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Directorate-General for External Policies
Transatlantic Relations Unit

DELEGATION FOR RELATIONS WITH THE UNITED STATES STRASBOURG

11 March 2010

Current Congressional and Administration Action¹

As of 8 March 2010

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Article 2.17: Enforcement procedures in the digital environment

1. Each Party shall ensure that enforcement procedures, to the extent set forth in the civil and criminal enforcement sections of this Agreement, are available under its law so as to permit effective action against an act of, trademark, copyright or related rights infringement which takes place by means of the Internet, including expeditious remedies to prevent infringement and remedies which constitute a deterrent to further infringement.
2. Without prejudice to the rights, limitations, exceptions or defenses to copyright or related rights infringement available under its law, including with respect to the issue of exhaustion of rights, each Party confirms that civil remedies, as well as limitations, exceptions, or defenses with respect to the application of such remedies, are available in its legal system in cases of third party liability¹ for copyright and related rights infringement.²
3. Each Party recognize that some persons³ use the services of third parties, including online service providers,⁴ for engaging in copyright or related rights infringement. Each Party also recognizes that legal uncertainty with respect to application of intellectual property rights, limitations, exceptions, and defenses in the digital environment may present barriers to the economic growth of, and opportunities in, electronic commerce. Accordingly, in order to facilitate the continued development of an industry engaged in providing information services online while also ensuring that measures take adequate and effective action against copyright or related rights infringement are available and reasonable, each Party shall:
 - (a) provide limitations⁵ on the scope of civil remedies available against an online service provider for infringing activities that occur by:
 - (I) automatic technical processes and
 - (II) the actions of the provider's users that are not directed or initiated by that provider when the provider does not select the material, and
 - (III) the provider referring or linking users to an online locationwhen, in cases of subparagraphs (II) and (III), the provider does not have actual knowledge of the infringement and is not aware of the facts or circumstances from which infringing activity is apparent; and
 - (b) condition the application of the provisions of subparagraph (a) on meeting the following requirements:
 - (I) an online service provider adopting and reasonably implementing a

¹ For greater certainty, the Parties understand that third party liability means liability for any person who authorizes for a direct financial benefit, induces through or by conduct directed to promoting infringement, or knowingly and materially aids, any act of copyright or related rights infringement by another. Further, the parties also understand that the application of third party liability may include consideration of exceptions or limitations to exclusive rights that are confined to certain special cases that do not conflict with a normal exploitation of the work, performance or phonogram, and do not unreasonably prejudice the legitimate interests of the right holder, including fair use, fair dealing, or their equivalents.

² *Negotiator's Note:* This provision is intended to be moved and located in the civil enforcement section.

³ For purposes of this Article, **person** means a natural person or an enterprise.

⁴ For purposes of this Article, **online service provider** and **provider** mean a provider of online services or network access, or the operators of facilities therefor, and includes an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification of the content of the material as sent or received.

⁵ For greater certainty, the Parties understand that the failure of an online service provider's conduct to qualify for a limitation of liability under its measures implementing this provision shall not bear adversely on the consideration of a defense of the service provider that the service provider's conduct is not infringing or any other defense.

policy⁶ to address the unauthorized storage or transmission of materials protected by copyright or related rights except that no Party may condition the limitations in subparagraph (a) on the online service provider's monitoring its services or affirmatively seeking facts indicating that infringing activity is occurring; and

(II) an online service provider expeditiously removing or disabling access to material or activity, upon receipt of legally sufficient notice of alleged infringement, and in the absence of a legally sufficient response from the relevant subscriber of the online service provider indicating that the notice was the result of a mistake or misidentification.

except that the provisions of (II) shall not be applied to the extent that the online service provider is acting solely as a conduit for transmissions through its system or network.

4. In implementing Article 11 of the *WIPO Copyright Treaty* and Article 18 of the *WIPO Performances and Phonograms Treaty* regarding adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers or producers of phonograms in connection with the exercise of their rights and that restrict unauthorized acts in respect of their works, performances, and phonograms, each Party shall provide civil remedies, as well as criminal penalties in appropriate cases of willful conduct that apply to:

(a) the unauthorized circumvention of an effective technological measure⁷ that controls access to a protected work, performance, or phonogram; and

(b) the manufacture, importation, or circulation of a technology, service, device, product, component, or part thereof, that is: marketed or primarily designed or produced for the purpose of circumventing an effective technological measure; or that has only a limited commercially significant purpose or use other than circumventing an effective technological measure.

5. Each Party shall provide that a violation of a measure implementing paragraph (4) is a separate civil or criminal offense, independent of any infringement of copyright or related rights.⁸ Further, each Party may adopt exceptions and limitations to measures implementing subparagraph (4) so long as they do not significantly impair the adequacy of legal protection of those measures or the effectiveness of legal remedies for violations of those measures.⁹

6. In implementing Article 12 of the *WIPO Copyright Treaty* and Article 19 of the *WIPO Performances and Phonograms Treaty* on providing adequate and effective legal remedies to protect rights management information, each Party shall provide for civil remedies, as well as criminal penalties in appropriate cases of willful conduct, that apply to any person performing any of the following acts knowing that it will induce, enable, facilitate, or conceal an infringement of any copyright or related right:

6 An example of such a policy is providing for the termination in appropriate circumstances of subscriptions and accounts in the service provider's system or network of repeat infringers.

7 For the purposes of this Article, **effective technological measure** means any technology, device, or component that, in the normal course of its operation, controls access to a protected work, performance, phonogram, or protects any copyright or any rights related to copyright.

8 The obligations in paragraphs (4) and (5) are without prejudice to the rights, limitations, exceptions, or defenses to copyright or related rights infringement. Further, in implementing paragraph (4), no Party may require that the design of, or the design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure, so long as the product does not otherwise violate any measures implementing paragraph (4).

9 *Negotiator's Note*: This provision is subject to broader government action/sovereign immunity provision elsewhere in the Agreement.

(a) to remove or alter any rights management information¹⁰ without authority; and
(b) to distribute, import for distribution, broadcast, communicate, or make available to the public, copies of the works, performances, or phonograms, knowing that rights management information has been removed or altered without authority.

7. Each Party may adopt appropriate limitations or exceptions to the requirements of subparagraphs (a) and (b) of paragraph (6).

¹⁰ For the purposes of this Article, **rights management information** means:

- (a) information that identifies a work, performance, or phonogram; the author of the work, the performer of the performance, or the producer of the phonogram; or the owner of any right in the work, performance, or phonogram;
- (b) information about the terms and conditions of the use of the work, performance, or phonogram; or
- (c) any numbers or codes that represent such information.

When any of these items is attached to a copy of the work, performance, or phonogram or appears in connection with the communication or making available of a work, performance, or phonogram to the public.

Leaked EU Document Reveals Major Differences On ACTA Provisions

Substantial differences remain among parties seeking to conclude an Anticounterfeiting Trade Agreement (ACTA) this year, including over what intellectual property rights it covers, according to a leaked European Union annotated draft of the ACTA civil enforcement and Internet sections.

The European Council document, numbered 6437/10 in the official document registry, was compiled on Feb. 12 for a member state briefing the following week and reflects the status of the negotiations after the last ACTA negotiating round. That round took place in Guadalajara, Mexico from Jan. 26 to 29.

According to the document, a key difference between the ACTA countries is whether all intellectual property rights should be covered by key portions of the agreement or if it is to be limited to copyrights and trademarks.

In the opening part of the civil enforcement section, it is clear that Singapore, Canada and New Zealand are keen to limit the civil remedies to copyrights and trademarks, while the U.S and the EU have proposed extending them to all IPR.

On civil penalties, the EU is pushing for different penalties than is the U.S., fighting to keep optional a U.S.-authored provision which would require ACTA parties to maintain a list of pre-established damages. In the U.S. these damages are quite large and a source representing U.S. rightsholders said it is important for the U.S. to get its way here and require parties to have statutory damages.

Canada and New Zealand, which the document reveals tend to be most keen on limiting the scope of the ACTA, call for a provision that would allow parties to “limit or exclude damages in certain special cases.”

In this civil enforcement section, the European Commission reveals that the ACTA is creating a new obligation that goes beyond the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) in requiring that judicial authorities must have the power to destroy material used to create or manufacture infringing goods.

“Destruction of materials and implements is a TRIPs + provision,” the European Commission comments in the document. “Important to set limits.”

The Commission identifies numerous areas where the EU has made a proposal and has “no flexibility” in agreeing to U.S. proposed ACTA language.

The document is littered with brackets and sources explained that this reflects the fact that each country is trying to avoid changing domestic laws. In particular, major differences exist between the U.S., the EU, Japan, New Zealand and Canada on key provisions.

“They have their work cut out for them. The goal of completing these negotiations in 2010 is very ambitious,” one pro-ACTA private-sector source said.

On privacy, the EU continues to differ from the U.S. on privacy matters, generally seeking greater protections. The annotated draft reflects the EU position that it is “important to limit the type of information that can be requested” by rights holders from service providers.

The U.S. has proposed that judicial authorities must have the power to order the infringer to provide any information the authorities want for the purpose of collecting evidence. The EU seeks to limit this to “information on the origin and distribution network of the infringing good and services,” according to the document.

On the other hand, the EU wants to make clear that injunctions can be issued in cases dealing with intermediaries that facilitate an infringement, according to the paper. This, sources said, relates directly to Internet companies.

While such injunctions are already available in the U.S., one informed source said that combined with the ACTA Internet section, it could signal that the EU is interested in going after search engines, according to a U.S. Internet industry source.

In the Internet enforcement section, differences remain over a crucial passage on secondary liability for online service providers. This section is controversial because Internet activists outside the United States worry that the ACTA will mandate that Internet users be denied Internet access on the basis of a few accusations that they are infringing copyrights. U.S. Internet firms fear the ACTA will mandate liability without mandating exceptions they enjoy in the U.S.

According to the new document, Japan and the EU are proposing rival provisions which would be weaker than U.S. law in terms of pressuring Internet firms into cracking down on infringing users, sources explained. The Japan and EU proposals would be less forceful in providing incentives for online service providers to remove infringers from their Internet networks.

The U.S. ACTA proposal would mandate that signatories set up secondary liability for providers for the infringing activities of individual network users.

The U.S. has proposed specifying that exceptions exist for “fair use, fair dealing or their equivalents,” but the EU is proposing striking this language and leaving the exceptions section vague. Most EU countries do not have fair use, but instead employ narrower lists of exceptions to copyrights such as for quotation. Japan has proposed eliminating the exemptions section altogether.

The U.S. ACTA proposal would also offer online service providers a safe harbor from liability from lawsuits by rightsholders if the providers undertake certain actions.

One of these actions is “adopting and reasonably implementing a policy to address the unauthorized storage or transmission of materials protected by copyright or related rights.” In a

footnote, the U.S. proposal gives as an example of such a policy “providing for the termination in appropriate circumstances of subscriptions and accounts on the service provider’s system.” Supporters of ACTA note that this footnote does not mandate removing Internet access based on mere accusation, as activists claim.

New Zealand in this section states that it does not support a safe harbor linked to a possible policy denying Internet access at all. Canada merely asks for more clarity on the link between liability and the safe harbor. The safe harbor is not precisely defined in the ACTA, whereas under U.S. law it extends to relief from damages but does not preclude injunctions.

According to the document, the EU has offered entirely different wording for this section that would not mandate any such policy by online service providers. A rightsholder source said it would be important to U.S. creative industries for the U.S. to get its way here.

The EU wording says that the ACTA safe harbor does not preclude the possibility that a “judicial or administrative authority” would require a service provider to terminate or prevent an infringement or that parties could establish procedures for “the removal or disabling of access to information.” The wording does not require such a policy.

The EU comments that it has “no flexibility” on this language. “This is far less onerous than the U.S. proposal,” one source connected to Internet firms said.

Japan in an extensive footnote notes that its legislation does not require service providers to adopt such a policy and it is considering whether it can support the provision or if it can change its legislation.

Japan offers a third vague option that would require online service providers to give information on infringers to rightsholders and to develop “mutually supportive relationships” between online service providers and rightsholders “including the encouragement of establishing guidelines for the actions which should be taken.” This is the Japanese domestic approach and appears to require very little change in policy from online service providers, sources said.

The U.S. ACTA proposal contained language that would exempt firms that provide “referring or linking” services from liability. This covers search engines such as Google. The EU says it has “very little flexibility in the wording” in offering its own proposal which does not exempt linking. Search engines were hoping that the EU would agree to this exemption which does not exist under the current eCommerce Directive. -- *Erik Wasson*

Announcement: ACTA Stakeholders' Consultation Meeting, 22nd March 2010 in Brussels

01/03/2010

Directorate General for Trade of the European Commission organises a meeting on 22 March 2010 to inform and consult interested parties about the negotiation of a plurilateral Anti-Counterfeiting Trade Agreement (ACTA).

The goal of ACTA is to provide an improved framework for countries committed to intellectual property protection, in view of effectively addressing the challenges of IPR infringement today.

The purposes of the meeting is to:

- 1) Inform stakeholders about the ACTA goals and the negotiation process so far;
- 2) Receive comments from stakeholders about their views (expectations or concerns) regarding ACTA.

Relevant information about the ongoing negotiations, including a report on the current state of play can be found on our [website](#).

PRACTICAL DETAILS

Date/Time: Monday, 22nd March 2010, 10:00 - 12:30

Location: Charlemagne Building, Room Alcide de Gasperi, Rue de la Loi 170, B-1049 Brussels

Registration: (pre-registration is required for security reasons)

Please send an email including your name and the name of the represented organisation to TRADE-ACTA-MEETING@ec.europa.eu. Closing date for registration: 15th March 2010

Due to the limited seating capacity (approx. 350), places will be allocated on a first-come, first-serve basis. Presence of more than one person per participating organisation will also be conditioned to the total number of participants. Admission is free. Please note that the European Commission is not able to cover travel or subsistence expenses for attendance at this meeting.

Those unable to participate in the meeting and/or wishing to present their positions, may do so in writing and send their comments to TRADE-ACTA-MEETING@ec.europa.eu no later than 22nd March 2010.

USTR NEWS

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The Office of the U.S. Trade Representative Releases Statement of ACTA Negotiating Partners on Recent ACTA Negotiations

Washington, D.C. – Today the Office of the United States Trade Representative released a statement by the Anti-Counterfeiting Trade Agreement (ACTA) negotiating partners regarding the recent round of ACTA negotiations in Guadalajara, Mexico:

The 7th round of negotiations on the proposed Anti-Counterfeiting Trade Agreement (ACTA) was held in Guadalajara, Mexico, from January 26 to 29, 2010, hosted by Mexico. Participants in the negotiations included Australia, Canada, the European Union, represented by the European Commission, the EU Presidency (Spain), and EU Member States, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the United States of America (alphabetically ordered).

The meeting was chaired by Mr. Jorge Amigo, Director-General, and Ms. Gilda Gonzalez, Deputy Director General, Mexican Institute of Industrial Property (IMPI). Participants underlined the importance of ACTA as an agreement which shall provide for an enhanced framework to fight global infringement of intellectual property rights, particularly in the context of counterfeiting and piracy.

The discussions at the meeting were productive and focused on civil enforcement, border enforcement and enforcement of rights in the digital environment. Recalling their shared view of the importance of providing opportunities for meaningful public input, the participants reaffirmed their commitment to intensify their respective efforts to provide such opportunities and collectively enhance transparency.

Participants in the meeting agreed that the next meeting would be hosted by New Zealand in April 2010. Participants also reaffirmed their commitment to continue their work with the aim of concluding the agreement by the end of 2010.

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**THE PRESIDENT'S 2010 TRADE POLICY
AGENDA**

I. THE PRESIDENT'S TRADE AGENDA

Our Goal: Making Trade Work for America's Working Families

President Obama's economic strategy halted the slide into a deep economic crisis and laid the foundation for renewed American prosperity that is more sustainable, fairer for more of our citizens, and more competitive globally. This progress required bold policy decisions at home, bolstered by efforts abroad to keep world markets open and economies moving toward greater stability.

During the most severe recession since 1945, the nations of the world decisively rejected a protectionist panic. The steady resolve of the world's leadership preserved the basis of the global trading system – and the potential of that system to aid economic recovery – through the worst of the downturn. The G-20 nations each pledged to honor their obligations on trade and to work toward a balanced and ambitious outcome in the Doha Round of World Trade Organization (WTO) negotiations. In the United States, while crafting measures together to stimulate the American economy, Congress and the President reaffirmed our commitment to international trade obligations.

As we reiterated the U.S. commitment to the rules-based global trading system, we exercised American rights within that system to bring more of its promised benefits – jobs and economic opportunities – home to American families and businesses. Fighting for market access abroad and responding to unfair foreign competition at home sometimes required new dispute proceedings at the WTO or action through other venues; in other cases, long-standing disputes that had paralyzed American ranch and farm exports were resolved through reinvigorated negotiations. We also found new market opportunities in existing vehicles for trade consultations – for instance, through a Joint Commission on Commerce and Trade agreement to further open China's market to American wind energy products.

In 2010, American exports will be critical to the creation and support of new American jobs. Accordingly, President Obama has set a goal of doubling U.S. exports in the next five years – an increase that will support 2 million additional jobs in America. Smart trade policies will play an important role in helping to meet the President's goals as part of the new National Export Initiative.

As part of our daily focus on spurring economic growth and putting Americans back to work, the Administration began several months ago to craft a comprehensive plan for reaching the President's goal of increasing exports over the next five years. Key cabinet agency officials including the United States Trade Representative and the Secretary of Commerce, along with the Council of Economic Advisers, the National Economic Council, and the National Security Council carefully analyzed growth trends in the world economy and policies the Administration could pursue to help improve U.S. export performance over the 2009-2014 period.

The President's National Export Initiative includes a newly created Export Promotion Cabinet, an enhancement of funding for key export promotion programs, the mobilization of government officials to engage in export advocacy activities, the launch of export tools for small- and medium-sized businesses, the reduction in barriers to trade, and the opening of new markets.

Creating and implementing these and other forward-leaning policies requires a frank conversation with Congress and with the American people about the benefits and challenges of engagement with global trade and investment.

The President's Trade Policy Agenda for 2010 advances a robust American role in the global trading system by further outlining what trade can mean for American exports, jobs, and economic growth – and also for global economic recovery and well-being. It discusses policies that implement our commitment to the rules-based trading system and the enforcement of our rights within that system. It outlines the steps that we will take to further stimulate jobs and growth here at home and around the world, and how we are building on existing trade agreements and pending pacts. It addresses how our trade policy partners the United States with the developing countries of the world. And it examines the Administration's commitments to the American people on energy and the environment, to making trade policy more reflective of American values – including the fundamental rights of workers – and to political transparency in trade policy.

Trade and American Jobs

Effective trade policy helps increase exports that yield well-paying jobs for Americans – a win both for our companies and for our working families. Whether businesses are large or small, studies show that firms engaged in trade usually grow faster, hire more, and on average pay better wages than those that do not. In recent years, exports of manufactured goods have become an important source of employment, supporting almost one in five of all manufacturing jobs.

Commerce Department estimates suggest that over 10 million jobs were supported by exports in 2008 and doubling exports from 2009 to 2014 could help exports support millions more jobs. Export expansion will also bring broader benefits for American recovery: the U.S. economy began to expand again in the last six months of 2009, at a rate of 4 percent (on an annualized basis) – and rapidly growing U.S. exports contributed nearly 2 percentage points to this growth rate.

Trade is also the lifeblood of many American farms and ranches. Compared to the general economy, U.S. agriculture is twice as reliant on overseas markets. And our traditionally high levels of exports of such crops as wheat, rice, and corn are being joined by growing exports of fruits, vegetables, and animal products. The Agriculture Department estimates that our agricultural exports currently support jobs for more than 800,000 Americans.

To improve American prosperity, we must match other countries in seeking new international markets aggressively. About 95 percent of the world's customers and almost 80 percent of its economic production are already outside U.S. borders. International Monetary Fund forecasts indicate that nearly 37 percent of world growth over the next 5 years will take place outside of the United States. America cannot reach its full potential for generating jobs without selling more goods and services globally. As the President said in the State of the Union, "If America sits on the sidelines while other nations sign trade deals, we will lose the chance to create jobs on our shores."

We have to be frank in recognizing that some Americans lose jobs as markets shift in response to trade competition. Working with Congress, the President was able to sign into law in 2009 expanded eligibility and much-needed advances in Trade Adjustment Assistance (TAA), including covering service workers for the first time. There is more we can and must do to limit the impact of dislocations and to support new jobs for workers in transition, and we will continue our ongoing work with Congress to ensure adequate funding for TAA programs and to ensure that U.S. workforce programs complement each other.

Effective trade initiatives can open markets and ensure that more of trade's benefits accrue to American workers. Trade promotion policies can help to meet expanded export goals with new advocacy assistance

for American firms, more trade related financing, and policies designed to stimulate innovative technologies. But trade policy alone cannot achieve our goals. Our policies for education, investment, labor markets, health care, energy, the environment and innovation also have to respond to changes in the world economy. American workers will prosper and American firms will compete strongly only if we improve competitiveness at home.

A broad international effort is also vital. As President Obama said in November 2009, for the sake of a stable and balanced global prosperity, the major economies must work together to rebalance the world economy and avoid the boom and bust cycle that has plagued us. Trade policy has a key role in this rebalancing. As an economy, the United States needs to slow the rate of consumption growth, while it saves, invests, produces and exports more. Countries with large trade surpluses should increase their domestic consumption and imports as part of a more balanced growth strategy. Collectively, the community of nations has to break down long-standing barriers to trade and investment as well as newer impediments that obstruct trade and slow economic integration. Competitive global markets, governed by effective rules for trade and sound domestic policies, can advance our broader economic agenda for sustainable growth and prosperity shared by farmers, workers, ranchers, entrepreneurs large and small, and those who struggle economically here and around the world.

Our Policy Priorities

Support and Strengthen a Rules-Based Trading System

In a time of global economic challenge, the United States has reaffirmed its commitment to the rules-based trade system anchored by the WTO's system of multilateral trading rules and dispute settlement. The WTO is both a venue for multilateral liberalization through negotiation and a defense against protectionism. The alternative to respect for the rules is growing mutual suspicion and conflict among trade partners.

Strengthening of the trade system can occur through better enforcement of existing rights and through new rules negotiated to respond to changing economic conditions. Enforcement actions both increase public confidence in the fairness and effectiveness of trade rules, and they provide an equitable way to handle disagreements in a mature trade relationship. The WTO's system of dispute settlement is a vital avenue for countries to resolve difficult disagreements while maintaining solid working relationships. Just as importantly, a strong dispute settlement system gives countries an incentive to negotiate earnestly to avoid the risk of litigation.

It is not enough just to preserve past progress in trade liberalization and enhance public confidence in existing rules. We seek to continue the process of reducing trade barriers in order to strengthen the commerce that yields good jobs.

Although there are many avenues for trade negotiation, the WTO remains the most comprehensive venue and influences the functioning of the rest of the trade system. As the President made clear in a November 2009 speech in Japan, the United States is "working toward an ambitious and balanced Doha agreement – not any agreement, but an agreement that will open up markets and increase exports around the world." This is why we strongly support the work to complete an ambitious and balanced Doha Round agreement. A successful Doha Round will embrace a process of balanced and ambitious give and take among established or newly emerging trading powers, while giving due consideration to the special interests and circumstances of developing economies, including major achievements in regard to their development agenda.

There should be no mistake about the context for the Doha Round. The United States is the most open major market in the world. Similarly, the United States provides significant duty-free and quota-free market access to least-developed countries. The question is how to move forward based on this foundation, and whether advanced developing economies will accept responsibility commensurate with their growing economic influence.

In terms of what is currently on the table in the Doha negotiations, the value of what the United States would give in market opening, along with a reduction of U.S. agriculture support, is well-known and easily calculable. In contrast, the value of new opportunities for our businesses, workers, farmers, and ranchers remains vague because of the broad flexibilities available to key emerging markets, like China, India, and Brazil that are fast growing economies and important markets of the future. To achieve further progress, it is essential to gain more clarity in the level of market access contributions by advanced developing countries, and ensure that the results provide significant market opportunities for American entrepreneurs and workers in agriculture, goods, and services. Such market access contributions also will underpin the development goals of the negotiations given that 70 percent of the tariffs developing countries pay are paid to other developing countries.

The Doha negotiations, launched in 2001, had been stalled for years when President Obama took office in 2009. Strict focus on the effort to negotiate broad, generally-applicable formulas for tariff reduction (so-called “modalities”) had produced no final agreement at ministerial gatherings in 2006, 2007, and 2008. Rather than agreeing to replicate the past negotiating process that had led to weak results, the United States has supported a different approach to the end game in order to gain a stronger outcome.

Since a review of the negotiations at the outset of this Administration, the United States clearly has indicated ways to advance the negotiations through a variety of mechanisms. These include pursuing negotiations focusing on tariff liberalization in selected industrial goods sectors (*e.g.*, chemicals, electronics, health care products, industrial machinery) and improved packages in services (providing new market access in key infrastructure services sectors such as financial services, information and communications technology, distribution, energy and express delivery). Meaningful progress on reducing non-tariff barriers that inhibit our exports is critical. The United States has led the way with proposals on remanufactured goods, and in sector-specific areas such as the automotive sector and electronics. The United States also remains a leader in advancing the Doha negotiations on trade facilitation aimed at reducing red tape and addressing other unwarranted customs barriers at the border – matters which especially concern U.S. exporters.

We remain convinced that a Doha success can be achieved if all major economies are willing to come to the negotiating table. Recent U.S.-led innovations in the negotiating process have supplemented the broad-based multilateral negotiations with direct bilateral engagement among key Members. The purpose is to achieve more clarity and to bridge gaps – especially with regard to ensuring sufficient market access contributions by advanced developing countries. In the Doha Round, the least developed countries are not being asked to make any commitments. In 2009, G-20 Leaders directed that a stock-taking of the Doha negotiations be conducted in early 2010, and the United States is committed to ensure that this be done in the most efficient and appropriate format that contributes to further progress.

A sound Doha agreement that provides meaningful liberalization in all three core market access areas – agriculture, goods and services – could boost the world economy, support many good jobs, assist poorer countries, and reinforce confidence in a rules-based trading system. In short, it would be good for the

world and for the United States. But a weak agreement would not serve these interests and ultimately would weaken the WTO.

Enforce Our Rights in the Rules-Based System

The American people expect firm pursuit of our rights in the rules-based trading system in order to ensure fair competition with global trading partners. Americans succeed in global competition when partners play by the established rules for exporting and importing.

Our trade rights include protection of intellectual property, the ability to address a wide array of market access barriers to U.S. goods and services, and recourse to trade remedies when necessary. Taken together, these rights guarantee the economic opportunities of trade by reducing critical barriers to our exports and leveling the playing field among trading partners. Our rights also include the upholding of the American values embodied in basic international labor standards and in the implementation of international environmental agreements.

During 2009, this Administration responded to the call of the American people for more vigilant trade enforcement, and exercised our discretion to assert America's trade rights. Whether addressing a harmful surge of Chinese tire imports into the United States, challenging unjustified restrictions on U.S. exports of agricultural products in multiple countries, acting to implement a finding that Canada violated the softwood lumber agreement, winning distribution rights for American content companies in China, or filing suit over Chinese export quotas and duties on raw materials needed by core U.S. industrial sectors from steel and aluminum to chemicals, the Administration has taken actions under the legal remedies authorized by our trade agreements.

At the same time, we have made it clear that we welcome rapid and pragmatic resolution of trade disputes rather than prolonged uncertainty. In this spirit, we maintained some WTO-authorized trade sanctions, but refrained from imposing sanctions on new European Union products while working with the EU to address the long-standing American claims against policies that restricted imports of American beef.

We continue to strengthen our capacity to monitor markets and strongly enforce our rights and benefits under our trade agreements. This year, we will report and act on new measures instituted in 2009 to spot and address trade barriers that particularly affect America's agricultural producers and manufacturers, such as sanitary and phytosanitary measures restricting U.S. agricultural exports and technical barriers impeding our producers' ability to trade worldwide. We will continue to increase coordination between USTR and the Departments of State, Labor, Commerce, Agriculture, and other federal agencies to spot and respond to violations of our trade rights more quickly and effectively.

Many of the most troublesome problems for our exporters involve behind the border barriers that are mingled with legitimate rules for important social purposes such as privacy, consumer protection, and food safety goals. These purposes are recognized fully and supported under trade agreements, but they sometimes serve as an excuse to introduce discriminatory trade measures. Too frequently, scientific judgments and internationally accepted guidelines are ignored when making policies for agricultural products, including rules governing poultry sanitation, restrictions on pork and pork products in response to the H1N1 virus, non-science-based restrictions on the import of U.S. beef, and regulations governing some genetically modified food products. Even in trading partners with sophisticated regulatory systems, such as the European Union and Japan, certain regulations and enforcement actions are inconsistent with scientific evidence and internationally accepted guidelines. More vigorous enforcement of existing trade rules may address some trade related problems for such high-growth industries as biotechnology. When

making decisions to enforce our trade rights, we will be careful to consult with other U.S. agencies to ensure consistency with, and the protection of, our own domestic policy interests. Because the foundations of global agricultural trade depend on economies' adherence to scientific evidence and internationally accepted guidelines, we will continue to rely on the best scientific advice when making our decisions.

Over the last year, we also instituted more vigorous scrutiny of foreign labor practices and began to redress practices that impinge upon labor obligations in our trade agreements, deny foreign workers their internationally recognized rights, and tilt the playing field away from American workers. We will enhance monitoring by USTR and other agencies of labor practices in FTA partner countries, ensure thorough review of all public submissions under FTA labor chapters, directly engage other governments to address areas of concern through dialogue and technical cooperation programs as appropriate, and invoke FTA consultation and arbitral panel provisions as needed. In addition to enforcement of labor provisions in trade agreements, we will intensify dialogue with key trade partners to ensure the discussion of labor rights as part of our trade discussions. In doing so, we will seek regular, high-level dialogue with key trade partners, including China, India, Mexico, Canada, and the EU, to elevate the discourse on the relationship between respect for labor rights and enhanced trade.

Monitoring our FTA partners' implementation of, and compliance with, environment chapter obligations is an important part of USTR's mission. USTR gathers information on implementation and compliance issues through regular meetings with our FTA partners, active engagement with our advisory committee members, and by engaging civil society in both the United States and our FTA partner countries. Recently, USTR created a Subcommittee of the Trade Policy Staff Committee (TPSC) to focus exclusively on monitoring of implementation and compliance issues for FTA environment chapters. These mechanisms and high-level dialogue on trade and environment issues with our FTA partners will provide USTR with the tools necessary to ensure our FTA partners are faithfully and fully adhering to their FTA environmental obligations.

We will enforce fully labor and environmental rights specified in our trade agreements, including through dispute settlement as necessary.

Enhance U.S. Growth, Job Creation and Innovation

American trade policy has to emphasize the pursuit of the most significant new market opportunities in ways that enhance sustainable growth, innovation, and good jobs through expanded trade.

Deepening engagement with major emerging markets is critical for American trade prospects. We placed a particular emphasis on countries such as China, India, Brazil, and Russia in 2009; these and other large emerging markets will figure prominently in the future. As a region, the Asia-Pacific will weigh much more prominently in American trade and world economic activity in the future, and it will take multiple initiatives to maximize the opportunities for the region. Deepening and strengthening our longstanding and vital trade ties with the European Union will build upon the already immense benefits of that relationship. Beyond geographic opportunities, we plan to target specific classes of market barriers that impede our trade, and focus on sectors that provide special opportunities for enhanced growth of jobs and innovation, working within and enhancing key bilateral and regional arrangements.

The U.S.-China Joint Commission on Commerce and Trade (JCCT) addressed numerous issues with our second largest trading partner in 2009. Some significant progress emerged on issues involving

intellectual property (*e.g.* combating Internet piracy), better access for American wind energy companies, and agriculture (*e.g.* working to dismantle the barrier to U.S. pork products created over fears concerning the H1N1 virus), but many matters influencing market access remain unresolved including China's approach to industrial policies such as indigenous innovation. A greater understanding of best practices regarding government policies for intellectual property protection, the setting of industry standards, and government procurement practices could promote government policies that foster, rather than hamper, the development of technology markets. China's industrial policies in various sectors, particularly steel, involve substantial government involvement in production and investment decisions, contributing to production overcapacity and unnecessary trade frictions. Concerns about transparency also continue. We must continue to improve the management of the U.S.-China relationship to address concerns in a timely, proactive way. In 2010, we will make the JCCT more effective by ensuring our priorities reflect evolving market conditions and changing Chinese policies and develop work plans with clear outcomes and responsibilities. A successful and productive JCCT in 2010 will reinforce the United States' other work with China, including the Strategic and Economic Dialogue.

Similarly, in 2009 the Administration sought to strengthen frameworks for America's growing relationship with India. U.S.-India trade has doubled in the last five years. To accelerate this trend, the most recent ministerial meeting of the U.S.-India Trade Policy Forum set out a significantly expanded work program and refreshed its advisory groups. In 2010, as part of the Trade Policy Forum, we intend to address key trade irritants and develop cooperative initiatives – especially on issues related to innovation, services, agriculture, market access, and investment. Our plans also include work on a commercial space launch agreement and continued negotiation of a Bilateral Investment Treaty.

After years of emphasis on the multilateral dimension and bilateral concerns in the U.S. trade relationship with Brazil, this Administration sought a more collaborative focus in 2009. U.S. exports and imports with Brazil more than doubled between 2001 and 2008 in a balanced trading relationship. We can do even better with a stronger bilateral mechanism for engagement, and in 2010 we will explore options for the creation of a more robust formal framework for trade dialogue between the United States and Brazil.

In 2009, the United States worked with Russia to develop a well-functioning and more mature trade relationship in keeping with the objective of both our governments for a stronger overall partnership. Even as we pressed strongly for changes in Russian policy to end significant barriers to American farm products and other exports, we still worked diligently with Russia on how it could achieve its goal of accession to WTO membership. Since the apparent reversal of Russia's announced plan to accede to the WTO as part of a customs union with Kazakhstan and Belarus, we have awaited clearer signals on its trade plans in 2010, including its intentions on how to resume work on its WTO accession and to resolve a bilateral trade concern. We will continue to work with Russia to ensure that trade and investment priorities keep pace with other important aspects of our bilateral relationship.

Bilateral relationships are crucial. But as we know, multi-faceted regional economic relationships are of major, and even growing, importance for United States and for the world.

The Asia-Pacific region, encompassing Asia and the Americas, already constitutes the largest share of the world economy, and that share will continue to grow in the coming decade. If the United States is to benefit from more exports, job expansion, and accelerated innovation through trade, the Asia-Pacific must take a central place in our trade agenda. And countries in that region must see the United States as a committed and engaged trading partner if we are to remain similarly at the center of its network of intensifying trade relationships.

Given the region's diverse institutions, an Asia-Pacific strategy necessarily must include multiple, complementary approaches. Finding the right vehicles for achieving our interests was a critical task for our trade agenda in 2009. Two initiatives with different approaches and constituencies will be central to our regional efforts in 2010 and 2011.

After a careful analysis and extensive consultation with Congress and with stakeholders, the United States announced in December 2009 that it intends to enter into negotiations of a regional, Asia-Pacific trade agreement, known as the Trans-Pacific Partnership (TPP) Agreement, with Australia, Brunei, Chile, New Zealand, Peru, Singapore, and Vietnam. The Administration believes that the TPP is the strongest vehicle for achieving economic integration across the Asia-Pacific region and advancing U.S. economic interests with the fastest-growing economies in the world. Building on the most forward-looking aspects of existing Free Trade Agreements (FTAs) and on the emerging special opportunities and challenges characterizing the Asia-Pacific market, the United States intends to shape a broad, deep, and high quality 21st century regional trade agreement. We believe that the dynamic economies of the countries involved in the negotiation, and its strong policy ambitions, will lead other countries to seek to join the undertaking.

The Administration will develop its negotiating objectives for the TPP Agreement consistent with its pledge to engage fully with diverse stakeholders in America. To that end, this Administration has embarked upon an unprecedented scale and scope of consultative outreach related to TPP involving all 50 states and key Congressional committees. We will organize advice not just by traditional industry boundaries, but also in response to cross-cutting concerns involving matters ranging from labor and the environment to the efficiency of regional supply chains and the concerns of small- and medium-sized businesses. This effort will also demonstrate that a properly designed process of expanded consultation with stakeholders and Congress does not have to slow down trade negotiations, but can in fact energize talks. We plan to participate in the first two negotiating sessions of the TPP in the first half of 2010, even as the consultative process progresses.

At the same time, we will continue work with our trading partners in the Asia Pacific Economic Cooperation (APEC) forum to build consensus and advance work on critical trade and investment issues leading up to 2011 when the United States will host APEC. To this end, we are coordinating with the 2010 host nation, Japan, on an ambitious agenda that engages APEC's broad membership on crucial trade and investment topics for the region's future. Initiatives in APEC are a successfully demonstrated way of building a stronger and constructive American role in the Asia-Pacific market.

The expanded APEC agenda addresses many of the key prospects for growing jobs through expanded exports and faster rates of economic growth and innovation. For example, in 2009 APEC concluded work on an initiative co-sponsored by the United States, aimed at enhancing the cross-border trade of services that has become so vital for American exporters. APEC members also took steps to make it cheaper, easier, and faster for businesses to conduct trade in the region in order to expand exports and grow jobs. Specifically, we worked to simplify rules of origin and documentation, making it easier to take advantage of preferential trade deals in the region; to reduce the time, cost, and uncertainty of moving goods and services through the region by improving logistics and transportation networks; and to improve the transparency and accessibility of APEC economies' customs information and regulations. We believe that these new APEC work programs will stimulate the trade-driven growth of small- and medium-sized enterprises that particularly need less red tape and more cost-effective logistics. Additionally, APEC members agreed on an ambitious plan to address barriers to trade and investment in environmental goods and services.

The TPP and APEC initiatives will be complemented by other undertakings in the region. For example, we are committed to continue working with the ten Southeast Asian countries that comprise the Association of Southeast Asian Nations (ASEAN) to build our economic relationships in this region of commercial and strategic importance to the United States and to support ASEAN integration.

The Administration recognizes the maturity, stability, and immense mutual benefits of the U.S. trade relationship with the European Union. The instances of transatlantic trade tensions are dwarfed by the depth of our investment and trade ties, much of which translates directly to jobs and which signifies the leadership of the United States and Europe in a 21st century innovation economy. A deepening of this partnership and removal of remaining impediments promises even greater returns. We will look for ways to respond more fully to the shared challenges we face as an innovation-driven transatlantic market, especially as other major trading partners assume a more prominent role in global trade. While fully respecting those who regulate on behalf of the health and safety of American and European citizens, we must also find means of minimizing trade conflict in the regulatory sphere, particularly in areas where technology is presenting new challenges. We also are confident that the United States and the EU can benefit from a fuller sharing of experiences about the vital roles of small- and medium-sized enterprises (SMEs) in our trade relationship. For example, a larger percentage of European SMEs export globally than do U.S. SMEs, and we will seek to identify lessons to help U.S. small businesses enjoy similar export successes.

Even as we address trade in bilateral and regional contexts, a smart trade policy must also pursue new ways to enhance our prospects in the high-growth, high-value-added markets at the core of American competitive strength in goods, services, and many parts of agriculture. This leads us to another set of trade initiatives focused on our biggest growth opportunities.

The significance of non-tariff barriers has increased in the global trading system as tariffs have declined. While enforcing existing rules governing non-tariff barriers is essential, we will pursue new initiatives on non-tariff barriers that bolster the legal protections of our exporters and investors within the rule-making and judicial processes of our trading partners. We will propose agreements on improving transparency in decision-making because they reinforce the right of American firms to be full players in the process. We will advocate for agreements reinforcing the rights of American firms to the same treatment as the firms of the host country, including the state-owned enterprises that often receive privileged treatment under national industrial policies.

We will tackle one of the most vexing problems for American firms on world markets: the costly and time-consuming regulatory review of products across many national markets. Whenever the prospects for success are reasonable and our own ability to regulate in the public interest can be fully protected, we will use trade policy to help American firms get their products to market more simply and more efficiently. For example, winning recognition of testing results issued by qualified U.S. laboratories by regulators in other countries could reduce costs and simplify safety certification while upholding safety standards.

Because fostering innovation is essential to our prosperity and to the support of countless jobs in the United States, we will protect American inventiveness and creativity with all the tools of trade policy. Insufficient protection of intellectual property rights undermines key U.S. comparative advantages in innovation and creativity, to the detriment of American businesses and workers. We will address insufficient protection of intellectual property rights by negotiating and enforcing effective intellectual property protection in a manner compatible with basic principles of the public welfare. This will also advance global welfare, as the innovation rewarded by creation of intellectual property rights will be

essential for solving pressing global energy and environmental issues. At the same time, we will continue to recognize the need for timely transparency and public consultation when addressing intellectual property problems in rapidly changing markets, as our domestic legislation on intellectual property represents a careful and complex balancing of competing equities. This is why we have committed this year, with our trading partners, to assure meaningful public input on the proposed Anti-Counterfeiting Trade Agreement.

We will also pursue opportunities to improve trade rules in global and regional markets that present the largest opportunities for boosting innovation that can benefit American exports and even improve well-being around the world. For example, a 1990s trade initiative on e-commerce cleared the way for the global expansion of markets that was newly possible due to the emergence of the World Wide Web. This created major opportunities for American exports of information products and services. Today, another wave of major change in information and communications technology goods and services has expanded people's opportunities to benefit from powerful information services around the world, enabling sweeping innovations ranging from smart energy grids to vastly expanded telemedicine. We will discuss with our trading partners how trade policy could best enhance these new infrastructure services and technologies that are the digital foundations for the global innovation at which American firms particularly excel. When trade policy can advance these or other large opportunities for growth, such as energy and environmental technologies, we will respond by being flexible about the forum and the means.

Work to Resolve Outstanding Issues with Pending Free Trade Agreements and Build on Existing Trade and Investment Arrangements

Like other members of the WTO, the United States has created an extensive series of bilateral and regional trade and investment agreements. Last year, we pledged to seek paths forward on three pending Free Trade Agreements, and to build on important existing agreements to better achieve our goals of more jobs, higher growth, and the promotion of our core values. We seized the opportunities offered by current Free Trade Agreements and Trade and Investment Framework Agreements to discuss problems and launched new initiatives with a number of partners. We promised a careful review of the North American Free Trade Agreement (NAFTA) and of the model text guiding our negotiators on Bilateral Investment Treaties (BITs).

The Administration continues to believe that proper resolution and implementation of Free Trade Agreements with Panama, Colombia and Korea can bring significant economic and strategic benefits. However, there have been serious questions in America about some aspects of these pending pacts. Rather than brush these questions aside, we conducted extensive consultations with Congress, stakeholders, and the public on the pending Agreements, including a *Federal Register* Notice on Colombia and Korea to more precisely identify issues. We will continue to engage with the Governments of Panama, Colombia, and Korea as we further refine our analysis of these issues.

With Panama, we are tackling issues involving reform of its labor regime to achieve consistency with the pending trade agreement and are pursuing an understanding on tax transparency rules. We have begun working with Colombia to assess and improve the labor code and the measures to address violence against labor union officials to ensure that union rights in that country can be fully and freely exercised. With Korea, we are determining how best to address outstanding issues, particularly related to automobiles and beef, in light of the recent agreement between President Obama and President Lee to work together to move the agreement forward. If these outstanding issues can be successfully resolved,

we will work with Congress on a timeframe to submit them for Congressional consideration so our producers can take full advantage of the opportunities presented by these agreements.

Our partnership with Canada and Mexico is strong. We will seek opportunities to further strengthen this relationship both bilaterally and through the NAFTA process during the coming year. Last year's trade agenda promised to examine how to recalibrate the NAFTA, so that it better responds to the challenges facing North American competitiveness and the needs of our societies in the United States, Canada, and Mexico. The task now is to determine how best to make improvements in labor practices and policies, and environmental practices and policies, into complements to our common NAFTA goal of accelerating job creation and economic growth. Our trade ministers have agreed to seek closer cooperation to strengthen our undertakings with regard to labor and environmental issues related to our trade relationships.

With all NAFTA commitments to eliminate duties and quotas now fully phased in, regulatory cooperation is the next big opportunity to facilitate trade in North America and increase our global competitiveness. Our three governments agreed to focus in 2010 on cooperating to reduce unnecessary regulatory differences on matters such as standards and technical regulations. This priority is in keeping with the Administration's commitment to increase exports by small- and medium-sized American enterprises, as they disproportionately experience the costs of regulatory disparities when seeking to expand exports throughout the NAFTA region.

Substantial investment in foreign markets has become an indispensable foundation for supporting many American exports. Bilateral Investment Treaties are important tools for protecting the interests of American enterprises in overseas markets. As a result, these treaties have taken on greater significance for promoting American jobs and prosperity. We have to keep these agreements attuned to changing market conditions while maintaining their consistency with broader American values.

The Administration began a review of the "Model Bilateral Investment Treaty," co-led by the Office of the United States Trade Representative (USTR) and the Department of State, in spring 2009. It particularly assessed the proper balance of investor and government rights under the BIT and the adequacy of investor protections in markets featuring a prominent role for state-owned enterprises. Extensive public outreach contributed to the analysis. The Administration is working to conclude the BIT review expeditiously, so that the United States can resume negotiations with carefully chosen countries, including with key emerging economies, such as China, India, Vietnam, and Mauritius.

Facilitate Progress on National Energy and Environmental Goals

The President is working with Congress to advance new energy and environmental policies for the United States, including a strong response to the challenge of climate change, investment in alternative energy supplies and improved sustainability of key natural resources. Good trade policy can accelerate the success of sound energy and environmental initiatives.

The United States will back trade initiatives that will lower the cost and enhance the efficacy of our energy and environmental strategies. For example, we fully support fast-tracking action with willing partners in the WTO's work on liberalizing trade in innovative, climate-friendly goods and services through tariff reductions that will stimulate their global markets. These technologies can make our societies more energy efficient and less dependent on imported fossil fuels. This is a good environmental policy with strong jobs potential through greater exports.

Trade policy can complement sustainable growth. By promoting investment in clean energy technologies, we can create jobs at home and reduce greenhouse gas emissions around the world. A smart and comprehensive approach to climate change will respect our international trade obligations and help U.S. industries gain a competitive edge in the new clean energy economy. And, we can continue to work to ensure emerging and less developed economies will reduce carbon emissions while protecting the intellectual property rights that provide incentives for firms to innovate.

There are many other possibilities for complementary progress on trade and the environment. The management of sustainable natural resources could benefit strongly from trade rules that help to balance competitive markets with sustainable yields. Improving efficiency, reducing production subsidies, and curbing trade in illegally produced products can reduce costs while strengthening responsible resource management. For this reason, we are advocating strong rules in the WTO on fisheries subsidies, which can effectively curb overcapacity and overfishing. We have also championed the APEC Framework for Environmental Goods and Services and have used our trade dialogues with China and countries in Southeast Asia to introduce new initiatives on promoting trade in legally-harvested forest products. We will explore other trade measures to address the problem of illegal logging.

Foster Stronger Partnerships with Developing and Poor Nations

This Administration supports expanding trade opportunities to stimulate market-led growth in the poorer countries of the world and to lift their national income levels. Trade expansion can also be a powerful tool for restoring jobs to a nation devastated by natural disaster, such as Haiti. At the same time, the Administration recognizes that opportunities created by open markets require complementary measures to achieve the greatest boost for these countries.

Much can be done through the WTO. The United States stands by our Hong Kong commitment to provide duty-free and quota-free market access to least-developed countries as part of the implementation of a successful conclusion to the Doha Round. We also will champion the WTO's work on trade facilitation, as simplifying and modernizing customs procedures enhances trading opportunities, improves the investment climate and helps better integrate developing countries, particularly least developed countries (LDCs), into global supply networks. We also will continue support for the Enhanced Integrated Framework through bilateral trade capacity building assistance and on-the-ground presence in LDCs. This will include the work of USAID and the Millennium Challenge Corporation. We will work with developing countries to help prioritize trade in their development plans, particularly in critical undertakings such as food security. Entrepreneurs in developing countries are important champions for creating market-based prosperity.

Trade preference programs, such as the Generalized System of Preferences (GSP) and the African Growth and Opportunity Act (AGOA), help developing countries to find a place in the world trading system. We will continue to work with the Congress and other stakeholders to implement and improve these programs, and to better focus benefits on the poorest countries. We also will continue to provide trade-related technical assistance for these programs. Even as the United States retains its role as the world's largest donor of "aid for trade," countries benefiting from preference programs must also make the critical reforms and investments needed to diversify their exports and improve their competitiveness in the United States as well as regional and global markets.

In the world's poorest countries, ranging from Haiti to Sub-Saharan Africa, we will make special efforts to link trade and economic opportunity for countries that have been particularly ravaged by disaster or

violence. For example, we will work with the Haitian government, the private sector and international institutions to promote the recovery of Haiti's job-generating export sectors. We will help Haiti to take maximum advantage of opportunities in the U.S. market, particularly through the implementation of the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE II) Act and will explore further steps that can be taken to encourage investment in Haiti and the development of a vibrant private sector.

Sub-Saharan Africa is the location of the world's largest cluster of extremely poor countries, but the beginnings of growth and reform are evident. The United States will continue to partner with African countries to perpetuate positive changes. Building on the success of last summer's AGOA Forum in Nairobi, USTR will work with Congress and stakeholders toward a new U.S.-Africa trade paradigm that takes into account new and evolving global trade developments. The next AGOA Forum of U.S. and African trade ministers, to be hosted by the United States this year, can promote the benefits of U.S.-Africa trade to the American public, develop plans to better incorporate small- and medium-sized businesses into trade with Africa, and work with Congress to help African countries take better advantage of AGOA and other trade opportunities. The United States also will continue to work on a bilateral investment treaty with Mauritius, to work with African partners through existing Trade and Investment Framework Agreements (TIFAs), and to consider what other types of trade arrangements the United States can advance with African nations.

Finally, as the United States creates opportunities in developing economies, we will use trade policy and promotion measures to open markets for American businesses that are promising partners for comparable firms in developing countries. Credit for trade financing is critical. The United States strongly supported the G-20 call for international financial institutions and export credit facilities to assure adequate financing. The Administration is also coordinating all U.S. agencies to strengthen financing of small- and medium-sized American exporters.

Reflect American Values in Trade Policy

As trade's share in the national economy has grown – approximately tripling since 1970 to 30 percent of GDP – the consequences of trade policy for American governance and society have grown as well. The growing scope and impact of trade policy led this Administration to pledge greater transparency in the crafting of a trade policy that is more reflective of American values. We have turned these pledges into actions and these values inform our approach to the broad range of activities we pursue, ranging from market opening measures, enforcing trade agreements, and ensuring that regulatory regimes are consistent with trade obligations.

Reflecting American values in our trade policy begins with a keen appreciation of the relationship between trade and our workers, firms, farmers, and ranchers. It requires regular and thorough examination of how trade policy can best respond to the real people behind the shifting contours of the American economy – for instance, through increased attention to job-creating small- and medium-sized firms as the shift toward more sustainable and equitable growth for the United States decreases domestic consumption and increases the importance of exports. During the last 15 years, small- and medium-sized businesses have generated approximately 65 percent of all new jobs. It is for this reason that the U.S. Trade Representative designated an Assistant U.S. Trade Representative for Small Business, Market Access and Industrial Competitiveness, who will coordinate the agency's work on small- and medium-sized business trade priorities and enhance outreach to those firms, and why USTR has also requested extensive studies for delivery this year by the U.S. International Trade Commission on the export activities and potential of these key drivers of employment in the United States. We will continue to

expand our focus on small and medium-sized firms' concerns across the broad range of initiatives we are pursuing to open markets.

We also have acted on this Administration's commitment to greater transparency in trade policy. In the past year, USTR has revamped its public information and public outreach efforts, with a completely new website at <http://www.ustr.gov> and an embrace of social networking tools. This has improved the information available to the public about trade policy, while inviting a broader range of stakeholder comments.

Membership on official trade advisory groups was reviewed to increase the diversity of perspectives from citizens with expertise on the issues. New membership rosters will be announced as committees come up for re-chartering, beginning in the first quarter of this year. In keeping with the President's goal of reducing the influence of special interests on U.S. policy, the Administration also has announced that registered lobbyists will not be appointed (or reappointed) to these committees in the future.

No trade policy can succeed without close cooperation with the Members and leadership of Congress. There is a lively debate in Congress over American trade policy. We promise to continue to fully inform and consult with all Members of Congress on all aspects of our trade policy, and will work closely with our committees of jurisdiction when defining priorities. We will fully and respectfully engage with Congress on finding ways to advance the goals and policies outlined in this Agenda. We are confident that the American people and their representatives in Congress can support trade agreements and policies that live up to the standards set in this Agenda, and we will seek appropriate Congressional authorities when needed.

In addition, we have undertaken a review of the transparency policies for trade negotiations. Confidentiality remains an essential tool of diplomacy; but, timely public debate and review of major agreements is also essential. In the case of significant agreements that do not require Senate advice and consent or Congressional approval, USTR is introducing other means to assist meaningful public comment. For example, in the Anti-Counterfeiting Trade Agreement, USTR has laid out the policy premises for the negotiation and the details of the negotiating process more fully than in the past. USTR sought advice from a broad group of experts, including representatives of intellectual property rightsholders, Internet intermediaries, NGOs, and others, about prospective U.S. positions on IPR enforcement in the digital environment. And it won an endorsement from the countries in the negotiation of the importance of providing for meaningful public input to the negotiating process before its conclusion.

We also have extended the expansion of comment and advice into the Special 301 process that pinpoints key challenges for U.S. intellectual property-based businesses affected by piracy, counterfeiting, and other forms of IPR theft. In 2010 we will introduce a more far-ranging public hearing to assure that Special 301 decisions are based on a robust understanding of complicated issues involving intellectual property. Our commitment to public engagement will contribute to the development and implementation of sound, well-balanced trade policies to ensure the protection and enforcement of intellectual property rights. And we reaffirm our commitment to preserving developing countries' ability to protect public health and, in particular, to promote access to medicines for all, consistent with the principles laid out in the WTO Doha Declaration on the TRIPS Agreement and Public Health.

Conclusion

A trade policy focused on the largest opportunities for increasing American exports and jobs, on opening markets and boosting innovation, and based on the principles of a rules-based global trading system can contribute powerfully to the President's economic agenda for America. Our goal is sustainable economic growth that brings home the benefits of trade – including well-paying jobs – while also advancing global recovery. This will be done consistently with our goals for American values, including the rights of workers, environmental sustainability, and political accountability.

This Administration is committed to the hard work necessary to harness trade policy as an engine of growth and prosperity for America and for the world.

Ambassador Ron Kirk
United States Trade Representative
March 1, 2010

Senators warn Obama on EU trade competition

VALENTINA POP – 4 March 2010

EUOBSERVER / BRUSSELS – US senators from both parties on Wednesday (3 March) pressured the Obama administration to implement free trade agreements with South Korea and Colombia, warning of competition from the EU, which recently clinched similar deals.

Washington's free trade agreements with Colombia, Panama and South Korea were signed during the George W. Bush administration, but their implementation has been blocked for some three years now due to opposition from Barack Obama's own Democratic Party.

"Time is of the essence. We want to get this done," top US trade official Ron Kirk said before the Senate's finance committee. "This is almost singularly to the benefit of the United States."

Mr Kirk was echoed in his calls by both Republican and Democratic lawmakers from the committee, who warned that the stalemate is hurting US credibility, while the EU and Canada are moving ahead on trade.

"South Korea has already concluded a trade agreement with the European Union, and Colombia has reportedly just done the same. Such erosion to global US competitiveness concerns me," said Republican senator Charles Grassley.

His Democrat colleague Max Baucus said the United States "should approve the trade agreements that we have already negotiated and signed."

"We must address the remaining obstacles to these agreements. But we must also recognize the consequences of further delay," he said.

On the EU and Canada's agreements with South Korea and Colombia, Mr Baucus warned that "once implemented, these agreements will give European and Canadian farmers and businesses a competitive advantage, unless we act."

South Korea is the US's fourth-largest trading partner and Colombia is its largest agricultural market in South America.

But trade unions and left-leaning Democrats have expressed concerns over the impact of the agreements on US jobs and want commitments to improve working standards within the countries, especially in Colombia, where trade unionists are regularly killed by right-wing paramilitaries.

Colombian trade unionist killings account for roughly 60 percent of the world total.

Mr Obama's top trade official said Colombia will be given a list of proposals "over the next several months, if not weeks" to resolve these issues.

As for the South Korean deal, the main obstacle is access of US auto and beef companies to the country's market.

The EU has inked its free trade deal with South Korea last year and signed similar pacts with Peru and Colombia on Monday.

The Washington Post

Congress's Next Giveaway – *By Jim DeMint* – 7 September 2009

After a month of the American people voicing unrelenting outrage to their elected representatives about the level of spending, debt and government intervention in their lives, a beleaguered and unpopular congressional majority returns to its haven of Washington this week. Incredibly, the first item on the Senate agenda is a bill to create a new and unnecessary government tourism advertising agency. Call it Fannie Travel.

The \$400 million Travel Promotion Fund, set to be created if the Senate passes the Travel Promotion Act (TPA) this week, is perhaps the perfect illustration of the disconnect between the American people and their representatives in Washington.

The bill would impose a \$10 fee on foreign visitors to the United States and use the money to fund an international advertising campaign encouraging the world to travel here (Imagine: "Come to America, so we can tax you at the airport!"). The advertising fund would be controlled by leaders of America's tourism industry -- giant corporations such as Disney, Loews and Marriott. Keep in mind, those companies are not in distress -- they're thriving. Disney, for instance, posted profits of \$4.4 billion last year, and bought Marvel Entertainment for \$4 billion just last week.

The American travel industry already spends billions every year on advertising with tens of millions focused on international marketing. The purpose of the Travel Promotion Act is to subsidize that advertising.

No thanks.

Proponents of the bill say that it's not a tax increase because only foreigners will pay it. But the European Union and other governments have already announced that any TPA fee will trigger reciprocal fees for American travelers to their countries. Meanwhile, every \$10 Washington takes from foreign tourists is \$10 those tourists won't spend in local restaurants, shops and hotels. This act is designed to help big businesses at the expense of small ones.

Over the past year, Americans have lost millions of jobs and trillions of dollars in a recession that was largely caused by the federal government meddling in the economy. The question now is whether Washington has learned its lesson. Recent evidence is not encouraging. As far as I'm concerned, "Cash for Clunkers" is not the name of a single idiotic program. It is the name for an entire year's worth of failed and incompetent economic policies: two failed stimulus bills; an unconstitutional bailout of Wall Street; proposed federal takeovers of the health-care and energy sectors; and actual federal takeovers of banks, insurance companies and carmakers.

That is the true cause of the anger in this country. We are now close to \$12 trillion in debt. The deficit for 2009, and probably next year as well, will top \$1 trillion. Long-term, Medicare and Social Security have a combined projected deficit of more than \$100 trillion! How deeply into debt do we have to get before Congress kicks its addiction to hundred-million-dollar impulse shopping? Any senator who votes to create a \$400 million program to subsidize billion-dollar, multinational corporations either doesn't understand the seriousness of America's economic problems or just doesn't care.

Tourism is vital to our economy, especially to our economic recovery. In my home state of South Carolina, tourism is the No. 1 industry. But that's exactly why we need to keep the government out of it. Bungling policies already hinder our international tourism industry. Processing of visas is inexcusably slow, which for large group visits such as business conferences often means outright cancellation. We are also renowned for our unfriendly and irrational customs systems. Our problem isn't a lack of advertising, it's a lack of efficiency and quality service. Only politicians would choose to raise prices in such an environment.

Common sense and economic reality -- to say nothing of the Constitution -- should preclude anything like the Travel Promotion Fund from even being considered. Indeed, it wouldn't be considered in any other time or place, except in Washington, D.C., under its current leadership.

Americans just spent a month hollering at the top of their lungs, trying to get Washington to listen. And this -- a \$400 million corporate welfare boondoggle -- is Washington's answer?

Did congressional Democrats learn nothing on their summer vacation?

The writer, a Republican from South Carolina, is chairman of the Senate Steering Committee.

U.S. TRAVEL ASSOCIATION

President Obama Tells the World 'Come to America' with Signing of First-Ever U.S. Travel Promotion Program

Tax-Free Stimulus Expected to Create 40,000 Jobs and Boost Inbound Travel to United States

March 4, 2010

Washington, DC – The travel community celebrated a major victory today when President Obama signed into law the first-ever national travel promotion and communications program to attract more international travelers to the U.S. The historic moment, commemorated during a White House signing ceremony, is a major step in addressing America's decline in attracting overseas visitors to the U.S. during the past decade.

The Act is in response to worrisome evidence that the U.S. is losing ground to other countries in the global travel market. The U.S. welcomed 2.4 million fewer overseas visitors in 2009 than in 2000, and the failure to simply keep pace with the growth in international long-haul travel since 2000 has cost the U.S. economy an estimated \$509 billion in total spending and \$32 billion in direct tax receipts, according to the U.S. Travel Association. The Travel Promotion Act will counteract this trend by creating a campaign to promote the United States as a premier destination and explain changing travel security policies to foreign visitors.

"By signing the Travel Promotion Act, President Obama has acted to support the power of travel to serve as an economic stimulant, job generator and diplomatic tool," said Roger Dow, president & CEO of the U.S. Travel Association. "This program will create tens of thousands of American jobs and help reverse negative perceptions about travel to the United States."

Dow thanks President Obama and Congressional supporters of this legislation, in particular Senators Byron Dorgan (D-ND), John Ensign (R-NV), Harry Reid (D-NV), Daniel Inouye (D-HI) and Amy Klobuchar (D-MN), and Representatives Bill Delahunt (D-10-MA), Roy Blunt (R-7-MO) and Sam Farr (D-17-CA) who championed the bipartisan legislation over the last several years. "The strong bipartisan support for this bill clearly demonstrates consensus on the value of this tax-free stimulus for job creation and economic growth," Dow said.

"We have already seen the benefits of a public-private partnership in states like California and Florida," said Caroline Beteta, president & CEO, California Travel & Tourism Commission.

"Destinations and local communities across the country will benefit from a comprehensive national effort to market the U.S. A. brand. The Travel Promotion Act will help keep the United States competitive in the international marketplace."

Oxford Economics estimates that a successful national promotion will yield \$4 billion in new spending annually, create 40,000 new jobs and generate \$321 million in new tax revenue each year. The Congressional Budget Office reported that the Travel Promotion Act would reduce the federal deficit by \$425 million over ten years.

"Today, America extends a heartfelt 'Welcome' to the rest of the world," said James Rasulo, senior executive vice president and chief financial officer of The Walt Disney Company and past national chair of the U.S. Travel Association. "It is a great example of the innovative solutions government and industry can create when they work together toward a common goal." As former Chairman of U.S. Travel, Mr. Rasulo oversaw the development of the Blueprint to Discover America that identified solutions for improving U.S. visa, entry and promotion programs.

The public-private Corporation for Travel Promotion established by the Travel Promotion Act combines the accountability of the government with the expertise of the private sector. The U.S. Department of Commerce will oversee the Corporation and work with the Departments of State and Homeland Security to nominate an 11-member board comprised of representatives from various segments of the travel community. Once the board is in place, it will select an executive director to run the operations of the Corporation. The Corporation will

develop a multi-channel marketing and communications program to attract more international visitors and explain changing travel security policies.

The initiative will be funded through a matching program featuring up to \$100 million in private sector contributions and a \$10 fee on foreign travelers who do not pay \$131 for a visa to enter the United States. The fee will be collected once every two years in conjunction with the Department of Homeland Security's Electronic System for Travel Authorization. No money is provided by U.S. taxpayers.

The Washington Post

Obama signs Travel Promotion Act

By Michael A. Fletcher

President Obama Thursday enacted legislation to promote international travel to the United States by establishing a national tourism board that would coordinate advertising and other efforts to encourage foreigners to visit the United States.

As a bipartisan group of lawmakers looked on as Obama signed the bill in the Oval Office. The measure is aimed at reversing a decline in foreign visitors to the United States of nearly 10 percent over the past decade.

The board created by the new law would develop advertising and educational campaigns to help potential travelers navigate United States visa requirements and security procedures.

The effort is to be paid for by private sector contributions matched by a \$10 fee on foreign visitors from countries who do not need a visa to enter the United States.

Advocates of the law say it would help attract 1.6 million new international visitors, \$4 billion in new spending and more than \$300 million in tax revenue each year.

Senate Majority Leader Harry Reid (Nev.), who faces a tough re-election battle this year, was a strong backer of the bill in hopes it might aid the ailing economy of his tourism-reliant state.

Obama adds \$10 travel fee on some foreigners

By: Josh Gerstein – *Politico*

Will adding \$10 to the cost of a trip to the U.S. prompt *more* visitors from overseas?

The U.S. is about to find out after President Barack Obama signed a bill this morning that will impose that ten-buck fee on travelers from 35 countries who don't need a visa to visit the U.S. (Visitors from other countries already pay \$131 for a visa.)

The Travel Promotion Act was strongly backed by Senate Majority Leader Harry Reid (D-Nev.), whose state is highly dependent on foreign travel. The idea behind the bill is to set up a travel promotion board that will buy television, radio, print and web ads urging foreigners to come to America and giving them advice about how to navigate visa and security requirements.

U.S. hotels, theme parks and travel spots strongly supported the bill, but international airlines opposed it.

"Today, America extends a heartfelt 'Welcome' to the rest of the world," a top Walt Disney Co. executive, James Rasulo, said. The U.S. Travel Association predicts the measure will add "\$4 billion in new [traveler] spending annually, create 40,000 new jobs and generate \$321 million in new tax revenue each year."

A White House statement struck similar themes, saying the bill will "create jobs, encourage travel to the United States, and help the tourism industry, which has been hurting as a result of the economic downturn."

But Steve Lott of the International Air Transport Association calls the fee mechanism "a bit counterintuitive."

"You tell foreign travelers: 'We think you should come visit our country, but we'd like you to pay more at the door.' It doesn't seem logical," Lott said.

Lott also said the U.S. would be better advised to improve travelers' experiences with visas, security and airports rather than papering over those problems with a public relations campaign. "Awareness of the U.S. as a popular tourist destination isn't really a problem," he said. "Why the U.S. has a bad reputation or is perceived as a hard place to visit is related to problems associated with visas, travel documents, long lines at customs and security. Let's put our money and resources into improving the travel experience and reducing the hassle factor."

While the U.S. Travel Association says the measure involves no tax on Americans, Lott points out that such fees often lead to retaliatory or reciprocal fees from foreign governments. "The minute other countries start doing the same thing, charging U.S. travelers, we'll probably here from members of Congress," the airline lobbyist said.

United States Senate

WASHINGTON, DC 20510

February 23, 2010

General James L. Jones
National Security Advisor
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear General Jones,

We write to request information concerning the U.S. export control regime and the Administration's efforts to reform that regime. We believe that in any effort to reform the U.S. export control regime, protecting U.S. national security should be the top priority. We are sure you agree.

We are concerned that potential adversaries have proven adept at acquiring sensitive technologies under the existing system and that, if not carefully tailored, proposed modifications to the system could exacerbate this problem. We note that the bipartisan Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, headed by Senators Bob Graham and Jim Talent, stated:

While the NPT and the IAEA are at the heart of the nonproliferation regime, it is important to note that they are bolstered by national export controls that help states impede the transit of technologies that could contribute to nuclear weapons programs across their borders.

Therefore, we respectfully ask for your commitment to fully respond to the following questions and requests for information at the earliest opportunity:

- 1) When was the last National Intelligence Estimate (NIE) or Intelligence Community assessment evaluating the extent to which controlled U.S. technology (goods and technology) has been procured by state sponsors of terrorism, nations that have been sites of illicit weapons of mass destruction (WMD) related transfers, or terror networks not affiliated with any state? Has there been an NIE or assessment examining what technologies are being targeted by the above actors and what they have obtained over the past 10 years, whether through illegal means or from third parties who acquired the technologies lawfully?
- 2) Will the Administration commit that prior to undertaking any regulatory changes, or asking Congress to consider statutory changes, it will conduct a new NIE or Intelligence Community assessment focusing on the above issues?
- 3) Will the Department of Commerce commit to suspend the Validated End User (VEU) program until there are significantly more than the current five enforcement officers overseas? Will the Department disclose the terms relative to the VEU program in China,

including the agreement to station U.S. enforcement officers in that country, specifically the End-Use Visit Understanding?

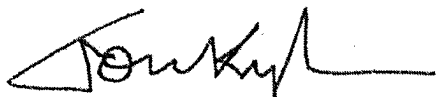
- 4) Has the Administration performed an economic analysis of the potential job losses for U.S. workers that could result if another nation is able to more easily obtain U.S. technology through a change in the U.S. export control regime and uses that technology to develop its own production of formerly controlled technology (goods and know-how)?
- 5) Does the Department of Commerce believe that it has adequately maintained and updated the Entity List? Specifically, does the Department believe the Entity List effectively identifies the “risky” end-users? If not, how does the Department plan to improve it? By what standard does the Department assess the effectiveness of the list with regard to “risky” end-users?
- 6) Will the Department of Commerce commit to updating the address and alias information of all entities that have been on the List for three years or longer within the next two months and certainly prior to undertaking any regulatory changes or asking Congress to consider statutory changes to the U.S. export control regime?
- 7) Will the Department of Commerce commit to review the missile and WMD programs of countries represented on the Entity List, and to identify any additional entities in those countries that need to be added to the List for proliferation or terrorism reasons within the next two months and certainly prior to undertaking any regulatory changes or asking Congress to consider statutory changes to the U.S. export control regime?
- 8) Does the Department of Commerce believe that entities sanctioned by the United States for violations of WMD proliferation sanction regimes and terrorism sanction regimes should be listed on the Department’s Entity List even when the terms of the sanction itself have expired? If not, please explain in detail.
- 9) Does the Department of Commerce believe that a license should be required for the export of any item on the Commerce Control List (CCL) to any person or entity subject to any U.S. WMD or terrorism sanction? If not, please explain in detail.
- 10) What changes does the Department of Commerce believe could be made to the Entity List, whether in format or content, that would simultaneously make it easier for U.S. companies to comply with the law and make it harder for the entities on the List to get controlled U.S. technology?
- 11) Please explain how the Commerce Department’s FY11 budget request for enforcement activities will be used by the Bureau. Is it sufficient to provide at least a 50% increase in enforcement agents? Will it permit an increase in the number of locations where those agents are based? Please answer both questions in detail. If the answer to either question is no, please tell us what budget increase for BIS would permit it to answer affirmatively to both.
- 12) Does the Department of Commerce support revising the Export Administration Regulations to require a license for the export of any item on the Commerce Control List when the exporter knows or is informed that the item is intended for military end use? If not, please describe why in detail.
- 13) What analysis has been performed by the Departments of State and Commerce, or elsewhere across the Administration, on what items on commercial satellites should be controlled and prohibited from export to China in the event Congress permitted those satellites to be removed from the United States Munitions List (USML) and returned to the CCL? Has a full damage assessment been done of what China acquired from the

Hughes/Loral criminal activity in the late 1990s? If so, we would appreciate it if you would provide a summary of the assessment in an appropriate, secure setting.

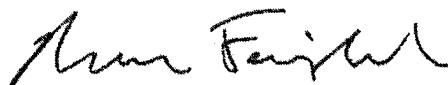
- 14) Is the Administration considering any changes to export regulations that could impact congressional notification requirements? For example, are you considering adjusting the process by which items are decontrolled? If so, what impact would this have on congressional notification requirements?
- 15) Is the Administration considering any changes to export regulations, including the CCL and USML control lists, regarding technologies and goods that may be considered to be "foreign available"? If so, please share with us the Intelligence Community and military service analysis that has been performed related to the military implications of relaxing controls on this basis. Please also share the analysis by CIA WINPAC and the National Counter Proliferation Center on the implications of the same for U.S. non- and counter-proliferation goals.

We are sure you agree with us that the first priority in evaluating the export control regime must be our national security. We respectfully await your detailed responses to our questions and requests for information.

Sincerely,



JON KYL
United States Senator



RUSS FEINGOLD
United States Senator

CC: The Honorable Gary Locke, Secretary of Commerce
The Honorable Hillary R. Clinton, Secretary of State
The Honorable Robert Gates, Secretary of Defense



**COUNCIL OF
THE EUROPEAN UNION**



6739/10 (Presse 38)

PRESS RELEASE

2996th Council meeting

Foreign Affairs

Brussels, 22 February 2010

President

Ms Catherine Ashton
High Representative of the Union for Foreign Affairs and
Security Policy

P R E S S

Rue de la Loi 175 B - 1048 BRUSSELS Tel.: +32 (0)2 281 5183 / 6319 Fax: +32 (0)2 281 8026
press.office@consilium.europa.eu <http://www.consilium.europa.eu/Newsroom>
6739/10 (Presse 38)

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IRAN

Ministers held a discussion on the political and human rights situation in Iran and on the Iranian nuclear issue, against the background of President Ahmadinejad's recent announcement that Iran would further enrich uranium to the level of 20 per cent, which would be a significant step towards producing weapons-grade uranium.

The Union remains committed to the international community's dual-track approach of considering further restrictive measures against Iran unless it responds favourably to the international community's offer of engagement, whilst at the same time being ready to seek a negotiated solution with Iran.

In line with the December 2009 European Council declaration and given the lack of a satisfactory response by Iran to the international community's offer of engagement and its failure to respect its international obligations, the Council is reflecting on the measures that could be taken to accompany the UN-led process of moving towards additional measures.

Congress of the United States
Washington, DC 20515

February 18, 2010

Secretary Hillary Clinton
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

To Secretary Clinton,

We write in response to a letter, dated February 1, from Assistant Secretary Verma, about the State Department's ongoing investigation of potential violations of the Iran Sanctions Act of 1996 (ISA). As you know, on October 20, 2009, fifty members of Congress wrote to the President, transmitting a report by the non-partisan Congressional Research Service (CRS), indicating that a number of foreign firms are likely in violation of US law under the ISA. The October 20th letter urged the Administration to fully enforce the ISA and officially determine if the entities listed in the CRS report were indeed in violation of US law.

As indicated by Mr. Verma in his February 1st letter, Assistant Secretary of State Jeffrey Feltman testified before the House Foreign Affairs Committee on October 28, 2009 that the Department would conduct a 45-day preliminary review of firms that violated the ISA. As we understand from the letter, this preliminary review concluded and the Department is now examining companies it deems "problematic." We ask you to disclose those companies that are under investigation and request that a relevant State Department official brief us on your findings.

We sincerely appreciate that you understand the urgency that this assessment requires. We welcome the Administration's indications that it plans to use every available tool to ensure that Iran does not get a nuclear weapon. We support the President's message in his State of the Union on January 27, 2010, when he warned of "growing consequences" if Iran's leaders reject their obligations under the Nuclear Non-Proliferation Treaty. We further believe that if firms are violating U.S. law, there must be consequences.

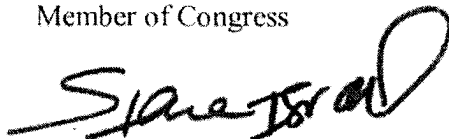
Given Iran's intransigence and the support these companies provide to the Iranians, we urge you to fully enforce the Iran Sanctions Act and levy appropriate sanctions against companies who have violated US law.

We look forward to working with you on this matter.

Kindest regards,



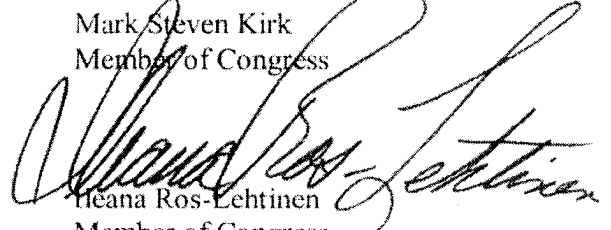
Ron Klein
Member of Congress



Steve Israel
Member of Congress



Mark Steven Kirk
Member of Congress



Heana Ros-Lehtinen
Member of Congress



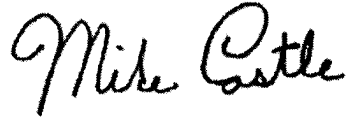
Steve Rothman
Member of Congress



Dan Burton
Member of Congress



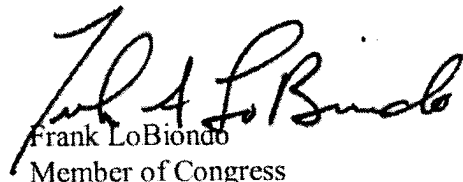
Jim Himes
Member of Congress



Mike Castle
Member of Congress



Heath Shuler
Member of Congress



Frank LoBiondo
Member of Congress



Anthony Weiner
Member of Congress



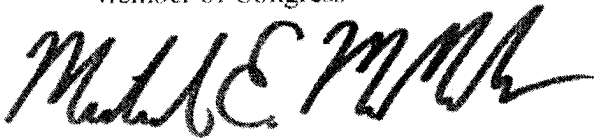
Jerry Moran
Member of Congress



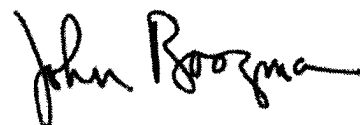
Gary Peters
Member of Congress



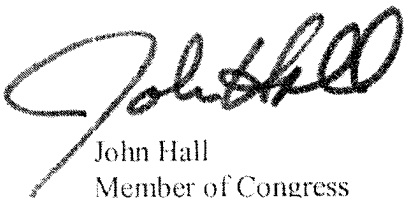
Leonard Lance
Member of Congress



Michael McMahon
Member of Congress



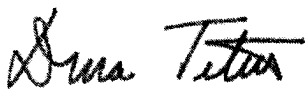
John Boozman
Member of Congress



John Hall
Member of Congress



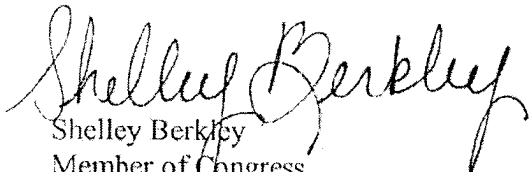
Sue Myrick
Member of Congress





Dina Titus
Member of Congress

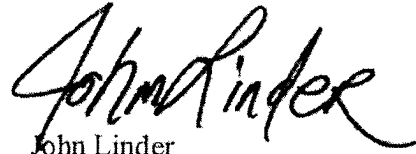


Aaron Schock
Member of Congress


Shelley Berkley
Member of Congress


John Campbell
Member of Congress

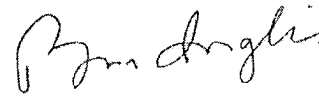

Paul Hodes
Member of Congress


John Linder
Member of Congress

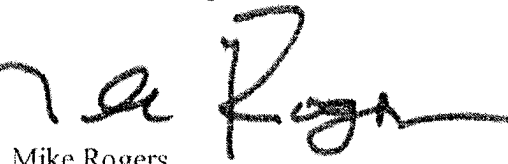

Walt Minnick
Member of Congress


Frank Wolf
Member of Congress


Roy Blunt
Member of Congress


Bob Inglis
Member of Congress


Rodney Alexander
Member of Congress


Mike Rogers
Member of Congress

3 March 2010

U.S. COORDINATING PLANS ON IRAN WITH ISRAEL

The United States is working to close ranks with Israel on how to tackle Iran's nuclear project, a senior U.S. senator said on Monday, playing down the prospect of the Israelis attacking their arch-foe unilaterally. "One of the reasons so much dialogue is taking place ... is to make sure we are all on the same page that we are all clear what timeframes exist or do not exist, what threat levels may be real or unreal, what options may be on the table for us," John Kerry, a Democrat and chairman of the Senate Foreign Relations Committee, told reporters during a visit to Israel. Israel, which has hinted at preemptive strikes against Iranian nuclear sites if it deems international diplomacy with Tehran a dead end, has in recent weeks hosted a slew of Obama administration officials and U.S. military top brass. U.S. Vice President Joe Biden is due to visit next week in what one senior Israeli diplomat described as "a demonstration of the special relationship" between the allies.

4 March 2010

U.S., EU, URGE SYRIA TO 'DROP NUCLEAR SECRECY'

The U.S. and the European Union are urging Syria to stop stonewalling attempts by the International Atomic Energy Agency to investigate its nuclear activities. A U.S. statement to the IAEA's 35-nation board on Thursday said Syrian nuclear sites that seem to be intended for «non-peaceful purposes» are matters of serious concern. The EU statement expressed similar sentiments. Syria insists it has nothing to hide but has turned down repeated IAEA requests to visit suspicious sites and provide satisfactory explanations for unusual traces of uranium at those locations. One of the sites was bombed in 2007 by Israel. The U.S. says it was a nearly finished nuclear reactor meant to produce plutonium. **SYRIA SUGGESTS ISRAEL MIGHT HAVE PLANTED SUSPECT URANIUM** Syria suggested Thursday that nuclear material might have been planted on its territory by Israel –offering a new explanation for uranium traces found by the International Atomic Energy Agency, according to participants at an IAEA meeting. Syria had claimed that a site bombed by Israel in 2007 was not a secret nuclear reactor and that the uranium traces found by IAEA inspectors stemmed from Israeli ammunition. Addressing the IAEA Board of Governors, Syrian Ambassador Bassam Sabbagh spoke of "Israeli airplanes that have overflown that site and dropped things, and material," according to one of the participants recounting the remarks to the German Press Agency dpa. The IAEA has analysed samples taken at the bombed al-Kibar site in the Syrian desert, also known as Dair Alzour. It judged in its latest report in February that "there is a low probability that the source of these particles was the use of missiles" and that the presence of the material pointed to possible nuclear activities.

1 March 2010

IRAN ACCUSES U.S. OF BEHIND IAEA U-TURN Iran's supreme leader charged Sunday that U.S. and its allies are behind the U.N. nuclear watchdog agency's claim that Iran may be making nuclear bombs, despite its repeated denials. The comments by Ayatollah Ali Khamenei, broadcast on state television Sunday, came 10 days after the International Atomic Energy Agency said it was concerned Iran may be working on nuclear weapons. «Some IAEA reports and actions show that this international agency lacks independence,» the television quoted Khamenei as saying. «The IAEA should not be influenced by the U.S. and some (other) countries because unilateral acts erode trust in the agency and the United Nations. It is also very bad for the prestige and reputation of these international bodies.» The language of the report _the first written by Yukiya Amano, who became IAEA head in December_ appeared to be more directly critical than most of those of his predecessor, Mohamed ElBaradei. Khamenei, who has the final say on all state matters, accused the U.S. and its allies of «lying» when they charge Iran is seeking nuclear weapons. Also Sunday, a senior commander of Iran's elite Revolutionary Guards threatened Europe's energy supply. In an apparent reference to the Iran-controlled Straits of Hormuz at the entrance to the Persian Gulf, Gen. Hossein Salami was quoted by the Fars news agency as saying, «Iran stands on half of the world's energy and if it decides, Europe will live in cold in the winter.»

2 March 2010

OBAMA TO UNVEIL \$ 6 BILLION FUNDING FOR ENERGY EFFICIENCY

President Barack Obama will announce details of an estimated \$6 billion program on Tuesday to generate jobs by providing incentives for Americans to make their homes more energy efficient, the latest step in his bid to convince Americans he can ease their economic woes. The plan, which must be passed by Congress, is intended to prompt Americans to invest in everything from insulation or new windows to overarching energy upgrades of their homes, creating construction and manufacturing jobs, and boosting energy efficiency. "The current thinking is that the program would be in the range of \$6 billion, and we think that would be an appropriate range for a program of this magnitude," said a senior administration official, who asked not to be named in advance of Obama's comments. Obama will spell out details of the plan during a trip to Savannah, Georgia, the latest stop on his "White House to Main Street" tour, during which he discusses ideas for rebuilding the economy. With unemployment just below 10 percent, Americans are anxious about the country's finances, nudging Obama's approval ratings to 50 percent or below and potentially dimming his fellow Democrats' prospects in November's congressional elections. The program involves a range of incentives for consumers, including rebates from stores that sell building materials, companies that install the equipment and utility energy efficiency programs. Consumers could also get rebates for a range of home energy upgrades. Dubbed "cash for caulkers" after last year's successful "cash for clunkers" automobile trade-in program, the program was first announced in early December. Obama called on Congress to support it in his State of the Union address in January.

3 March 2010

EU CLIMATE COMMISSIONER URGES U.S. TO WORK WITH IT TO COUNTERBALANCE EMERGING COUNTRIES

The European Union and the United States must work more closely together on climate change to counterbalance the weight of Brazil, China, India and South Africa, the EU's new climate action commissioner said ahead of her first official visit to the US. The EU is anxious to restore its influence in world climate-change negotiations, after it was largely overshadowed by the US and the so-called BASIC countries in global talks in Copenhagen in December. "One reason to go to Washington ... is to say that we think it's very important now, with the BASIC countries allying themselves and saying that they will coordinate their positions prior to any international meeting, that developed countries get together," Connie Hedegaard told dpa in an exclusive interview. In particular, developed states must discuss how they are to put into practice current pledges on climate funding to poorer states and how they should deliver the necessary greenhouse-gas cuts, she said. As Denmark's minister for climate change, Hedegaard hosted and chaired much of the Copenhagen meeting, before being sworn in as EU climate action commissioner on February 10. She is now planning to make Washington the venue for her first official visit, expected on March 16, as part of the EU's long-term attempt to find new leverage in world climate talks. "I am not going to Washington because I believe that they will just say OK, let's do it: it's also to find out what are the possibilities, what is the thinking behind the scene?" she said. One of the US' main objections to a binding global climate-change deal among developed countries has long been the question of how China would be bound to it. But Hedegaard said that that calculation was starting to shift. "The fear in the US of the competition from China, (is) that if they do something they would put a burden on American business ... I can hear that even among Republicans they start to say that it's maybe the other way round, maybe it will harm our economy more if we don't do it," she said. Hedegaard also acknowledged that developed states will have to find some way to convince China to level off its emissions before the current estimated date of 2035. "It is a mathematical fact that if you wait until 2035 for China to peak, it will be very difficult to reach the (climate) target. And we should say: you agreed in Copenhagen to the target. We all have a shared responsibility. We cannot achieve it without substantial concessions as concerns the peak year from big emerging economies." **MORE POWERS NEEDED TO NEGOTIATE** And she called on EU member states to find a more effective way of dealing internationally, after their pre-set negotiating stance proved too inflexible to use in real-life talks in Copenhagen. In international diplomacy, "suddenly the room just wants to do something different. How can we then be able to tackle these situations without having to go back and say, 'The rest of the world didn't agree with us, what do we do now?'" Hedegaard asked. But to start with, the EU's eyes are turned on Washington, where Barack Obama's plans for climate-change legislation have come under intense pressure following the Democrats' shock loss of their Senate super-majority in January. "I believe it's rather crucial that they can come up with some sort of legislation prior to their summer recess, because after their summer recess there is a risk that it's the midterm election campaign and then the attention is somewhere else," Hedegaard said. "I believe that more people in Washington realise that it is necessary, but sometimes politicians know what is necessary but for some political reason it's not the right time," she said.

3 March 2010

KEY U.S. SENATOR CALLS CAP-AND-TRADE PLAN DEAD

The idea of imposing a broad cap-and-trade system to cut America's greenhouse gas emissions is dead and will be replaced with a new approach, an influential Republican senator said on Tuesday. Lindsey Graham, one of three senators working against daunting odds to produce a compromise climate bill, has recently turned against imposing the kind of cap-and-trade system used in Europe, which involves companies buying and selling pollution permits. Graham did not specify whether another mechanism or some sort of cap-and-trade would be used more narrowly, such as to control emissions in the power utility sector. "The cap-and-trade bills in the House and Senate are dead. The concept of cap-and-trade is going to be replaced," he said. Cap-and-trade would involve cutting U.S. greenhouse gas emissions between 2012 and 2050 by establishing a regulated financial market where a wide range of companies would buy and trade a shrinking number of permits to pollute, which critics say would raise costs for consumers and companies. International climate change negotiations hinge in part on the ability of the United States, the largest carbon polluter in the developed world, enacting a pollution-control law.

3 March 2010

OBAMA PROPOSES \$3,000 HOME ENERGY REBATES

President Barack Obama on Tuesday proposed rebates of up to \$3,000 to help homeowners pay for the cost of making their homes more energy efficient, a \$6 billion program intended to create jobs. In his latest step to convince Americans he can ease their economic woes, Obama traveled to Savannah Technical College to unveil a plan that could create tens of thousands of jobs. The announcement came as White House economic adviser Larry Summers predicted that winter blizzards were likely to distort U.S. February jobless figures, which are due on Friday. Construction activity was hit particularly hard by the storms, but many restaurants and stores also had to close, putting the brakes on hiring plans and temporarily throwing some employees out of work. The efficiency plan, which must be passed by Congress, is intended to prompt Americans to invest in everything from insulation or new windows to overarching energy upgrades of their homes, creating construction and manufacturing jobs and boosting energy efficiency. Consumers would be eligible for between \$1,000 and \$1,500 for simple home upgrades such as insulation, duct sealing, water heaters, air conditioning units, windows, roofing and doors. Homeowners looking for more comprehensive energy retrofits would be eligible for a \$3,000 rebate if the efficiency measures lead to a 20 percent energy savings. "These are big incentives," Obama said. "You'd get these rebates instantly from the hardware store, from the contractor." (See [full text of speech](#))

5 March 2010

KEY U.S. SENATOR MOVES TO BLOCK EMISSION LIMITS

U.S. [Senator John Rockefeller](#) introduced legislation on Thursday to prevent the Environmental Protection Agency from cracking down on carbon dioxide pollution from coal-fired power plants and other stationary sources for two years. The Obama administration has long maintained that the EPA would move independently to reduce greenhouse gases blamed for global warming if Congress failed to produce its own climate legislation. Rockefeller, who represents the coal-producing state of West Virginia, said he introduced the bill to "safeguard jobs, the coal industry and the entire economy as we move toward clean-coal technology." It was not yet clear whether Senate Democratic leaders will quickly vote on the proposal. Rockefeller's bill would not delay the EPA from going ahead with rules regulating carbon emissions from vehicles. Rockefeller's bill, if passed by Congress, would impose a two-year time-out on EPA regulations on stationary sources of pollution from the date of enactment, so at least through March, 2012. The bill comes as a bipartisan group of senators is struggling to find a compromise bill to reduce carbon emissions and relieve the EPA of taking the lead. But it is less sweeping than legislation sought by Senator Lisa Murkowski, who represents the oil-producing state of Alaska. She has a proposal to permanently ban the EPA from regulating carbon. The EPA could move forward as soon as this month on new rules regulating carbon emissions from cars and light trucks. It's doing so after the U.S. Supreme Court ruled it had the authority under the Clean Air Act to regulate carbon, which the EPA says presents a danger to human health. The regulations on vehicles is seen as paving the way for EPA controls on smokestack emissions. (See [Rockefeller Introduces Legislation To Suspend Epa Action And Protect Clean Coal State Economies](#).)

