 a.m., in Room 1100, Longworth House Office Building, the Honorable Dave Camp [chairman of the committee] presiding.

# *HEARING ADVISORY*

## Chairman Camp Announces Hearing on President Obama's Trade Policy Agenda with U.S. Trade Representative Michael Froman

Thursday, July 18, 2013

House Ways and Means Committee Chairman Dave Camp (R–MI) today announced that the Committee on Ways and Means will hold a hearing on President Obama's trade policy agenda with U.S. Trade Representative Michael Froman. **The hearing will take place on Thursday, July 18, 2013, in 1100 Longworth House Office Building, beginning at 9:00 A.M.**

In view of the limited time available to hear the witness, 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.

**BACKGROUND:**

International trade is an engine for growth and job creation in the United States. While the United States is the largest economy and trading nation in the world, 95 percent of the world's consumers are abroad. Accordingly, the future success of American workers, businesses, farmers and ranchers is integrally tied with continuing America's strong commitment to finding new markets and expanding existing ones for U.S. goods and services.

This hearing will provide an opportunity to explore with Ambassador Froman how the President's trade agenda will create new and expanded opportunities for U.S. companies, workers, farmers and ranchers. Those opportunities include ongoing negotiations such as the Trans-Pacific Partnership, the U.S.-EU Trade and Investment Partnership and the Trade in Services Agreement negotiations, as well as post-Doha negotiations at the World Trade Organization such as expansion of the Information Technology Agreement (ITA), a trade facilitation agreement and a WTO agreement on environmental goods and services. The hearing will also explore the need for Trade Promotion Authority legislation, which the President has recently requested, in setting out Congressional objectives, consultation, and consideration of trade agreements. In addition, the hearing will examine important enforcement priorities, including trade restrictive practices and non-tariff barriers from major emerging economies that prevent U.S. companies from competing on a level playing field and various bilateral and multilateral trade disputes and concerns. Finally, Ambassador Froman's testimony will provide an opportunity to discuss Bilateral Investment Treaty (BIT) negotiations with China, India, Pakistan and Mauritius, as well as new BITs and investment opportunities; discussions in other bilateral and multilateral forums; and the trade and investment relationship with new and emerging trading partners.

In announcing this hearing, Chairman Camp said, **"Opening new markets and enforcing our trade rights support economic growth and job creation here in the United States. We are at a critical juncture to move forward aggressively on a number of trade fronts including negotiations on the Trans-Pacific Partnership, with the European Union, as well as negotiations for the Trade in Services Agreement. Trade Promotion Authority legislation is essential to concluding ongoing negotiations and providing important Congressional direction, particularly to the talks that are just now beginning. We must also continue to develop new trade and investment opportunities, and enforce our trading rights with important trading partners, including China, India, and Latin America, to maximize American competitiveness and ensure that we do not fall behind. The Administration's active and engaged leadership is critical to achieving these goals."**

**FOCUS OF THE HEARING:**

The hearing will provide an opportunity to explore with Ambassador Froman current and future trade issues such as: (1) developing and passing of Trade Promotion Authority legislation; (2) seeking to conclude a successful Trans-Pacific Partnership agreement this year; (3) negotiating with the European Union for a comprehensive and ambitious trade and investment agreement; (4) negotiating a Trade in International Services Agreement that increases access for all sectors of our economy; (5) improving our important trade relationship with major emerging economies like China, India and Brazil, and addressing their trade barriers; (6) ensuring appropriate trade enforcement efforts; (7) advancing WTO negotiations, including "post-Doha" issues at the WTO such as Information Technology Agreement (ITA) expansion, a trade facilitation agreement and an agreement for trade in environmental goods and services; (8) negotiating Bilateral Investment Treaties (BITs) with China and India and exploring new BITs and investment opportunities; and (9) establishing long-term, closer ties with important trading partners.

**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 "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, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Thursday, August 1, 2013**. 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 or (202) 225–3625.

**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 supplementary 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 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.

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.

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

Chairman CAMP. The committee will come to order.

Well, good morning, everyone. I want to welcome everyone here today and extend a special welcome to United States Trade Representative, Ambassador Mike Froman. First of all, let me congratulate you on your confirmation. You are now leading one of the most professional and productive agencies in the United States Government. We are glad to have you here, and we wish you very well in your new responsibilities.

You take the helm of USTR at a critical juncture. We are in the midst of three major trade negotiations, all of which will need strong Administration leadership to complete. We are in deep into negotiations on the Trans-Pacific Partnership, which I hope will be finished this year.

Earlier this month, you held the first round of negotiations for a U.S. EU Trade and Investment Agreement, which holds enormous potential economic benefit. A negotiation for a Trade in Services Agreement have begun, promising huge commercial gains and attracting new participants.

We had initially seen some encouraging movement at the WTO on expansion of the Information Technology Agreement and a trade facilitation agreement, but that progress seems to have stalled, particularly with yesterday's announcement about China, forcing us to suspend ITA negotiations. We need to find a way around these obstacles in Geneva.

Each of these negotiations will support more, better-paying jobs here in the United States by dismantling barriers to U.S. exports and creating robust enforcement mechanisms to prevent future barriers from emerging. These agreements will tackle tariff and nontariff barriers as well as new 21st century issues like state-owned enterprises, regulatory coherence and trade facilitation. In addition, these agreements help to more deeply integrate U.S. companies into the global supply chains that are the reality of today's marketplace.

Quick movement on these negotiations is important because other countries are signing agreements that open markets and increasing their competitiveness at our expense.

I look forward to continuing to work closely with you on each of these negotiations to ensure that each is ambitious, comprehensive and concluded as soon as possible. However, finishing these negotiations will not be easy. For example, in the TPP, I have serious concerns about Japanese nontariff barriers in the auto, insurance and agriculture sectors. In the EU, we face regulatory barriers to U.S. exports that must be resolved, particularly in agriculture.

I look forward to hearing your testimony on these issues and working together to ensure that these barriers and others are fully addressed before any negotiation is completed.

Another critical issue that has raised considerable concern is how to deal with currency in our trade agreements. I believe that currency misalignment is a serious problem, and I look forward to hearing more from you about how the administration plans to address this issue.

Last Congress we passed, and the President signed into law, seven bipartisan trade bills, including legislation that implemented trade agreements with Colombia, Panama, and South Korea. I hope

to build on that bipartisan cooperation to move a bipartisan Trade Promotion Authority bill. TPA is essential so that we in Congress can outline our priorities for you, establish how you consult with us, and create the mechanism for considering implementing legislation.

It is no overstatement to say that the success of your work at the negotiating table absolutely depends on passing TPA, and we simply will not be able to enjoy the benefits of what we negotiate unless we have Trade Promotion authority.

I look forward to hearing today from you, Ambassador, about how the Administration plans to engage on this issue as well. In addition to negotiations, we must also pay attention to the challenges and opportunities presented by trading partners around the world. Take, for example, the major emerging economies, China, India, and Brazil. Each provides enormous potential opportunity, but also significant and growing barriers. We must seek ways to engage these countries constructively and address trade and investment issues. We should use our bilateral investment treaty agenda as one tool to address these concerns and also seek to expand our agenda to new partners.

Finally, I also note that we continue our work here in Congress on several important initiatives. I will continue to seek a path forward to pass as soon as possible the bipartisan Miscellaneous Tariff Bill, which Ranking Member Levin and I introduced yesterday, to provide tariff relief to U.S. manufacturers for products not made in the United States. Our bill remains a model of transparency with benefits available to any entity that uses the products covered by the bill, and I am very aware that last December duties increased for over 600 products.

Ranking Member Levin and I also introduced legislation yesterday to renew the Generalized System of Preferences, and we will continue to work together to find a path forward in this Senate that ensures that the Senate can move the bill without amendment. In addition, I hope to move a bipartisan customs reauthorization bill quickly.

A robust international trade agenda puts U.S. job creators back on the offense. Let us seize this opportunity.

Chairman CAMP. I will now yield to Ranking Member Levin to make an opening statement.

Mr. LEVIN. Thank you very much, Mr. Chairman.

And, Ambassador, on behalf of all of us, if I might say so, a warm welcome.

With negotiations spanning the Atlantic and the Pacific illustrating that globalization is accelerating, we face major opportunities and challenges. I believe that this administration, in which you have played a key role, has, on some important occasions, demonstrated a broader vision of international trade. It has helped to create jobs through exports, while also looking actively at the impact of imports. It is working to incorporate enforceable worker and environmental standards in trade agreements. It has been more active in enforcement, from initiating WTO cases to applying the China safeguard on tires, to creating the ITEC. It has responded to a series of tragedies in the factories of Bangladesh, tragedies that have shaken conventional resistance to building some basic

standards to shape the human impact of the heightened flow of international trade.

As USTR, you face many challenges: forced localization in China and India, for example; continued concerns about labor rights in Colombia; evasion of antidumping duties; even the future success of the WTO.

TPP can expand our imports in many sectors, including services which are also under negotiation in Japan. While there are many outstanding issues, Japan's engagement raises a broader policy question: whether and how to address one-way trade, a very unlevel playing field.

The U.S. has had massive trade deficits with Japan for decades, the vast majority in the auto sector where Japan is taking advantage of a completely open U.S. market, while Japan's has been tightly locked to imports from us and anywhere else. If the principle of two-way trade really matters, and I believe it does, we need to chart a course to achieve it. What the U.S. negotiates with Japan could have important impacts on the U.S. economy and also how TPP would be received in Congress. I am working with stakeholders to develop a proposal and hope to share it next week.

The Transatlantic negotiations also provide an opportunity to expand our exports and strengthen our economy. Just as important, they can establish new rules for global trade, promoting an equitable and market-based economic model over the emerging model of, in quotes, "state capitalism." These negotiations won't be easy, but our relationship with Europe is unlike any other. We should build upon the strength of that relationship, and it should reflect our many common objectives and values, while also respecting our differences.

The discussion on TPA has begun, and there is widely shared interest in getting it right. First, TPA sets the rules for engagement between Congress and the administration. A significant sustained role for Congress is critical. Today trade agreements address a broad and growing range of policy areas, so Members of Congress must play an active role in their development. There is also a chance that more effective, broader congressional involvement, and I would like to emphasize this, would help to establish more common ground in Congress for trade agreements.

Second, the TPA process must be a vehicle in crafting a broader strategy, as we did in 1988, to tackle the increasing challenges and potential benefits of globalization and enhance U.S. competitiveness. Since we last considered TPA, the U.S. has experienced the largest trade deficits in our history, contributing to lost jobs. These imbalances have more than one ingredient. One source often stems from trading partners refusing to play by the rules.

As the chairman mentioned, currency manipulation is a vivid example. There is precedent preparing TPA with currency legislation. We did so with the very first TPA bill in 1974, and we did it again in the 1988 act. The House and Senate have both passed currency legislation, and this issue needs to be part of the TPA, TPP and T–TIP. We are going to have trouble keeping these three things separate, aren't we?

So I close to mention this of interest, I know, to you in your new position. With sequestration, USTR, like many other agencies, is

working under difficult personnel constraints. We need to help ensure that the administration can continue—can continue to devote the needed resources not only to negotiating new trade rules, but to enforcing those that exist.

So, Mr. Ambassador, it is nice to call you that, we look forward to working with you.

Chairman CAMP. All right. Thank you.

Chairman CAMP. We will now turn to our witness. I want to welcome Ambassador Mike Froman again to the committee, and thank you very much for being with us today. You have five minutes to present your testimony, and your full written statement has been submitted for the record. Mr. Ambassador, you are recognized for five minutes.

**STATEMENT OF MICHAEL FROMAN, UNITED STATES TRADE REPRESENTATIVE, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

Ambassador FROMAN. Thank you, Mr. Chairman, Ranking Member Levin, Members of the Committee. Thank you very much for having me here today. There is a long tradition of partnership between the Ways and Means Committee and the U.S. Trade Representative, and that is a tradition I plan to continue.

As President Obama's advisor on international economic issues for the past 4 years, I have had the opportunity to work with many of you on a number of initiatives, including those that are now my full-time focus: opening markets for American goods and services and, in doing so, supporting jobs here at home.

We have made important progress over the past 4 years. Exports are at an all-time high. Increases in U.S. exports have supported more than 1.3 million additional American jobs and have accounted for more than one-third of U.S. GDP growth over this period. I am pleased that you invited me here today because there is so much more that we need to do together.

As President Obama has made clear, our focus must be to promote growth, create American jobs and strengthen our middle class. USTR can contribute to this effort in three important ways: First, by opening markets around the world so we can expand our exports; second, by leveling the playing field so that our people can compete and win in the global economy; and third, by ensuring that the rights and trade rules we have fought so hard for are fully implemented and enforced.

Trade policy, negotiated and enforced vigorously to reflect both our interests and our values, gives our workers, farmers and ranchers, our manufacturers and service providers, our innovators, creators, investors in businesses of all sizes the best chance to compete around the world.

The President has laid out one of the most ambitious trade agendas ever, and we at USTR are committed to getting it right. Last week, U.S. and EU negotiators completed the first round of Transatlantic Trade and Investment Partnership, or T–TIP, negotiations with the ultimate goal of enhancing what is already the world's largest trading relationship. And as we speak, USTR negotiators are in Malaysia, hard at work negotiating the groundbreaking

Trans-Pacific Partnership, or TPP, a 21st century agreement that raises standards and introduces new trade disciplines.

We are working on fresh, credible ways to energize multilateral trade liberalization at the WTO. We are working to negotiate a trade facilitation agreement, and we hope to make progress on an information technology agreement. Our services negotiators are hard at work negotiating a high-standard trade in services agreement, or TISA, that will allow our already competitive services providers to compete for global business on a more level playing field.

If we are able to complete these agreements, and I say if, because let me be clear, it is better to have no agreement than a bad agreement, we will have created free trade with 65 percent of the global economy. These agreements hold real job-supporting export potential for manufacturers in Michigan and Pennsylvania, farmers and ranchers in Wisconsin and California, and service providers in New York and Massachusetts.

Trade policy can only work, however, if it is fair. American workers are the most productive in the world. They deserve a level playing field to compete on, and this administration is taking a tough approach to trade enforcement, filing 18 cases to enforce our trade rights. The Interagency Trade Enforcement Center, or ITEC, has further enhanced the complexity, depth and reach of the administration's enforcement efforts.

The Obama administration is committed to pursuing freer trade, but we are equally committed to enforcing our trade rights and providing skills and opportunities for workers, including through the Trade Adjustment Assistance Program, which expires at the end of this year.

Trade is also a powerful tool for our broader development policy. I recently returned from Africa where President Obama announced a Trade Africa Initiative, working with a new generation of reform-minded leaders in some of the poorest countries in the world who are focused on pursuing policies of trade, not just aid; investment, not just assistance as the key to sustainable economic development.

In that regard I am encouraged by the introduction yesterday by the leaders of this committee of a bipartisan bill to extend GSP, and I look forward to working with you to ensure the seamless renewal of AGOA before it expires in 2015.

Trade policy fulfills its greatest potential when it is the product of close consultations between the administration, Congress, and a wide range of stakeholders. Transparent collaboration leads to better policies and better outcomes, and while USTR has done much to advance transparency in recent years, in my view, we can always do better, and here, too, I look forward to consulting with you as we explore what further steps should be taken.

Let me say a word about an issue I know of importance to many of you, trade promotion authority, or TPA. As I said in my confirmation hearing, TPA is a critical tool, and as the leadership of our committees undertake a process to develop a TPA bill, we stand ready to work with you to craft a bill that achieves our shared interests.

Finally, all of these things I have mentioned, all of our shared goals, are contingent on USTR having the resources to pursue its mission. We are managing our resources aggressively, and we will

do our best to achieve our priorities with whatever resources we have, but to be frank, I am worried. At a time of unprecedented levels of activity, sequestration and other budget cuts are compromising USTR's ability to conduct trade negotiations and other market-opening efforts as well as to initiate new enforcement actions. Financial constraints are forcing us to make difficult decisions every day, and the opportunities we miss have real effect on whether or not your constituents are getting the full benefits of a robust trade policy and the jobs and growth promised by our trade agreements.

With that, let me thank you again for inviting me to testify today. I am happy to take your questions.

Chairman CAMP. Well, thank you very much.

[The prepared statement off Ambassador Froman follows:]

*Embargoed for Delivery*

*Ambassador Michael Froman*
*United States Trade Representative*
*Opening Statement*
*House Committee on Ways and Means*
*July 18, 2013*

Mr. Chairman, Ranking Member Levin and Members of the Committee, thank you for inviting me here today to testify on the President's 2013 Trade Policy Agenda. There is a long tradition of partnership between the Ways and Means Committee and USTR. I plan to continue this tradition as I begin my tenure as USTR.

As President Obama's advisor on international economic issues for the past four years, I have had the opportunity to work with some of you on a number of initiatives, including those that are now my focus full-time: opening markets for American goods and services and, in doing that, supporting jobs here at home. Increases in U.S. exports since 2009 have supported more than 1.3 million additional American jobs and have accounted for more than one-third of U.S. GDP growth over this period.

I am pleased that you invited me here today, because there is so much more that we need to do together.

As President Obama has made clear, our focus must be to promote growth, create jobs and strengthen the middle class in the United States. USTR can contribute to this effort in three main ways:

First, by opening markets around the world so that we can expand our exports;

Second, by leveling the playing field so that our people can compete and win in the global economy; and

Third, by ensuring that the rights and trade rules we have fought so hard for are fully implemented and enforced.

Trade policy, negotiated and enforced vigorously to reflect both our interests and our values, gives our workers, farmers and ranchers; manufacturers and service providers; innovators, creators, investors and businesses of all sizes the best chance to compete around the world.

The President has laid out one of the most ambitious trade agendas ever, and we at USTR are committed to getting it right.

Last week, U.S. and EU negotiators completed the first round of Transatlantic Trade and Investment Partnership – or "T-TIP" – negotiations, with the ultimate goal of reaching an agreement that enhances what is already the world's largest trading relationship.

And as we speak, USTR negotiators are in Malaysia hard at work negotiating the groundbreaking Trans-Pacific Partnership, TPP, a 21st century agreement that raises standards and introduces new disciplines beyond any agreement negotiated before.

And, at the WTO, we are working on fresh, credible ways to energize multilateral trade liberalization. Our services negotiators are hard at work negotiating a high-standard Trade in Services Agreement that will allow our already competitive service providers to compete for global business on a more level playing field, on a basis of quality and competence rather than nationality. And we are working to negotiate trade facilitation and information technology agreements. These negotiations are designed to strengthen the multilateral, rules-based trading system by introducing into its bloodstream the highest possible aspirations.

If we are able to conclude these agreements – and let me be clear, it would be better to have no agreements than bad agreements – we will have created free trade with 65 percent of the global economy, 65 percent of the global trading system. These agreements hold real, job-supporting export potential for each district represented on this Committee, including manufacturers in Michigan and Pennsylvania, farmers and ranchers in Wisconsin and California, and service providers in New York and Massachusetts.

Trade policy can only work, however, if it is fair.

American workers are the most productive in the world. They deserve a level playing field to compete on. This Administration has taken a tough approach to trade enforcement. Over the past four years, USTR has filed 18 cases to enforce our trade rights. Since its launch last year, the Interagency Trade Enforcement Center (ITEC) has further enhanced the complexity, depth, and reach of the Administration's enforcement efforts.

The Obama Administration is committed to pursuing freer trade, but we are equally committed to enforcing our trade rights and to providing skills and opportunities to workers who need them, including through the Trade Adjustment Assistance program, which expires at the end of this year.

Moreover, trade is a powerful tool of our broader development policy, not at the expense of U.S. interests, but in service of them. I recently returned from traveling with President Obama in Africa where he announced the launch of Trade Africa, a new partnership between the United States and Sub-Saharan Africa that seeks to increase internal and regional trade within Africa, and expand trade and economic ties between Africa, the United States, and other global markets. With a new generation of reform-minded leaders in some of the poorest countries in the world we are focused on pursuing policies of trade, not just aid; investment, not just assistance as the key to sustainable economic development. In that regard, I look forward to working with you to renew GSP this year and to ensuring the seamless renewal of AGOA before it expires in 2015.

Trade policy fulfills its greatest potential when it is the result of close consultation between the Administration, Congress and a wide range of stakeholders. Transparent collaboration leads to better policies and better outcomes, and while USTR has done much to advance transparency in

recent years – in my view, we can always do better. Here too I look forward to consulting with you as we explore what further steps should be taken.

Further, on an issue that I know is of importance to many of you: Trade Promotion Authority (TPA). As I said in my confirmation hearing, TPA is a critical tool. USTR has begun to engage in the process your leadership has undertaken. I look forward to working with you to craft a bill that achieves our shared goals.

Finally, all of these things I have mentioned, all of our shared goals are contingent on USTR having the resources to pursue its mission. Sequestration and other budget cuts are compromising USTR's ability to conduct trade negotiations and other market-opening efforts, as well as initiate new enforcement actions. Financial constraints are forcing us to make difficult decisions every day on how to prioritize engagement in key markets, where to send expert negotiators and which enforcement actions to take. The opportunities we miss have real effects on whether or not the American people are getting the full benefits of a robust trade policy and the jobs and growth promised by the agreements we have negotiated.

With that, let me once again thank you for inviting me to testify today and I am happy to answer any questions you have.

###



Chairman CAMP. Mr. Ambassador, I have been working with Mr. Levin and our counterparts in the Senate on a bipartisan, bicameral basis to develop TPA legislation. As I mentioned, I believe you need this authority to bring TPP to a close, as well as the other things you mentioned, the EU agreement, services and other negotiations, because, as I said, it gives the administration the backing

of the Congress and a clear sense of what our negotiating objectives are.

While we are making progress, we will not be able to do that without the administration's full involvement and engagement, and I welcome your statement both at your confirmation hearing and again today that the Administration is asking for TPA, that you believe it is a critical tool, but we really do need to be full partners in this venture if it is to succeed.

What exactly are you and the President doing to help build the case for TPA?

Ambassador FROMAN. Well, Mr. Chairman, I think the President and the rest of the administration has been very much discussing the importance of our trade agenda, the implications of our trade agenda for a larger economic policy, and are fully committed to moving forward with what is necessary to get our trade agenda done.

With regard to TPA specifically, the bipartisan leadership of this committee and of the Senate Finance Committee I know are beginning a process or working on a process to develop a bipartisan TPA bill, and we stand ready to engage and to help in that process as requested.

Chairman CAMP. Regarding TPP,as I said, I am committed to working with you on that, and I think a robust agreement will have significant benefits for the U.S. economy and support job creation and better-paying jobs here.

Japan's scheduled entry next week, I think, raises some very significant concerns. Japan's entry into the negotiations, should not be allowed to undo the work that has already been completed. I think a robust package fully addressing Japan's nontariff and tariff barriers that have been long-standing, as Mr. Levin mentioned, particularly as they relate to auto, agriculture and insurance exports will be essential to obtaining my support for this agreement.

But first, what steps are you taking to ensure that Japan will resolve these outstanding barriers to trade?

Ambassador FROMAN. Thank you, Mr. Chairman. And this is a very important issue to us, as we appreciate your leadership and the leadership of Ranking Member Levin on this issue as well.

Before—we had extensive consultations with Japan prior to agreeing to allow them to join TPP precisely on the issues you mentioned, on agricultural issues, on insurance, and on the auto sector, and we insisted on making progress on those issues before they were allowed to come in, and we reached some upfront agreements in certain areas, but also reached agreement on terms of reference for ongoing negotiations in these areas that will be linked to and part of TPP.

So, for example, in the agricultural area, they moved forward with their agreement to allow American beef into their markets in 30 months and under. On the insurance area, there is a standstill for the introduction of new products through their postal system and an agreement to negotiate, and terms of reference for that negotiation, for further opening of that market. And on autos, very importantly, we reached upfront agreements both on measures to allow greater access to the Japanese market by more than doubling what they call their PHP program, which allows expedited entry of

U.S. vehicles, but also we reached agreement on how the staging of U.S. tariffs will be done in the context of the overall TPP negotiations, and we laid out a negotiation on all the nontariff barriers, or many of the nontariff barriers that you referred to, and made it clear that negotiation of an agreement, an adequate and acceptable agreement on that, on those nontariff barriers, will be a key part of the TPP agreement, will be binding, will be subject to dispute resolution.

So we share, very much share, your concern and your focus on the importance of opening up Japan's market as part of their entry into TPP, and we believe we have structured an engagement with them through TPP and in parallel to TPP that can achieve that objective.

Chairman CAMP. As a follow-up to that, I have heard a from various stakeholders and Members of Congress about Japan's currency practices, and their past practices, you know, very serious concerns, particularly its uncoordinated intervention in 2011. Treasury flagged its concerns about those interventions in its semiannual currency report, and I have raised this issue with it before.

Are you considering including provisions on currency in the TPP, and what would those provisions look like? What factors should be taken into account in determining the U.S. position with regard to those?

Ambassador FROMAN. Well, Mr. Chairman, we share the concerns about—about currency. Clearly, obviously, Treasury has the lead on these issues, but these issues have been very much at the top of our agenda, engagement with countries of concern. China, for longstanding—there has been a longstanding dialogue with China about its currency policy, and whether it is through the G7 in the case of Japan, or the G20, IMF, elsewhere with regard to China, we made very clear the importance of exchange rates being based on market-determined forces and our opposition to—in the G20, for example, making it not just our opposition, but opposition of the bulk of the international economy to efforts to manipulate currency or to engage in competitive devaluation.

So we do see this as a very important issue, and we explore, and we pursue it in the way that we think is most effective at each juncture.

Chairman CAMP. I just think it is a real concern that we not allow this agreement to slip, that it needs to be concluded this year, and I think the active engagement of the administration on this issue is critical if we are to conclude TPP this year. So thank you for your responses.

Mr. Levin is recognized.

Mr. LEVIN. Thank you.

Let me just say, Mr. Chairman, on currency, I think the administration needs to face up very directly to the question of inclusion of currency issues in both TPP and the discussions with Europe. And I don't think there has been satisfaction here with progress today, and so we just have to confront the formal introduction of this issue in TPP as well as with Europe.

And let me just say this to—to TPP in Japan, there is immense pressure on Japan, and they really haven't been very unequivocal about addressing rice and other agricultural issues. And as a num-

ber of us said before, and I will spell out more of this in the coming days, I don't think what has been put forth so far on autos is likely to change decades of the same situation.

Mr. Camp joined us in addressing this issue in Korea, and the agreement was changed and strengthened. Japan is an even sterner case. Nothing, to date, has ever worked. We are today, in terms of our access to Japan's auto, automotive, its parts as well as assembled vehicles, essentially where we were 34 years ago. So we need to have a very emphatic dialogue on this, and I am sure we will.

So let me just say a word and ask you about TPA. I think it is important, Mr. Chairman, that all of us work together on TPA to determine what kind of a TPA, and not simply say, "Let us just do it." We have been through this before. In the 1980s, we had a fast track that was worked out that had rather strong bipartisan support. That fell apart in 2002, and it passed by, I think, three votes, keeping, as I remember, the vote open for awhile to see if those votes could be secured.

And with the burgeoning globalization, I think we need to sit down on a bipartisan basis with the administration to determine issues like what will be the role of Congress; what will be the objectives stated in a TPA; what will be the role of Congress in seeing that these objectives are kept; and then, related to it, the whole issue of transparency; and what access not only Members of the Committee, very importantly, in finance, but others have to the negotiations that are under way.

And I think we just want to have, on our side, your assurance that there will be a very active discussion of these issues, because simply to say, let us pass it, without focusing on its contents, I think, is a serious mistake substantively, and procedurally would likely lead to much more conflict instead of confluence. So just briefly your reaction.

Ambassador FROMAN. Well, thank you, Congressman Levin. We certainly, as I said, stand ready to work with you-all in your process as you proceed to develop a TPA—a TPA bill to ensure precisely what you say, that it reflects our shared interests and our shared goals. And so we will look forward to—we will look forward to that.

On transparency in particular, we think that is a very important issue. We think it is critically important that vis-a-vis Congress, vis-a-vis our advisors, vis-a-vis the public, that we have a robust policy of engagement to ensure that we are getting the best input, and that we are also explaining what it is we are doing, how it is we are doing it, and why it is we are doing it. And we are looking at those, the whole array of policies and procedures that we have, to determine how best to take that forward. I think we have done a lot over the last few years, and I will just mention one example.

You know, we now have had our negotiations. TPP, we started this, and we just did it again last week with T–TIP, we organized an event for stakeholders to come and be able to present directly to negotiators, not just U.S. negotiators, but our trading partners as well, and so they can have a direct dialogue with them. We had 350 people come to the session last week to be able to present those—their ideas. That is something that has never been done be-

fore, but as I said, I think we can always do better, and we look forward to working with you on that.

Mr. LEVIN. Thank you.

Chairman CAMP. Thank you.

Time has expired, and because today's hearing has to end at 11:00, in order to try to accommodate every Member who wants to ask questions, Mr. Levin and I have agreed that we would limit Members' questions to 3 minutes.

Mr. Johnson is recognized.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Froman, first, I want to thank you for being here with us. It is a delight to see you, and while I was sad to see my good friend and fellow Texan Ron Kirk move on, I am sure you will be equally up to the task.

As you know, trade is very important to our home State of Texas, and recent data shows that the Dallas/Fort Worth area alone was responsible for 26-plus billion in exports. Over one-quarter of all manufacturing workers in Texas depend on exports. That is why I think it is critically important that Congress develop and pass bipartisan trade promotion authority that set out negotiating objectives.

For the ongoing negotiations you have already outlined, do you think that your negotiations can be concluded and any agreement implemented without trade promotion authority? And is the administration, in your opinion, prepared to actively engage with the Congress to build political support for TPA?

Ambassador FROMAN. Thank you, Congressman.

We think TPA is a critical tool, and we stand ready to work with the committees as they develop a bill that addresses our shared interests and our shared goals. We are engaged in these negotiations, we will continue to pursue them aggressively, and we consult very actively with this committee, with the finance committee and other committees of jurisdiction to ensure that we have the input with regard to our negotiating objectives and how those objectives are translated into actual proposals at every step in this process. And so we feel confident that as we are negotiating, we are taking into account the input that we have received from our—from our committees of jurisdiction.

Ultimately, to get through Congress, we think TPA would be very useful for the ultimate agreements to get through Congress, and in the meantime we will operate according to the longstanding procedures we have of consulting with you-all and your colleagues in the Senate and making sure that what we are doing with regard to our negotiating objectives are consistent with the input that we have from you.

Mr. JOHNSON. Thank you, sir. Welcome aboard.

Yield back.

Chairman CAMP. Thank you.

Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

And I join with the committee in welcoming you, looking forward to one possible bipartisan effort that this Congress can participate in. We do have a record of sorts in working together, and, with your help, we look forward to improving even on that. I would like

to report that our staff feels very comfortable with the relationship we have with your office and ask you to continue that, because many times we have to depend on staff with our views, and it makes it a lot easier for us to get some type of agreement before something is presented to us than trying to convince each other that we are right.

You have answered many of the questions that I have. I would be interested in seeing how America, as a result of the President's trip to Africa—exactly what plans we have to be competitive with China and other countries that have taken advantage of this economic growth that has taken place. And also, when you talk about supporting jobs, it is very important that your office understands that to a person that is unemployed or those protecting the workers, you say "trade," and some people automatically think that means losing jobs.

You have to help us in working with the Education Department and Department of Labor so that we can present new job opportunities that are going to be involved country by country, and where we are going to lose because we cannot compete, we have to talk about training and retraining as though we are just talking to Americans and not to importers and exporters, because we all are looking toward for the same goal.

And again, I don't have to tell you that we have to be competitive with countries. With our automobile industry and what we have been through, I don't think it should be a hard sell that people should not put barriers up when we are competing with a good product. There were changes that we had to make in Detroit during the crisis, and made those changes. But we look forward to working with you, and when you think of trade, trade, trade, some of us have to—are forced to think about jobs, jobs, jobs.

So, welcome on board.

Ambassador FROMAN. Thank you, Congressman. That is a very healthy reminder that this is all about jobs, jobs, jobs in the U.S., and we need to do a better job of talking about how what we are doing through negotiations or through enforcement leads to greater exports, leads to greater jobs and higher wages, allows us to deal ourselves into global supply chains rather than being on the outside of them. And I look forward to working with you on Africa, on training, on the auto sector, and the whole array of issues.

Chairman CAMP. All right. Thank you.

Mr. Brady is recognized.

Mr. BRADY. Ambassador, congratulations on your new role. Thank you for the critical role that you played in reaching sales agreements with Colombia, Panama, and South Korea. Our local businesses' workers are looking for new customers, and those agreements that you played a critical role on have leveled the playing field and allowed us to compete. So it is creating both new jobs in my region and neighborhood, and more secure jobs as well. So thank you for that role, look forward going forward.

To that vein, I want to ask two questions, one about the Trans-Pacific Partnership, a critical region for those new customers, and the role of the bilateral investment treaties going forward. On the timetable for TPP, do you see that completed by the end of the year and being submitted to Congress shortly thereafter?

Ambassador FROMAN. With regard to TPP, we have stated that our objective is to finish it this year. It is ambitious, but our negotiators are hard at work as we speak in Malaysia, and we are going to work very hard with Japan when they get in to bring them up to speed and not allow them to reopen or re-litigate or delay the negotiations. So our focus is to try and get this done this year.

Mr. BRADY. Do you think there is a good chance we can do that? Always the tougher issues come at the end, you know what I mean, a little more unpredictable as you are sort of near the finish line, but are you optimistic that we can finish in that timetable?

Ambassador FROMAN. Yeah, I am. I think it is ambitious, but I think it is doable.

Mr. BRADY. Great.

On the bilateral investment treaties, those are important because they really take a big first step toward a level playing field, and they can also provide protections for American investment when we are chasing those customers around the world. We, as a government, in the first term the President took a look at the bilateral investment treaties. We sort of pulled the truck to the side of the road, took a look at the engine, made some adjustments, but now it is really time to get back on down the road, and it is an important tool.

So, as we look at China, India, Pakistan, as we look at Africa and other areas, B, do you see bilateral investment treaties as an important tool; and, two, are you going to use them to advance our trade agenda?

Ambassador FROMAN. Yes, Congressman. I think they are an important tool, and we will use them as appropriate. And I would just note that last week we had the strategic and economic dialogue with China here in Washington, and one of the outcomes was China agreeing to engage in bid negotiations on the basis of some of the key principles of our bid, including national treatments in the pre-establishment phase, and on the basis of coming up with a negative list rather than a positive list.

Now, obviously, the devil will be in the details, and we have not yet even begun to negotiate, and it will be very important to make sure that those—those commitments are implemented fully, but it is a potentially very positive development both in terms of our bilateral relationship, but also what it will require China to domestically in terms of its——

Mr. BRADY. No, I agree. I think that is an important role in China and in the other regions as well. Thank you, Ambassador.

Chairman CAMP. Thank you.

Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman. Thank you, Mr. Chairman. Three questions quickly. I know this is an abbreviated opportunity to ask them.

First, footwear in New England, we are down to New Balance, small operations after that, ensuring their success. They are the last ones to really—in New England to do athletic footwear, very important part of our economy, and certainly interested in what the administration's position is going to be.

And on enforcement procedures with competition, can you address the issue of financial service and regulatory issues in the

U.S. and EU? Did it come up in the first round of discussions? And an opportunity for you to hold forth on the President's goal as to whether or not we have been able to double exports, or are we on a path of doubling exports during the 5 years that the President has outlined, understanding it really is, last year, I think, the fastest part of American economic growth in trade and trade-related issues. So, abbreviate it, but the opportunity is yours, Mr. Ambassador.

Ambassador FROMAN. Thank you, Congressman.

On footwear, that is obviously a very sensitive sector, and we are looking at our domestic producers, our importers and our retailers to come up with a proposal that maximizes job creation and jobs supported by trade in footwear in the United States. But we are well aware of the sensitivities there, and indeed I will be visiting—I am planning to visit the New Balance factory sometime later this summer.

Mr. NEAL. Thank you.

Ambassador FROMAN. On financial regulation, yes, we have had extensive discussions with the Europeans about this, and our view is the following. The financial services sector is a key part of the Transatlantic relationship. It cannot be left outside T–TIP altogether. We think financial services market access belongs in a trade agreement, but since the financial crisis of 2008, 2009, there has been an explosion of regulatory cooperation activity bilaterally through the G20, through the FSB, the BIS, the IOSCO, IASB, and we think that those processes should be encouraged to make progress in parallel alongside the trade agreement so that when the trade agreement is done, we can look back and see that we have managed to bring the two markets closer together.

Mr. NEAL. Lastly, are we on the President's——

Ambassador FROMAN. On NEI. The President laid out goals of doubling exports and increasing jobs supported by exports by 2 million. We have increased jobs supported by exports by 1.3 million. I think we are broadly on track. On the doubling of exports, a number of markets around the world, we are at or above the run rate that would have as double exports, but to be frank, with the headwinds in Europe over the last couple of years, that has been a drag on our overall export growth, and we are going to need to continue to do everything we can do to—in terms of our export promotion efforts, but also opening markets and focusing on enforcement—to continue on the path towards doubling exports.

Mr. NEAL. Thank you, Mr. Chairman.

Chairman CAMP. All right. Thank you.

Mr. Nunes.

Mr. NUNES. Thank you, Mr. Chairman.

Ambassador, welcome.

I want to echo Mr. Rangel's comments that not only does the staff here work in a bipartisan manner, but we also enjoy this long-term relationship with your staff, and we hope that that continues.

I would like for you to quickly address SPS enforcement mechanisms, specifically dispute resolution as it relates to the TPP. I know we have a short time, so I will leave it at that, and then I have one additional question.

Ambassador FROMAN. This is a critical part of our—of our negotiation, and as we propose SPS–Plus disciplines in TPP, we want to make sure we have mechanisms for ensuring that those disciplines are fully implemented.

The substantive disciplines of SPS–Plus are really rooted in the WTO and the WTO commitments, and there, of course, binding dispute resolution is available. The other elements of SPS–Plus are procedural elements, and most of those are also subject to dispute resolution in—under TPP. So we think that the bulk of the commitments that we are likely to achieve in TPP in the SPS chapter will be subject to enforcement either under the WTO or through this consultative mechanism in TPP, leading to a dispute resolution on the procedural elements.

Mr. NUNES. Well, we look forward to continuing to work closely with you. As you know, American agriculture is strongly behind getting some type of enforcement mechanism in the TPP negotiations.

I would like to, with the remaining time, for you to address our ongoing relationship and ever-improving relationship with Brazil. We had a hearing on Brazil about a month ago, and we are looking at possibly doing some legislation to kind of redouble our effort on our trade relationship with Brazil. And I know that you have met with them recently, and I know that they are—I think they are sending a delegation here in the fall, and, you know, what we can do from this committee and the Congress to improve those relations.

Ambassador FROMAN. Well, thank you. Clearly Brazil is an incredibly important country in the hemisphere, and we think really has the potential to be an even closer economic partner of us going forward. We have had a lot of dialogue with the Brazilians, both business community to business community, but also over energy, over trade issues, and we try and make progress through these dialogues on our outstanding issues.

The President visited there, as you know, a couple of years ago. We talked about wanting to be a strategic energy partner of theirs as they develop their new energy resources, and we have had discussions with them about, for example, pursuing a bilateral investment treaty, as that would be a next step towards deepening our relationship. They have not yet responded positively to that, but we will continue to have those discussions, including as high-level visits continue later this year.

Mr. NUNES. We are looking at possibly consolidating the dialogues into kind of a more clairvoyant structure. Is that something that you would think would be helpful to get high-level dialogue between not only your office, but also the Congress?

Ambassador FROMAN. I am happy to talk further with you about that. We have got an energy dialogue, a CEO forum. We have a, I believe, a commercial dialogue as well, and we try and use each of these to make progress on their respective agendas. And, of course, our two Presidents have a good relationship and have an ongoing dialogue, and we expect to see more of that in the future.

Mr. NUNES. I thank you, Ambassador.

Thank you, Mr. Chairman.

Chairman CAMP. Mr. Doggett, and after Mr. Doggett I will proceed two to one.

Mr. DOGGETT. Thank you, Mr. Chairman.

Thank you, Ambassador, for your testimony. With your stated objective of finishing the Trans-Pacific agreement by the end of this year, what do you view as the deadline for Congress approving fast-track authority for President Obama?

Ambassador FROMAN. Well, thank you, Congressman. I don't think it is for me to give a deadline to Congress.

Mr. DOGGETT. Just tell us by when you think you—I understand you are a diplomat first off.

Ambassador FROMAN. We look toward to working with you as you-all proceed with your process on TPA. I think our negotiators are going to proceed apace, and they are proceeding apace as we speak. I think having TPA before we bring an agreement to Congress is very important.

Mr. DOGGETT. So it will be sometime next year?

Ambassador FROMAN. I think getting the TPA right is important, and I think getting it in time to—before the bill—the trade agreement is ready to be submitted to Congress would be a great help.

Mr. DOGGETT. And the thinking of the Obama administration is that it cannot get the Trans-Pacific Partnership Agreement approved in the fashion that it would like to have it approved without fast-track authority.

Ambassador FROMAN. I think traditionally, I think all but one trade agreement in history, I believe, in the—at least since the 1980s, has been approved under some form of trade promotion authority, and I think that that is likely to be the most productive way of moving forward on TPP as well.

Mr. DOGGETT. So you are not saying you couldn't do without it. Actually during the time I have been on this committee, I think most of the trade legislation has been approved without fast-track authority. But you would view it as essential to your work, or are you saying you can do without it?

Ambassador FROMAN. Well, no, no, no. I think, again, I was just assuming between trade agreements and trade legislation, I think with the exceptional of the Jordanian FTA, all other FTAs have been approved under some form of fast-track authority. I haven't thought through what it would mean to try and proceed without that kind of authority, but I am happy to work with the committee, and, of course, we stand ready to work with you as you work on your process.

Mr. DOGGETT. In your work on TPP, has USTR undertaken or requested that anyone undertake any studies concerning the economic subsectors where we will see job growth and those where we will see job loss?

Ambassador FROMAN. I think there has been a lot of work done by various think tanks and other research centers. I am not aware of what has been done when TPP started 2½ years ago. Oftentimes there is a study done by the ITC, and I am not sure whether that was done in this case or not, but I am happy to look into that and get back to you.

Mr. DOGGETT. It is not—isn't that a factor in your negotiations?

Ambassador FROMAN. Well, we certainly are looking to open markets for all of our sectors, and we consult very closely with stakeholders and get their perspective on where they see the opportunities for expanded exports and job creation, and that helps inform our priorities as well.

Chairman CAMP. All right. Thank you.

Mr. Reichert.

Mr. REICHERT. Thank you, Mr. Chairman.

And welcome. Good to see you again. I want to echo some of the comments made by Members here. The working relationship we had with the Ambassador Kirk and his team, I hope, continues with our staff. And I know that our staff is in continuous conversation with yours, and we hope that continues.

I just want to make a quick comment about TPA. We know that you don't have to make a formal request for that authority, It is Congress' job to move forward with that, but I think there is a perception that goes back to, I think, the Korean agreements and goes back to the ascension of Russia into the WTO world that the administration wasn't, you know, as actively involved in that process and those processes as we would like to see. And so I think there is the perception today that the administration may not be as aggressively involved as we would like to see them be in helping us promote the idea of the tremendous need for TPA, so I am going to encourage you to be a more active—and the President to be more active in that regard.

But I also want to ask a question. On TPP, you mentioned that you, you know, have a focus to get this done by the end of the year. I want to get a little bit more specific. I would like to know what your strategy is to get it done by the end of the year, and is there anything we can do to help you get that accomplished?

Ambassador FROMAN. Well, our strategy is to work very hard, and we are working around the clock.

Mr. REICHERT. Any more details than that?

Ambassador FROMAN. I am happy to go through more details with you, but, look, the team at USTR is doing a phenomenal job. It is a very complex negotiation; 11 and soon to be 12 countries in the negotiation. We have 29 chapters. Many of the issues we are dealing with are new issues, issues that none of the countries around the table have negotiated before in any agreement, and that is an ongoing mutual learning process.

We have done a lot of work over the last 2 years to close out chapters, close out issues, park issues. They are engaged, as we speak, right now in trying to move that agenda forward, and they will be meeting with the Japanese at the end of this—at the end of this round to welcome them into the discussions and bring them up to speed on the status of the negotiations.

But we have—our strategy is to work country by country, issue by issue, and to get a sense, as we—particularly as we enter the end game of where the trade-offs are going to be and how best to come up with a deal that everyone will find in their mutual interests, but that raises the overall standards and achieves the level of ambition that we set out.

Mr. REICHERT. So we know that your staff works hard, so the fact that they work hard, and that is your strategy, we can count on them, the timeline being the end of the year.

Ambassador FROMAN. Well, that is our objective. As I said, it is ambitious, but it is doable, and we are going to do everything we can at all levels of government to try and make that happen.

Mr. REICHERT. Thank you, Mr. Ambassador.

I yield back.

Chairman CAMP. All right. Thank you.

Dr. Boustany.

Mr. BOUSTANY. Thank you, Mr. Chairman.

Welcome, Ambassador.

The Trade in Services Agreement, or TISA, has massive potential, commercial potential, and could be a major source of job creation for U.S. firms. And if you look at our economy, we have a competitive advantage in this area clearly, with 75 percent of the U.S. GDP being in services, 80 percent of the private sector employment, and currently 30 percent of our exports.

As I look at TISA, 70 percent of the world market is represented with those countries, and yet several high-profile events have come and gone. I was glad to hear you mention TISA in your testimony today, but in previous occasions, we have not heard the White House or the administration put the kind of emphasis that needs to be put on this agreement. I think it should be given as much emphasis as TPP and the EU negotiations.

I sent a letter this week, earlier this week, talking about some of this, and I just want to get your assurances that TISA will be given the priority it really deserves going forward, because I think the potential is immense.

Ambassador FROMAN. Well, Congressman, I totally agree, and we think this is really one of the most promising areas of trade globalization going on in the world right now. And we have a terrific ambassador in Geneva in the form of Michael Punke, who is leading those negotiations with our team back here. And as you say, it represents 70 percent of the global services market, so we think it is a very significant—it could be a very significant market that we hope other countries may join over time.

So we very much agree with you on the importance to our economy, to our jobs in the United States, to promoting growth here in the United States, and we are optimistic that we will continue to make progress.

Mr. BOUSTANY. Yeah. My home State is Louisiana, and we are an energy-producing State, and in the energy sector this could be really beneficial. I was with Chairman Nunes down in Brazil, and they are struggling with the right kind of expertise and technology to develop deepwater resources as well as shale. Other countries have the same concerns. We have the expertise. We have the engineering services and so forth.

Mr. BOUSTANY. Yeah. Agreed.

Ambassador FROMAN. So we should move forward. Yeah, thanks.

Mr. BOUSTANY. I yield back.

Chairman CAMP. Thank you.

Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman. Thank you for having the hearing.

Ambassador, thank you for being here, and congratulations. We look forward to working with you.

The chairman started off talking about some tariff and nontariff barriers as it pertains to agriculture, and I would like to pick up on that. I represent an area that has a very significant agricultural component. We produce some of the best wines in the world, and some of the T–TIP and TPP countries present some pretty good barriers for our product. And so I would like to be able to get a good commitment that we work together to make sure that we lower these barriers and work to protect this important agricultural product that we have. The 2006 bilateral Wine Trade Agreement with the U.S. and the EU was a good start, and I would like to make sure that we continue that.

Along the same lines, counterfeit and imitation wines that are made by other countries that try and capitalize on our brand are a real problem, and our geographical indicator system works well, and I would like to make sure that we work to protect that as well.

And another agricultural product that is important to California is our rice, and recently the President and Japan's Prime Minister sent a joint statement that said, and I will paraphrase, all tariffs are on the table. And the U.S. rice industry would like to very much make sure that this holds true to rice, and that we don't exempt rice in any agreements that are coming in, and that we include them and you work with them as we work towards facilitating this particular market.

And then lastly you had sent a letter to some of our Senate colleagues talking about apparel rules in textiles, and I think you said that appropriate balance between divergent views was important, and I hope we can find more opportunity for trade liberalization other than just short supply issues. And I look forward to working with you on all of these issues.

Ambassador FROMAN. Well, thank you, Congressman.

Let me just say that with regard to the agricultural issues, agricultural trade is at an all-time high. Our exports last year, I think, were $140 billion. We see this as a tremendous opportunity for expansion. We are working very closely with Secretary Vilsack and USDA to ensure that we are doing everything that we can to promote agricultural trade in all of our agreements. That is why, as Congressman Nunes mentioned, the SPS–Plus agreement is important in——

Mr. THOMPSON. Some of our tariff and nontariff barriers are at an all-time high. Also, if you look at China, when we send our U.S. wine there, we are paying about 56 percent combined tax and tariff, and it is terribly prohibitive.

Ambassador FROMAN. These are all issues we want to work on in the context of these hearings.

Mr. THOMPSON. Thank you.

Chairman CAMP. Thank you.

Mr. Buchanan.

Mr. BUCHANAN. Thank you, Mr. Chairman.

And I really look forward—and congratulations, Mr. Ambassador. Looking forward to working with you, and I am sure the committee does, on a bipartisan basis.

I am from Florida, and these trade agreements, the FTAs we just did with Panama and Colombia are huge to Florida. And I just see the—what trade means to Florida with 14 ports is 550,000 jobs, so $70 billion in economic activity.

But I also grew up in Michigan. So I take a look at—just curious, from your standpoint, you look at a lot of the coastal communities, huge benefits in terms of trade, the President talking about doubling trade, 95 percent of the marketplace outside. But then you will see different parts of the country, somewhat the Midwest and other areas, that don't benefit as much as the—many at times the coastal communities. What is your thought on that, what we could do more to help more States feel like it is a win-win for them as well on trade?

Ambassador FROMAN. Well, thank you very much, Congressman. From our perspective trade is part of the broader economic strategy of creating jobs and promoting growth, strengthening the middle class, and that has got to work across the country. And, obviously, different parts of the country will be affected in different ways, but it is one reason we put so much emphasis on our manufacturing policy in the administration and making sure that our trade policy is supportive of our manufacturing policy. We want to make sure that it is—even as we export additional services, and we export additional agricultural products, that we are also building a stronger manufacturing capability in the United States.

Mr. BUCHANAN. Another quick question because we only have 3 minutes. The question I wanted to really kind of get to is I was in Beijing in January, and, you know, they have AmCham, which is about 4,500 members in the chamber, U.S. businesses in the chamber there. And, of course, you have heard this a lot about intelligence properties; it is still the biggest issue. An article that The Times had put out a little while back, it said that it is costing the U.S., I think, $48 billion in 2009. I think it would—if they improved their IP protection, it would mean $87 billion to the U.S. and create 2 million jobs.

I know you worked on that, and it is something that is a big issue, but I can tell you, that is a very big issue to our country in terms of job creation, the additional economic opportunities for companies in the U.S. Where are we at on that?

Ambassador FROMAN. Well, it is a very high priority, and as recently as last week when we had the strategic and economic dialogue, intellectual property rights, trade secrets, cyber thefts all featured very prominently in that discussion.

We need to keep on pressing China to make progress there. We have made some progress. We reached an MOU on access for our films, which——

Mr. BUCHANAN. I think it is about enforcement. I mean, you might get agreement, but then try to get something implemented.

Ambassador FROMAN. Absolutely. And we want to see more legalization of software; the use of legal software by government agencies, by SOEs, by others. And they have stepped up their ef-

forts in certain respects. It is not enough, it hasn't gone far enough, it hasn't gone fast enough.

The one thing I would say that gives us some hope is that they are beginning to see in their own country developers of intellectual property, and as that happens, there is more of a constituency within China that wants to see better enforcement of intellectual property rights. We need to capitalize that—on that and press for further resources being put into enforcement, further metrics and benchmarks, and ensure that they are not stealing our intellectual property.

Chairman CAMP. Thank you.

Mr. Nunes, for the purposes of UC.

Mr. NUNES. Thank you, Mr. Chairman.

Mr. Thompson reminded me that there is actually a letter that was sent to Mr. Froman and Secretary Vilsack on the SPS measures, and I just want to submit that for the record.

Chairman CAMP. Without objection.

[The information follows: The Honorable Devin Nunes]

July 15, 2013

Ambassador Mike Froman
United State Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

The Honorable Thomas Vilsack
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Ave SW
Washington, DC 20250

Dear Ambassador Froman and Secretary Vilsack:

The undersigned food and agricultural organizations and companies wish to congratulate Ambassador Froman on becoming United States Trade Representative. We greatly appreciate the view that both of you have expressed that trade can make an important contribution to America's economic recovery, and we are committed to working with you and your staffs to assist in the Administration's efforts to increase exports of U.S. goods and services and enforce the trade rights of U.S. producers and exporters.

With this in mind, we are attaching a Statement of Core Principles for a Successful TPP Agreement, which has been endorsed by groups representing the vast majority of U.S. producers, processors and exporters of food and agricultural goods. These principles are aimed at ensuring that the Trans-Pacific Partnership negotiations fulfill the promise of a high-quality agreement that can serve as a standard for future trade agreements.

We stand ready to discuss these with you at your earliest convenience, and we look forward to working with you and your trade policy teams in the coming weeks and months to ensure that the principles we have outlined are taken fully into account as the negotiations move forward with the full complement of participating nations.

Sincerely,

American Farm Bureau Federation
American Feed Industry Association
American Frozen Food Institute
American Meat Institute
American Peanut Product Manufacturers, Inc.
American Sheep Industry Association
American Soybean Association
Animal Health Institute
Blue Diamond Growers

Cargill, Incorporated
Corn Refiners Association
Grocery Manufacturers Association
International Dairy Foods Association
JBS USA
Kraft Foods Group, Inc.
National Cattlemen's Beef Association
National Chicken Council
National Confectioners Association
National Corn Growers Association
National Fisheries Institute
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Potato Council
National Renderers Association
National Turkey Federation
North American Meat Association
Northwest Horticultural Council
Pet Food Institute
Smithfield Foods
Sweetener Users Association
U.S. Apple Association
U.S. Dairy Export Council
U.S. Grains Council
U.S. Livestock Genetics Export, Inc.
U.S. Meat Export Federation
USA Poultry & Egg Export Council

Statement of Core Principles for a Successful TPP Agreement
Agreed To By The
Food and Agricultural Sector

*The undersigned organizations, representing the vast majority of the nation's producers, processors and exporters of food and agricultural products, and in being in support of a high quality trade agreement that can serve as the standard for all future trade agreements, hereby issue the following Statement of Core Principles for the TransPacific Partnership negotiations:*

One: A TPP agreement must cover all elements of trade and investment, including agriculture, goods, services, digital trade, competition policy, and intellectual property. TPP must be comprehensive.

Two: There must be no product or sector exclusions, including in agriculture. Exclusions would limit opportunities in each of the member countries to reach new markets, grow businesses and generate economic growth and jobs.

Three: All tariffs and other market access barriers must be phased out by the end of the negotiated transition period. Allowing any access restrictions to be maintained by one member would lead to demands for similar treatment by others leading to a second class trade agreement, at best. Transition periods must have commercially meaningful timeframes, which should be short and not back-loaded.

Four: Risk based scientific decision making, regulatory convergence, and equivalence are critically important. Comprehensive tariff elimination must be supported by robust SPS outcomes. Non-science based SPS measures cannot continue to restrict trade.

Five: A "Rapid Response Mechanism" (RRM) is needed in TPP to provide for shipment specific trade facilitative obligations that address frustration of trade in perishable and time sensitive shipments of agricultural products as result of implementation of SPS and TBT measures.

Six: Obligations that go beyond those in the WTO must be subject to TPP enforcement provisions, including in the Sanitary and Phytosanitary chapter. Since TPP members would not have recourse to WTO dispute settlement to enforce enhanced TPP disciplines, failure to include an enforcement mechanism would render new TPP disciplines valueless.

Seven: The agreement must be a single undertaking. All elements of the negotiation, including both tariff and nontariff SPS measures, are part of an indivisible package and cannot be agreed upon separately. In other words, nothing is finalized until everything is finalized.

*These principles do not cover all elements of the TPP negotiations. They are intended to affirm those that must be upheld for the final TPP agreement to be judged worthy of the full support of the undersigned groups. In some cases, organizations' support of a TPP containing these core elements also hinges on attainment of key sector-specific priorities not cited above.*

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Chairman CAMP. Ms. Jenkins is recognized.

Ms. JENKINS. Thank you, Mr. Chairman.

Thank you for being here.

Strong intellectual property right protections are essential to the success of U.S. and EU economies. In the United States alone, in-

tellectual property-intensive industries account for over 50 million jobs, nearly 6 trillion in output, and a trillion in exports.

So a couple questions. First, what barriers for IPR-intensive trade in goods and services do U.S. companies face in the EU? And, second, in what areas is there potential for greater convergence between U.S. and EU IPR practices, and how can the United States and the EU enshrine high levels of protection in those areas in which harmonization is not pursued?

And I would be interested in hearing about not only patents, trademarks and copyrights, but also about protection of trade secrets from disclosure by governments.

Ambassador FROMAN. Well, it is—intellectual property is a critical part of our economy, as you said, and it is a critical part of our relationship with the EU as well. And we both have quite high levels of IPR protection, although they are somewhat different in terms of the number of years of protection or exactly on how they are implemented.

We see the T–TIP negotiations as giving us an opportunity to work together with the EU to raise the standards overall for the global community, for the global economy, and to work vis-à-vis third countries where we have common interests to help strengthen intellectual property rights enforcement.

On a bilateral basis we have our differences. Geographical indications is one area, and we want to make sure we protect the trademarks and the common product names of our products. But we see more commonality in terms of the overall levels of protection between the U.S. and EU than with a number of other markets, and as a result we see the opportunity to really work together to set high standards around the world.

Ms. JENKINS. Okay. Thank you. I yield back.

Chairman CAMP. Thank you.

Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman.

Welcome, Ambassador. We have appreciated the professionalism, and the hard work, and the skill of the USTR. Look forward to working with you, the other committees, members.

I appreciated our earlier conversation about the importance of labor and environmental protections, which, I think, working with you for the extent to which we are able to protect and enhance, I think that makes it better for everybody all the way around.

My friend Mr. Neal referenced the footwear industry. You talked about going to New England. I think that is terrific.

I would ask unanimous consent to enter in the record a letter that we had submitted with my friend Aaron Schock, almost 50 Members of the House, that talked about the value chain of footwear.

[The information follows: The Honorable Earl Blumenauer]

Congress of the United States
Washington, DC 20515

July 10, 2013

The Honorable Michael Froman
United States Trade Representative
600 Seventeenth Street, NW
Washington, D.C. 20506

Dear Ambassador Froman:

The Trans-Pacific Partnership (TPP), which you recently described as a flagship initiative of the President's trade policy, offers the United States an important opportunity to construct rules and disciplines that reflect the 21st century global economy in which we live. U.S. companies account for a vast amount of the value added in the global supply chain so a trade policy, and a negotiating strategy, that furthers this modern trade pattern would yield substantial benefits for the United States, in the form of long term economic growth and job gains.

Trade in footwear represents one of the areas in which a new trade policy approach in the TPP, designed to reflect the global value chain, could make a real difference for the United States. That is because despite the fact that less than 1 percent of the footwear sold in the U.S. is produced here, the vast majority of the value of that imported footwear actually originates here. The innovation, design, marketing and sale of that footwear – key and high-value functions in the global supply chain – are all completed in the U.S., providing thousands of good-paying American jobs in every state.

Of the footwear imported into the U.S., eight percent comes from Vietnam, one of the countries with whom the U.S. is negotiating the TPP. Those imports are subject to some of the highest duties in the U.S. tariff schedule. Immediate, meaningful duty elimination upon implementation of the TPP and establishing straight-forward and uncomplicated rules of origin for footwear would allow U.S. brands to reinvest import duty and paperwork savings in innovation and maintain global competitiveness. Perhaps, most importantly, these outdated tariffs result in an unfair burden on American families.

Only with the right TPP footwear rules that support technological progress and access to resources can the U.S. add more high value design, engineering, manufacturing technology, marketing and digital jobs here while providing U.S. consumers with more choice.

The TPP will set the stage for future agreements, making it imperative that the United States get it right. We look forward to working with you to make sure that happens.

Sincerely,

Aaron Schock
Member of Congress

Earl Blumenauer
Member of Congress

PRINTED ON RECYCLED PAPER

John Barrow
Member of Congress

Diane Black
Member of Congress

Marsha Blackburn
Member of Congress

Suzanne Bonamici
Member of Congress

Charles W. Boustany, Jr.
Member of Congress

Kevin Brady
Member of Congress

Steve Chabot
Member of Congress

Steve Cohen
Member of Congress

Gerald E. Connolly
Member of Congress

Rodney Davis
Member of Congress

John K. Delaney
Member of Congress

Jeff Denham
Member of Congress

Sean P. Duffy
Member of Congress

Charles J. "Chuck" Fleischmann
Member of Congress

Kay Granger
Member of Congress

Sam Graves
Member of Congress

Tim Griffin
Member of Congress

Gregg Harper
Member of Congress

Lynn Jenkins
Member of Congress

Sam Johnson
Member of Congress

Mike Kelly
Member of Congress

Adam Kinzinger
Member of Congress

Robert E. Latta
Member of Congress

Billy Long
Member of Congress

Blaine Luetkemeyer
Member of Congress

Ben Ray Luján
Member of Congress

Kenny Marchant
Memeber of Congress

Jim Matheson
Member of Congress

James P. Moran
Member of Congress

Pete Olson
Member of Congress

Erik Paulsen
Member of Congress

Stevan Pearce
Member of Congress

Jared Polis
Member of Congress

David G. Reichert
Member of Congress

Cedric L. Richmond
Member of Congress

Peter J. Roskam
Member of Congress

Jon Runyan
Member of Congress

Kurt Schrader
Member of Congress

Terri A. Sewell
Member of Congress

Adrian Smith
Member of Congress

Lamar Smith
Member of Congress

Lee Terry
Member of Congress

Ann Wagner
Member of Congress

Greg Walden
Member of Congress

Todd C. Young
Member of Congress

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Mr. BLUMENAUER. I would hope that you would be able to visit Portland, Oregon, and look at part of that supply chain. I represent people who manufacture shoes in the United States, Danner Boots, King Footwear. We have got a whole range of others, however, because although less than 1 percent of footwear is manufactured in the United States, the vast amount of the value chain is

here. Companies like Nike, New Balance, King, others—not New Balance—well, New Balance also—their design, promotion, the intellectual property, the engineering, the sales, the marketing, a huge amount of the value is here. And we are trapped in the past with a tariff structure that is outmoded, long ago ceased to actually have any rational bearing on the marketplace, and, in fact, translates into a very substantial sales tax, particularly on the lower-end product. And it would be exciting if we could have some meaningful work with the treaty negotiations that you are under way with to do something meaningful in terms of tariff reduction to be able to promote that entire value chain.

I mean, do you have any thoughts or observations? You can accept the invitation to come visit us. We would be happy to put tech and and and wine into the mix as well.

Ambassador FROMAN. Thank you. Thank you, Congressman.

You know, I would say on the footwear issue in particular, and this goes to some other products as well, we have got multiple interests at stake, as you say: the domestic producers, those who are assembling product that is being imported, the retailers, the consumers. And one thing we have to do is weigh all those interests and find the best possible path, and one in particular that supports the most jobs in the United States.

And so we are looking at all those issues. We recognize the sensitivities. And we hope to be able to strike a balance that addresses the multiplicity of interests at stake.

Mr. BLUMENAUER. Well, I appreciate that. And, as I say, we would be able to show you in our community people who are manufacturing, but also the design, the production, the engineering, the sales, thousands of very high-paying jobs right here in the United States that support that mechanism that you talked about.

Chairman CAMP. All right. Thank you.

Mr. Paulsen.

Mr. PAULSEN. Congratulations, also, Mr. Ambassador. I echo the comments of some of my colleagues.

I want to shift gears and just talk about India real quick. You are aware that many U.S. businesses and investors are facing issues that are significantly impeding their ability to compete in India. And, as you know, Congressman Larson and myself, we recently sent a letter with 170 of our colleagues ahead of last month's U.S.-India strategic dialogue urging the administration to make India's deteriorating environment for intellectual property a focus for that dialogue.

I know last week India announced a review of its preferential market-access policy, which requires information technology products to be produced in India as a condition of sale. That is a policy that would violate fundamental global trade rules, obviously. But that review does not solve the problems facing the information technology sector in India. It doesn't do anything to address the serious concerns in other sectors, including the solar industry. And it doesn't do anything to address discriminatory tax treatment or stop the blatant theft of American intellectual property.

The primary forum to discuss bilateral trade investment issues is the Trade Policy Forum, which USTR cochairs, but it hasn't been held since 2010. When do you expect to hold the next Trade Policy

Forum? What can we do to support you in these efforts? And what is the administration doing to ensure that U.S.-India trade and investment relationship is on a positive trajectory down the road?

Ambassador FROMAN. Well, thank you, Congressman. And this was very much at the center of the agenda last week when we had the U.S.-India CEO forum. We had the Finance Minister, the Trade Minister, and Deputy Chairman of the Planning Commission in town for a series of meetings precisely on that issue of the investment and innovation environment in India, how it is affecting our bilateral economic relationship, how we might be able to address it.

And I had very good conversations with my new counterpart, the Trade Minister Sharma there, and we have agreed to have our staffs work closely together to tee up and try and resolve a number of the outstanding issues so that we can have a ministerial-level Trade Policy Forum sometime in the future. But we want to make sure that the groundwork is laid and that we are making progress towards resolving those issues in the run-up to that meeting.

Mr. PAULSEN. And what can we do to help support you in that effort, knowing that this is a town—Congressman Crowley and others, we had a little meetings also with the Finance Minister recently, had a great conversation to keep that dialogue going. But what else can we do to support you in your effort?

Ambassador FROMAN. I think it has been very important for India to understand the breadth of concern in the business community, in Congress, the bipartisan basis of that concern. I think it helps focus the attention on what needs to be done. It is one thing if we say it to them, but if they are hearing it also from a variety of other sources, I think that is very—that is very positive, and I would encourage you to continue that.

Mr. PAULSEN. Thank you. I yield back.

Chairman CAMP. Thank you.

Mr. Marchant.

Mr. MARCHANT. Welcome, Ambassador.

I represent 700,000 people that live and work within 30 minutes of the—one of the great trade hubs in the United States, DFW Airport. Trade agreements equal high-quality and high-paying jobs in my district, and it isn't just—it is an equation that is a district equation. And so we are very interested in your success and want to let you know that we are more than willing to help in any way.

My question is about the TPP. The TPP is meant to be a living agreement that could eventually be the basis for a free trade area for the Asia-Pacific. Such a free trade area would further integrate the United States into the supply chains that cross the Asian-Pacific region, benefiting our exports and increasing our competitiveness.

I understand that now the focus is properly on completing a high standard and ambitious TPP agreement; however, we need to lay the groundwork so that the Pacific Rim countries from Latin America through Asia that meet the high standards will eventually join and increase the value of TPP. What is the USTR strategy for ensuring that this can happen?

Ambassador FROMAN. Well, thank you. And, as you said, our focus right now is trying to complete this agreement this year with

the 12 countries that will be part of it, but we have always envisioned this as a living agreement, as a platform to which other countries could ultimately accede if they so wished. And we heard expressions of interest, formal and informal, from a number of other countries who are following TPP's progress with great interest, and who we expect may want to join in a second tranche of countries sometime in the future. But our focus for now is just bringing this first tranche to a close.

Mr. MARCHANT. Mr. Chairman, I would like unanimous consent to submit a question for the record concerning our relationship with Taiwan to the Ambassador.

Chairman CAMP. Without objection.

Mr. MARCHANT. Yield back.

Chairman CAMP. All right. Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman.

Let me add my congratulations, Mr. Ambassador.

You know, as we experience globalization, there seem to be more and more small, moderate, minority-owned, women-owned businesses who are trying to get into the pipeline and make use of opportunities to do business abroad. How helpful does your office expect to be to help these individuals make connections, contacts, and get moving?

Ambassador FROMAN. Well, thank you very much for asking that question, because getting small and medium-sized businesses into the export business has been a major focus of the administration, and we want to do more on that.

A couple of years ago, Ambassador Kirk launched an SME initiative at USTR. And more broadly in the administration, through the National Export Initiative, and through the works of the Export Promotion Cabinet, we made increasing the number of small, medium-sized businesses who export a major objective. And we went at that by, one, increasing the availability of trade finance and working with community banks, who have the best relationships with small and medium-sized businesses, to bring them into the trade finance business. We also looked at the array of points of contact that the administration, the government has with small and medium-sized businesses, the SBA, the commerce offices around the country, to ensure that they were trained and capable of providing small and medium-sized businesses with the kind of advice they need about how to begin to export, how to evaluate a market, and how to navigate their ways through the various procedures that they need to navigate. So this has been a major priority of ours.

In TPP itself, we have a small and medium-sized business chapter. And the objective there is to be able to look back at TPP as it is being implemented to ensure that the benefits of TPP are also going to small and medium-sized businesses and to make adjustments as appropriate.

So this is a high priority for us. We agree these are the drivers of jobs in the United States, and we think there is much more that we could do to help these companies become part of the global economy.

Mr. DAVIS. Thank you very much. We had a great relationship with Ambassador Kirk and look forward to working with you.

I yield back.

Chairman CAMP. All right. Thank you.

Mr. Reed.

Mr. REED. Thank you, Mr. Chairman.

And thank you, Ambassador, for being here today. And I offer my congratulations and also my personal thanks for all the hard work on Korea in particular that you were involved with and that we worked on with Korea, Colombia, and Panama.

I represent upstate western New York. I have got companies like Nucor Steel, Corning Incorporated. So I am very concerned about making sure that we are enforcing our trade provisions to the fullest extent possible to make sure we have that level playing field that is critical to the future of America and American manufacturing in particular. So just want to make sure I have a clear understanding that you and I agree that enforcing our trade remedy laws is something that protects American jobs, good for American jobs.

Ambassador FROMAN. Absolutely.

Mr. REED. And when it comes to intellectual property, for example, at Corning Incorporated, and the trade secrets and things like that, would you agree with me that being able to point at our U.S. criminal and civil laws is critical in your negotiations as you go in regards to the trade agenda across the world?

Ambassador FROMAN. Well, certainly the whole area of trade secret theft has been of great concern to us and a high priority. And Corning is one of the specific cases we have advocated for aggressively with China to try and see if we can help resolve that case.

I don't know enough about the criminal and civil laws to comment on the relation between that and what we are doing on the trade side other than to say that we have underscored that trade secret theft is unacceptable, and that it is important that these issues, both the individual cases, but also the broader message from the Chinese leadership that trade secret theft won't be tolerated, has got to be a critical part of moving forward.

Mr. REED. Well, I so appreciate that commitment, because that is an important piece to me, obviously.

Is there anything that you would recommend to us from a legislative perspective to champion to put you in the best position to accomplish your job in regards to that trade secret initiative?

Ambassador FROMAN. Well, I would say the following, and I mentioned it in my opening statement a bit. Our—my biggest worry at the moment is really about—is about resources. USTR is lean, it is nimble, but it is highly constrained at the moment for all the reasons that we know, between sequestration and other budget cuts, and it is forcing us to make hard decisions between what negotiations we can engage in and how, what other market-opening measures we want to pursue, and what enforcement cases we can bring.

And so I am quite concerned that we will manage our resources to the best of our ability, we will do the best we can to meet our various priorities, but, frankly, I think USTR gets the biggest bang for the buck of anyplace I know. And I think making sure that we are fully resourced to be able to achieve the kinds of enforcement

gains and negotiating and monitoring gains that you identify are very important.

Mr. REED. I appreciate that, and if there is anything you need from our office, don't hesitate to reach out. I look forward to working with you, I truly do, Ambassador. Good luck.

Chairman CAMP. Thank you.

Mr. Griffin.

Mr. GRIFFIN. Thank you, Mr. Chairman.

Thank you for being here. I want to talk to you about SPS enforceability. And I think my colleague, Mr. Nunes, talked a little about this.

I believe that you discussed the current arrangement, which is to go through WTO procedures to deal with this, as opposed to having something in the agreement itself. Is that a fair characterization?

Ambassador FROMAN. Well, in TPP, as we seek to negotiate—and, of course, we are still in the midst of negotiating—as we seek to negotiate what we are calling SPS–Plus disciplines, we want to make sure that they are fully implemented. Many of the SPS disciplines, SPS–Plus disciplines, go to a future elaborating how countries' WTO commitments are to be implemented. So, for example, that regulations be based on science, it describes how that science should be applied, or what kinds of relevant science there are to apply and how that should be discussed. Those underlying commitments, those underlying commitments to apply science, are subject to WTO dispute resolution.

Mr. GRIFFIN. Right. And that process is laid out in the WTO agreement, not in the agreement that is being negotiated here.

Ambassador FROMAN. What we have got in TPP is both the WTO dispute resolution process on the substance of the SPS commitments, but also separate TPP disputes element on the procedural enhancements that we are seeking to achieve.

Mr. GRIFFIN. I have looked at this and talked with some of my constituents, and I am concerned that there are not enough—there is not enough teeth and efficiency in using the WTO dispute resolution process as opposed to elevating this and creating a more effective mechanism in the agreement itself. And this is something that I think we should pursue.

And let me ask you this: If there are voices in the administration, in the Federal Government, that disagree with me, where do those voices come from? Are they FDA? Are they worried about their science being under scrutiny? What—I mean, the FDA is already science-based, so where is the rub there?

Ambassador FROMAN. We approach this in—by trying to figure out what is the most efficient, quickest way to resolve issues as their arise. And that is a little bit what is behind the consultative mechanism that we have proposed in TPP, because we think by being able to raise these issues through a formal process, forcing the parties to come to the table to try and resolve them can help expedite some of the resolution.

We think we have struck the right balance by leveraging off the scientific expertise of the WTO, because it really is a very science- and technical-heavy set of issues, while at the same time adding a consultative mechanism that will allow us to force parties to the

table and get the procedural elements addressed in the context of TPP.

Chairman CAMP. All right. Thank you.

Mr. McDermott.

Mr. McDERMOTT. Welcome.

I don't know if you got promoted or demoted, leaving the White House and going over to Trade.

The last 2 years as you have worked on this TPP, the issue of access to medicines has been central to some of our concerns, and it seems like the language you have put in is really a step back for the May 10th agreements that Chairman Rangel and Mr. Levin made with the White House in terms of trade agreements.

The proposal you put out did away with the word "guarantees." I think that is what poor countries really want are guarantees of access to the medicine within 5 years of their introduction in the United States. You got a lot of negative feedback at the time that first came out, and since that time, you have said you are in a period of reflection. Can you tell us where you are on your decision about that?

Ambassador FROMAN. Thank you, Congressman. And thank you for your leadership on this issue.

This is a critically important issue, and we are committed to finding the right balance to strike between protecting innovation, but also achieving access to—access to medicines. We are in the process of engaging with our TPP partners to educate them as to what is in U.S. law. We took the feedback on our original proposal very seriously. We received a wide range of feedback. And we are in the process of figuring out how we want to take it forward, consistent with some of the principles that you laid out that strikes that balance between——

Mr. McDERMOTT. Is there any language presently written that we can look at?

Ambassador FROMAN. We have not tabled—we have not tabled new text on this issue. We are in the process of dialogue with our TPP partners about what the principles of a chapter on this might look like.

Mr. McDERMOTT. So the only tabled proposal is the one of February or wherever?

Ambassador FROMAN. We never tabled that proposal. We briefed the committee here and our stakeholders on it.

Mr. McDERMOTT. You never tabled it.

Ambassador FROMAN. Correct.

Mr. McDERMOTT. Okay. Let me ask you a second question. This committee does a lot of things here, but most of them are irrelevant. But it seems to me that we ought to be dealing with GSP if we are serious about our relationship with the rest of the world. Can you just tell the committee why GSP ought to pass in the next 2 weeks and not expire on the 1st of August?

Ambassador FROMAN. Well, thank you. Thank you very much for that. And I—we very much agree that GSP has both its development dynamic to it, but also very importantly it helps importers of products who can't otherwise access those products to bring those products in and provide them to American consumers at lower costs. So we think it is both good for American consumers,

but also good for development. We were comforted to see and welcomed the introduction yesterday of the bipartisan bill by the leadership of this committee to renew GSP, and we think that is important.

Chairman CAMP. All right. Thank you.

Mrs. Black.

Mrs. BLACK. Thank you, Mr. Chairman.

And welcome, Ambassador. We look forward to working with you.

I want to turn to the issue of data. One of the most important 21st century issues is the protection of cross-border data flows, which, of course, is critical not just for service companies, but to any globalized company in any sector. Firms with global sales forces must be able to transfer the sales data back to their headquarters, and many companies across the sectors that centralize the processing of their data must be able to do so, as you know, seamlessly. The emergence of the digital trade also depends on the free flow of data across borders.

In both the EU and the United States, data privacy is protected, but we do have different systems for providing that protection. So respecting the difference of those privacy approaches, how can we ensure a robust protection for cross-border data flows in the EU negotiations, in the Trade in Services Agreement, and also in TPP? And in what other ways has the digital revolution impacted services trade in a manner that should be reflected in these negotiations?

Ambassador FROMAN. Well, thank you very much.

And clearly the impact of the—of digital—the digital economy, of digital trade is playing an increasing role in all of our trade agreements, as you say. In TPP we have a particular focus on it, but we will also be talking about it with our European colleagues and in the services agreement.

We think the free flow of data is important for all the reasons that you say. And also, as technology develops, and the cloud develops, we want to make sure that businesses are able to structure its operations in a way that makes maximum sense. At the same time, obviously, there are privacy concerns. We want to take those seriously, and strike the right balance, and ensure that we are able to achieve those privacy concerns without distorting the free flow of data as part of the digital economy.

So those are active issues for discussion right now in TPP. We have begun that dialogue with the EU as well. And my sense is it is going to become an increasing part of our trade agreements going forward, and we would be happy to work with you and get your input on how you think we ought to be thinking about this.

Mrs. BLACK. I appreciate that. We can all certainly appreciate the fact that data must be protected. It is a very important part of businesses and a very important part of the flows.

Are you feeling in negotiations at this point in time that there is any really good case model that you could say, yes, this is going to work for all of our agreements?

Ambassador FROMAN. You know, I think TPP is farthest along in terms of the negotiation at the moment, and we will have to see where we come out on that. But I think we need to remain flexible to determine how best to raise standards and create new dis-

ciplines in each of our agreements depending on the particular partners that we're working with.

Mrs. BLACK. Thank you. I look forward to working with you.

I yield back.

Chairman CAMP. Thank you.

Mr. Kind.

Mr. KIND. Thank you, Mr. Chairman.

And, Mr. Froman, thank you for being here and for your service to our country. We look forward to working with you and the administration on a robust fair trade agenda that can help spark the economic growth and job creation that we need in this country right now. And you have a lot on your plate.

Let me just raise a couple of the concerns, and then happy to follow up with you on. But I appreciate USTR's report on Russia and WTO compliance and what further action needs to be taken. I and most of the members on this committee did support Russia PNTR. We felt it was important to get the sixth largest economy into a global rules-based trading system, but there are shortcomings that I feel need to be addressed, not least of which, being from Wisconsin, their exclusion of dairy products since 2010. And I am hoping that with your assistance—and I will follow up with you as I did with Ambassador Kirk—that we may look at practical steps to be taken to see if we can get Russian and the Customs Union there to open up their markets to our dairy products.

Canada right now is revising their standards on dairy products, too. We are concerned about the possible exclusion of more exports into the Canadian market.

And then finally, just pivoting to TPP quickly, as you probably have seen, Prime Minister Abe's LDP Party has been taking a lot of agricultural—at least attempting to take a lot of our agricultural products off the table when it comes to TPP negotiations: rice, wheat, barley, pork, beef, dairy, sugar. Obviously that is very disturbing. You had mentioned earlier in your testimony the large agricultural exports, roughly 140 billion a year. We feel we can do even better than that. Japan is a late entry in TPP negotiations. Hate to see us go down the road of allowing them to unilaterally try to exclude certain products from negotiations, and I am sure we will enjoy your support on that as we move forward as well.

But there is a lot that has to be addressed. And, as you know already, it is going to be important to keep not only this committee, but other Members in the Congress informed as far as the state of negotiations, especially the large new class that has joined the Congress recently, too, who have never been through a trade debate or a trade discussion. Try to get them information as well.

But I would be interested in your perspective on Russia and where they are right now with their new-found WTO obligations.

Ambassador FROMAN. Well, thank you very much. And we agree that it is very important to stay focused on ensuring that Russia implements the commitments it made when it acceded to the WTO. And there were, I think, four or five areas that we asked them to take action on. They have taken action on a couple of them, but a couple of them still remain outstanding.

You know, I would note that when we were talking about PNTR for Russia, one thing that we underscored, the value of bringing

them into the WTO, is that they would be subject to certain disciplines and subject to dispute resolution when they failed to meet those disciplines. There is now a case being brought against them on the auto recycling fee in the WTO, and we will be joining that case.

And so I think that is exactly the sort of process we want to see. Obviously, we would prefer for them to implement all their commitments assiduously, but if they don't, we will certainly go to dispute resolution as necessary.

Just with regard to Japan, it was very important to us that Japan agreed before we let them into the TPP that everything is on the table. There are no upfront exclusions. Now, obviously, every country has its sensitivities, and those will all be subject to negotiation, but we have not agreed to any upfront exclusions with regard to Japanese agriculture.

Chairman CAMP. Thank you.

Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman.

Mr. Ambassador, welcome and congratulations.

On the TPP, I am really interested in this. Now, I know if we are going to get the economy back on track, we have got to go after the global market. There is just no question about that. And in the district—and we all have been talking about our districts and how important the ability to sell things all over the world is to each of our districts individually.

But on the TPP, though, you have got a heavy, heavy load there. And I am wondering, we talk about this and this sense of urgency, because I would just say that sooner, of course, is better than later, and as you see us approaching that, the challenges that you are going to have trying to get there, and I wonder—because geopolitically right now I don't think there is more important trade policy that we can get than in that part of the world, especially with the influence of China and all the rest of the members that are talking, NGOs, nations that are talking to you. So the biggest challenges you see.

And then on top of that, what can we do to help you here? Is there anything we can do to help you? Because I am looking at what you are doing, I don't know how you are going to get it done as quickly as you want to get it done. And I know you said we are going to work really hard. But the biggest challenges you see.

Ambassador FROMAN. Well, thank you for underscoring——

Mr. KELLY. This is a big deal.

Ambassador FROMAN.—the challenges ahead.

You know, this will be a complicated process to bring TPP to a close as well as these other negotiations that we are working on. But there is a lot of political will among the countries around the table, because they see this as an opportunity to set high standards, to introduce new disciplines, to have a positive impact on the multilateral trading system, and that, I think, has mobilized and motivated our trading partners to work with us to try and resolve these issues. But there will be very difficult issues that will require some tough trade-offs at the end of the day to ensure that we can get this done.

You know, I would just add to what I said to Congressman Reed. I think our biggest challenge right now is the resource challenge, simply not having—we have open positions we can't fill. We have travel budgets that are constrained that we can't send negotiators to all the rounds we would like to send them to, and we have meritorious enforcement cases we would like to bring but don't have the capability of necessarily bringing them all.

And so I think where you all can help, I think, in the short run is in trying to ensure that we have the necessary resources and support to get our job done.

Mr. KELLY. Well, I appreciate what you are doing. I think the closer relationship we have with these countries who—the better we are as partners also in a world that is constantly now undergoing some changes. China, to me, really scares that part of the world. And when I have been over there, I have talked to those folks, have a read pretty good relationship with South Korea, I don't know how we—if we don't. Now, of course, this is a huge lift for us, but for that part of the world, if we aren't the biggest player, and we are not the most influential, then we are going to lose out. And again, if people to look to us to be the leaders, we need to be able to do that.

So thanks for what you are doing. Any way we can help, please let me know.

Ambassador FROMAN. Thank you.

Chairman CAMP. Thank you. Thank you.

Mr. Pascrell.

Mr. PASCRELL. Mr. Chairman, thank you.

Ambassador Froman, congratulations on your confirmation. I am sure those of us on—all of us on the Ways and Means look forward to having a great relationship with you.

My other colleagues have mentioned today different policies that would improve our competitiveness hand in hand with the trade promotion authority: legislation on currency manipulation, strong enforcement of our trade laws, trade adjustment assistance, just to name a few.

I would like to bring your attention to something that we worked on the last 2 years. The Bring Jobs Home Act would provide tax credit for companies that bring jobs back into the United States of America. These are the kinds of policies we need if we are to get the most out of our trading relationships.

I want to zero in on the Trans-Pacific Partnership, if I may. I would like to talk about our domestic textile industry, that which is still alive, that is. I was glad to learn of your support for this rule during your recent Senate confirmation.

I want to draw your attention to a bipartisan letter from Representatives Howard Coble, Patrick McHenry, and I sent to you, which was signed by 167 House Members, including many of my colleagues who sit on this committee.

And I—I would like to ask, Mr. Chairman, unanimous consent to have this letter entered into the record.

Chairman CAMP. Without objection.

[The information follows: The Honorable Bill Pascrell]

# Congress of the United States
Washington, DC 20515

July 10, 2013

Ambassador Michael Froman
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Froman:

The undersigned Members of Congress write to express our collective concern regarding the Trans-Pacific Partnership (TPP) negotiations. Specifically, we are troubled by the position of the Vietnamese government regarding the textile negotiations and the impact this standpoint could have on the U.S. textile industry's suppliers and its export partners. After 17 rounds of negotiations, Vietnam is seeking to replace long standing textile rules that have been included in previous free trade agreements with a new rule that would allow Vietnam to source textiles from China and export garments and finished goods to the United States duty free. A recent study concluded that if adopted as part of the TPP, this rule would cost more than 500,000 U.S. textile and related jobs and put more than 1.5 million jobs in the textile and apparel supply chains in the Western Hemisphere and Africa in jeopardy.

The TPP talks are entering what is expected to be the final year of negotiations and because of the Vietnamese government's intransigence, the United States government ranks textiles and apparel among the three most difficult negotiating chapters. We strongly urge the United States Trade Representative (USTR) to maintain its current position for strong textile rules which include the "yarn forward" rule-of-origin. From NAFTA to the recently implemented Korean free trade pact, the yarn-forward rule has been an essential component of every U.S. free trade agreement over the past 25 years. This rule has a proven track record of job creation in the U.S. and our free trade areas, and it is responsible for hundreds of thousands of U.S. manufacturing workers and millions of direct and indirect jobs in countries south of our border and in Africa. Specifically, the yarn-forward rule is responsible for $25 billion of United States two-way trade with Mexico, Haiti, the CAFTA-DR countries and the Andean region.

The yarn-forward rule has been a success because it ensures that only textile and apparel manufacturers within a particular free trade region, such as the proposed TPP, get the benefits from the agreement. Vietnam, however, wants to replace this proven rule with a new rule that would allow its state owned companies to flood the U.S. market with subsidized Chinese inputs. Vietnam predicts that under this new rule, its market share in the U.S. would rapidly increase from 7 to nearly 30 percent. Almost all of this growth would be taken from small and medium-sized textile companies in the U.S. and our trading partners in the Western Hemisphere and Africa. Additionally, over ten billion dollars of current U.S. textile exports would be lost and more than a million workers in fragile economies would see their livelihoods destroyed.

While the toll on U.S. manufacturing workers would be high, the social and economic impact on small developing economies south of our border that depend on the textile and apparel supply chain would be devastating. That is why textile and apparel groups that represent Haiti, the CAFTA-DR countries, Mexico, the Andean countries – as well as groups representing the AGOA countries - have joined U.S. industry in supporting the maintenance of strong textile rules in the TPP. These groups represent thousands of small privately-owned companies[1] that have been created under the existing preference rules and provide badly needed jobs and opportunities to their countries.

In addition to the rules-of-origin, the TPP must include other rules that have long been the standard for previous FTAs. These include extended duty phase-down periods for sensitive textile and apparel products and strong customs enforcement rules and resources. These are particularly important given the array of

[1] The Textile and Apparel Coalition for TPP (www.taa-tpp.com)

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subsidies and benefits that Vietnam's state-run economy gives to its textile sector. These benefits have fueled Vietnam's rise as a major apparel exporter by allowing Vietnam to artificially reduce prices on manufactured goods. The U.S. government must insist on a reasonable transition period with Vietnam and other TPP partners as duty preferences are phased into existence.

We understand that the TPP is intended to encourage two-way trade with the countries participating in the talks. However, we strongly believe that the terms of this trade agreement must be fairly constructed, that long standing and established rules should not be eroded, and that a final agreement must preserve and create investment in U.S. manufacturing and jobs, particularly in small and medium-sized businesses. Maintaining provisions such as yarn forward and strong duty preferences in the TPP will not only help the domestic textile industry keep well-paying and productive jobs in the U.S. but it will also aid the development and emergence of new export markets amongst our important trading partners. We look forward to working with the USTR as the TPP negotiations press forward this year. As the TPP negotiations come to a conclusion, we will be mindful of the outcome of the textile and apparel rules in determining our ultimate views on a final agreement.

Ambassador Froman , thank you for your consideration of the perspectives this letter has outlined.

Sincerely,

Patrick McHenry
Member of Congress

Howard Coble
Member of Congress

Bill Pascrell
Member of Congress

Lynn Westmoreland
Member of Congress

Linda Sanchez
Member of Congress

Sanford Bishop
Member of Congress

Walter Jones
Member of Congress

Mike Michaud
Member of Congress

Trey Gowdy
Member of Congress

Robert Pittenger
Member of Congress

Mick Mulvaney
Member of Congress

Richard Hudson
Member of Congress

Henry C. "Hank" Johnson

Danny K. Davis

William L. Enyart

Dave Loebsack

Bill Foster

Bradley S. Schneider

Doug Collins GA-9

Shelley Moore Capito

Hal Rogers

John Barrow

Peter J. Visclosky

Bobby L. Rush

Ed Whitfield

Carl Levin

Kevin Van Hollen

Andy Barr

Rob Woodall

Larry Bucshon

Rodney Alexander

Tom Graves

Austin Scott

Nick Rahall

Collin C. Peterson

Robert B. Aderholt
Jack Kingston
Ed Pastor
Rosa DeLauro
George Miller
Earl Blumenauer
Terri Sewell
Gary Peters
Jim Langevin
Raúl M. Grijalva
Rick Crawford
Janice Hahn
Frederica S. Wilson
Sam Farr
Steve Israel
Matthew A. Cartwright
Don Young
Joe Courtney
Lucille Roybal-Allard
Adam B. Schiff
Lynn Woolsey
Ed Perlmutter
Mo Brooks
John Carney
Bruce L. Braley
Peter Roskam
Elizabeth H. Esty
Cheney Hunt
H. Morgan Griffith
Tim Ryan
C.W. Bill Young Jr.

Louise M. Slaughter

Martha Roby

Robert E. Andrews

Carol Shea-Porter

Betty McCollum

Kerry L. Bentivolio

Nikki Tsongas

Carolyn McCarthy

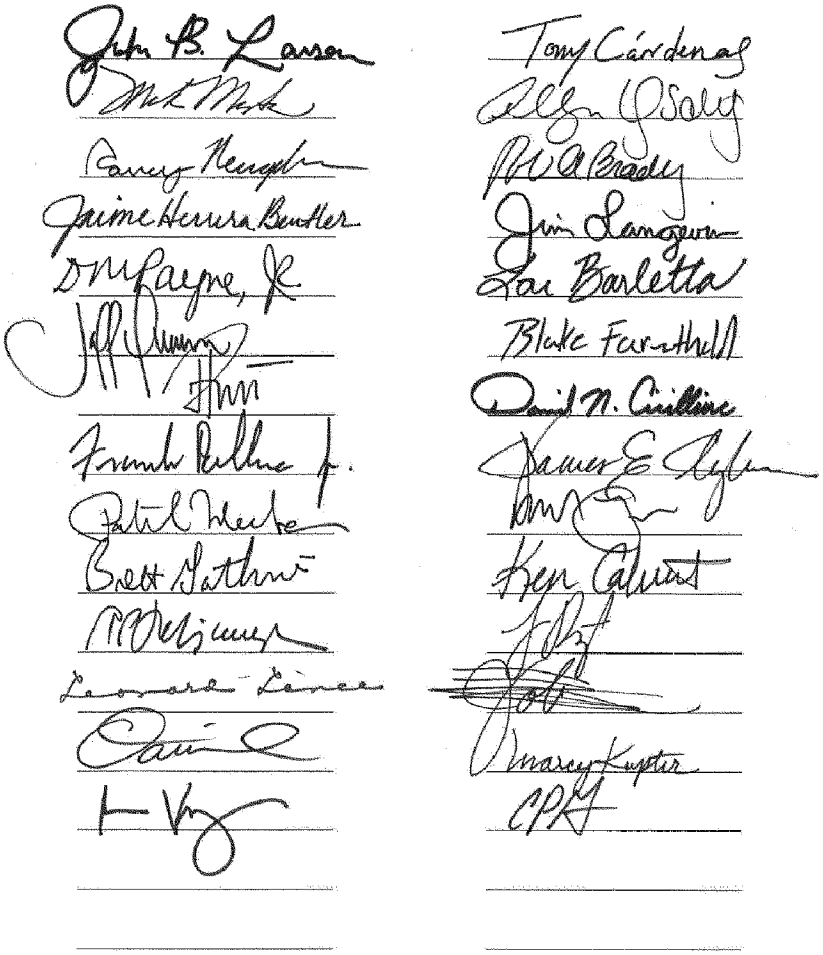
Yvette D. Clarke

Keith Ellison

Edward J. Markey

Gregg Harper

Virginia Foxx



Mr. PASCRELL. Mr. Froman, have you reviewed this letter?

Ambassador FROMAN. I am not familiar with the specifics of the letter, but I am happy to discuss it with you.

Mr. PASCRELL. The letter supports the inclusion of strong rule of origin language, which has really hampered us in other trade agreements; in this case, the yarn forward rule. I understand that you are negotiating strategy has yarn forward at its center. Can you update this committee on your negotiations over the rule of origin?

Ambassador FROMAN. Well, thank you very much. And you are right that we have—we want to very much pursue a policy that addresses both our domestic manufacturing interests in the textile and apparel sector, as well as our other interests and strike the

right balance. And we think yarn forward at the center of that proposal makes a lot of sense, and that is the proposal that we are currently negotiating with.

With regards to rules of origin more generally, those are being discussed among our TPP partners, and we are looking to make sure that across all sectors we are dealing ourselves into supply chains by making sure the rules of origin support that; that having manufacturing and production here in the U.S. is made more attractive by the rules of origin of TPP so that companies can make their decisions in a way that enhances job creation, creates jobs here in the United States.

Mr. PASCRELL. So you are willing to work with the industry to find the proper trade tariff reduction arrangement that does allow for a reasonable approach, particularly during the transition period?

Ambassador FROMAN. Yes. I said we are very much in touch with the stakeholders and obviously with the staffs of the committees here as we try and work through these issues of yarn forward and rules of origin more generally.

Chairman CAMP. All right. Thank you.

Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman.

Ambassador, thank you for being with us. A couple quick points and then one crucial question.

Enforcement. More and more that I have watched and been here, my sense is that my vote on any trade deal will now hinge on enforcement, because I find that a trade deal is a hollow agreement if our trading partner doesn't or won't play by the rules. And so the last thing we need is to tell American businesses or American workers that we struck a good deal with a trading partner, then find that the other side doesn't follow the rules, and we are losing jobs, hemorrhaging jobs and the rest.

Secondly, I hope that you will take a deep interest in the whole issue of currency manipulation. On a bipartisan basis more than 230 Members of this House, Republicans and Democrats, sent a letter to the President last month saying, please, please consider language on currency manipulation when it comes to any future trade deal, because what we find is that somewhere between 1 million to 5 million American jobs have been lost, shipped overseas because of currency manipulation by other countries where they artificially depress their currency so they can export more things to us. And so I hope you will really take a crucial look at that and let us know that you will be defending the American interests of both work and business.

Intellectual property. I am from Los Angeles, so, to me, if we can't protect intellectual property, again enforcement provisions are crucial, we are going to lose some industries that have been net exporters of goods.

And finally the question to you. As I just mentioned, I am from the Los Angeles area. The Los Angeles area, because of our two ports, Los Angeles and Long Beach port, we account for some 10 percent of all U.S. trade in the U.S., and that is now 5 years running. We are the largest port in the Nation, and we are one of the largest ports in the world. Lots of folks in Los Angeles depend on

the ports for their jobs; lots of Americans throughout the country do as well.

I know you have to travel all over the place, all over the world, including the west coast. I would love it if the next time you find yourself going through Los Angeles, you will give me a chance to introduce you to some of those folks in Los Angeles who create American jobs, keep American businesses thriving. And can I ask you, if you do have a chance to go to Los Angeles, we can count on you to perhaps spend a little time with some folks there in Los Angeles?

Ambassador FROMAN. Absolutely. I would be happy to do that.

Let me just say on enforcement in particular, we very much agree. In our view this administration's view has been that it is not enough to negotiate an agreement and to implement it; you need to make sure that it is being fully enforced as well. And that is why we brought 18 enforcement actions over the course of this term. We brought the first super 301 case—or 301 case in 15 years against China for subsidizing unlawfully their wind energy business. We brought the first 421 case on tires. We have brought an aggressive agenda to WTO, and we are continuing to focus on that, including through the standing up of the Interagency Trade Enforcement Center. So we are very much in line with your perspective on that.

Mr. BECERRA. Thank you. Look forward to seeing you in Los Angeles.

Yield back, Mr. Chairman.

Chairman CAMP. Thank you.

Mr. Crowley.

Mr. CROWLEY. Thank you, Mr. Ambassador. Great to have you before your committee. Congratulations to you. Look forward to working with you, continuing the relationship we have developed over the past few years. And thank you for your endeavors.

And I want to point out in particular we appreciate the time and the effort that you and the administration have given and put on the enforcement of trade rules, as were mentioned. As America exports more, we need to make sure that foreign barriers to trade are not erected to prevent the free flow of American goods and services, because it is one thing to have trade, but it is another thing to have trade deals that work for us and for our partners. So please keep up that focus on enforcement. I think it is paying off and will continue to do so as well.

One of the major problems for service exporters like those from New York, my hometown, is having to compete with state-owned industries in other countries. What do you envision for the USTR in terms of how you view those enterprises? And how do you see these issues coming into play in the deals that are being negotiated right now? Japan post comes to mind, for one, as it pertains to TPP.

Ambassador FROMAN. Well, thank you very much. And I very much enjoyed working with you, and look forward to doing so going forward.

Certainly the role of state-owned enterprises is absolutely critical, and that is why in TPP this is one of the areas of new disciplines that we are working to introduce into the agreement to ensure that state-owned enterprises whose—that are focused on com-

peting with commercial firms, are engaged in commercial activity, that they play by the same rules and are subject to the same kind of disciplines as private firms, and that we deal with their inherent subsidies and their other inherent advantages in an appropriate way.

And equally on our bilateral investment treaties, I mentioned progress made last week with China in terms of their moving forward and wanting to negotiate a bilateral investment treaty with us. We have made clear that SOEs will be a critical part—looking at their SOE sector will be a critical part of that negotiation as well. And we at USTR, working with our colleagues at the State Department to co-lead that effort, are very much looking forward to engaging with them on that.

Mr. CROWLEY. Thank you, Ambassador.

I just want to also follow up briefly on my colleague Mr. Paulsen and his referencing to India. I did not sign on to that letter of over—almost 150 Members, but that doesn't diminish my interest in the issue. I am the cochair of the India Caucus here in the House, and I am concerned about that level you talked about in terms of the unprecedented nature of the coming together of U.S. industries and the concern for their opportunities, or diminished opportunities, within India, and I appreciated your response as well and look forward to working with you and the administration moving forward on a positive growth agenda between our two nations.

I do view India and the U.S.—it is probably our most important ally in this century, and we have to get this right.

So thank you, Mr. Chairman. Thank you, Mr. Chairman, for holding this committee meeting today.

Chairman CAMP. Thank you.

Mr. Larson and then Mr. Smith. Mr. Larson is recognized.

Mr. LARSON. Thank you, Mr. Chairman. Thank you for conducting this hearing.

Ambassador, welcome, and thank you for your outstanding service to the Nation. I want to thank you for your testimony today, and I wanted to follow up and echo on the comments of my colleague Erik Paulsen.

Over the last few months, I have become concerned on what we have heard regarding the environment for American businesses operating in India. Whether it be patent violations and compulsory licensing in pharmaceutical industries, piracy within the software and film industries, local content rules in the technology sector, or forced globalization in green tech industries, the news coming out of India has not been good for American innovators.

These challenges are of great concern to me because of what they mean for American businesses and American workers. America is at the heart of the nations of innovators, and millions of American jobs, including thousands in my State of Connecticut, rely on this very important innovation. I know that both of and the President get it, and I appreciate the fact that you stated recently at the U.S.-India Business Council that we must begin to address these challenges.

Could you please expand on those recent comments in detail for the committee what specific steps you will take over the next year

to combat the increasing challenges that Mr. Paulsen and myself outlined?

Ambassador FROMAN. Well, thank you. And to build on what Congressman Crowley also said, this is a very important relationship. And we should—we shouldn't ignore the fact that our economic relationship has developed significantly over the last few years; that there are vast areas of good cooperation, defense sector, counterterrorism, and a number of other areas. It is a strong relationship.

I think the frustration we are all hearing from the business community and others is that this relationship is not nearly achieving its potential precisely because of the policies that you identified. And that is the message we conveyed to our Indian Government counterparts last week both from ourselves, but also from the American business community, and the American business community that is interested in India, that wants India to succeed and wants to invest there. And our hope is that through these dialogues, including the Trade Policy Forum, other high-level dialogues, including the Vice President will be going there, I believe, next week and will be conveying similar messages, that we can help the Indian Government move towards addressing some of these concerns.

We have seen some movement. Even this week they lifted certain caps on foreign direct investment in certain sectors. And so they have taken some steps, but the key is for them to be able to convey that India is a place that people want to do business, and that people can rely on as a place to do business. And that is in our mutual interest. And so we very much look forward to working with them through all these mechanisms to try and address those issues.

Chairman CAMP. All right. Thank you.

Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

And thank you, Ambassador, for your presence here today.

I guess I want to add emphasis to some of the issues—some of my colleagues talking about SPS and how important it is, and especially more specifically to, obviously, agriculture. We know that there is more U.S. pork sent to a Central American country of 7.7 million population compared to the 28 European countries that make up 500 million population. I think that there needs to be some dispute resolution contained in the agreements moving forward. And can you, I guess, respond to that and add anything you might have had to say previously?

Ambassador FROMAN. Well, thank you. And we agree that agricultural opportunities for export are significant. We are exporting at an all-time high now, but there is much more that we can do, and it is a central part of what we are doing in TPP and T–TIP as well.

And I would just say with regard to T–TIP, we have worked very closely with our European colleagues, even before we launched negotiations, to underscore the importance of resolving some of these SPS issues, and to work with them to resolve some longstanding disputes, including over lactic acid, live swine, and a variety of other areas. We have underscored that is going to be important looking forward to address these outstanding issues.

On the issue of dispute resolution itself, as I mentioned, most of what we are seeking in TPP, what we call the SPS–Plus chapter, the underlying disciplines are subject to dispute resolution either in the WTO or under the consultative mechanism that we are proposing in TPP. And we think that is the appropriate way of moving forward to ensure that there are efficient ways as issues arise of getting them resolved on an expedited basis. But we very much agree that this is a critical area of our trade. It is a critical area of these negotiations. We want to make sure that we have mechanisms to ensure that they are fully implemented.

Mr. SMITH. Okay. Thank you. I yield back.

Chairman CAMP. Thank you.

Ms. Sánchez is recognized.

Ms. SANCHEZ. Thank you, Mr. Chairman.

And Ambassador Froman, congratulations on your confirmation, and thank you for being here to discuss the administration's trade agenda.

You are obviously stepping into the U.S. Trade Representative at a very exciting time. The administration is negotiating agreements with the European Union, the Pacific Rim countries, and working on a new international services agreement. We also have the issue of congressional action on trade promotion authority, or fast-track authority, and the expiring Generalized System of Preferences program, and hopefully tougher trade enforcement rules.

I guess the main point that I want to express to you is that in the past I have been highly critical of past U.S. Trade Representatives, because all too often I think that our trade deals that are negotiated are unfair to American workers, and that they erode our U.S. manufacturing base. So I just want to share with you a few of the priorities that I think we should keep in mind as you continue your work in that office.

First of all, strengthening Customs enforcement to create a level playing field for American industries is something that I am very interested in seeing.

Aggressively trying to crack down on currency manipulators. One of my colleagues mentioned that that results in huge job losses for American businesses.

Ensuring high levels of labor and environmental standards in our trade negotiations, and specifically trying to build on the bipartisan May 10th agreement.

And also promoting U.S. manufacturing and opening up access to foreign markets.

So I look forward to hopefully working with you and my colleagues to ensure that our trade agenda keeps in mind those priorities.

You have been asked questions about aggressively cracking down on antidumping and countervailing duty violators. That is an area that I am pleased to see progress on with this administration, but I think we can be doing more there. So I am going to ask you a question specifically about the Trans-Pacific Partnership, because I do have some concerns there.

Clearly Japan's late entry into the Trans-Pacific Partnership has created concerns for the U.S. automotive industry. And, for instance, the Japanese automotive companies control more than 94

percent of the domestic Japanese market, making Japan one of the most closed auto markets in the world, and that is despite the fact that Japanese auto tariffs are at zero percent. So with the TPP negotiations, how does the USTR hope to effectively address Japanese nontariff barriers?

Ambassador FROMAN. Thank you very much.

Obviously Japan's auto sector has been an area of concern for—as Ranking Member Levin said, for decades, and it is still very much a concern today. And that is why prior to allowing Japan to come into TPP, we insisted on negotiating certain upfront commitments both in terms of the reduction of tariffs in the U.S., but also in terms of access to their market, more than doubling of the PHP program, which provides for expedited entry of imports into Japan, but also agreed on the terms of reference for a specific parallel negotiation on the auto sector that will be part of TPP, will be binding, will be subject to dispute resolution. And those negotiations are focused directly at those nontariff barriers that you mention.

We are looking forward to working with the auto industry here and auto workers here to get our best understanding of their priorities for that negotiation. But this is a high priority for us, and we want to make sure that we achieve concrete results through these negotiations.

Chairman CAMP. All right. Thank you.

Mr. Schock.

Mr. SCHOCK. Thank you, Mr. Chairman.

Thank you, Ambassador. We are all excited that you are in your new post, and confident that we are going to do even more on trade in the coming years with you at the helm.

I just want to bring up some—two specific concerns that I have had, one of them that I brought up repeatedly to the previous trade ambassador and, in my opinion, really haven't gotten a clear answer on.

U.S. biologics is an important industry in our country. From my home State of Illinois, we have several of the big pharmaceutical companies based there. Current U.S. law basically guarantees them 12 years to be able to recapture their investment in U.S. biologic medicines and pharmaceuticals.

On several occasions the administration in its budget and, we have heard, in some of the discussions has opened the door, if you will, on the potential to roll back 12 years' protection to perhaps a 7-year protection, as was put in the President's budget. Obviously, that concerns that industry, certainly concerns me as their representative, if we are going to change current U.S. law which protects them up to 12 years to 7 years, which would be, you know, more than a 50 percent reduction in how many years they can recapture their earnings or their investment.

Can we get some answer from you on whether or not that is still a position the administration holds, or is the administration's position going forward that they are going to negotiate trade agreements like they did in Korea in TPP that upholds current U.S. law; i.e., the 12 years?

Ambassador FROMAN. Well, thank you——

Mr. SCHOCK. Let me just—why the nonclarity? In other words, unless you are adamant that you are going to go to 7 years, all this

is doing is creating uncertainty within the pharmaceutical industry and making them not want to invest. If we are going to stick to current law, which is what we did in Korea, moving forward—and it is current U.S. law, by the way, and I don't know how we agree to a trade agreement that isn't consistent with U.S. law. Let us just say that so we remove the doubt, and we can move on to other important things.

Ambassador FROMAN. Thank you for that. And obviously, this is a very important issue in terms of protecting innovation in the U.S., which is a high priority.

We are currently engaged with our TPP partners in discussing how U.S. law works, the distinction between small molecules and biologics, the timeframes that are in U.S. law for each, and beginning that process of consultation with them about why U.S. law operates the way it does.

We have not tabled text yet in this particular area, but we are in the process of socializing the issues around current U.S. law with our trading partners, and obviously this will be subject to negotiation. But for—but at the current time, our focus is on educating our trading partners as to what is in U.S. law, why it operates the way it does, and how it operates.

Mr. SCHOCK. Do you believe you can negotiate a free trade treatment and agree to text that is inconsistent with current U.S. law?

Ambassador FROMAN. Well, I think what we need to do is to achieve the highest level of protection possible for our innovative industries, and the first step in that process is educating our trading partners about what is in U.S. law and why it operates the way it does.

Chairman CAMP. All right. Thank you.

Thank you very much, Ambassador Froman for your testimony, and with that, this hearing is adjourned.

[Whereupon, at 10:55 a.m., the committee was adjourned.]

**Member Submissions For The Record**

**The Honorable Devin Nunes**

July 15, 2013

Ambassador Mike Froman
United State Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

The Honorable Thomas Vilsack
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Ave SW
Washington, DC 20250

Dear Ambassador Froman and Secretary Vilsack:

The undersigned food and agricultural organizations and companies wish to congratulate Ambassador Froman on becoming United States Trade Representative. We greatly appreciate the view that both of you have expressed that trade can make an important contribution to America's economic recovery, and we are committed to working with you and your staffs to assist in the Administration's efforts to increase exports of U.S. goods and services and enforce the trade rights of U.S. producers and exporters.

With this in mind, we are attaching a Statement of Core Principles for a Successful TPP Agreement, which has been endorsed by groups representing the vast majority of U.S. producers, processors and exporters of food and agricultural goods. These principles are aimed at ensuring that the Trans-Pacific Partnership negotiations fulfill the promise of a high-quality agreement that can serve as a standard for future trade agreements.

We stand ready to discuss these with you at your earliest convenience, and we look forward to working with you and your trade policy teams in the coming weeks and months to ensure that the principles we have outlined are taken fully into account as the negotiations move forward with the full complement of participating nations.

Sincerely,

American Farm Bureau Federation
American Feed Industry Association
American Frozen Food Institute
American Meat Institute
American Peanut Product Manufacturers, Inc.
American Sheep Industry Association
American Soybean Association
Animal Health Institute
Blue Diamond Growers

Cargill, Incorporated
Corn Refiners Association
Grocery Manufacturers Association
International Dairy Foods Association
JBS USA
Kraft Foods Group, Inc.
National Cattlemen's Beef Association
National Chicken Council
National Confectioners Association
National Corn Growers Association
National Fisheries Institute
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Potato Council
National Renderers Association
National Turkey Federation
North American Meat Association
Northwest Horticultural Council
Pet Food Institute
Smithfield Foods
Sweetener Users Association
U.S. Apple Association
U.S. Dairy Export Council
U.S. Grains Council
U.S. Livestock Genetics Export, Inc.
U.S. Meat Export Federation
USA Poultry & Egg Export Council

Statement of Core Principles for a Successful TPP Agreement
Agreed To By The
Food and Agricultural Sector

*The undersigned organizations, representing the vast majority of the nation's producers, processors and exporters of food and agricultural products, and in being in support of a high quality trade agreement that can serve as the standard for all future trade agreements, hereby issue the following Statement of Core Principles for the TransPacific Partnership negotiations:*

One: A TPP agreement must cover all elements of trade and investment, including agriculture, goods, services, digital trade, competition policy, and intellectual property. TPP must be comprehensive.

Two: There must be no product or sector exclusions, including in agriculture. Exclusions would limit opportunities in each of the member countries to reach new markets, grow businesses and generate economic growth and jobs.

Three: All tariffs and other market access barriers must be phased out by the end of the negotiated transition period. Allowing any access restrictions to be maintained by one member would lead to demands for similar treatment by others leading to a second class trade agreement, at best. Transition periods must have commercially meaningful timeframes, which should be short and not back-loaded.

Four: Risk based scientific decision making, regulatory convergence, and equivalence are critically important. Comprehensive tariff elimination must be supported by robust SPS outcomes. Non-science based SPS measures cannot continue to restrict trade.

Five: A "Rapid Response Mechanism" (RRM) is needed in TPP to provide for shipment specific trade facilitative obligations that address frustration of trade in perishable and time sensitive shipments of agricultural products as result of implementation of SPS and TBT measures.

Six: Obligations that go beyond those in the WTO must be subject to TPP enforcement provisions, including in the Sanitary and Phytosanitary chapter. Since TPP members would not have recourse to WTO dispute settlement to enforce enhanced TPP disciplines, failure to include an enforcement mechanism would render new TPP disciplines valueless.

Seven: The agreement must be a single undertaking. All elements of the negotiation, including both tariff and nontariff SPS measures, are part of an indivisible package and cannot be agreed upon separately. In other words, nothing is finalized until everything is finalized.

*These principles do not cover all elements of the TPP negotiations. They are intended to affirm those that must be upheld for the final TPP agreement to be judged worthy of the full support of the undersigned groups. In some cases, organizations' support of a TPP containing these core elements also hinges on attainment of key sector-specific priorities not cited above.*

**The Honorable Earl Blumenauer**

Congress of the United States
Washington, DC 20515

July 10, 2013

The Honorable Michael Froman
United States Trade Representative
600 Seventeenth Street, NW
Washington, D.C. 20506

Dear Ambassador Froman:

The Trans-Pacific Partnership (TPP), which you recently described as a flagship initiative of the President's trade policy, offers the United States an important opportunity to construct rules and disciplines that reflect the 21st century global economy in which we live. U.S. companies account for a vast amount of the value added in the global supply chain so a trade policy, and a negotiating strategy, that furthers this modern trade pattern would yield substantial benefits for the United States, in the form of long term economic growth and job gains.

Trade in footwear represents one of the areas in which a new trade policy approach in the TPP, designed to reflect the global value chain, could make a real difference for the United States. That is because despite the fact that less than 1 percent of the footwear sold in the U.S. is produced here, the vast majority of the value of that imported footwear actually originates here. The innovation, design, marketing and sale of that footwear – key and high-value functions in the global supply chain – are all completed in the U.S., providing thousands of good-paying American jobs in every state.

Of the footwear imported into the U.S., eight percent comes from Vietnam, one of the countries with whom the U.S. is negotiating the TPP. Those imports are subject to some of the highest duties in the U.S. tariff schedule. Immediate, meaningful duty elimination upon implementation of the TPP and establishing straight-forward and uncomplicated rules of origin for footwear would allow U.S. brands to reinvest import duty and paperwork savings in innovation and maintain global competitiveness. Perhaps, most importantly, these outdated tariffs result in an unfair burden on American families.

Only with the right TPP footwear rules that support technological progress and access to resources can the U.S. add more high value design, engineering, manufacturing technology, marketing and digital jobs here while providing U.S. consumers with more choice.

The TPP will set the stage for future agreements, making it imperative that the United States get it right. We look forward to working with you to make sure that happens.

Sincerely,

Aaron Schock
Member of Congress

Earl Blumenauer
Member of Congress

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John Barrow
Member of Congress

Diane Black
Member of Congress

Marsha Blackburn
Member of Congress

Suzanne Bonamici
Member of Congress

Charles W. Boustany, Jr.
Member of Congress

Kevin Brady
Member of Congress

Steve Chabot
Member of Congress

Steve Cohen
Member of Congress

Gerald E. Connolly
Member of Congress

Rodney Davis
Member of Congress

John K. Delaney
Member of Congress

Jeff Denham
Member of Congress

Sean P. Duffy
Member of Congress

Charles J. "Chuck" Fleischmann
Member of Congress

Kay Granger
Member of Congress

Sam Graves
Member of Congress

Tim Griffin
Member of Congress

Gregg Harper
Member of Congress

Lynn Jenkins
Member of Congress

Sam Johnson
Member of Congress

Mike Kelly
Member of Congress

Adam Kinzinger
Member of Congress

Robert E. Latta
Member of Congress

Billy Long
Member of Congress

Blaine Luetkemeyer
Member of Congress

Ben Ray Luján
Member of Congress

Kenny Marchant
Memeber of Congress

Jim Matheson
Member of Congress

James P. Moran
Member of Congress

Pete Olson
Member of Congress

Erik Paulsen
Member of Congress

Stevan Pearce
Member of Congress

Jared Polis
Member of Congress

David G. Reichert
Member of Congress

Cedric L. Richmond
Member of Congress

Peter J. Roskam
Member of Congress

Jon Runyan
Member of Congress

Kurt Schrader
Member of Congress

Terri A. Sewell
Member of Congress

Adrian Smith
Member of Congress

Lamar Smith
Member of Congress

Lee Terry
Member of Congress

Ann Wagner
Member of Congress

Greg Walden
Member of Congress

Todd C. Young
Member of Congress

**The Honorable Bill Pascrell**

Congress of the United States
Washington, DC 20515

July 10, 2013

Ambassador Michael Froman
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Froman:

The undersigned Members of Congress write to express our collective concern regarding the Trans-Pacific Partnership (TPP) negotiations. Specifically, we are troubled by the position of the Vietnamese government regarding the textile negotiations and the impact this standpoint could have on the U.S. textile industry's suppliers and its export partners. After 17 rounds of negotiations, Vietnam is seeking to replace long standing textile rules that have been included in previous free trade agreements with a new rule that would allow Vietnam to source textiles from China and export garments and finished goods to the United States duty free. A recent study concluded that if adopted as part of the TPP, this rule would cost more than 500,000 U.S. textile and related jobs and put more than 1.5 million jobs in the textile and apparel supply chains in the Western Hemisphere and Africa in jeopardy.

The TPP talks are entering what is expected to be the final year of negotiations and because of the Vietnamese government's intransigence, the United States government ranks textiles and apparel among the three most difficult negotiating chapters. We strongly urge the United States Trade Representative (USTR) to maintain its current position for strong textile rules which include the "yarn forward" rule-of-origin. From NAFTA to the recently implemented Korean free trade pact, the yarn-forward rule has been an essential component of every U.S. free trade agreement over the past 25 years. This rule has a proven track record of job creation in the U.S. and our free trade areas, and it is responsible for hundreds of thousands of U.S. manufacturing workers and millions of direct and indirect jobs in countries south of our border and in Africa. Specifically, the yarn-forward rule is responsible for $25 billion of United States two-way trade with Mexico, Haiti, the CAFTA-DR countries and the Andean region.

The yarn-forward rule has been a success because it ensures that only textile and apparel manufacturers within a particular free trade region, such as the proposed TPP, get the benefits from the agreement. Vietnam, however, wants to replace this proven rule with a new rule that would allow its state owned companies to flood the U.S. market with subsidized Chinese inputs. Vietnam predicts that under this new rule, its market share in the U.S. would rapidly increase from 7 to nearly 30 percent. Almost all of this growth would be taken from small and medium-sized textile companies in the U.S. and our trading partners in the Western Hemisphere and Africa. Additionally, over ten billion dollars of current U.S. textile exports would be lost and more than a million workers in fragile economies would see their livelihoods destroyed.

While the toll on U.S. manufacturing workers would be high, the social and economic impact on small developing economies south of our border that depend on the textile and apparel supply chain would be devastating. That is why textile and apparel groups that represent Haiti, the CAFTA-DR countries, Mexico, the Andean countries – as well as groups representing the AGOA countries - have joined U.S. industry in supporting the maintenance of strong textile rules in the TPP. These groups represent thousands of small privately-owned companies[1] that have been created under the existing preference rules and provide badly needed jobs and opportunities to their countries.

In addition to the rules-of-origin, the TPP must include other rules that have long been the standard for previous FTAs. These include extended duty phase-down periods for sensitive textile and apparel products and strong customs enforcement rules and resources. These are particularly important given the array of

[1] The Textile and Apparel Coalition for TPP (www.taa-tpp.com)

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subsidies and benefits that Vietnam's state-run economy gives to its textile sector. These benefits have fueled Vietnam's rise as a major apparel exporter by allowing Vietnam to artificially reduce prices on manufactured goods. The U.S. government must insist on a reasonable transition period with Vietnam and other TPP partners as duty preferences are phased into existence.

We understand that the TPP is intended to encourage two-way trade with the countries participating in the talks. However, we strongly believe that the terms of this trade agreement must be fairly constructed, that long standing and established rules should not be eroded, and that a final agreement must preserve and create investment in U.S. manufacturing and jobs, particularly in small and medium-sized businesses. Maintaining provisions such as yarn forward and strong duty preferences in the TPP will not only help the domestic textile industry keep well-paying and productive jobs in the U.S. but it will also aid the development and emergence of new export markets amongst our important trading partners. We look forward to working with the USTR as the TPP negotiations press forward this year. As the TPP negotiations come to a conclusion, we will be mindful of the outcome of the textile and apparel rules in determining our ultimate views on a final agreement.

Ambassador Froman , thank you for your consideration of the perspectives this letter has outlined.

Sincerely,

Patrick McHenry
Member of Congress

Howard Coble
Member of Congress

Bill Pascrell
Member of Congress

Lynn Westmoreland
Member of Congress

Linda Sanchez
Member of Congress

Sanford Bishop
Member of Congress

Walter Jones
Member of Congress

Mike Michaud
Member of Congress

Trey Gowdy
Member of Congress

Robert Pittenger
Member of Congress

Mick Mulvaney
Member of Congress

Richard Hudson
Member of Congress

Henry C. "Hank" Johnson

Danny K. Davis

William L. Enyart

Dave Loebsack

Bill Foster

Bradley S. Schneider

Doug Collins GA-9

Shelley Moore Capito

Hal Rogers

John Barrow

Peter J. Visclosky

Bobby L. Rush

Ed Whitfield

Carl Levin

Kevin Van Hollen

Andy Barr

Rob Woodall

Larry Bucshon

Rodney Alexander

Tom Graves

Austin Scott

Mike McIntyre

Walter B. Jones

Robert B. Aderholt
Jack Kingston
Ed Pastor
Rosa DeLauro
George Miller
Earl Blumenauer
Terri Sewell
Gary Peters
Jim Langevin
Raúl M. Grijalva
Rick Crawford
Janice Hahn
Frederica S. Wilson
Sam Farr
Steve Israel
Matthew A. Cartwright
Don Young
Joe Courtney
Lucille Roybal-Allard
Adam B. Schiff
Lynn Woolsey
Jim Moran
Jim McDermott
M. Brooks
John Carney
Bruce L. Braley
Greg Regula
Elizabeth H. Esty
Cincinnati Hunt
H. Morgan Griffith
Tim Ryan
C.W. Bill Young Jr.

Louise M. Slaughter

Martha Roby

Robert E. And

Carol Shea-Porter

Keith Ellison

Edward J. Markey

Virginia Foxx

John B. Larson
Tony Cárdenas
Jaime Herrera Beutler
Jim Langevin
D.M. Payne, Jr.
Lori Barletta
Blake Farenthold
David N. Cicilline
Brett Guthrie
Ken Calvert
Leonard Lance
Nancy Kaptur

## Questions For The Record

## Member Questions for the Record

**Questions for the Record for Committee on Ways and Means Full Committee Hearing on President's Trade Policy Agenda with Ambassador Michael Froman**

**July 18, 2013**

**Representative Devin Nunes, CA:**
**Questions for Ambassador Froman**

1.) **AUDIO-VISUAL:** The U.S. film and television industry is a network of 108,000 small businesses, 85 percent of which employ fewer than ten people. With a trade surplus of $12.2 billion in 2011, or 6 percent of the total U.S. private sector exports in services, I am highly concerned by the European Commission's effort to remove this sector from the scope of the TTIP services negotiations. What are you doing to ensure comprehensive TTIP services negotiations?

**Answer: The United States has made clear to the EU that we strongly support a comprehensive agreement without exclusions. We will advocate aggressively in these negotiations for all of our service providers, including those in the film and television industry. The companies in our audiovisual sector are major employers and make significant contributions to our economy. We raised audiovisual services with the EU in our first negotiating round in July, and will continue to raise it in future rounds. We understand that there are sensitivities in this sector on the EU side; however, we believe the T-TIP negotiations are an opportunity to sit down and explore what is possible in this sector as we work to produce an agreement that is acceptable to both sides.**

2.) **GEOGRAPHICAL INDICATIONS (GIs):** The U.S. dairy industry lost concessions gained in the US-Korea Free Trade Agreement (FTA) for dairy products because Korea accepted certain EU GIs. A similar situation is now unfolding in Latin America, which could significantly impact market access for U.S. exporters. What is USTR doing to seek assurances from our FTA partners that U.S. exporters will still be able to sell these products in those markets consistent with our free trade agreements?

**Answer: The United States is working intensively through bilateral and multilateral channels to advance the interests of U.S. producers and exporters, including the American dairy industry. We have engaged extensively with our trading partners to promote and protect access to foreign markets for U.S. exporters whose products use trademarks, as well as common names like "parmesan" and "feta" cheese, including by ensuring appropriate limitations and safeguards in our trading partners' legal systems for protecting geographical indications (GIs). The United States is pressing these objectives in a variety of fora, including in the World Trade Organization (WTO) and in Asia-Pacific Economic Cooperation (APEC) forum meetings as well as in the context of U.S. free trade agreements (FTAs) and other bilateral engagements.**

**With respect to our FTAs, the United States continues to vigorously promote and defend market access for our dairy farmers, including in connection with the United States-Korea FTA. The United States is also negotiating state-of-the-art disciplines**

**protecting the use of common names in the Trans-Pacific Partnership (TPP) agreement, and is championing the interests of the dairy industry in the negotiations of the Transatlantic Trade and Investment Partnership (T-TIP) agreement. We obtained a number of relevant commitments in our FTAs with Central America, the Dominican Republic and Panama, coordinated intensively on implementing legislation for those agreements, and have sought to ensure appropriate limits on the scope of GI protection and safeguards for American producers to defend their access to those markets.**

**USTR responded swiftly to recent reports regarding the impact of EU GI registrations on U.S. dairy products in the Central America region by coordinating with industry and interagency colleagues and reaching out to relevant U.S. trading partners. We have received confirmation from government officials in the region of their intent to abide by their FTA commitments and domestic legislation, and we will continue to monitor events and actively engage.**

**My staff and I will remain vigilant and proactive as we seek to advance U.S. interests on this important issue.**

**Representative Charles Rangel, NY:**
**Questions for Ambassador Froman**

**1.)** I was pleased to hear that USTR will be formally launching its engagement with stakeholders on the African Growth and Opportunity Act, and whether and how to update the program post-2015. I would urge you to include in those discussions fundamental inquiries into the extent to which current beneficiaries are using AGOA, what the main obstacles are to greater utilization, and the extent to which AGOA has contributed to economic growth and development in Sub-Saharan Africa. I would also urge you to look more broadly at U.S. trade capacity-building initiatives – including the AGOA trade hubs – to determine whether our efforts in that regard have promoted the use and effectiveness of AGOA. We have been engaged in many of these same inquiries on our end and look forward to coordinating our efforts with yours.

**Answer: These are excellent recommendations for our comprehensive review of AGOA and will be included in our process going forward.**

**President Obama recently announced Trade Africa and Power Africa, two major initiatives related to sub-Saharan Africa that will help address supply side constraints. Trade Africa presents a new partnership between the United States and sub-Saharan Africa that seeks to increase internal and regional trade and economic ties between Africa, the United States, and other global markets. Beginning with the East Africa Trade hub, the current regional trade hubs will transform into hubs that promote two-way trade and investment for the benefit of both African and American businesses. Last year, the Obama Administration announced the African Competitiveness and Trade Expansion initiative (ACTE). ACTE will provide $120 million over 4 years to build on the successes of the regional trade hubs and help nations take better advantage of AGOA. Power Africa, seeks to double access to power in sub-Saharan Africa. The**

**United States will commit more than $7 billion in financial support to Power Africa over the next 5 years. Both of these initiatives should help countries improve their utilization of AGOA.**

**Representative Aaron Schock, IL:**
**Questions for Ambassador Froman**

1) I am concerned about the deteriorating environment for intellectual property protection in India. In addition to concerns in the energy and medical fields, the agriculture sector faces significant challenges which inhibit innovation and agricultural research. How will this Administration work with Indian colleagues to ensure progress in the respect and protection of intellectual property rights of US based businesses, including in the agriculture sector?

   **Answer: I share your concern regarding the deteriorating climate for innovation in India, including recent government actions with respect to patents that have only heightened those concerns. As your question confirms, these concerns span a wide range of sectors where innovation plays a key role, including the agriculture sector. We will be engaging bilaterally with India to explore policies of concern, including as they relate to its international commitments, and to discuss alternative and more effective approaches to achieving India's domestic policy objectives. We will also identify appropriate opportunities to address our concerns through engagement in the WTO and other multilateral fora, and in coordination with like-minded trading partners. USTR will continue to work closely with other agencies, Congress and stakeholders to consider and take appropriate actions in response.**

2) I am very concerned about the effort by some foreign governments to require businesses as diverse as U.S. manufacturers, software companies, and credit card companies to locate their servers domestically in order to do business in those foreign countries. I am not alone in my concerns; I recently led a bipartisan letter with Congressman Neal and 15 of our Ways and Means Members asking you to look into this issue.

   These types of restrictions impede cross-border trade, discriminate between U.S. and domestic competitors, cost American jobs, and make it impossible for U.S. companies to provide their customers the improved efficiency and cost-savings made possible by their global scale. This is truly a 21st century trade issue. What is USTR doing to ensure that the TPP, EU, and TISA agreements include strong provisions ensuring that U.S. companies are not forced to duplicate their servers and IT systems unnecessarily?

   **Answer: The United States is seeking ambitious outcomes in our TPP, T-TIP and TISA agreements to ensure that U.S. companies are able to compete on the basis of competence and quality rather than nationality. Eliminating the restrictions that impede cross-border trade will result in job creation, increased competitiveness, and economic growth for U.S. businesses and workers. We share your view that forced localization of computing facilities can seriously impede trade, and have included proposals in our E-commerce chapter in TPP to address this issue. We are working on similar proposals for T-TIP and TISA.**

3) Recently, the European Commission and U.S. regulators came to an agreement on the application of cross-border rules governing derivatives. While it is encouraging that a resolution was reached, the process was less than desirable given that after years of discussions between regulators an agreement was only reached at the last moment. Given the importance of creating compatible rules between the world's two largest capital markets, wouldn't it make sense to include financial services regulatory issues in TTIP in order to provide "legal certainty and process" to address differences at an earlier stage and help to avoid things like the last minute nature of the recent agreement?

**Answer: Financial services are a critical component of the transatlantic relationship. In T-TIP, as in all our FTAs, the Administration will seek market access commitments for financial services.**

**Since the financial crisis, Treasury and our financial regulators have been actively engaged on a wide range of financial regulatory matters domestically and internationally. There is a robust ongoing dialogue with ambitious deadlines on international regulatory and prudential cooperation in the financial sector. This dialogue is taking place bilaterally, under the auspices of the G-20, international standards setting bodies, and other bodies such as the Financial Stability Board, the Basel Committee on Banking Supervision, and the International Organization of Securities Commissions. We expect that work to continue making progress alongside the T-TIP negotiation.**

4) The United States has a vested interest in hopefully seeing stability return to Egypt. The Qualifying Industrial Zones with Israel in Egypt work to help promote further normalization and relations between those two countries. Recognizing this is a time of much turmoil in Egypt, in what ways are we working to help promote the QIZ program and build on its previous success in helping stabilize relations between Egypt and Israel?

**Answer: The United States is committed to strengthening trade relations with partners in the Middle East and to supporting opportunities for job creation and investment. The Qualifying Industrial Zone (QIZ) program with Egypt is one important element of that effort. Since the first year of exports under the QIZ program, total trade between Israel and Egypt under the program has grown by more than $100 million.**

**In March, 2013, USTR liberalized the designation of the existing QIZs in Egypt to make all production facilities, present and future, located in these zones potentially eligible to export goods duty-free to the United States. Liberalizing the current designation in this manner will increase opportunities for trade, investment and production in the existing six QIZs, which include the Greater Cairo, Alexandria, Suez Canal, Central Delta, Beni Suief and Al Minya zones.**

**Representative Bill Pascrell, Jr., NJ:**
**Questions for Ambassador Froman**

1.) Many of us are deeply troubled by the deteriorating intellectual property environment in India, and concerned that other emerging markets that may see India as a model to be emulated. In particular, the US pharmaceutical industry has been subject to a confrontational climate, with nine product patents violated since 2012. Correcting India's protectionist intellectual property regime and the spill-over effects to third-countries will require firm leadership by the United States. Can you assure me this issue will receive the prioritization it deserves and you will work towards remedying the situation?

**Answer: I share your concern regarding the deteriorating climate for innovation in India, including recent government actions with respect to patents that have only heightened those concerns. These concerns span a wide range of sectors where innovation plays a key role, as well as the effect that these practices have in third-countries. USTR will continue to work closely with other agencies, Congress and stakeholders to consider and take appropriate actions in response. We will be engaging bilaterally with India to explore policies of concern, including as they relate to its international commitments, and to discuss alternative and more effective approaches to achieving India's domestic policy objectives. We will also identify appropriate opportunities to address our concerns through engagement in the WTO and other multilateral fora, and in coordination with like-minded trading partners.**

2.) The biopharmaceutical industry is a major employer and exporter in my home state of New Jersey, and I remain concerned that USTR has yet to table 12 years of data protection for biologics in TPP, especially given your goal of closing the agreement by this October. USTR should be pushing for provisions that reflect US law for biologics. How do you intend to accomplish this?

**Answer: Biologic drugs are a vital area of pharmaceutical innovation, now and in the future. With regard to data protection for biologics, the United States has explained our system, including the 12 years of protection related to biologics and we are in the process of a thorough discussion with our trading partners on that issue. I will ensure that my staff stays in close touch with you and other Members of Congress as the negotiations continue on this important issue.**

3.) I was glad to learn of your support for a Yarn Forward rule of origin during the hearing. Given that your negotiating strategy has Yarn Forward at its center, I'd know more about USTR's position on market access for textiles and apparel. In other words, having yarn forward combined with immediate and drastic tariff cuts on the U.S. industry's most sensitive products could be just as damaging if there were simply a weak rule of origin. These tariff reduction formulas are a critical aspect of the TPP. Are you willing to work with the U.S. industry to find the proper tariff reduction arrangement that does allow for a reasonable and adequate transition period for U.S. producers?

**Answer: We have worked in close consultation with Congress, U.S. industry, and other stakeholders as we have developed our proposal for tariff elimination for textiles and apparel in the TPP negotiations. This proposal specifically addresses transition periods**

**and the need to appropriately treat sensitive textile and apparel products. We will continue to consult with Congress, industry and other stakeholders on matters of concern.**

**Our proposal in the TPP negotiations also contains textile-specific commitments to ensure strong and effective customs cooperation and enforcement, as well as a textile-specific safeguard mechanism that would allow Parties to respond quickly to any damaging increases in imports under the TPP agreement by providing temporary tariff relief to domestic producers. Both of these proposals were developed in response to domestic textile industry concerns and have been an integral part of our recent free trade agreements.**

**4.)** I understand that USTR developed a short supply list for the Lima Round of negotiations. The Short Supply List means that the products on this list are deemed 'in short supply' or not available in a Free Trade region. The list developed by USTR contained 170 products. I was alarmed to learn from the U.S. textile industry that 81 percent of the 170 products were objected to by the industry because U.S. textile producers manufacture those products in the USA. Yet our government put those products on an exceptions list. How can U.S. government put products on a short supply list that we know are produced in the USA? Can the US government offer an exceptions list without an agreed upon rule of origin?

**Answer: In cooperation with the Department of Commerce, USTR conducted extensive consultations with the textile and apparel industry representatives in developing our proposal for a 'short supply list' for the TPP negotiations over the course of the last two years. We have also met with union representatives on this matter. Textile and apparel manufacturers and importers were able to request products for consideration and textile producers were given the opportunity to respond to these requests. Textile producers that objected to a request were given time to provide information substantiating their ability to provide these products in commercially viable and timely manner. In many cases, we were able to broker a compromise between the requestor and the objector, but if this was not possible, products that were commercially available in the United States were removed from consideration. We are now in the process of working through proposed items for the short supply list with our TPP partners and receiving their input, which we are also reviewing closely with the U.S. textile and apparel industry.**

**Representative Charles Boustany, LA:**
**Questions for Ambassador Froman**

**1.)** Lead-in: I applaud the fact that in the ongoing TPP negotiations, the U.S., under the able leadership of USTR, is seeking strong disciplines to cover state-owned enterprises (SOEs). I believe that we must ensure that a level playing field is achieved when SOEs are involved directly in commerce and in competition with our companies. Since TPP has every prospect of becoming a template for other 21st Century trade agreements, the decision to seek meaningful rules in this context may also be a key to improving commercial success in numerous other world markets.

Question:
*As you know, the existence of these SOEs makes this issue vitally important to industries, firms and workers in this country, and expectations are high for strong results in this area. Can you confirm that you share my and my colleagues' strong interest in obtaining these results in all 21-st century international agreements that you negotiate – in TPP, the services agreement (TISA) and the agreement with Europe (TTIP) and that you will do your utmost to achieve strong SOE disciplines to achieve the level playing field that we all seek?*

**Answer: Ensuring that there is a level playing field for our companies and workers is one of the fundamental principles of this Administration's trade policy. And one of our key priorities in the TPP is the establishment of new rules designed to ensure that commercial SOEs do not receive unfair advantages from their governments that undermine the benefits of our trade agreements and put U.S. companies and workers at a competitive disadvantage. This is one of the areas in which we are breaking new ground in the TPP and as we move forward with other important initiatives, we will of course be considering all possibilities for appropriately addressing this important issue.**

2.) Follow up:
Louisiana shipyards build every kind of seagoing vessel from giant cryogenic ships used to transport liquified natural gas to some of the largest offshore oil and gas exploration rigs in the world. They also build merchant vessels, Coast Guard cutters, barges, tugs, supply boats, fishing vessels, pleasure craft and river patrol boats. As you can imagine, shipbuilding is crucial to the Louisiana economy.

Question:
*Every Administration has resisted intense pressure from foreign nations to compromise our maritime programs, including the Jones Act, in international trade agreements, recognizing the potential adverse impacts on the national and economic security of this country. Can you assure me that you, as the U.S. Trade Representative, will continue these precedents established by prior Administrations and ensure that the Jones Act will not be diluted in any trade agreements that are negotiated during your tenure?*

**Answer: We recognize the importance that the Jones Act has for the state of Louisiana. This Administration has continuously ensured that the application of the Jones Act is permitted under each of our trade agreements. As we continue to participate in discussions where this issue may arise, including trade agreement negotiations, we will continue to take this position.**

3.) Lead in:
As the Co-Chair of the U.S. China Working Group, I was pleased to hear you testify before Senate Finance during your confirmation that the U.S. relationship with China is one of the most important on the trade agenda, requiring aggressive action involving bilateral negotiations and legal enforcement of international trade laws.

Additionally, I shared your pleasure in the notable progress made on a number of US-China trade and investment issues addressed by the Strategic and Economic Dialogue's (S&ED's) economic track last week. The fact that China has for the first time agreed to negotiate a Bilateral Investment Treaty, will give numerous businesses – including a number in Louisiana – greater resources and tools to enforce their case and collect money owed to them. I too remain optimistic that this good will, will continue in the Joint Commission on Commerce and Trade later this year.

Question:
*The Administration has said that trade enforcement has been a consistent priority. In carrying out its mission of seeking a level playing field for American workers and businesses, the Interagency Trade Enforcement Center (ITEC) challenges unfair trade practices of countries around the world, including China. What does ITEC contemplate when bringing a case up? Are US business interest and the fear of possible retaliation a factor in these decisions?*

**Answer: USTR monitors and enforces U.S. trade rights to enhance economic growth and job creation, with the goal of strengthening the middle class. Where we identify a market access barrier or failure to abide by WTO rules, we seek to obtain its removal or redress, through negotiation where possible and litigation where necessary. Under the general direction of the USTR, the ITEC Director and Deputy Director, in cooperation with the various offices within USTR and other agencies, establish priority projects for investigation. As is currently the case, a variety of factors are taken into account in setting those priorities, including economic impact of the issue, systemic impact of a resolution on international trading practices, ability to document and demonstrate the problem, available resources, and broad trade goals.**

**The degree to which U.S. entities have an interest in a matter and any concerns about retaliation they may have are important considerations to be evaluated in determining whether and how matters are addressed in negotiations or disputes.**

**4.)** Lead In:
Amb. Froman, a recent paper by Ed Gresser on Trade Facilitation states that "exporting from the United States is too expensive, and exporting for small businesses is too hard. [That] sometimes ports themselves are unnecessarily costly. Complicated and/or outdated federal procedures are also to blame. Americans shipping goods abroad need to comply with sanctions, technology controls, wildlife trade laws, statistical collection, and other topics - in total, requiring paperwork filed with as many as 46 different regulatory agencies. All these forms need to be filed on paper; and - especially troublesome for smaller businesses - there is no single on-online site to find and file all the forms."

Question:
*Do you believe that we should foster greater coordination between officials at the State and Federal levels, along with export-oriented businesses to support our domestic trade infrastructure to foster systems/structures to facilitate US exports? Can you comment on this, and how it fits with the President's goal of doubling exports by 2015.*

**Answer: The Administration has been focused on trade facilitation initiatives and improving supply chain connectivity in our trade policy, including through negotiations in the WTO, in our bilateral negotiations and in APEC, and we certainly agree with the notion of "practicing what we preach." While the U.S. system already features a number of trade facilitative practices, such as pre-arrival processing, advance rulings and special procedures for express shipments, we are working with other agencies as part of the Administration's efforts to introduce additional innovations in U.S. customs and border practices.**

**Representative David Reichert, WA:**
**Questions for Ambassador Froman**

1.) I am strongly supportive of the TPP negotiations, and glad you are leading USTR at this important time. I look forward to working with you to ensure that we can complete this agreement this year. There are several critical issues, however, that are still outstanding, including data protection for biologic medicines.

As you know, current U.S. law provides for 12 years of data protection for biologics. This issue was raised by several Members, and I join them in urging you to seek the same amount of intellectual property protection for American innovators in the TPP. Do you intend to seek this same level of protection?

**Answer: Biologic drugs are a vital area of pharmaceutical innovation, now and in the future. With regard to data protection for biologics, the United States has explained our system, including the 12 years of protection related to biologics and we're in the process of a thorough discussion with our trading partners on that issue. I will ensure that my staff stays in close touch with you and other Members of Congress as the negotiations continue on this important issue.**

**Representative Erik Paulsen, MN:**
**Questions for Ambassador Froman**

1.) **India:** As you well know, India is requiring local production of a wide range of manufactured goods in violation of basic and longstanding global trade rules. These requirements appear to be designed to give their domestic corporations an unfair advantage over manufacturers and workers in the United States.

Other countries are watching and learning from India's discriminatory actions. As our economy continues to struggle to return to robust growth and create economic opportunities, I am very concerned we could be seeing the beginning of a trend that threatens jobs, small businesses and communities in this country.

What is USTR doing to address these forced localization measures in India, given their impact on manufacturers and workers in the United States?

What measures are you taking to dissuade the Government of India as well as others from following these practices?

**Answer: Addressing localization practices is a priority in USTR's bilateral engagement with India. We have pressed our concerns in a variety of bilateral fora, including the Trade Policy Forum, Energy Dialogue, and the Information and Communications Technology Dialogue, and have joined other trading partners in highlighting this issue in multilateral fora such as the WTO. Where appropriate, as in the case of India's solar local content requirements, we are enforcing U.S. rights through WTO dispute settlement. This is supported by and consistent with the work of the interagency task force on localization barriers to trade, established by USTR in 2012 to further develop and execute a more strategic and coordinated approach to stopping these types of practices and dissuading countries from adopting localization policies.**

2.) **TPP – Textiles**: Several of my colleagues and I sent a letter to your predecessor Ambassador Kirk nearly two years ago signaling hope the US will adopt a modern and more flexible approach to apparel rules of origin in our trade agreements. We've seen very little change in the US negotiating position on apparel, with the limited exception of a short supply concept that I'm told is unlikely to yield significant trade liberalization. In your recent written responses to Senate colleagues with similar views, you have committed to finding an appropriate balance between the divergent views of different stakeholders and to ensuring that the approach we take in TPP best supports American jobs.

What opportunities can USTR pursue for textiles trade liberalization beyond the short ssupply approach?

**Answer: We have worked very hard to find an innovative and effective way to provide for limited exceptions to the yarn-forward rule of origin in the TPP agreement for "short supply" inputs. We believe the approach we have crafted, that of permitting permanent and temporary allowances for non-regional inputs where appropriate, serves the purposes of making exceptions to the rule of origin where inputs are not commercially available, attracting investment in productive capacity to the region, and providing for an environment of business certainty.**

**Overall, our objectives for the TPP are to encourage and promote regional production and trade for the textile sector, to advance regional economic integration and to obtain significant market access opportunities for our industries. We are also seeking special customs enforcement procedures and commitments, as we have in past agreements, so that we can ensure the integrity of the agreement. We recognize that this requires a careful balancing of interests in the sector.**

**Representative Kenny Marchant, TX:**
**Questions for Ambassador Froman**

1.) As you know, our relationship with Taiwan is unique, and our unofficial relations are governed by the Taiwan Relations Act of 1979. Additionally, Taiwan is a longstanding friend of the United States, with a well-established trade relationship. In fact, Taiwan and my home state of Texas also have a very close trade and investment relationship. In 2012, goods and services trade totaled $63.2 billion, and talks under the bilateral Trade and Investment Framework Agreement (TIFA) resumed earlier this year. Given our important relationship with Taiwan, what are the key challenges and opportunities ahead for the US-Taiwan trade relationship -- in particular with bilateral investment -- and what is USTR's plan to strengthen the trade relationship?

**Answer: As you note, the United States and Taiwan have a strong and important bilateral trade and investment relationship. The TIFA meetings held in March 2013 allowed us to engage on the full range of issues facing U.S. exporters and investors in Taiwan, including focusing on opening up foreign trade and investment, harmonizing Taiwan's domestic measures with international standards, and consistently adhering to trade commitments. On bilateral investment, at the 2013 TIFA, Taiwan and the United States reaffirmed our shared commitment to open, transparent, and non-discriminatory international investment policies through the endorsement of Shared Principles for International Investment. We also established an Investment Working Group, which will provide a regular forum to address concrete issues of concern to investors on both sides and to explore possible ways to deepen cooperation.**

**Representative Kevin Brady, TX:**
**Questions for Ambassador Froman**

1.) The fuels quality directive calls upon the European Union to lower carbon emissions by 6% by 2020. However, the proposed modification to article 7a calls for a separate higher $CO_2$ default value for oil sands, while allowing other higher CO2 emitting crudes to apply a lower average default value. This proposal is discriminatory, environmentally unjustified and could constitute a barrier to U.S.-EU trade. According to EIA, in 2012 alone the movement of gasoline and diesel between the EU and U.S. accounted for $32 billion dollars in trade. American jobs and regional economies depend on a continuance of this robust fuels trade. It is important we protect existing U.S. refining jobs and do not implement policies that would harm our economic system and relationships with valuable trade partners.

Do you intend to raise this issue during these early stages of the TTIP negotiations?
Do you agree it is important that the EU does not limit the United States as a trading partner for our excess Diesel?
As a member of Congress it is of the utmost importance to protect American jobs and trade relationships, could you speak to the plans to bring up this important issue during the US TTIP negotiations with the EU?

**Answer: I share your concerns regarding the European Union's development of proposals for amendments to the Fuel Quality Directive. Of particular concern has been the lack of adequate transparency and public participation in the process, and I have raised these issues with senior Commission officials on several occasions, including in the context of the**

**Transatlantic Trade and Investment Partnership (T-TIP). We continue to press the Commission to take the views of stakeholders, including U.S. refiners, under consideration as they finalize these amendments.**

**We are seeking through the T-TIP negotiations improvements in the EU's overall regulatory practices. In particular, we are interested in promoting an open and accountable process for the development of regulations in the EU, specifically with respect to non-European stakeholders.**

**As our negotiations with the EU continue, my staff and I will keep you apprised of our progress.**

**2.)** The U.S. health care sector holds enormous potential for global growth. The health sector is today the single largest component of the world economy, accounting for almost $7 trillion of $63 trillion in global GDP in 2010 (World Bank).Over the next two decades, as the world's population grows older, more affluent and more urban, spending on health care will steadily rise, and the sector will be one of the world's main drivers of demand, growth, scientific progress and innovation. U.S. healthcare companies are collectively the largest private-sector employers in America today - and can do much more as they serve a growing world demand for high-quality care, health insurance, pharmacy, hospital management, new devices, new medicines, and infrastructure and IT.

The current Administration's 2010 National Export Initiative goal -- doubling exports by the end of 2014 – is, in President Obama's words, "*designed so that U.S. Government agencies are focused and are working together to ensure that our companies have access to these markets, and that all companies, large and small, get the assistance they need to compete on a fair and level basis with foreign competitors*." No sector can contribute more to achieving NEI's goals than the health care sector.

Yet the healthcare sector is dramatically under-represented in our trade-and-investment promotion infrastructure, relative to its present prominence and future potential.

It's my understanding that within the Office of the USTR, no one senior individual today holds a specific health care sector portfolio despite the complexity of health care related issues like multiple regulatory systems, payment methods, and government budget pressures.

In contrast, senior leaders, and indeed dedicated teams, are specifically tasked to address trade, investment and procurement issues related to agriculture and commodities, textiles and apparel and natural resources – and their success in identifying and addressing specific sectoral challenges makes a strong case for a similar approach dedicated to the much larger health sector.

This new position would immediately confront a full plate of health sector-specific challenges. In many cases, outmoded trade barriers keep the best health technologies, services, and therapeutic advances out of the hands of patients around the world. These barriers take many forms: tariffs, non-tariff barriers, nontransparent government

procurement, services entry restrictions, state-owned and state-supported enterprises, investment limits and intellectual property rights non-recognition. In addition to what can be achieved on a bilateral basis, multiple trade negotiations in play –including the Trans-Pacific Partnership, a U.S.-EU Trade and Investment Partnership and the WTO's Information Technology Agreement Expansion and International Services Agreement – offer a chance to address these barriers.

Can you support the creation of a position in USTR dedicated to health care trade? This position would be responsible for coordinating policy with industry, other offices within USTR, and agencies in the U.S. government. The position would lead on trade issues related to health care especially within trade agreement negotiations.

**Answer: Trade in healthcare goods and services is a promising area where the United States is highly competitive. USTR has staff focused on the healthcare sector from both the goods and services perspective and continues to support increased exports in this area. We are willing to work with you to look into whether more can be done while balancing the diverse interests and sensitivities in an area that affects everyone.**

**Representative Linda Sanchez, CA:**
**Questions for Ambassador Froman**

**1.)** As you may know, I have been highly critical free trade agreements (FTA) in the past because all too often the agreements were unfair to hardworking Americans. They certainly produced a lot of wealth for some, but it was largely at the expense of U.S. workers and particularly our manufacturing base. This resulted in wage stagnation, pension cuts and reduced bargaining power for workers.

- What will you do differently in the Trans-Pacific Partnership (TPP), the Transatlantic Trade and Investment Partnership (TTIP), and Trade in Services FTA to make sure that the gains are not concentrated in the hands of a few, and the costs widely dispersed among America's working families?

**Answer: President Obama's trade policy continues to be focused on promoting growth, supporting jobs and strengthening the middle class in the United States. USTR contributes to this effort by opening markets around the world so that we can expand our exports, leveling the playing field so we can compete and win in the global economy, and by ensuring that the rights and trade rules we have fought so hard for are fully implemented and enforced. Trade agreements, negotiated and enforced vigorously to reflect both our interests and our values, give U.S. workers, farmers and ranchers; manufacturers and service providers; innovators, creators, investors and businesses of all sizes the best chance to compete around the world and thereby benefit a broad spectrum of Americans.**

Within the context of TPP:

**2.)** I believe that we need to seek strong intellectual property (IP) protections for U.S. innovators. We cannot afford to get the substance of this wrong, especially when dealing

with countries that often have a poor IP environment.

- I trust you feel the same, but would like to know how USTR plans to accomplish the goal of protecting IP for U.S. innovators.

**Answer: One of our key priorities in the TPP negotiations is to build a modern legal infrastructure to protect intellectual property (IP) rights around the world, and to ensure effective enforcement of IP rights to maintain markets for the full range of job-supporting exports of products and services embodying American creativity and innovation. Our IP-intensive exports include not only our advanced business software and popular films, music, books and video games, but also an endless variety of innovative U.S. manufactured goods and trusted brands; these span every sector that benefit from stable protection for and enforcement of patents, copyrights, trademarks, trade secrets, pharmaceutical and agricultural chemical test data, and other forms of intellectual property. On that basis, we are advancing a robust IP chapter in the TPP negotiations to foster state-of-the-art protection and strong enforcement of IP rights in the 21st century. Our goal is to achieve high standards of IP protection and enforcement in the Asia-Pacific region that will stand alongside previous U.S. FTAs in the region, such as the United States-Korea FTA.**

**3.)** Vietnam is insisting on a flexible rule of origin — or "single transformation" — for textiles in TPP. This would allow them to continue to buy Chinese government-subsidized components for its apparel for duty free export to the U.S. The U.S. has insisted on the yarn forward rule of origin which has governed the U.S.'s free trade agreements for the past 25 years. This rule ensures that apparel components are manufactured in the FTA region, and the FTA countries benefit as a result. There is an extremely wide gulf between these two positions.

- If USTR were to adopt a flexible rule of origin in TPP, what would be the impact on U.S. textile manufacturers?

- Is USTR concerned that adopting a flexible rule of origin could allow China to use Vietnam as a "backdoor" to sell its textile products to the U.S. market? Are there any good reasons why China should benefit from TPP without being a party to the talks or held to its provisions?

**Answer: We have worked very hard to find an innovative and effective way to provide for limited exceptions to the yarn-forward rule of origin in the TPP agreement for "short supply" inputs. We believe the approach we have crafted, that of permitting permanent and temporary allowances for non-regional inputs in cases of insufficient production of inputs in the TPP countries. In addition, we are seeking to ensure that the benefits of the TPP are limited to the countries that will be party to the agreement through carefully crafted rules of origin and including special customs procedures to ensure the proper enforcement of those rules and other related commitments.**

Within the context of TTIP:

4) I recently joined about 160 of my colleagues, Democrats and Republicans, in sending a letter to you requesting that you inform the EU that the U.S. will continue to negotiate air traffic rights the same way we have negotiated for over 20 years. Including air traffic rights in the TTIP raises national security and economic concerns.

- Did you get the letter and when can we expect to see a response from USTR?

**Answer: I very much appreciate the views expressed in the letter about the importance of ensuring that the T-TIP does not undermine the negotiation of air traffic rights through the "Open Skies" agreements. We recognize that the coverage of air services has always been limited in U.S. trade agreements, and particularly that trade agreements have not previously covered air traffic rights. USTR has a very close working relationship with the Department of Transportation and the Department of State, and will continue to involve them directly in any discussion of air services.**

5) There are a range of global challenges and opportunities that will confront you as you lead USTR. An example of this is our relationship with India. India is a vital ally in Asia and one with whom we have an important and rapidly growing relationship. As you know, India has made a number of decisions related to incremental innovation, patentability, and compulsory licensing over the last year which threaten to spread to other markets and slow down overall R&D investment.

- How will USTR work with India to ensure the best possible trade relationship between our two countries?

**Answer: Strengthening our trade and investment relationship with India is a priority for USTR. In my meeting with Indian Commerce Minister Sharma shortly after I was confirmed, and again in Brunei, I made clear that this required progress on our many issues of concern, both bilaterally and in the WTO, including in the run-up to Prime Minister Singh's September visit to Washington. In order to achieve this progress, we need to increase bilateral engagement on trade and investment policy issues under the U.S.-India Trade Policy Forum and the WTO, as well as other bilateral and multilateral fora. As I also discussed with Minister Sharma in Brunei during the week of August 19, increased staff-level engagement will help lay the critical substantive foundation for a successful ministerial-level meeting of the Trade Policy Forum at the earliest opportunity. We also hope to build on the many growing areas of convergence in our economic interests to find additional opportunities for collaboration that will help us realize the full potential of this important relationship.**

**Representative Mike Thompson, CA:**
**Questions for Ambassador Froman**

1.) While we have seen strong export growth in recent years, the U.S. wine industry still faces significant tariff and non-tariff barriers all over the world, including countries participating in

the Transatlantic Trade and Investment Partnership (T-TIP) and Trans-Pacific Partnership (TPP) negotiations. What is your strategy for addressing these barriers, including unfairly high import duties on wine from countries like China? Can you commit to working with my office and stakeholders to ensure these trade negotiations produce agreements that expand export opportunities and lower barriers for U.S. wine?

**Answer: My office has been working hard to expand export opportunities for U.S. wine by reducing both tariff and non-tariff barriers. In the TPP negotiations, we are negotiating an annex to the chapter on technical barriers to trade that contains a variety of provisions aimed at preventing and reducing non-tariff barriers for wine and distilled spirits. The provisions will reduce costs related to labeling, testing and certification, and promote greater alignment in regulatory approaches among the TPP countries. The TPP and T-TIP negotiations offer the opportunity to reduce tariffs on U.S. wine exports to the Asia-Pacific region and the European Union (EU), respectively. As part of these negotiations, the United States aims to eliminate all tariffs and duties, with the elimination of a substantial number of tariffs upon entry into force. Tariffs on wine in the EU and a number of our TPP negotiating partners are generally higher than U.S. tariffs.**

**In 2012, China was the fifth largest market for U.S. wine exports. Although China is not a negotiating partner in TPP or T-TIP, my office will continue our bilateral engagement to expand export opportunities through the lowering of non-tariff barriers to U.S. wine exports.**

**2.)** While the 2006 bilateral wine trade agreement between the U.S. and the European Community isn't perfect, it is a good start, and it established a framework for discussions between all of the parties involved, and any effort to re-negotiate the agreement would be very counterproductive for our industry. What is your position on this agreement? What is your strategy to make sure that the contents of this critical agreement are protected?

**Answer: It is our intention to pursue the elimination or reduction of tariff barriers to wine in the T-TIP negotiations. In addition, it may be possible to address certain non-tariff barriers affecting bilateral trade in wine in the T-TIP while continuing to work on issues covered by the bilateral wine agreement within that framework. Neither the United States nor the European Union has expressed interest in re-negotiating the bilateral wine agreement in the T-TIP.**

**3.)** I want to highlight the challenges Napa Valley has had all over the world with counterfeit and imitation wines, where winemakers want to trade on the Napa Valley name, producing inferior wine and putting on it a Napa Valley label. One of the ways we've fought to protect brand integrity against counterfeit wine is through the Geographical Indication (GI) system, and by receiving GI status and protection in the European Union, China, India, and other countries. What can the USTR do to help the Napa Valley's efforts to protect their brand integrity from these challenges, including help Napa Valley register their GI in other countries? Will you commit to working with me to ensure that their concerns receive the appropriate support from USTR?

**Answer: USTR is committed to strengthening global protection of intellectual property. We actively pursue specific trade concerns identified by stakeholders to ensure that trade partners are abiding by their international obligations, including their systems for registering GIs. In addition, we work with interagency partners in USDA, Department of Commerce and the U.S. Patent and Trademark Office to engage in technical cooperation with other countries to improve their ability to protect against counterfeiting.**

**4.)** Several of my colleagues and I sent a letter to your predecessor, Ambassador Kirk, nearly two years ago (attached) signaling that it is time for the U.S. to adopt a modern and more flexible approach to apparel rules. Despite that letter and others, we've seen very little change in the U.S. negotiating position on apparel, with the limited exception of a short supply concept that I'm told is unlikely to yield significant trade liberalization. In your recent written responses to Senate colleagues with similar views, I saw that you committed to finding an appropriate balance between the divergent views of different stakeholders and to ensuring that the approach we take in TPP best supports American jobs. How are you maintaining that balance? Can you commit to finding more opportunity for trade liberalization in that balanced approach than just short supply? What other provisions aside from short supply are you considering for inclusion in the TPP?

**Answer: We have worked very hard to find an innovative and effective way to provide for limited exceptions to the yarn-forward rule of origin in the TPP agreement for "short supply" inputs. We believe the approach we have crafted, that of permitting permanent and temporary allowances for non-regional inputs where appropriate, serves the purpose of making exceptions to the rule of origin where inputs are not commercially available, attracting investment in productive capacity to the region, and providing for an environment of business certainty.**

**Overall, our objectives for the TPP are to encourage and promote regional production and trade for the textile sector, to advance regional economic integration and to obtain significant market access opportunities for our industries. We are also seeking special customs enforcement procedures and commitments, as we have in past agreements, so that we can ensure the integrity of the agreement. We recognize that this requires a careful balancing of interests in the sector.**

**5.)** Now that Japan has joined the TPP, it is critical that U.S. negotiators hold Japan to Prime Minister Abe's joint statement of February with President Obama that all tariff lines are on the negotiating table. The U.S. rice industry, with U.S. government support, has worked for nearly two decades to open, establish, and grow the market in Japan for U.S. rice. Japan is a global political and economic leader and its extreme protectionism is inconsistent with such leadership. The TPP negotiations offer the opportunity to bring this commitment and investment to the next level by securing meaningful improvements in U.S. rice access. What steps will the administration take to insure that Japan will not exempt rice from TPP negotiations? If rice is included, what do you consider an adequate opening of the Japanese rice market to foreign rice? How does the administration intend to engage the U.S. rice industry in developing a negotiating strategy that advances market access for U.S. rice? Can you guarantee you will not negotiate rice away like what happened in the South Korea-U.S.

FTA negotiations?

**Answer: Japan's market remains of great importance to U.S. rice producers, millers, and exporters. In a Joint Statement issued by both Governments on February 22, 2013, Japan confirmed that should it participate in the TPP negotiations, it would subject all goods to negotiation and would join other TPP partners in achieving a comprehensive, high-standard agreement. USTR continues to be clear with Japan on this issue, including underscoring again the importance of achieving a comprehensive TPP agreement in my recent meetings with my Japanese counterparts in Tokyo this August. USTR looks forward to continuing its active engagement with Congress and industry stakeholders as we work to successfully conclude an ambitious, high-standard TPP agreement.**

**6.)** The United States has always sought to maintain a secure defense industrial base that can meet the needs of our military in a time of political or military crisis. I am concerned that USTR's policy of using Free Trade Agreements (FTAs) to extend certain duty free treatment to industrialized countries like Japan will make it more difficult to maintain a secure industrial base in the United States. What will you do in your role as United States Trade Representative to make sure the adoption of FTAs will not undermine important segments of America's defense industrial base like America's titanium industry?

**Answer: The Administration launched the TPP negotiations with the objective of achieving a high-standard, 21st century trade agreement aimed at increased trade and investment with the robust economies of the Asia-Pacific region, which will support the creation and retention of jobs and promote economic growth in the United States. We are committed to eliminating tariff and non-tariff barriers to achieve enhanced, reciprocal market access for the United States, which should serve to enhance the security of supply of many metals and other raw materials critical to the U.S. defense industrial base. We are carefully considering your concerns on this issue as well as the comments provided by stakeholders as we proceed in our discussions with Japan and other TPP countries.**

**7.)** I have heard from several of my constituents about the need for greater openness and transparency in TPP negotiations. However, I also respect the sensitive nature of international trade negotiations. What do you see as the right balance between transparency and protecting sensitive information to ensure a successful final agreement? What steps has USTR taken to engage with stakeholder groups to ensure that their concerns are heard during this process? What are your plans to engage with stakeholders on T-TIP negotiations?

**Answer: The Administration is committed to a high level of transparency in all of its trade negotiations, and has a strong record of outreach and consultation with the public. We value the views of the public, stakeholders, and Members of Congress. Regarding the TPP negotiations, to ensure public input, USTR solicited written comments from the public on numerous occasions, and also held public hearings in 2009, and subsequently as new partners were included in TPP. In addition, since 2009 USTR has heard from and shared information with a wide variety of stakeholders including industry, civil society, non-governmental organizations, labor unions, and academia in hundreds of meetings and briefings on the TPP negotiations. USTR has also invited public stakeholders to be on-site**

**at each of the U.S. hosted TPP rounds to interact with negotiators and hundreds of stakeholders to date have registered and participated in those various events.**

**Regarding the T-TIP negotiations, the Administration sent a public notification letter to Congress in March, which explained our objectives for the T-TIP negotiation in considerable detail and we spent three months consulting on those negotiating objectives with Congress and trade stakeholder groups. During our 90-day consultation period, the Administration received almost 370 comments from the public and heard from more than 60 witnesses at a public hearing, in response to a request published in the *Federal Register* seeking comments on U.S. negotiating objectives for T-TIP. In addition, during our first round of T-TIP negotiations, held in July in Washington, D.C., we hosted 350 global stakeholders at a series of stakeholder engagement events to ensure that multiple perspectives and a balance of views continue to inform U.S. negotiating positions.**

**We will continue to consult with stakeholders and Congress throughout negotiations, both one-on-one and through our broad-based trade advisory committee system – which includes representatives of industry, environment, public interest, academia, and labor unions, to craft the most effective trade policy for the American people. We will achieve a stronger outcome if multiple perspectives and a balance of views continue to inform our negotiating positions and we look forward to continuing to work with you towards that end.**

**8.)** The 2002 Trade Promotion Authority (TPA) law established the 'Congressional Oversight Group' (COG) to include more Members of Congress in the process. Unfortunately, the COG does not appear to have achieved that purpose. Will you work with us to develop new mechanisms in TPA to ensure that Members of Congress play a more meaningful role in the negotiation process?

**Answer: Transparency is a very important issue. We believe it is critical that Congress, stakeholders, advisers, and the public have a robust policy of engagement to ensure that we are getting the best input possible. USTR is ready to work with Congress to craft a TPA bill that achieves our shared interest and goals as part of a package that ensures American workers have the support and skills they need to compete in the global economy.**

**Representative Peter Roskam, IL:**
**Questions for Ambassador Froman**

**1.)** AMBASSADOR FROMAN: As co-chair of the India Caucus, it impresses me to see how far India as a country has come in the last few decades and how far the US-India relationship has come as well. However, the trade relationship has become more difficult as of late due to issues such as intellectual property rights, forced localization, regulatory transparency, agricultural tariffs, and the Indian government's disposition in WTO negotiations. There have been a few green shoots recently with the Indian government shelving, at least temporarily, part of its Preferential Market Access policy and raising FDI caps. They have also signaled a willingness to bring some regulatory clarity to the direct selling industry and additional clarity to multi-brand retailers, although the devil will be in the details. What steps

is USTR planning to take to prevent backsliding on the issues where progress has already been made; for instance, to make sure that the PMA policy remains shelved? I would also like to put a plug in to encourage the resumption of the Trade Policy Forum and to encourage the resumption of BIT negotiations as soon as possible. I believe the conclusion of a high-standard BIT is an important long-term goal for the trade relationship.

**Answer: I share your concerns about a number of policy actions taken in India that have a negative effect on trade, investment and innovation. At the same time, I recognize the recent positive steps taken by the Indian Government, including the announcement to raise certain FDI caps and the decision to review the Preferential Market Access policy. In my recent meetings with Minister Sharma, shortly after confirmation and again more recently in Brunei, I welcomed these decisions as an initial step in the right direction. I also underscored that we remain concerned about a range of issues, including IPR, localization measures, and India's stance in the WTO negotiations. The increased staff level engagement under the Trade Policy Forum to which Minister Sharma and I committed in these meetings will provide opportunities to address these issues and will help lay the foundation for a productive ministerial-level meeting of the Trade Policy Forum at the earliest opportunity. We also remain committed to concluding a high-standard BIT with India as our negotiating teams continue to explore ways to advance those discussions.**

**2.)** AMBASSADOR FROMAN: Most TPP nations measure commercial truck lengths from the front bumper of the tractor to the rear of the trailer. In the U.S., at least since the 1980s, we measure the length of the trailer. This regulatory divergence has driven the development of two, contrasting schools of truck design: streamlined aero-nosed products in the U.S. and shorter, blocky cab-overs in the rest of the world. And while U.S. aero-nosed truck tractors are not specifically banned in TPP nations, they are at an economic disadvantage because every measured inch of the tractor up front means less space for paying cargo. So, unless the TPP includes harmonization of truck length measurements, U.S. commercial vehicles will remain at a regulatory and economic disadvantage. Does the KORUS FTA provide U.S. negotiators with a useful precedent for addressing the matter of truck length regulations within the TPP?

**Answer: As a regional trade agreement between twelve partners, the TPP is forging a new 21st century FTA model, which focuses on market access and regional integration, including important objectives regarding regulatory coherence. A successful TPP agreement will provide a strong framework for addressing issues like truck length measurements in relevant TPP markets.**

**3.)** AMBASSADOR FROMAN: As I understand it, the United States and European Union are considering whether to include discussions to improve the level of regulatory cooperation between European and US financial sector regulators as part of the ongoing US-EU negotiations. It appears that these efforts could complement ongoing regulatory dialogues, improve regulatory cooperation, and reduce the likelihood of cross-border disputes. How do you plan to address these issues in these negotiations?

**Answer: Financial services are a critical component of the transatlantic relationship. In T-TIP, as in all our FTAs, the Administration will seek market access commitments for financial services.**

**Since the financial crisis, Treasury and our financial regulators have been actively engaged on a wide range of financial regulatory matters domestically and internationally. There is a robust ongoing dialogue with ambitious deadlines on international regulatory and prudential cooperation in the financial sector. This dialogue is taking place bilaterally and under the auspices of the G-20 and international standards setting bodies and other bodies such as the Financial Stability Board, the Basel Committee on Banking Supervision, and the International Organization of Securities Commissions. We expect that work to continue making progress alongside the T-TIP negotiation.**

**Representative Richard Neal, MA:**
**Questions for Ambassador Froman**

**1.)** Ambassador Froman, one issue that I hope will be addressed as USTR negotiates the US-EU trade agreement is that of levies that are assessed in a number of EU member states on digital products such as smart phones, tablets, personal computers and other products that store data. So-called "collecting societies" in various EU countries apply these levies, which can be as high as 3.5%, which can mean as much as an additional $25 on the price of a typical PC. My concern is that these levies are not always transparent, and they are not uniformly applied across the EU. Further, they undermine the very spirit of this trade agreement as well as the WTO Information Technology Agreement because they raise the cost for US technology companies and for consumers that want to buy computers and other digital devices. Can you tell us how you plan to handle this issue in the negotiations? Is removal of these levies an option, which is consistent with USTR's objective for the TTIP to "eliminate all tariffs and other duties and charges on trade".

**Answer: Our key objectives in T-TIP include improving market access opportunities for trade in innovative technology products and promoting strong protection and enforcement of intellectual property rights. As you state, private copying levies are assessed in the EU and other markets that permit private copying of copyright-protected content in order to compensate rights holders. Such levies, where set and applied appropriately, serve to help ensure that the economic rights of U.S. creators in their works can be fully realized. However, this purpose can be defeated when levies rates are developed, assessed and distributed without adequate opportunity for stakeholder input. Likewise, ensuring transparency as well as confining allocation to collecting societies and rights holders is critical in preventing the imposition of inappropriate costs on U.S. technology exports under any such levy system. As the T-TIP negotiations proceed, USTR will continue to engage with Members of Congress and interested stakeholders with respect to the EU private copy levy regime in order to advance and defend the interests of all U.S. businesses, creators and workers with a stake in this important issue.**

**2.)** Ambassador Froman, I would also like to address the importance of protecting trade secrets in trade agreements, particularly as we look to the EU negotiations. As you know, trade

secrets, which generally include any confidential business information such as a manufacturing process, are an extremely valuable asset to American businesses. Often these businesses invest substantial amounts of resources into developing trade secrets. The entire economic value of a trade secret stems from the competitive advantage conferred by the secret nature of the information. Once disclosed, trade secrets lose their competitive value and cannot be recovered because, unlike patents, trade secrets do not give their owner an exclusive right to use the information. Unfortunately theft of trade secrets, especially by or for foreign entities, has dramatically increased due to greater global competitiveness and increased access to information through the digital infrastructure that drives the information economy.

Under current U.S. law, the Economic Espionage Act, a lawsuit cannot be brought against a foreign entity that steals U.S. corporation's trade secrets, regardless of the extent of the damage done in the U.S. Can we use trade agreements to set a higher standard and close this loophole, perhaps starting with the US-EU agreement?

**Answer: Protecting trade secrets is a critical priority of the Administration. Innovation and creativity are among America's many competitive advantages, essential not only to our economy, but the social welfare of all Americans. However, economic espionage and trade secret theft, including through cyber intrusion is on the rise. As the 2013 Administration Strategy on Mitigating the Theft of U.S. Trade Secrets makes clear, such theft "threatens American businesses, undermines national security, and places the security of the U.S. economy in jeopardy. These acts also diminish U.S. export prospects around the globe and put American jobs at risk."**

**The Administration is committed to using trade policy tools to increase international enforcement against trade secret theft to minimize unfair competition against U.S. companies. Specifically, USTR initiatives will include cooperating with trading partners to curb trade in goods and services contained stolen trade secrets, enhancing the use of the Special 301 Report to identify concerns with respect to trade secret protection in foreign markets, and promoting trade secret protection in all appropriate bilateral, regional and multilateral trade discussions, including the WTO and APEC. Critically, USTR is using trade negotiations such as those on the TPP and the T-TIP to advance trade secret protection**

**Representative Todd Young, IN:**
**Questions for Ambassador Froman**

1.) Our preference programs further both our national security and economic interests and provide important benefits to developing countries, and in particular, to the least developed. At the 2001 WTO's Doha Conference, members renewed their commitment to help least-developed countries and to improve market access for products from these countries.
   - What is the Administration doing to ensure that the least developed countries are able to fully utilize the benefits available under our preference programs?

**Answer: The United States provides tariff preferences to 44 least developed countries (LDCs) through three different trade preference programs: the Generalized System of Preferences (GSP), the African Growth and Opportunity Act (AGOA), and the Haitian Opportunity through Partnership Encouragement (HOPE) Act. However, legal authorization of the GSP program expired on July 31, 2013. As a result, GSP-eligible imports from most LDC beneficiary countries (except those also eligible for AGOA) are currently subject to regular (MFN), non-preferential duties. We urge Congress to extend GSP, a program that increases U.S. competitiveness, keeps costs low for U.S. consumers, and benefits some of the world's poorest countries.**

**The U.S. Government helps LDCs make the most of these trade preference programs through information and outreach efforts and via technical assistance. For example, the three USAID-funded Africa Regional Trade Hubs – in Ghana, Botswana, and Kenya – work with African businesses and governments to help them identify and develop trade opportunities under AGOA and GSP. In addition, USTR has carried out GSP outreach programs in many non-African LDCs – including Nepal and Afghanistan in 2012/2013 – to help businesses in those countries understand the program's requirements and diversify their exports to the United States.**

- How does the shift to post-Doha negotiations at the WTO, including an expansion of the Information Technology Agreement and a trade facilitation agreement, benefit developing countries?

**Answer: While it was not considered as a "post-Doha" stage of negotiations, WTO Members did agree at the 2011 WTO Ministerial to focus on those areas of the Doha Round negotiations "where progress can be achieved." Since then, the United States and other WTO Members have focused on, among other issues, completing an agreement on trade facilitation.**

**With respect to trade facilitation, the benefits for developing countries of reducing the time and costs associated with goods held at the border are well established. In some cases, developing country traders face release times exceeding 40 days, which significantly hinder regional trade, particularly in Africa. The OECD's most recent analysis (March 2013) on the draft trade facilitation provisions finds that the potential cost reduction of all the trade facilitation measures combined is greater than the sum of their individual impacts - almost 14.5 percent for low-income countries, 15.5 percent for lower-middle-income countries, 13.2 percent for upper-middle-income countries and 10 percent for OECD countries. Thus, the benefits from the trade facilitation provision are even greater for developing countries than for developed countries.**

**With regard to expansion of the Information Technology Agreement, eliminating duties on these types of products benefits both the producers and consumers of these products, in developing countries. Eliminating duties can reduce the cost of production and, when those lower costs are passed along, reduce the cost of a wide range of products to consumers.**

- In recent years, Europe has insisted that developing countries, including least developed countries, sign Economic Partnership Agreements in order to continue to receive preferential market access. I am concerned that Europe's demands disadvantage U.S. exporters and inappropriately link unilateral preference programs to preferential market access for European companies. What is the Administration doing to address this issue?

**Answer: We recognize the potential economic, trade and development implications of these new EU agreements. Working with our developing country partners, as well as through our recently-announced AGOA review process, we will continue to seek information on EPAs and their impact our on trading relationships. We also seek to carefully review the final agreements when they become available to determine what action may be called for.**

2.) In Canada, courts have created a standard for patent utility (whether or not a patent is useful) which is contrary to its international obligations. These decisions have significantly impacted businesses in my home state, Indiana, and around the country.
- While much of your enforcement focus is clearly aimed at emerging economies like India and China, what can USTR do to address these serious IP issues with a country like Canada, which is a highly-developed, wealthy nation with significant ties to us through our massive trading relationship and shared border?
- Does the fact that Canada's IP issues continue to fester not embolden other countries to do the same?
- What are your plans to address this issue before it spreads?

**Answer: USTR is aware of this concern and is working to address it. As your question suggests, it is important that all trading partners respect and properly apply the internationally-accepted criteria for obtaining a patent, including the utility standard. We noted our serious concerns about heightened utility requirements for patents in Canada in USTR's 2013 Special 301 Report, and we have raised the issue with the Government of Canada. I will continue to ensure that USTR works with representatives of the affected companies and industries on ways to address these concerns and to engage with the Government of Canada on these issues.**

**Representative Tom Reed, NY:**
**Questions for Ambassador Froman**

1.) Job creation is one of the most important challenges facing our country and upstate New York. Our trade remedy laws are critical to ensuring future job growth as well as preserving existing jobs. In fact, millions of American workers, including workers in my district, depend on our antidumping and countervailing duty laws to compete against unfairly traded imports. Unless these existing laws are fully enforced, we will continue to lose jobs due to dumped and subsidized imports, and our domestic manufacturing base will continue to suffer. Do you agree that the use and enforcement of our trade remedy laws will create and preserve American jobs? What will you do to ensure that our trade remedy laws are utilized to more effectively create and preserve American jobs?

**Answer: This Administration has put an emphasis on enforcing our trade remedy laws to protect U.S. workers and businesses from unfair competition and allow them to compete on a level playing field. For example, the President was the first ever to apply the section 421 safeguard to imports of Chinese products – a surge of tires in 2009. This action preserved or created more than 1200 jobs in a key manufacturing sector. USTR and the Department of Commerce have devoted unprecedented resources into defending U.S. trade remedy actions at the WTO, including successfully defending the tires safeguard against China's challenge. Likewise, we have not hesitated to challenge China when it has applied trade remedies on various U.S. exports for what appeared to be retaliatory or industrial policy reasons. We have prevailed in two of these proceedings so far (in the specialty steel and poultry sectors, respectively) and are we are presently litigating a third case (in the autos sector) on similar issues.**

**2.)** In spite of the many forms of dialogue and engagement with China on trade and economic policy and that country's on-again, off-again movements toward market reforms, the United States continues to run an unprecedented, and politically unsustainable, trade imbalance with China. This imbalance hurts New York industries and workers every day.

- Will you explore all available options for addressing Chinese government market interventions, overcapacities in steel and other manufacturing sectors and the unfair trade surges and market disruptions that result?

- Will you conduct a more aggressive multilateral and bilateral trade diplomacy to counter foreign government policies and practices that lead to unfair trade surges in steel and other manufacturing sectors?

- Will you ensure that the U.S.-China Joint Commission on Commerce and Trade (JCCT) focuses on moving China toward real market reforms?

**Answer: I can assure you that the Obama Administration is firmly committed to using all available avenues to address policies that distort trade and create excess steelmaking capacity in China and elsewhere. We are actively monitoring new developments in the steel sector for appropriate potential action and enforcing U.S. trade rights on behalf of U.S. industries and workers. The United States has been successful at the WTO in challenging Chinese trade practices that have provided unfair advantages to the Chinese steel industry, including highly trade-distortive export restrictions and prohibited export subsidies. For example, as a result of a successful WTO dispute settlement case brought by the United States, the European Union and Mexico, China recently eliminated its export quotas and export duties on several industrial raw material inputs, including the highly restrictive export quota and 40 percent export duties on metallurgical coke, a key steel input. At the same time, the Administration actively enforces U.S. trade remedy laws. Currently, there are antidumping and/or countervailing duty orders covering U.S. imports of 18 Chinese steel and immediate downstream steel-containing products.**

**We also are using trade diplomacy to shed light on the detrimental effect of excess capacity on global steel markets and to urge the governments of China and other steel producers to**

**avoid government-supported capacity expansion. This year alone, U.S. officials have met bilaterally on steel capacity issues with the governments of many steel producer/exporter countries, including Brazil, China, Japan, Korea, Turkey, Ukraine and Vietnam, and this work is ongoing. Steelmaking capacity has long been a central focus of the Organization for Economic Cooperation and Development (OECD) Steel Committee, where the U.S. government, with the participation of U.S. steel stakeholders, has taken a leadership role in working with like-minded countries to address this issue.**

**Further, through the JCCT dialogue, we are engaged with China on many industrial policy issues, including the role of state-owned enterprises, investment restrictions, and the protection of intellectual property and trade secrets. We are actively raising concerns about Chinese government policies that contribute to excess production capacity in the steel, aluminum and soda ash sectors.**

**Representative Ron Kind, WI:**
**Questions for Ambassador Froman**

1.) I know you are well aware of the frustrations that US companies have had with the proliferation of forced localization policies. This has been largely an issue in the technology sector but it is expanding to other sectors and geographically. Can you give the Committee a sense of how USTR plans to address this issue? Can we use the US-EU trade agreement as an opportunity to develop a strong standard in this area?

**Answer: We continue to be concerned about the significant increase in number and seriousness of localization barriers around the world. In response, USTR established an interagency task force on localization barriers to trade to develop and execute a more strategic and coordinated approach to stopping these practices and dissuading countries from adopting localization policies.**

**This approach includes working with stakeholders in the United States and like-minded trading partners to (1) strengthen the analytical case against localization barriers to trade; (2) multilateralize work to address localization barriers to trade; and (3) promote approaches that offer better ways to stimulate job creation and economic growth. We are also developing in the T-TIP negotiations concrete ways that the United States and the European Union can cooperate to address these issues around the world. We intend that the T-TIP results in this area will lay the groundwork for cooperation with other countries on this important issue.**

2.) One issue that I hope will be addressed as USTR negotiates the US-EU trade agreement is that of levies that are assessed in a number of EU member states on digital products such as smart phones, tablets, personal computers, and other products that store data. So-called "collecting societies" in various EU countries apply these levies, which can be as high as 3.5%. The levy can mean as much as an additional $25 on the price of a typical PC, and are collected purportedly to compensate content rights holders of copyrighted material that has been subject to private copying. My concern is that these levies are not always transparent, they are not uniformly applied across the EU, and they are sometimes used for purposes other

than to compensate content rights holders. Further, they undermine the very spirit of this trade agreement as well as the WTO Information Technology Agreement because they raise the cost for US technology companies and for consumers that want to buy computers and other digital devices. Several associations addressed this issue in the Administration's recent solicitation of comments. Can you tell us how you plan to handle this issue in the negotiations? Can we get the levies removed, consistent with USTR's objective for the TTIP to "eliminate all tariffs and other duties and charges on trade" as notified to Congress on March 20th?

**Answer: Our key objectives in T-TIP include improving market access opportunities for trade in innovative technology products and promoting strong protection and enforcement of intellectual property rights. As you state, private copying levies are assessed in the EU and other markets that permit private copying of copyright-protected content in order to compensate rights holders. Such levies, where set and applied appropriately, serve to help ensure that the economic rights of U.S. creators in their works can be fully realized. However, this purpose can be defeated where levies rates are developed, assessed and distributed without adequate opportunity for stakeholder input. Likewise, ensuring transparency as well as confining allocation to collecting societies and rights holders is critical in preventing the imposition of inappropriate costs on U.S. technology exports under any such levy system. As the T-TIP negotiations proceed, USTR will continue to engage with Members of Congress and interested stakeholders with respect to the EU private copy levy regime in order to advance and defend the interests of all U.S. businesses, creators and workers with a stake in this important issue.**

**3.)** I would like to address the importance of protecting trade secrets in trade agreements, particularly as we look to the EU negotiations. As you know, trade secrets, which generally include any confidential business information such as a manufacturing process, are an extremely valuable asset to American companies. Often companies invest substantial sums of money into developing trade secrets. The entire economic value of a trade secret stems from the competitive advantage conferred by the secret nature of the information. Once disclosed, trade secrets lose their competitive value and cannot be recovered because, unlike patents, trade secrets do not give their owner an exclusive right to use the information. Unfortunately theft of trade secrets, especially by or for foreign entities, has dramatically increased due to greater global competitiveness and increased access to information through the digital infrastructure that drives the information economy. Under current US law, the Economic Espionage Act, a lawsuit cannot be brought against a foreign entity that steals a US corporation's trade secrets, regardless of the extent of the damage done in the US. Can we use trade agreements to set a higher standard and close this loophole, perhaps starting with the US-EU agreement?

**Answer: Protecting trade secrets is a critical priority of the Administration. Innovation and creativity are among America's many competitive advantages, essential not only to our economy, but the social welfare of all Americans. However, economic espionage and trade secret theft, including through cyber intrusion is on the rise. As the 2013 Administration Strategy on Mitigating the Theft of U.S. Trade Secrets makes clear, such theft "threatens American businesses, undermines national security, and places the security of the U.S.**

**economy in jeopardy. These acts also diminish U.S. export prospects around the globe and put American jobs at risk."**

**The Administration is committed to using trade policy tools to increase international enforcement against trade secret theft to minimize unfair competition against U.S. companies. Specifically, USTR initiatives will include cooperating with trading partners to curb trade in goods and services contained stolen trade secrets, enhancing the use of the Special 301 Report to identify concerns with respect to trade secret protection in foreign markets, and promoting trade secret protection in all appropriate bilateral, regional and multilateral trade discussions, including the WTO and APEC. Critically, USTR is using trade negotiations such as the Transpacific Partnership and the Transatlantic Trade and Investment Partnership to advance trade secret protection**

**4.)** Last year, the GAO released a study which found that procedures for monitoring drug quality in supply chains used by global health programs vary based on the nature of the program and capacity of implementing partners. Has USTR considered the option of including trade enforcement provisions for regulatory and health and safety standards to address substandard medicines in trade agreements with developing country partners such as China, Russia, Brazil, India and other key markets in Latin America, Asia, and Africa? [report attached-please refer to the GAO summary within the report]

**Answer: Through the WTO, APEC, the OECD, TPP and other venues, USTR strongly advocates policies that promote efficient and effective regulation through the implementation of the WTO Agreement on Technical Barriers to Trade and the adoption of international body of work known as good regulatory practices. These good regulatory practices include procedures that ensure regulations are developed in a transparent manner with stakeholder engagement, are based on the best available scientific and technical information, and are implemented through appropriate conformity assessment systems that give regulators adequate confidence that health and safety standards are met.**

**In TPP for example, the U.S. proposed pharmaceutical annex to the chapter on Technical Barriers to Trade promotes greater alignment of regulations and regulatory activities. The U.S. proposal would achieve this by requiring countries to look to internationally-agreed best practices and to consider scientific and technical guidance documents developed through international collaborative efforts when developing or implementing marketing approval systems. The U.S. proposal would also require TPP countries to administer these systems in a timely, reasonable, objective, transparent, and impartial manner. These provisions will help countries regulate pharmaceutical products more effectively and efficiently, and contribute to improved public health outcomes such as those related to preventing substandard medicines.**

**5.)** Last year, the Institute of Medicine of the National Academy of Sciences issued a report with recommendations regarding the global public health implications of substandard, falsified and counterfeit medical products. One of the recommendations encouraged governments to establish or strengthen systems to detect substandard, falsified, and unregistered medicines. Further, they indicated that this surveillance should be integrated with established

public health surveillance systems. As you know, our trade agreements play a role in this overall surveillance system in that many IP standards could be used to identify weak regulatory systems. How could trade agreements be modernized to incorporate surveillance for substandard medicines in the way they are used to root out dangerous (took out counterfeit as not the only problem) medicines? [report attached refer to pages 18-26]

**Answer: USTR is committed to trade policies that advance public health goals, including to promote access to medicines, and to protect consumers from substandard, falsified and counterfeit medical products. Our FTAs can significantly support public health objectives, e.g., by reducing tariffs on pharmaceutical inputs, pharmaceuticals, and medical devices, which have been used by trading partners as industrial policy measures to protect local manufacturers, while raising costs to patients.**

**Among other mechanisms to support pharmaceutical and medical device innovation and access, USTR has sought to reduce market access barriers that U.S. pharmaceutical and medical device companies face in many countries, and to facilitate both affordable health care today and the innovation that assures improved health care tomorrow.**

**U.S. FTAs also provide for strong intellectual property rights (IPR) protection and enforcement, including with respect to trademark protection. Through our FTAs, we seek to make customs and criminal enforcement measures available to prevent medicines bearing counterfeit trademarks from entering foreign markets, and thus support efforts of other countries to address the serious risks to patients posed by such counterfeits.**

**USTR continues to explore ways to respond effectively to these evolving challenges and reflect those in our FTAs. One possible enhancement, for example, could be to use FTAs to encourage the availability of increased penalties when counterfeiting offenses threaten health and safety.**

**I look forward to working with you on the critical issue of combating the production and trade of dangerous medicines.**

**6.)** Along with many of my colleagues on this Committee and throughout the House, I have called on USTR and the White House to seek strong IP protections that are truly representative of a 21st century agreement for all US industries. Given the breadth of this agreement, we cannot afford to get the substance of this agreement wrong, especially as we're dealing with countries that often have a poor IP environment, including some of our important allies. USTR should be pushing for IP provisions that build off the KORUS agreement and reflect US law for biologics. How do you intend to accomplish this?

**Answer: U.S. FTAs contain strong provisions on the protection and enforcement of intellectual property rights (IPR), reflecting the commitment to American creators and innovators as well as farmers, ranchers, businesses, workers and consumers who benefit from such creativity and innovation. Of course, we couple our current negotiations of high-standard 21st century agreements like the TPP and the T-TIP with vigorous monitoring and enforcement of the IPR commitments in our existing FTAs, such as**

**KORUS and many others, to ensure that Americans realize the gains of the protections these FTAs contain.**

**In TPP, for example, one of our key priorities is to build a modern legal infrastructure to protect IPR in the region, and to ensure effective enforcement of IPR to maintain markets for the full range of job-supporting exports of products and services embodying American creativity and innovation. Our goal in the TPP negotiations, therefore, is to achieve high standards of IP protection and enforcement in the Asia-Pacific region that will stand alongside previous U.S. FTAs in the region, such as the KORUS. Biologic drugs are a vital area of pharmaceutical innovation, now and in the future. With regard to data protection for biologics, the United States has explained our system, including the 12 years of protection related to biologics and we are in the process of a thorough discussion with our trading partners on that issue. I will ensure that my staff stays in close touch with you and other Members of Congress as the negotiations continue on this important issue.**

**Regarding T-TIP, IPR will continue to be a matter for robust engagement with the EU. The T-TIP provides a significant opportunity to advance the interests of U.S. innovators and creators. In the negotiations with the EU, we will seek to obtain, consistent with U.S. priorities and objectives, appropriate commitments that reflect the shared U.S.-EU objective of high-level IPR protection and enforcement, and to sustain and enhance joint leadership on IPR issues. We will also pursue new opportunities to advance and defend the interests of U.S. creators, innovators, businesses, farmers, and workers with respect to strong protection and effective enforcement IPR, including their ability to compete in foreign markets.**

**Representative Lynn Jenkins, KY:**
**Questions for Ambassador Froman**

**1.)** With the resumption of talks with Taiwan under the bilateral Trade and Investment Framework Agreement (TIFA), it is encouraging that we are seeing progress in expanding markets for our nation's products. Unfortunately, I am greatly concerned with Taiwan's restrictions on U.S. pork, which lack a sound scientific basis, and encourage you in the strongest terms to ensure that they are repealed. To that point, how would you assess the conclusions of the March TIFA meetings and what steps are necessary to move forward? What do you foresee as the agenda for next year's TIFA talks here in Washington? Finally, what are the ultimate goals USTR envisions in the U.S.-Taiwan trade relationship as a result of these bilateral TIFA meetings?"

**Answer: The TIFA is an important mechanism for resolving trade and investment issues facing U.S. companies in Taiwan. The resumption of the TIFA Council meetings in March allowed us to engage at a deeper level on issues across the board, so we focused on opening up foreign trade and investment, harmonizing domestic measures with international standards, and consistently adhering to trade commitments.**

**Taiwan's import restrictions on U.S. pork featured as one of our key concerns at the meetings. USTR is committed to working with all of our trading partners to achieve**

**market access for U.S. agricultural products consistent with their SPS commitments and fair treatment to all U.S. exports. USTR and our interagency team – including the Department of Agriculture, the Food and Drug Administration, the Department of State, the Department of Commerce, as well as the American Institute in Taiwan – continue to work with Taiwan to encourage the adoption of science-based standards for ractopamine in pork. Our goal is to ensure that, following other key trading partners in the region, Taiwan takes appropriate action to ensure consumers in Taiwan have full access to high-quality U.S. pork products.**

**We expect that future TIFA meetings will continue to allow us to address a broad range of important elements of our trade and investment relationship.**

2.) Do you believe that the USDA catfish inspection program, if implemented, could negatively affect our trade relationships with Vietnam and Indonesia, and, if so, how? How do you propose to address this issue, given that USTR has stated that the people of Vietnam continue to have a "huge demand for U.S. goods and services"?

**Answer: USTR understands that USDA is still working to finalize its catfish inspection program. USTR will continue to work with USDA to ensure that its measures are consistent with our international obligations and therefore they should not negatively affect our trade relationships with Vietnam and Indonesia.**

**Representative Joe Crowley, NY:**
**Questions for Ambassador Froman**

1.) One major problem for service exporters like those from New York is having to compete with state-owned industries in other countries. What are USTR's views on state-owned enterprises, and how do you see these issues coming into play in the deals that are being negotiated right now.

**Answer: Ensuring that there is a level playing field for our companies and workers is one of the fundamental principles of this Administration's trade policy. And one of our key priorities in the TPP negotiations is the establishment of new rules designed to ensure that commercial SOEs do not receive unfair advantages from their governments that undermine the benefits of our trade agreements and put U.S. companies and workers at a competitive disadvantage. This is one of the areas in which we are breaking new ground in the TPP and as we move forward with other important initiatives, we will of course be considering all possibilities for appropriately addressing this important issue.**

2.) Trade Enforcement has been a major priority of this Administration, and that is something that has been welcomed by many on this committee. What more can be done to ensure that other countries are playing by the rules? Does USTR have the resources it needs to effectively fight back against unfair and in many cases illegal trade barriers (such as by filing WTO cases)?

**Answer: This Administration has prioritized active enforcement of our WTO rights. Since**

**2009, the United States has filed 14 complaints at the WTO (including compliance actions) against nine countries. USTR monitors and enforces U.S. trade rights to enhance economic growth and job creation, with the goal of strengthening the middle class. Where we identify a market access barrier or failure of our trading partners to abide by WTO rules, we seek to redress these concerns through negotiation where possible and litigation when necessary.**

**As mentioned in my testimony, achieving these goals depends on USTR having adequate resources to pursue its mission. Monitoring our trading partners' actions, seeking to negotiate removal of harmful measures, and litigating disputes is resource-intensive.**

**Sequestration and other budget cuts are compromising USTR's ability to initiate new enforcement actions. The opportunities missed have real effects on whether or not the American people will get the full benefits of the jobs and growth promised by the agreements we have negotiated.**

**3.)** Can you explain where you see things going in the U.S.-India relationship?

**Answer: This is a rapidly growing, multifaceted trade and investment relationship that has provided significant benefits to both countries' populations. Given the strong fundamentals of our economies, and the dynamism of our private sectors, we have only begun to approach our true potential. I see this relationship expanding significantly in the coming years, provided that we continue to take steps that promote rather than hinder bilateral trade and investment, and we continue to recognize the growing areas of convergence in our economic interests. These areas of convergence can open up new opportunities for collaboration that will strengthen both economies, and can help ensure that we work through areas of disagreement in a constructive manner that advances the broader relationship. Taking decisive steps to increase cooperation and resolve differences will promote the closer integration of our two economies, committed to market-led economic growth and advancing sound economic policies globally, all in the mutual interest of both countries.**

**4.)** I was interested to see that the Transatlantic Trade and Investment Partnership (T-TIP) negotiations launched last week. The relationship of the EU and the US offers some opportunities to deepen cooperation between our advanced intellectual property practices and enforcement systems. At the same time, there are ongoing issues in the European Union, such as those regarding clinical trial data on biopharmaceuticals. The current and proposed policies of the EMA could be different than the EU's international agreements and obligations. It may even hurt regulatory integrity, privacy and R&D research. What are your thoughts on talking to the EU through the trade talks and elsewhere to resolve this issue?

**Answer: In our negotiations on T-TIP, the issue of intellectual property rights (IPR) will continue to be a matter for robust engagement with the EU, particularly on key issues where we can significantly advance the protection and enforcement of IPRs. The United States is committed to promoting IPR protection and enforcement. The EU shares that strong commitment. I agree that the T-TIP offers a significant opportunity to deepen**

**cooperation with the EU and to advance the interests of US innovators and creators. In the negotiations with the EU, we will seek to obtain, consistent with U.S. priorities and objectives, appropriate commitments that reflect the shared U.S.-EU objective of high-level IPR protection and enforcement, and to sustain and enhance joint leadership on IPR issues. We will also pursue new opportunities to advance and defend the interests of U.S. creators, innovators, businesses, farmers, and workers with respect to strong protection and effective enforcement of intellectual property rights, including their ability to compete in foreign markets.**

**With respect to the European Medicines Agency and its role in evaluating and protecting clinical trial data on biopharmaceuticals, the Administration continues to pursue an interagency-coordinated outreach with the EU on any trade-related aspects of this issue. As you indicate, this issue is multi-faceted and requires a coordinated U.S. government approach. T-TIP offers one of many possible venues for discussion of the protection of such trial data.**

**Congressman John Larson, CT:**
**Questions for Ambassador Froman**

1.) As a co-chair of the House Shellfish Caucus, I frequently interact with shellfish growers. When speaking with them, the issue that I hear about time and time again is market access for U.S. shellfish in the European Union. As you know, for more than 3 years, the European Union has prevented the importation of U.S. shellfish (oysters, clams, and mussels).

The American shellfish industry has an exemplary food safety record and the Food and Drug Administration (FDA) has demonstrated the ability to work with countries outside the EU to negotiate equivalency agreements for their sanitation programs. In short, there is no reason that European Union should continue its ban on American shellfish.
I understand that this is an issue your office has been diligently working on for some time and that it is something that will require cooperation from your EU counterparts. With that being said, what is the present status of negotiations to resolve the impasse preventing the United States from exporting shellfish to EU markets? What steps are you taking to resolve this critical issue?

As the United States and the European Union begin negotiations on the Transatlantic Trade and Investment Partnership (TTIP), it is of high importance that we resolve issues such as this in order to ensure the success of the agreement. This issue is a top priority for shellfish growers across the country and I would strongly encourage you to continue to work to find a resolution as soon as possible.

**Answer: The United States has identified the removal of the EU's ban on U.S. shellfish exports as a priority bilateral trade issue in the T-TIP negotiations. USTR will continue to work closely with the Food and Drug Administration to resolve this important issue with the European Union to allow exports of U.S. oysters, clams and mussels to resume.**

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**Written Submission of the International Intellectual Property Alliance**
**House Committee on Ways and Means**
**Hearing on President Obama's Trade Policy Agenda**
**with U.S. Trade Representative Michael Froman**
**August 1, 2013**

The International Intellectual Property Alliance (IIPA) – a private sector coalition representing U.S. copyright-based industries working to improve international protection and enforcement of copyrighted materials and to open foreign markets closed by piracy and other market access barriers – [1] appreciates the opportunity to provide this Written Submission in conjunction with the House Committee on Ways and Means Hearing on President Obama's 2013 Trade Policy Agenda.

## The Importance of, and Challenges to, the U.S. Copyright Industries

In November 2011, IIPA released the thirteenth in a series of economic reports, *Copyright Industries in the U.S. Economy: The 2011 Report*.[2] This report details the economic impact and contributions of U.S. copyright industries to U.S. gross domestic product (GDP), employment, and trade. The "core" copyright-based industries in the U.S. continue to be major contributors to the U.S. economy, accounting for an estimated $931.8 billion or 6.36% of the U.S. GDP in 2010. These industries provided nearly 5.1 million U.S. jobs, which is 4.75% of the entire private sector labor force in 2010, and paid on average over $78,000, 27% higher than the overall workforce average – a copyright "compensation premium." Estimated 2010 foreign sales and exports of key sectors of the core copyright industries amounted to $134 billion, a significant increase over previous years, and more than foreign sales of other major U.S. industry sectors such as aircraft, automobiles, agricultural products, food, and pharmaceuticals. Linkages between copyright protection and economic development in other countries are documented by the World Intellectual Property Organization's 2012 study, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries,* compiling similar studies in 30 countries.[3] WIPO reports the publication of a total of 39 country studies, with more in the pipeline. Other studies have measured the contribution of certain sectors to national economies,[4] the multiplier effects of reducing piracy on contribution to GDP, job growth, and tax revenues,[5] and the competitive advantage to be gained by properly licensing software.[6]

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[1] IIPA's seven member associations represent over 3,200 U.S. companies producing and distributing materials protected by copyright laws throughout the world—all types of computer software, including operating systems, systems software such as databases and security packages, business applications, and consumer applications such as games, personal finance, and reference software, free software, open source software, and software as a service, entertainment software including interactive games for videogame consoles, handheld devices, personal computers and the Internet, and educational software; motion pictures, television programming, DVDs and home video and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and fiction and non-fiction books, education instructional and assessment materials, and professional and scholarly journals, databases and software in all formats. Members of the IIPA include Association of American Publishers, BSA | The Software Alliance, Entertainment Software Association, Independent Film & Television Alliance, Motion Picture Association of America, National Music Publishers' Association, and Recording Industry Association of America.

[2] *See* Stephen E. Siwek, *Copyright Industries in the U.S. Economy: The 2011 Report*, November 2, 2011. The entire report as well as summaries can be accessed at http://www.iipa.com/copyright_us_economy.html. Core copyright industries are those whose primary purpose is to create, produce, distribute or exhibit copyright materials. These include books, journals, newspapers, and periodicals; motion pictures; recorded music; radio and television broadcasting; and computer software. IIPA is currently working on release of the fourteenth report.

[3] World Intellectual Property Organization, *Copyright + Creativity = Jobs and Economic Growth: WIPO Studies on the Economic Contribution of the Copyright Industries*, 2012 (on file with IIPA). The WIPO guidelines on surveying the contribution of copyright to the economy have been implemented in over 39 countries around the world, including: Australia (2007), Bhutan (2011), Brunei (2012), Bulgaria (2011), Canada (2004), China (2011), Colombia (2010), Croatia (2010), Finland (2011), Hungary (2006), Jamaica (2008), Kenya (2011), Latvia (2006), Lebanon (2008), Malaysia (2011), Mexico (2008), Netherlands (2011), Pakistan (2011), Panama (2011), Peru (2011), Philippines (2008), Republic of Korea (2012), Romania (2010), Russia (2010), Singapore (2004), Slovenia (2011), South Africa (2012), Thailand (2012), Ukraine (2010), and United States (2011).

[4] The Motion Picture Association has issued a series of "Economic Contribution of the Film and Television Industry" studies for Indonesia (2012), Japan (2012), South Korea (2012), Thailand (2012), New Zealand (2009, 2012), Australia (2011), India (2010), and Hong Kong (2009).

[5] *See, e.g.*, BSA (now BSA | The Software Alliance) and IDC, *Piracy Impact Study: The Economic Benefits of Reducing Software Piracy: Israel*, 2010, at http://portal.bsa.org/piracyimpact2010/cps/cp_israel_english.pdf.

[6] *See* BSA | The Software Alliance, *Competitive Advantage: The Economic Impact of Properly Licensed Software*, INSEAD, 2013, at http://portal.bsa.org/insead/assets/studies/2013softwarevaluestudy_en.pdf (finding that increasing licensed PC software use by 1 percent globally would

While these studies amply demonstrate the contribution of copyright-based industries to the economy, they do not reveal the massive costs imposed by overseas piracy and market access barriers to U.S. copyrighted products and services. U.S. copyright industries face unfair competition from those who engage in piracy as a high-profit, low risk enterprise. Today, legitimate businesses built on copyright are facing increased threats, as they must compete with the massive proliferation of illegal services unencumbered by costs associated with either producing copyrighted works or obtaining rights to use them. An independent study released by BASCAP (Frontier Economics), *Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy* (February 2011),[7] estimated the value of digitally pirated music, movies and software (not losses) at $30-75 billion in 2010, and growing to $80-240 billion by 2015. Others have issued reports on the economic consequences of piracy for specific industry sectors.[8] In many countries, rampant piracy is not only impeding the evolution of legitimate channels for distribution, but also threatens to damage permanently or displace existing and authorized distribution channels which are unable to compete with infringing business models.

**Copyright and U.S. Trade Policy**

The U.S. copyright-based industries represented by IIPA are in accord with the Administration that "trade policy, negotiated and enforced vigorously" to reflect U.S. interests and values gives creators the best chance to compete around the world. We also agree with three methods outlined by the Administration to achieve this policy objective: 1) ensuring that rights and trade rules are fully implemented and enforced; 2) leveling the playing field to allow U.S. interests to compete and win in the global economy; and 3) opening markets around the world so that we can expand our exports. Drawing from these succinct points laid out by the Administration, below we provide some specific examples of how each of these methods can be, and are being, pursued to achieve the overall trade policy objectives. The common goal for all our industries is creating a trade environment that ensures creators can contribute to their fullest potential to our country's overall economic health, the growth of good, highly skilled U.S. jobs, and exports that improve our international competitiveness.

**The Continued Vibrancy of U.S. Trade Law and Trade Preference Programs**

Almost 30 years have passed since Congress recognized the strong nexus between trade law and intellectual property rights. It remains the case today more than ever that healthy creative industries rely on the maintenance and enforcement of robust trade laws, as well as other tools to ensure proper IP protection and market access through trade preference programs.

***Special 301***

In the late 1980s, Congress created "Special 301" under the Trade Act of 1974, and required the U.S. Trade Representative (USTR) to identify countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access for persons that rely on intellectual property protection.[9] While Special 301 is an annual review process from mid-February to the end of April each year, in reality, Special 301 and its leverage are a year-round process for the copyright industries, all of which draw upon local private-sector representatives, the U.S. government, and U.S. Embassy officials to address and resolve copyright and market access problems in scores of countries. Special 301 remains one of the United States' principal trade tools in fighting international copyright piracy and market access barriers. Aggressive action under Special 301 by USTR has been

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inject $73 billion into the world economy, and that developing countries gain a $437 in additional national production, on average, for every dollar invested in legitimate software).

[7] Frontier Economics, *Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy: A Report Commissioned by Business Action to Stop Counterfeiting and Piracy (BASCAP)*, February 2011 (on file with IIPA). The report builds on a previous OECD study (*The Economic Impact of Counterfeiting and Piracy (2008)*).

[8] The Motion Picture Association has commissioned studies from IPSOS and Oxford Economics on *Economic Consequences of Movie Piracy: Japan* (2011) and *Economic Consequences of Movie Piracy: Australia* (2011). BSA's most recent study estimating the software piracy rate and commercial value of unlicensed software in more than 100 markets is at http://portal.bsa.org/globalpiracy2011/.

[9] Under the Special 301 statute, countries which have the most onerous or egregious acts, policies, or practices and which have the greatest adverse impact on relevant U.S. products may be designated "priority foreign countries," and at the end of an ensuing investigation, risk having trade sanctions levied against them (19 U.S.C. §2242).

essential in stemming the wave of losses in U.S. jobs and competitiveness that have threatened one of our country's most productive and fastest-growing economic sectors. Over the years, both developed and developing countries have received top attention by USTR in the Special 301 reviews, and the program has been adapted over time to take into account emerging international norms in IP protection and ensure compatibility with international trade disciplines.[10]

IIPA has participated in every Special 301 cycle since the 1988 Trade Act created this process, providing public comments on acts, practices and policies regarding copyright law, piracy, enforcement and market access in selected foreign countries and territories. In our February 2013 filing, IIPA reported on 42 countries/territories,[11] mentioned 3 countries for positive achievements,[12] and mentioned 6 other countries (mentioned below) for issues related to bilateral, regional, or multilateral IPR obligations.[13] IIPA also highlighted 12 major cross-cutting initiatives and challenges involved in improving copyright law and enforcement and lowering market access barriers to U.S. copyrighted materials.[14] On May 1, 2013, USTR designated Ukraine as a Priority Foreign Country for its failure to meet adequate and effective intellectual property rights protections or afford equitable market access for U.S. creators. USTR also named 10 countries to the Priority Watch List, signaling the need for heightened scrutiny of their IPR and/or market access practices, and named 30 countries to the Watch List for IPR and/or market access deficiencies.[15]

Since 2006, USTR has identified certain "notorious markets" in the Special 301 Report, namely, "Internet and physical markets that exemplify marketplaces that deal in infringing goods and services, facilitating and sustaining global piracy and counterfeiting." Since 2011, USTR has published the Notorious Markets list separately from the Special 301 Report, in order to increase public awareness and guide related trade enforcement actions. USTR published the first stand-alone Notorious Markets list in February 2011, as an "Out-of-Cycle Review of Notorious Markets," the second such report in December 2011, and the third (and current list) in December 2012. IIPA has participated in every Notorious Markets review, and finds that USTR's reports have helpfully identified markets that impede the legitimate development of creative industries in overseas markets due to piracy, and harm their local economies. The reports have highlighted the need for accountability in the online space, vigilance against physical piracy markets, and strong laws against piracy that are strictly enforced against notorious markets. Importantly, the reports also recognize responsible players that take on greater responsibility toward finding solutions to the problem of online and physical copyright theft.

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[10] For example, in 1994, when Congress enacted the Uruguay Round Agreements Act to implement the WTO accords, it confirmed that while countries' compliance with WTO TRIPS standards are necessary, such compliance alone does not meet the Special 301 statutory standards of "adequate and effective" protection. Congress also amended Special 301 to extend the time limit for dealing with disputes involving allegations of TRIPS violations from 6 months to the 18-month period required by the WTO Dispute Settlement Understanding

[11] IIPA recommended Ukraine for the statutory Priority Foreign Country designation; recommended Argentina, Chile, China, Costa Rica, India, Indonesia, and the Russian Federation for the Priority Watch List; and recommended Belarus, Brazil, Bulgaria, Canada, Ecuador, Egypt, Greece, Israel, Italy, Kazakhstan, Kuwait, Lebanon, Mexico, Pakistan, Romania, Saudi Arabia, Spain, Switzerland, Tajikistan, Thailand (OCR) Turkey, Turkmenistan, United Arab Emirates, Uzbekistan, and Vietnam for the Watch List. IIPA raised issues of concern in Albania, Estonia, Hong Kong, Malaysia, Malta, Moldova, Paraguay, the Philippines, and Taiwan in Special Mention reports.

[12] IIPA noted Brunei for cleaning up the retail piracy market there in May 2012 and for a criminal sentence against the owner of a large piracy retail chain. IIPA also noted Malaysia for the passage of major amendments to its Copyright Act which address copyright protections in the digital and online environment and protect against unlawful camcording of motion pictures and for joining the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). IIPA finally noted the Philippines for closing several notorious piracy market and for employing creative and innovative approaches to addressing piracy and transforming an illegal market for the long term.

[13] *See* International Intellectual Property Alliance, *IIPA Written Submission Regarding 2013 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment and Announcement of Public Hearing Request to Testify at 2013 Special 301 Hearing (77 Fed. Reg. 77178, Dec. 31, 2012)*, February 8, 2013, at http://www.iipa.com/pdf/2013SPEC301COVERLETTER.pdf. Appendices A through C contain the individual country reports, the " Methodology Used to Calculate Value of Unlicensed Software, Other Estimated Piracy Losses, Piracy Levels," and the "Chart of Countries' Special 301 Placement (1989-2012) and IIPA 2013 Special 301 Recommendations," available at http://www.iipa.com/2013_SPEC301_TOC.htm.

[14] The "Initiatives or Challenges for 2013," to "Reduce Copyright Piracy, Remove Market Access Barriers, [and] Strengthen Laws" can be achieved by addressing: 1) The Need for Deterrent Enforcement Responses to Copyright Piracy, 2) Internet Piracy, 3) Enterprise (Including Government) End-User Piracy of Software and Other Copyright Materials, 4) Unauthorized Loading onto PCs (Hard-Disk Loading), Mobile Devices (Mobile Device Piracy) and "Media Boxes," 5) Circumvention of Technological Protection Measures (TPMs), 6) Illegal Camcording of Theatrical Motion Pictures, 7) Piracy of Books and Journals, 8) Optical Disc and Game Cartridge Piracy, 9) Pay-TV Piracy and Signal Theft, 10) Implementation of IPR Provisions in Trade Agreements, 11) Implementation of the WCT and WPPT, and 12) Market Access Barriers.

[15] The Priority Watch List countries for 2013 are: Algeria, Argentina, Chile, China, India, Indonesia, Pakistan, Russia, Thailand, Venezuela. The Watch List countries for 2013 are: Barbados, Belarus, Bolivia, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Israel, Italy, Jamaica, Kuwait, Lebanon, Mexico, Paraguay, Peru, Philippines, Romania, Tajikistan, Trinidad and Tobago, Turkey, Turkmenistan, Uzbekistan, Vietnam. *See* United States Trade Representative, *2013 Special 301 Report*, May 1, 2013, at http://www.ustr.gov/sites/default/files/05012013%202013%20Special%20301%20Report.pdf.

***Additional IPR-Related Tools Including Trade Preference Programs***

Other U.S. trade tools support strong copyright protection and enforcement abroad. These include the Generalized System of Preferences (GSP), the Caribbean Basin Initiative (CBI), the Andean Trade Preferences Act (ATPA), and the Africa Growth and Opportunity Act (AGOA). The leverage provided by the prospect of the U.S. halting or limiting trade privileges to those beneficiary countries which refuse to stop illegal piracy or fail to provide equitable and reasonable market access to U.S. copyrighted products and services is important to the achievement of the goals of all these programs. Under these laws, the President has the authority to withdraw or suspend the designation of any country as a beneficiary country, or to withdraw, suspend, or limit the application of duty-free treatment under this chapter to any article of any country. These trade programs are compatible with the WTO multilateral regime.

***Generalized System of Preferences***

The Generalized System of Preferences trade program has since the late 1970s promoted economic growth in the developing world by providing preferential duty-free entry for products from designated beneficiary countries and territories. For almost 30 years, Congress has provided that as a condition for receiving this unilateral, non-reciprocal, preferential benefit, eligible countries must adequately and effectively protect intellectual property rights and afford equitable and reasonable market access to U.S. copyrights.[16] GSP has been an important trade tool to address piracy of U.S. copyrighted works. IIPA and its members have used the GSP petition process as a means to encourage countries with high levels of piracy and market access barriers to improve their copyright protection, enforcement, and market access regimes. Retaining GSP benefits has figured prominently in the decisions by a number of countries over the years to improve their IPR protection and market access. The copyright industries view GSP as a significant part of sound U.S. trade policy. IIPA has filed petitions in numerous countries over the years, and investigations continue into the IPR practices continue in regard to Russia and Uzbekistan, and into the IPR and market access regimes in Indonesia and Ukraine.[17]

Congressional authorization for the GSP program expired July 31, 2013. IIPA strongly recommends that the Congress take all necessary steps to re-authorize the program, to minimize unnecessary procedural burdens accompanying its expiration and renewal (such as retroactive application of the trade benefits to eligible beneficiary countries), and to ensure the maximum positive impact of the current country practice reviews underway in Ukraine, Indonesia, Uzbekistan, and Russia.

***Caribbean Basin Initiative***

Since 1983, the CBI Program, the very first U.S. trade program which explicitly tied trade to IPR protection, has also been useful in encouraging copyright reform in several Central American and Caribbean countries, including the Dominican Republic, Panama, El Salvador, Guatemala, Honduras, Trinidad & Tobago, and Jamaica. The IPR provisions of the CBI were strengthened by the Caribbean Basin Trade Partnership Act (CBTPA) in 2000. There are currently 18 countries that benefit from CBI. The current program continues in effect until September 30, 2020.[18]

***Andean Trade Preferences Act***

The ATPA was enacted in 1991 to combat drug production and trafficking in the Andean countries: Bolivia, Colombia, Ecuador and Peru, and offered trade benefits to help these countries develop and strengthen legitimate industries. The ATPA was expanded under the Trade Act of 2002, the Andean Trade Promotion and Drug Eradication Act. It provides duty-free access to U.S. markets for approximately 5,600 products. Effective May 15, 2012, only

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[16] Among the current criteria the President must take into account in determining whether a country should continue to be designated as a GSP beneficiary country are "the extent to which such country is providing adequate and effective protection of intellectual property rights," and "the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets … of such country." 19 USC 2462(c)(4) and (5).

[17] *See* http://www.ustr.gov/trade-topics/trade-development/preferenceprograms/generalized-system-preference-gsp

[18] These countries are: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago. *See* http://web.ita.doc.gov/tacgi/eamain.nsf/6e1600e39721316c852570ab0056f719/7c06ed73d7a2d9e585257394004a9a05?OpenDocument.

Ecuador was eligible for ATPDEA benefits, since Colombia and Peru have free trade agreements with the U.S. The ATPDEA expired July 31, 2013.

***African Growth Opportunity Act***

In October 2000, the AGOA amended the U.S. trade law to authorize the President to designate sub-Saharan African countries as eligible for duty-free tariff treatment for certain products under GSP and also authorized preferential treatment for certain textile and apparel articles. One of the provisions in the eligibility process is whether the country has established, or is making continual progress toward establishing, the protection of intellectual property. Congress has extended this trade program through 2015. As of July 2013, 40 sub-Saharan African countries were eligible for AGOA benefits.

## Ensuring Adherence to World Trade Rules and International Copyright Norms

An essential and critical part of U.S. trade policy must include negotiating strong trade disciplines, including IPR standards adequate to meet the challenges faced by creators and other right holders today, and then monitoring compliance with such international trade norms.

***Implementation of the WTO, Including the TRIPS Agreement***

Important international trade disciplines are codified in the rules of the WTO, an international trade body created on January 1, 1995, representing the most significant reform of international trade disciplines since the Second World War. There are now 159 WTO member nations and 25 observer nations. Included in the WTO agreements is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) which entered into force for the U.S. and developed countries in 1996 and developing countries in 2000.[19] TRIPS obligations on copyright and enforcement are in full effect for developed and developing countries, meaning they are now subject to WTO dispute settlement. TRIPS obligations, both substantive and enforcement, are legally recognized as the minimum standards of IP protection and enforcement that must be afforded. Most developed and developing countries, and countries considered least-developed (LDCs) have amended their copyright legislation to meet the TRIPS standards. Some countries remain out of compliance with the substantive norms of TRIPS. An even larger group of countries do not yet comply, as such or as applied, with the TRIPS enforcement obligations.

The challenge remains to bring countries into compliance with the enforcement norms of TRIPS in practice. The enforcement obligations in TRIPS provide a comprehensive technology-neutral foundation for the development of civil, administrative, and criminal procedures and remedies necessary for effective enforcement against copyright piracy. Specific TRIPS obligations include critical enforcement tools like *ex parte* searches, injunctive relief, damages, effective border enforcement measures, and deterrent criminal penalties. In general terms, TRIPS requires an enforcement system that (1) permits effective action against infringements without regard to how those infringements are effected; (2) provides expeditious remedies which constitute a deterrent; (3) is fair and equitable; (4) is not unnecessarily complicated or costly; and (5) does not entail any unreasonable time limits or unwarranted delays. TRIPS requires member countries to apply their criminal laws in cases of piracy on a commercial scale; it is not enough merely to have laws on the books; those laws must be used effectively.

WTO dispute settlement cases involving copyright and related rights to date have demonstrated and developed important principles, both in terms of substantive protection and enforcement. For example, a case was brought very soon after TRIPS came into force challenging Japan's failure to protect sound recordings retroactively. Cases involving Sweden and Denmark were brought for failure to provide *ex parte* civil remedies, in violation of Article 50 of TRIPS, while cases against Ireland and Greece (the latter for television piracy) were brought for violations of Articles 41 and 61. These cases were all settled satisfactorily, as the governments adapted to provide protections in line with TRIPS. We also note a case brought against the United States regarding music licensing which provides important interpretations on the scope of permissible exceptions and limitations.

[19] The national treatment and most-favored-nation provisions of TRIPS applied as to all WTO members as of January 1, 1996 (and as to newly-acceding members upon accession).

The dominance of piracy and market access barriers in China led certain industries to conclude in 2007 that the best alternative to seek redress was through the WTO dispute settlement process. As a result, two WTO cases were launched, one focused on IPR inadequacies, and one focused on deficiencies in China's compliance with its WTO commitments on market access for published materials and audio and audiovisual entertainment products. In 2009, both cases concluded, with a WTO Dispute Settlement Panel rendering its decision in the IPR case in January 2009, and with the WTO Appellate Body rendering its decision in the market access case in December 2009. In both cases, the U.S. largely prevailed. In the IPR case (DS 362), the WTO Panel set out a comprehensive market-based test for what constitutes "piracy on a commercial scale" which must be subject to criminal penalties under TRIPS.[20] In the landmark market access case (DS 363), the United States prevailed on many claims against China's regime restricting the importation (trading rights) and distribution of publications, sound recordings, audiovisual home entertainment, and films for theatrical release. The government of China has implemented changes which address some of the WTO Appellate Body's requirements, and in February 2012, the United States and China concluded the historic U.S.-China Film Agreement, in which the Chinese agreed to: 1) permit 34 foreign films into China annually on a revenue-sharing basis (up from 20 films); 2) increase the percentage of revenue sharing to 25%; 3) open theatrical distribution to competition in the market; 4) introduce transparency to the administration of its content review process; and 5) observe commercial terms, consistent with the terms prevailing in comparable markets, in any contract for the distribution of "films other than revenue sharing films." China must still be held to account for its discriminatory censorship review process with respect to online music, and effectively address unauthorized copying and distribution of publishers' content.

***Implementation of the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty***

The WCT and WPPT, in force since 2002, provide a basic legal framework for the protection of online copyright. The WCT now has 90 adherents, while the WPPT now has 91 adherents. Effective implementation of the global legal minimum standards embodied in the WCT and WPPT is critical to U.S. creators in the fight against online piracy, and is a key element of the "adequate and effective" copyright protection that is demanded under U.S. trade programs. These standards include clarifying exclusive rights for the online world, including protection of temporary copies, providing an interactive communication to the public and "making available" right, requiring Parties to "ensure that enforcement procedures are available under their law so as to permit effective action against any act of infringement of rights covered by this Treaty, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements," and prohibiting through civil and criminal remedies the production of or trafficking in tools that circumvent technological protection measures used by right holders to prevent access to content or the exercise of exclusive rights. A number of key trading partners, including New Zealand and Israel among developed countries, and Thailand among developing countries, have not yet either ratified or fully implemented these treaties. The United States, which was one of the first countries to implement these changes in its laws more than a decade ago, should continue to make it a trade policy priority to encourage other countries to follow this path.[21]

As noted, one of the key aspects of WCT and WPPT implementation involves adequate and effective protection against any act of infringement that takes place over information networks, as well as against the circumvention of TPMs. In order for protection against circumvention to be "adequate and effective," as required by the WIPO treaties, countries must address acts of circumvention, trafficking in circumvention devices, tools, and technologies, and the provision of circumvention services (such as the installing of "mod chips" into game consoles). Countries must also ensure that both TPMs that control access to content as well as TPMs that prevent the unauthorized copying or other exercise of exclusive rights are covered. Exceptions to protection in this area must be narrowly tailored to ensure that prohibitions on circumvention are not rendered ineffective. Civil and criminal (and where available, administrative) remedies should be provided.

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[20] China must be fully subjected to this market-based test, which we believe continues to require China to examine and lower its current thresholds for criminal liability, in order to criminalize all "copyright piracy on a commercial scale" as required by TRIPS Article 61.

[21] The United States implemented the WCT and WPPT by enacting Title I of the Digital Millennium Copyright Act of 1998, Pub. L. No. 105-304, 112 Stat. 2860 (1998). The United States deposited instruments of accession for both treaties on September 14, 1999.

The importance of proper implementation of the WCT and WPPT for a country's economy and culture cannot be overstated, since it promotes healthy electronic commerce, which can help overcome existing barriers to access to scientific, medical and technical data, educational materials, and technical and productivity software. Trade in these vital resources, needed for prosperity and competitive advantage in the Information Age, will be much cheaper, more efficient, and easier in a digital networked marketplace. Electronic commerce can also help attract higher and more consistent levels of foreign direct investment in high technology and information-intensive businesses, and can help build stronger economic, social, and cultural links in the region, without regard to geographic proximity. Finally, healthy and legitimate electronic commerce can provide an enormous boost to a country's cultural and creative industries. Through digital networks, properly protected, a country's music, art, literature, and folklore can reach new markets and can be delivered directly to paying customers around the globe. For these gains to be realized, countries must do a much better job at rooting out the unfair competition created by the operation of services that operate as distribution hubs for infringing materials.

***Negotiation of IPR Provisions, and Market Opening, in Trade Agreements***

The negotiation of multilateral trade agreements such as the WTO TRIPS Agreement, as well as regional and bilateral free trade agreements (FTAs) or Trade Promotion Agreements (TPAs) over more than two decades, has proven to be of great value to the U.S. economy. These agreements have in common the introduction and implementation of enforceable obligations for our trading partners to modernize their copyright law regimes and improve enforcement procedures. The agreements have also helped U.S. copyright industries to obtain greater access to foreign markets, so they can compete fairly around the world. They form a critical part of U.S. trade policy in helping U.S. copyright industries compete fairly in foreign markets, and help our trading partners develop their domestic copyright industries, a true win-win for all parties. In addition to TRIPS implementation, which has been completed in virtually all countries/territories that are members of the WTO, FTAs with 20 countries have now entered into force, including the U.S.-Korea FTA (KORUS), the U.S.-Colombia TPA, and the U.S.-Panama FTA in 2012. Regrettably, we continue to confront non-compliance with FTA obligations among many of our trading partners, and USTR needs additional resources so that it can effectively address these critical issues.

The pending negotiations for a Trans-Pacific Partnership (TPP) Agreement presents a significant opportunity to expand the benefits of existing FTAs to a broader range of "trans-Pacific" markets. Japan officially joined the TPP negotiations during the 18th round in Kota Kinabalu, Malaysia in July 2013, bringing the total number of countries negotiating the agreement to twelve.[22] IIPA members believe that the TPP IP text should use the KORUS text as a baseline. Enhancement of copyright standards and enforcement consistent and co-extensive with those agreed to by current FTA partners will contribute to U.S. job growth, increased exports, and economic recovery in line with the Administration's goals.

Two weeks ago, negotiations commenced between the United States and the European Union toward a Transatlantic Trade and Investment Partnership Agreement (TTIP). There is already a great deal of commonality and broad agreement (expressed by the High Level Working Group) that "both the EU and the U.S. are committed to maintaining and promoting a high level of intellectual property protection, including enforcement." Thus, any TTIP IP text will by necessity look quite different with respect to copyright than the corresponding chapters of other trade agreements. The copyright commitments of the TTIP should focus on a few critical areas where such an agreement can be effective in advancing important shared goals, including: 1) setting out ways and means for the U.S. and the EU to expand cooperation to advance the shared goal of promoting innovation and trade through strong protection for intellectual property, including more effectively communicating and explaining how copyright protection fosters creativity, enriches society, and protects internationally recognized human rights; 2) providing new mechanisms for coordinating, cooperating, and sharing enforcement expertise in order to help make critical third country markets more hospitable to the production, distribution and licensing of creative works; and 3) identifying key issues on which the U.S. and EU could benefit from sharing information, crafting best practices, and learning from each other regarding our respective implementation of existing international copyright and enforcement norms.

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[22]TPP negotiating countries now include Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. TPP countries now comprise 793 million people with a combined GDP of US$27.5 trillion, one-third of all global trade.

We note here that the renewal of Trade Promotion Authority (TPA) "fast track" negotiating authority would be helpful in allowing the Administration to conclude existing negotiations and commence new FTAs with key trading partners.

***Implementation of In-Force Trade Agreements***

IIPA takes notice of the following countries for issues related to their bilateral, regional, or multilateral obligations in the area of intellectual property rights.

- **Chile:** The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004. Unfortunately, major elements of Chile's FTA compliance still remain outstanding, including several that would improve the fight against widespread piracy in the country. Chile is urged to revisit amendments to the copyright law to fully satisfy obligations with respect to: effective ISP liability provisions; deterrent-level civil and criminal sanctions for copyright infringement; an effective civil ex parte search remedy; and the establishment of statutory damages. Chile must also implement protections against the circumvention of technological protection measures. Finally, Chile has yet to fully implement its 2001 Government Software Legalization Decree. Chile's role as an initial participant in the TPP negotiations makes these unmet obligations all the more urgent if the country is to demonstrate a basic commitment to promote the creative sectors among all TPP participating economies, through a strong copyright protection and enforcement regime.

- **Costa Rica:** The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) entered into force for Costa Rica on January 1, 2009. Contrary to the spirit of Costa Rica's commitments regarding the protection and enforcement of U.S. copyright works under that agreement, Costa Rica's President has issued decrees that foreclose important sources of revenue to the recorded music industry. Costa Rica also has not met its obligations to adopt strong ISP liability provisions or to implement in practice the software asset management practices in government agencies called for in a relevant 2002 Decree. IIPA urges the U.S. government to continue in its efforts to bring these concerns to resolution.

- **Colombia:** On May 15, 2012, the United States-Colombia TPA went into force. This agreement contains a comprehensive chapter on intellectual property rights that will raise the level of copyright law and enforcement obligations in Colombia to the benefit of both Colombian and U.S. creators. Colombia has thus far failed to adopt the necessary copyright amendments to its law to achieve compliance with its FTA obligations, and should be encouraged to take effective and immediate steps to implement its TPA obligations and to increase the focus of law enforcement officials on needed anti-piracy actions on the streets of Colombia and online.

- **Korea:** IIPA members were strong supporters of the KORUS FTA due to the strong commitments made in the IP chapter on which industry believes the U.S. government can further build in the TPP and other new, 21st century trade agreements. One important aspect of the IP chapter was the commitment Korea made to ensure that its central government agencies would utilize legitimate software. However, software industry representatives have raised concerns about significant under-licensing of software by certain ministries, and the Korean government has to date not taken sufficient action in response to these concerns. For example, auditing appears not to follow best practices in many circumstances and to be nonexistent in others. Korea also fails to provide adequate funding for at least some Korean agencies to purchase the software they actually use. U.S. industry has tried to work with individual ministries, such as Korea's Ministry of Defense, to address problems of substantial under-licensing, but so far without success, despite Korea's FTA obligations and the value of eliminating piracy to advance public security. IIPA urges the U.S. government to work to ensure that trade agreement obligations related to government software legalization are further strengthened in the TPP and other future trade agreements, to give industry enhanced protection and recourse to deal with shortfalls in meeting these obligations.

- **Peru:** The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2008. Peru was afforded transition periods to come into compliance with some provisions of the PTPA, but those transition periods have expired as to Peru's outstanding obligation to provide statutory damages (which expired September 1, 2009, per TPA Article 16.11.8) and obligations related to service provider liability (which expired February 1, 2009, per TPA Article 16.11.29). Meanwhile, Peru now has the worst problem of unauthorized camcording of

U.S. motion pictures in all of Latin America. IIPA appreciates the cooperation of the Peruvian government in trying to address the camcording problem, and has called upon the Peruvian government to work to effectuate changes to fully implement its PTPA obligations. The U.S. government has to date been very supportive of efforts to seek full implementation of the PTPA and this should remain an important part of the U.S. trade policy agenda.

- **Singapore:** While the copyright law and enforcement provisions of Singapore's FTA with the United States, which came into force in 2005, have been largely successful, several significant shortfalls remain. Online piracy continues to threaten Singapore's market for copyright works, especially music, movies, and television programs. The government has thus far refused to bring public prosecutions of online music pirates[23] or to bring Internet service providers into a cooperative stance with right holders to combat online piracy. Both these shortfalls, in addition to some others (e.g., Singapore law still makes no provision for agents or authorized representatives acting on behalf of copyright owners to apply for pre-trial discovery in order to identify online copyright infringers) raise FTA compliance issues. Singapore should also join the global trend and outlaw camcording in its cinemas, before a festering problem becomes more serious, and should consider upgrading to deterrent levels its criminal penalties for trafficking in circumvention devices and services. We urge the U.S. government to continue engaging with its counterparts in Singapore to ensure that compliance with the FTA remains an important part of the U.S. trade policy agenda.

- **Antigua and Barbuda:** In January 2013, the government of Antigua and Barbuda informed the World Trade Organization (WTO) of its intention to cross-retaliate against U.S. intellectual property rights worth $21 million a year as a remedy in an unrelated trade dispute. IIPA remains of the firm view that suspending intellectual property rights is not the right solution, and that state-sanctioned theft is an affront to any society. Should the government of Antigua and Barbuda determine to move forward in this manner, it would be in violation of its obligations under international instruments not administered by the WTO (e.g., the Berne Convention), and would – by definition – fail to provide adequate and effective IPR protection as required under U.S. trade laws governing unilaterally-granted trade benefits such as CBI. In the event that Antigua and Barbuda proceeds in this manner, we believe that the U.S. should take appropriate, immediate, and robust action to uphold U.S. trade laws.

- **Brazil:** In 2010, the United States and Brazil averted the imposition of countermeasures of more than $800 million, including the possibility of cross-retaliation in the area of intellectual property, in a trade dispute at the WTO involving U.S. agricultural support payments and guarantees found to be inconsistent with WTO agreements. IIPA understands that since that time, the affected industries in the dispute have been working toward a mutually agreeable solution. We hope for this agreeable outcome, as suspending intellectual property rights would not be the right solution. Not only is state-sanctioned theft an affront to any society, but should the government of Brazil suspend intellectual property rights, it would be in violation of its obligations under international instruments not administered by the WTO (e.g., the Berne Convention), and would, by definition, fail to provide adequate and effective protection for intellectual property as required by U.S. trade law.

## Market Access Barriers

The Administration states as two of its key trade policy agenda goals 1) leveling the playing field to allow U.S. interests to compete and win in the global economy, and 2) opening markets around the world so that we can expand our exports. The U.S. copyright industries suffer from myriad market access barriers, investment barriers, and discriminatory treatment that, if addressed, would satisfy these goals. Such barriers and discriminatory treatment make it difficult for creators to compete in foreign markets on a level playing field. All efforts to crack down on piracy will be unavailing if legitimate products and services cannot be brought into a market to meet consumer demand. Thus, the reduction of market access impediments is a key component of ongoing efforts to combat piracy. Stifling market access barriers hinder the U.S. creative industries' growth in China, Vietnam, Indonesia, Ukraine, India, and elsewhere. Among other forms, market access barriers include:

[23] Article 16.9.21.b of the FTA provides that "Each Party shall ensure that non-private criminal actions are the primary means by which it ensures the effective enforcement of its criminal law against willful copyright or related rights piracy. In addition, each Party shall ensure that its competent authorities bring criminal actions, as necessary, to act as a deterrent to further infringements."

- ownership and investment restrictions on copyright-related businesses;
- discriminatory or onerous content review/censorship systems;[24]
- discriminatory restrictions including on the ability to fully engage in the development, creation, production, distribution, promotion, and publication of copyright materials;
- the maintenance of quotas including screen time and broadcast quotas or complete bans on broadcast of foreign programming or advertising;
- periods during which governments prevent U.S. producers from opening their films, or onerous restrictions on the window for theatrical distribution (including booking competing motion pictures simultaneously or unfairly shortening the run of a theatrical motion picture);
- local print requirements;
- onerous import duties or the improper assessment of duties on an *ad valorem* basis;[25] and
- government procurement preferences for domestic products or those with locally-owned or locally-developed IP.[26]

Whatever form they take, whenever such market access restrictions impede the entry of legitimate products, they make it easier for pirate operations to fill the void, become de facto "exclusive" distributors of the products, and cement strong loyalties with their consumer base that make them even harder to dislodge. U.S. officials should continue to strive to open markets and to eliminate or phase out market access barriers as a critical component of its trade policy agenda.

## Concluding Remarks

The health and competitiveness of the U.S. economy depends on a thriving copyright sector that creates jobs and exports. It is essential to the continued growth and future competitiveness of these industries that our trading partners provide modern and effective levels of protection for copyright and freer, more open markets. To meet the constantly evolving threats to copyright worldwide, our country should remain committed to a flexible and innovative response to this threat, and this should be reflected in the Administration's trade policy agenda. We greatly appreciate your Committee's focus on this important part of U.S. policy, and appreciate USTR's and the Administration's continued use of all tools available to encourage countries to make the political commitments, followed by the necessary actions, to bring real commercial gains to the United States through strengthened copyright and enforcement regimes worldwide. We look forward to our continued work with your Committee, USTR, and other U.S. agencies on meeting these important trade policy goals.

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[24] In China, for example, music and entertainment software companies continue to face lengthy delays in the censorship approval process, wiping out the very short viable window for legitimate distribution of their music and videogame products. Further, while piracy enters freely in these markets, countries like China and Vietnam impose content review processes which clear the way for further piracy and, adding insult to injury, are discriminatory to foreign content, further skewing the playing field.

[25] *Ad valorem* duties are based on potential royalties generated from a film rather than the accepted practice of basing duties on the value of the carrier medium (i.e., the physical materials which are being imported). This is a growing, dangerous, and very costly phenomenon to the film industry. The International Chamber of Commerce recognized in a policy statement, *The Impact of Customs Duties on Trade in Intellectual Property and Services,* that such a practice distorts markets, increases costs for suppliers and buyers, depresses commercial activity, and impedes the availability of intellectual property in the country imposing the tariffs.

[26] As an example, over the past several years, China has been rolling out a series of policies aimed at promoting "indigenous innovation." The apparent goal of many of these policies is to develop national champions by discriminating against foreign companies and compelling transfers of technology. These include policies providing government procurement preferences for goods or services with locally-owned or locally-developed IP. The Chinese government has made a series of commitments in bilateral negotiations with the United States, including at the U.S.-China Joint Commission on Commerce and Trade (JCCT) and the U.S.-China Strategic and Economic Dialogue (S&ED), to eliminate such policies that link government procurement to where IP is owned and developed.

**Michelle Egan, American University**

Statement for Record for Hearing

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**Hearing: Chairman Camp Announces Hearing on President Obama's Trade Policy Agenda with U.S. Trade Representative Michael Froman**
*1100 Longworth House Office Building at 9:00 AM* Jul 18, 2013

**Statement: Michelle Egan, Professor, School of International Service, American University**

There has been a significant surge of media and policy attention on both sides of the Atlantic on the recently approved mandate for negotiations on the US and EU Trade Agreement and Investment Partnership (TTIP). At the same time as negotiations started in Washington DC, between the US and EU in July 2013, the TPP negotiations were continuing in Malaysia, and the Canadian-EU Comprehensive Trade Agreement, along with a host of other FTAs continue to move forward at different speeds. Though the continuing centrality of the transatlantic economic relationship is often cited and noted in terms of trade in goods and investment, with various reports estimating the potential gains in terms of jobs and growth, and commissioned reports estimating gains of 0.4 % GDP for US and 0.5 % for EU by 2027, there have also been some concerns about the trade diversion effects on neighboring states. The TTIP negotiations have generated anxiety in the world's 11th, 14th,' and 17th largest economies respectively, Canada, Mexico, and Turkey, and have led to accession of Mexico and Canada to TPP. The average annual growth has been 2.5 percent in Canada, 4.4 percent in Mexico, and 6.3 percent in Turkey, and all three have focused on regulatory alignment with their neighbor, as part of the accession negotiations and customs union in Turkey, and regulatory initiatives and border security measures through NAFTA. Some in Canada and Mexico have advocated bridging the TTIP negotiations with the EU into a broader NAFTA-EU agreement. This will be difficult as NAFTA is not a customs union with a common external tariff, the EU has spent four years negotiating with Canada for a Comprehensive Economic Agreement (CETA) that has not yet been concluded, and the FTA agreement between Mexico and the EU stemming from 2000 needs updating, as it was written at a time of NAFTA parity, and concerns about trade diversion. Bertelsmann Foundation in a commissioned study, found that these three states have the most to lose from a comprehensive TTIP, with potential long term losses of 9.5 percent for Canada, 7.2 percent for Mexico, and 2.5 percent for Turkey.

What we are seeing is a new trend in FTAs: major states are going to the negotiating table to deal with a broad range of issues that cover both horizontal issues and sectoral concerns. If we break these down: TPP 12 (38%), RCEP (30%), Japan – EU FTA (34%), US-EU FTA (46%) – share of world GDP –

Preferential negotiations are emerging among industrialized nations. This agenda is more complicated and controversial as the areas for consideration focus on non-tariff measures and regulatory barriers -so called behind the border issues- that have substantial impact on domestic rule-making and administrative authority. Can these trans-regional trade agreements become a vehicle to achieve a deep integration agenda ? Given the limited progress at Doha can these new efforts yield substantial gains, update rules on trade, investment and services, and foster a new dynamic for effective global governance ?

Despite the attention given to TTIP, it is a departure from Obama's longstanding trade agenda. The announcement comes on the heels of the North and Central American Free Trade Agreements (NAFTA and CAFTA, respectively) with Mexico and the small Central American countries, as well as continuing negotiations over a Trans-Pacific Partnership (TPP). The US has signaled its interest in these regional arrangements as the World Trade Organization (WTO) Doha round on global trade liberalization has all but stalemated. Recent steps by other countries, including China, Singapore, and South Korea, to move forward with regional and bilateral trade agreements places even more pressure on the US and Europe to follow suit. The US is pushing for market access in services to be as substantial as that in goods, and promoting significant trade and investment rules in the TPP and TTIP. US agricultural groups are also pushing the administration on ensuring dispute settlement measures in TPP to address potential problems in the sanitary and phytosanitary (SPS) area which is likely to reoccur in any subsequent US EU FTA. That said, the differing perspectives over financial services highlights the internal divisions in US, with Treasury more hesitant to include financial services regulations in any trade agreement. While both sides work within the existing U.S.-EU Financial Markets Regulatory Dialogue, industry feels that this has amounted to no more than a dialogue, and are frustrated by the reluctance to push for greater regulatory cooperation or mutual recognition, which has some backing among specific members of Congress. The Transatlantic Legislators' Dialogue between the European Parliament and the House of Representatives endorsed a joint statement that argues that TTIP should include financial services regulations.

While TPP has just completed its nineteenth negotiations in Malaysia with concerns about slow pace of discussions, the TTIP has just begun its first round in DC. However, much groundwork has been undertaken in the latter negotiations, and the bilateral transatlantic trade relationship during the Obama administration, has been remarkably peaceful and constructive. The global financial crisis, contrary to expectations, did not prompt increased conflict between the two sides. There were no new major trade disputes or escalations of existing ones, and progress was made on resolving a number long-standing disputes. Low-key cooperation on trade facilitation continued prior to proposed FTA, dialogue on regulatory cooperation has evolved, and negotiations on container security and other issues have made significant progress.

In all of these discussions about the vaunted TTIP deal, and the ongoing TPP negotiations, few pay attention to the North American market. More than $1bn worth of goods cross it every day. Bilateral US-Mexico trade topped $500bn, about the same as total US-European trade, and there are close-knit supply chains, making the inclusion of Mexico and Canada in the TTIP, as a strategy to match that of TPP, one that is being strongly advocated by both neighbors.

The hearing has brought together the numerous trade efforts of the current administration that illustrate the variety of forums in which trade, regulation and investment are being negotiated. There are criticisms that the various agreements go against the spirit of multilateralism. Yet Asian integration has been based on regionalism through the growth and development of global

supply chains and production network that has created levels of economic interdependence through intra-regional trade. Part of this increase is due to supply chains where services, including transport, communications and other business services are key components in the operation of supply chains (ADB-JETRO). There are concerns about the growth of FTAs, the consolidation of regional trade agreements into lowest common denominator, the impact on developing economies, and the difficulties of implementation and compliance given regulatory heterogeneity.

But one notable feature of the growth of such FTAs is their focus: they focus primarily on NTB such as standards, technical regulations, in standards, the certification and testing procedures, in services regulations, and in prudential rules in financial services.

**For the US**

• There is potential for US trade facilitation, market access, and regulatory cooperation given that the US Administration is engaged in bilateral, plurilateral, and regional agreements simultaneously (Trade in International Services Agreement, TPP, TTIP, BITs). There could be synergy between agreements if carefully managed through using successful negotiations being used as a template for other agreements.

• The effort to create common principles on issues such as state owned enterprises, subsidies, domestic ownership requirements, and intellectual property protection measures can yield substantial gains.

• Real benefits for business and consumers would accrue from promoting regulatory cooperation with early consultations on significant regulations, impact assessment, upstream regulatory cooperation, and good regulatory practices if there is genuine equivalence and similar shared regulatory objectives and outcomes.

• Avoid certain terms that evoke contention on both sides: precautionary principle and mutual recognition have generally been viewed in negative terms and such debates have yielded limited results.

• There is much to be recognized from other regulatory dialogues and achievements that collectively highlight a more positive set of outcomes: eg. US-EU wine agreement, insurance dialogue, container security agreement. Recognition that these initiatives can be transferred across different contexts to avoid duplication.

• There needs to be recognition that some of same issues that have involved NAFTA partners are also on the agenda with the EU. Both would benefit from regulatory harmonization. Yet the United States and its neighbors reverted to old habits of bilateral, ad hoc negotiations.

• A Business Coalition for Transatlantic Trade has been recently established to bolster support for pursuing TTIP negotiations, although there are also some groups mobilizing to ensure their views are heard as well. The issue of transparency has been raised in TPP negotiations, by various groups, so this is something that needs to be considered to ensure wide public support. Notable concerns and mobilization in Japan about TPP suggest that this is a broader issue of public engagement and policymakers in the US will have to engage with labor, environmental, consumer and other groups, and to engage public opinion to avoid dysfunctional trade politics.

**For the EU**

• The TTIP negotiations have generated widespread attention in Europe. The stakes are high for both sides as they have made strong political commitment. However, there needs to be more attention give to the efforts in Europe to complete the single market through the various proposed levers of growth through the Single Market Act. This will have an important impact on the TTIP negotiations through fostering specific reforms.

• The trade negotiations will be impacted by the Lisbon Treaty and the role of the European Parliament which is subject to elections in the coming year. As a result, foreign direct investment (FDI) and some sensitive services sectors, including education and healthcare, were brought under EU competence, making EU authority for trade policy "comprehensive" and EP now plays a role in trade policy- The EP is thought to be more likely to assert its preferences with respect to bilateral agreements The recent NSA issue should not be underestimated in the European Parliament given the prior role in Passenger Name Recognition, ACTA and other transatlantic issues that have been amended or challenged by the European Parliament.

• The issue of cultural exceptions needs to be downplayed in the TTIP negotiations. Though this was a major concession to specific European states, this was not a priority of Motion Picture industry who are much more concerned about coordination on copyright, piracy and intellectual property issues. It will be important to not let this issue cloud progress in other areas.

• The EU is currently pursuing bilateral negotiations with Canada, Singapore, Japan and India, establishing long-term, closer ties with important trading partners, and hence have similar issues under consideration in various bilateral negotiations. They are often viewed in isolation when many issues (eg public procurement are part of discussions in each separate negotiation).

• There are more than 1000 BITS negotiated by member states. The new Lisbon Treaty and subsequent negotiations between the EP, Commission and Council have left to some important changes in future BIT agreements but leave those already concluded grandfathered in and hence not subject to challenge in the European Court.

**For Japan**

• Entrance in FTAs shifts Japan from passive to active player in trade politics and is being used in much the same manner as the Korean negotiations with US and EU to leverage domestic structural reform (Abenomics).

• These major FTAs cover more of Japanese trade that past trade negotiations, although there is a need to ensure that the agreements focus on NTB rather than the preferred Japanese goals of tariffs, to yield substantive gains.

• For the United States, Japan's TPP membership dramatically increases the economic significance of this agreement, and the fact that US and Japan have indicated that there are sensitive sectors, that all goods subject to negotiation, but full tariff elimination is not precondition for TPP worth watching as this suggests different kind of trade ambitions emerging than in TTIP where tariff reduction is one element but has garnered less attention than regulatory issues.

**For Canada**

There are concerns are that the recent start of TTIP will sideline the EU-Canada negotiations which have now been going on for four years. Though close to completion, there seems to be limited effort to bring together all the different FTA negotiations to reduce transaction costs.

Both the neighboring countries in &US, Canada and Mexico, would benefit from regulatory harmonization. Yet the United States and its neighbors have reverted to old habits of bilateral, ad hoc negotiations. The case for a North American market has lapsed, despite some advantages that would accrue from negotiating a common external tariff and eliminating restrictions on transportation and services.

Assessment

Most of the assessment so far have been positive with many pundits citing the trade benefits and gains from commissioned studies by German Marshall Fund, ECIPE, ECORYS and Chamber of Commerce among others.

Among the concerns are:

a. TTIP reinforces the shift away from multilateral trade policy in recent years. For some in Europe, the negotiations reflect a power asymmetry between US and EU, and that in such a transatlantic market the US will be dominant due to regulatory heterogeneity and internal division within the EU. This understates the importance of TTIP in Europe where austerity and lack of stimulus had led European leaders and business to strongly hope that such a deal will yield dividends. It also

b. the language of containment is problematic. FTAs are open to extension and the goal of marginalizing China in TPP, creating an economic "NATO" is counterproductive, given that China is negotiating in other regional forums (RCEP) with other Asia-Pacific countries.

c. If TPP fails to deliver major liberalization as the traditional pattern of shielding sensitive sectors continues and a much diluted trade agreement emerges, there are other trade initiative in Asia.

d. The US and the EU may agree on core issues such as zero tariffs, and liberalization of services and investment in principle, but these negotiations will be - based on prior experience - a hard slog.

However, there is a sustained commitment to common procedural norms and principles (eg e.g. early notice of planned regulatory initiatives and transparency, horizontal coordination as well as sectoral coordination, regulatory upstream cooperation. Both of them have Regulatory Impact Assessment (RIA) that tend to look at domestic competitiveness concerns. Changes in RIA in Europe through the creation of RIA Board as well as Executive Orders in US to consider the international impact of domestic regulations, are critical. The *Review of the Application of EU and US Regulatory Impact Assessment Guidelines on the Analysis of Impacts on International Trade and Investment and other documents need to be a central component in negotiations.*

The European Commission's Impact Assessment Guidelines and the US Office of Management and Budget's Circular A-4, Regulatory Analysis contains relatively clear instructions on the matter- executive and statutory - obligations to take international trade impacts into account when developing regulatory proposals. This is essential for new technologies, upstream regulations, and when evaluating existing regulatory practices.

e. Creation of a Transatlantic TRIS system: TRIS stands for a Technical Regulations Information System where national regulations and standards are notified to EU. An improved bilateral mechanism for comments and replies in the context of the WTO TBT Agreement would provide for enhanced transparency and would allow for a dialogue between regulators with regard to the notified draft measure.

f. A twinning or partnership system where regulators would spend time in their respective counterparts system so that there could be exchange of information, discussion of best practices and policy learning.

g. The EU has also identified measures it wants to promote in any negotiations, most notably the liberalization of American government procurement contracts, especially since the US has put public infrastructure spending at the centre of its economic stimulus packages. Many of these provisions are state and local. There will need to be stronger focused discussions with Governors

as agricultural standards, public procurement, insurance and other regulations are often local or state measures.

h. One of the more important issues is financial services with sharply divergent views between the US and EU masking internal differences in the EU. Of major concern to the EU is prudential regulation. Though the US and EU have agreed to temporary arrangements on derivative trading rules, the prospect of piecemeal negotiations, temporary exemptions, and substitute compliance should not be underestimated as tools to manage negotiations.

i. The Obama administration has made it a priority to complete the Trans-Pacific Partnership (TPP) with Asia and the Transatlantic Trade and Investment Partnership TTIP with the EU. However, a number of the economies in TTIP are emerging economies and the export markets are much less significant than that of its neighboring states so the US should consider the impact on Canada and Mexico and the importance of this regional supply chain in terms of exports, energy, labor, and regulatory cooperation.

j. TTIP talks will not revolve around traditional areas of negotiation, such as tariff reduction and market access as much as issues of regulatory dialogue, substitution, and exchange through best practice, information sharing, coordination of upstream regulatory measures, impact assessment and alternative dispute resolution mechanisms. These may not have immediate pay-off but will have a much longer term effect given investment patterns, global supply chains, and the salience of regulatory issues in trade disputes and negotiations.

k. There needs to be some parallel movement in terms of the North American market. A CET and current "rules of origin" requirements mandate that goods must contain a certain level of North American content to qualify for NAFTA tariff preferences, which slows commerce (Pastor, 2013). Given Mexican and Canadian engagement in TPP, and their interest in TTIP, this is an opportunity to review NAFTA and consider some of the elements of the EU Single Market and Single Market Act (eg cabotage restrictions, occupation and professional licensing, professional card, trans-European networks, among other issues).

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**Statement of the ACM U.S. Public Policy Council**
**to the**
**House Ways and Means Committee**

**Hearing on President Obama's Trade Policy Agenda with U.S. Trade Representative Michael Froman**
on July 18, 2013

The ACM U.S. Public Policy Council appreciates the opportunity to provide written comments as part of the record for the hearing on President Obama's Trade Policy Agenda with U.S. Trade Representative Michael Froman.

The Association for Computing Machinery (ACM) is the world's largest non-partisan, nonprofit association of computer and technology professionals. ACM's more than 100,000 members come from industry, academia, and government institutions. Expert members within the ACM U.S. Public Policy Council developed these comments.

The ACM U.S. Public Policy Council encourages the U.S. negotiators of proposed trade agreements, such as the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership, to consider the following three principles when negotiating provisions relevant to intellectual property protection and enforcement.

**Balance Intellectual Property Protection with Relevant Private and Public Interests**

Adequate protection of intellectual property requires carefully balancing various interests. The ACM U.S. Public Policy Council is committed to ensuring that intellectual property rights are protected. How those rights are enforced can have unintended negative consequences, including blocking legitimate uses of intellectual property. Policymakers must ensure that fair uses of intellectual property are preserved. Fair use rights ensure that researchers, students, people with disabilities, and others can effectively exchange knowledge and information for legitimate purposes.

**Promote Innovation and Competitiveness**

Whether it is within computing fields and industry or across society broadly, computing technology is driving innovation. New developments in computing have created new jobs, products, and services, and have spurred the increased speed, scope, and scale of innovation. Advances in computing have facilitated the collection, organization, and analysis of information in many different fields of research and development. Public policy should foster and encourage a wide variety of technological advancements, approaches, and systems to emerge within a competitive marketplace. The ACM U.S. Public Policy Council encourages policymakers to adopt policies that narrowly address specific user behaviors, rather than broadly prohibiting technologies because of their potential for undesirable use.

**Preserve Data Privacy of Individuals**

As society embraces new technologies and increases interaction with the data and systems these technologies entail, the issues of security and privacy in computing become increasingly paramount. Striking a balance between individual privacy rights and valid government and commercial needs is a complex challenge facing technologists and policymakers, but one of vital importance. Computing techniques are available today that can meet many private sector and government needs, while fully embracing the data privacy principles of minimization, consent, openness, access, accuracy, security, and accountability.

**Conclusion**

The ACM U.S. Public Policy Council urges the U.S. government to negotiate intellectual property provisions in trade agreements that uphold relevant domestic laws and international law while concurrently fostering innovation of software and digital computing, preserving the rights of users of these technologies, and minimizing barriers that could impede the economic potential of digital trade, e-commerce, and internet-based services. We urge the U.S. government to foster opportunities for stakeholder engagement and to make available the draft text of proposed trade agreements for public input.