EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF THE U.S. TRADE REPRESENTATIVE

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PUBLIC HEARING

BEFORE THE TRADE POLICY STAFF COMMITTEE (TPSC)

ON THE

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

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May 30, 2013
9:30 a.m.

USITC Hearing Room
500 E Street, S.W.
Washington, D.C. 20436

PANEL MEMBERS:

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Trade Policy and Economics

L. DANIEL MULLANEY, Assistant U.S. Trade Representative, Europe and the Middle East

WHITNEY Y. BAIRD, Director
Office of Multilateral Trade Affairs
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SKIP JONES
International Trade Administration
U.S. Department of Commerce

M. DENNIS MARVICH, Senior Economist
Office of International Transportation and Trade
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ROBERT SPITZER, Senior Policy Advisor
Office of the Deputy Administrator
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Foreign Agricultural Service
Office of Agreements and Scientific Affairs
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U.S. Food and Drug Administration

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LIAM WASLEY
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Trade Policy & Negotiations Division
Bureau of International Labor Affairs
U.S. Department of Labor

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P R O C E E D I N G S

(9:32 a.m.)

CHAIRMAN BELL: This hearing will come to order. My name is Douglas Bell. I'm the Chairman of the TPSC and will be chairing today's activities. Welcome.

This hearing which will conclude today is being conducted by the Trade Policy Staff Committee, an interagency body chaired by the Office of the U.S. Trade Representative.

In addition to USTR, there are representatives from the Department of Commerce, Labor, State, Agriculture, Transportation, Health and Human Services, Interior, Treasury on the Panel. Many members of the USTR staff, as well as those of other government agencies, will also be present throughout these two days.

The subject of this hearing is the Transatlantic Trade and Investment Partnership, or TTIP.

On March 20, 2013, the United States Trade Representative formally notified Congress of the

Administration's intent to launch negotiations on a comprehensive agreement with the European Union aimed at achieving a substantial increase in transatlantic trade and investment.

The decision to launch negotiations for a TTIP agreement follows a year-long exploratory process conducted by the U.S.-EU High Level Working Group on Jobs and Growth, established by President Obama and the EU leaders during their November 2011 summit meeting and led by U.S. Trade Representative Ron Kirk and EU Commissioner for Trade Karel De Gucht.

USTR provided two opportunities for the public to comment as part of the HLWG mandated in 2012. Comments received in response to these solicitations and during a large number of Advisory Committee meetings and other meetings with stakeholders played an important role in shaping the recommendation to launch this negotiation.

USTR is seeking public comments regarding U.S. interests and priorities with regard to this initiative and has solicited testimony and written

comments from the public. Today we are scheduled to hear from 31 witnesses. Witnesses have supplied copies of their oral testimony which are available on tables as you enter the hearing room. Written comments from other interested parties are available for review at www.regulations.gov.

I would also note that the transcript of the hearing will be posted on the docket for this hearing on www.regulations.gov within approximately three weeks of the hearing.

Before proceeding, let me briefly review the structure of the hearing. As provided in the notice in the *Federal Register* announcing the hearing, each witness is invited to provide a five-minute oral statement summarizing the views contained in their more comprehensive written submission. That statement will be followed by questions from members of the Government Panel.

Witness statements will be managed through the use of the green, yellow, and red light on the witness table. When the light turns yellow, there's one minute left for the presentation. As you can

see from the witness table, we keep as close to the schedule as possible if all witnesses are to receive their allotted time today. I will therefore ask that each witness quickly bring their statement to a conclusion as soon as the red light goes on.

We'll take a one-hour lunch break from approximately 1:20 to 2:30 p.m. I will reconvene the hearing promptly at that time with our first witness of the afternoon.

One last very important matter: Staging a hearing of this size and interest exceeded the facilities readily available to USTR. USTR is grateful to the U.S. International Trade Commission and its Chairman, Mr. Irving Williamson, for making its facilities available to the Executive Branch for this event.

In particular, I want to thank Ms. Lyn Schlitt and her staff and Mr. William Bishop and the Office of the Secretary for their assistance in facilitating the consideration of a request for assistance and their invaluable cooperation and support in the planning and execution of the

hearing.

I will now ask the Panel members to introduce themselves. Then Dan Mullaney, the Assistant USTR Representative for Europe and Middle East, will make a statement. Thank you.

MS. BAIRD: Good morning. I'm Whitney Baird from the Department of State.

MS. ZOLLNER: Hi, I'm Anne Zollner from the Department of Labor.

MR. JONES: Good morning. Skip Jones from the International Trade Administration, Department of Commerce.

MR. SPITZER: Bob Spitzer, Foreign Agricultural Service, USDA.

MR. MARVICH: Good morning. I'm Dennis Marvich from the Office of International Transportation and Trade at the U.S. Department of Transportation.

CHAIRMAN BELL: I thought we had one other person but I -- well, she's on the phone, but when she has an opportunity to ask questions, she'll introduce herself as well.

Dan, if you'd like to provide us with your statement, please.

MR. MULLANEY: Yeah, thank you, Doug.

I'd like to welcome our witnesses, U.S. Government Panelists, and those present today in the gallery. We're looking very much forward to continuing today the hearings that we began yesterday regarding the Administration's intent to initiate negotiations with the European Union in a Transatlantic Trade and Investment Partnership, or TTIP.

We had a very fruitful start yesterday and are very much looking forward to hearing the testimony of today's witnesses.

I think everyone here present is aware of the extraordinary transatlantic economic relationship which accounts for nearly half of the global GDP and 30 percent of global trade. Each day goods and services worth nearly $3 billion are traded across the Atlantic. Our investment relationship reached nearly $4 trillion in 2011. More than $9 million is traded between us every

5 minutes. Even so, President Obama and his European colleagues felt that there was more that we could do to take advantage of our potential for increased jobs and growth in our markets.

During the 2011 leader summit, they created the U.S.-EU High Level Working Group on Jobs and Growth, tasking the U.S. Trade Representative and the European Commissioner for Trade with investigating the options available to better exploit our untapped potential for job creation, growth, and international competitiveness.

After 14 months, during which it consulted closely with a wide range of public and private sector stakeholders, the High Level Working Group concluded in its February 11, 2013 final report that an agreement that addresses a broad range of bilateral trade and investment policies, as well as global issues of common interest, would be the best option for generating substantial economic benefits on both sides of the Atlantic.

On March 20, 2013, the Administration notified Congress of its intent to launch TTIP and

outlined its broad negotiating goals. We have an ambitious negotiating agenda including, but not limited to, seeking full elimination of tariffs, substantial progress on reducing regulatory and other non-tariff barriers without compromising legitimate regulatory objectives, and pursuing disciplines that address emerging challenges for global trade such as state-owned enterprises and localization barriers.

Our letter to Congress began a formal 90-day period of consultation during which we're working closely with Congress and with private sector stakeholders to more carefully hone our TTIP negotiating objectives. A major component of that consultation, of course, is our process of obtaining and reviewing comments submitted in response to a notice published in the *Federal Register*.

As Doug noted, this is our third request for public submissions since the High Level Working Group was formed, and the input we have received has been a critical component of our decision-making process. We're carefully reviewing the hundreds of

submissions we received during the last request for views and are very thankful for the thoughtful and valuable contributions.

We do not underestimate the challenge of concluding a comprehensive trade and investment agreement with the EU. However, we believe the potential gains overwhelmingly justify the effort.

Exploratory discussions over the past year and the support for a comprehensive agreement that has been offered by a significant and diverse set of stakeholders boost our confidence that it will be possible to find a mutually acceptable solution on difficult issues and conclude an agreement that will benefit U.S. workers, manufacturers, service suppliers, farmers, ranchers, innovators, creators, small and medium-sized businesses, and consumers.

A successful agreement with the EU could generate significant new business and employment in the United States, and we are envisioning an ambitious and intensive negotiating timeline that will get us across the finish line quickly. We must get the substance right, of course, but we

acknowledge that a negotiation that drags on is in no one's interest.

During these two days of hearings, we will have had presentations from 62 witnesses that represent a wide range of interests. We greatly appreciate the work that went into these submissions and testimony and want to again underscore the importance of these consultations in helping us to better understand the concerns and objectives of our many stakeholders.

Finally, let me also state clearly that this is certainly not the final opportunity to provide views on this negotiation. We will welcome additional input throughout the negotiation process.

Again, thank you very much for coming today, and we'll look very much forward to hearing your testimony.

CHAIRMAN BELL: Good. Thank you very much, Dan.

We're going to go ahead and start the process of listening to witnesses. First up is the U.S. Public Interest Research Group.

For all of the folks who will be testifying, the middle is fine. Please ensure that you identify yourself and your organization for purposes of the official transcript, and we welcome and look forward to your comments.

Go ahead, please.

MR. MIERZWINSKI: Thank you very much. I'm Ed Mierzwinski. I'm Consumer Program Director for the U.S. Public Interest Research Group. We are a federation of state, consumer, environmental, and government reform organizations that take on powerful interests on behalf of our members.

We are also a founding member of the now 15-year-old Transatlantic Consumer Dialogue, a U.S.-European form of consumer organizations that develops joint policy recommendations to both governments to promote consumer interests.

We're generally supportive of the effort that you are going forward with today. However, we want to point out that we think your priority should be not to focus on regulatory issues, as I believe one of the initial statements said, but to focus on

advancing consumer interests. And we would consider supporting any final agreement only if it is not negotiated secretly and only if its results are not predicated on special interest demands to preempt or eliminate consumer health safety and financial protections.

Our views are generally heavily informed by the fact that we are an association of state-based organizations, and over the years, we have recognized that good ideas about consumer health safety and financial protections come from local and immediate attempts to make change rather than from national or international agreements, and we have seen that when the local agencies are preempted, the local states are preempted, that consumers are not benefited.

A perfect example of that is the recent U.S. financial crisis. Right down the street from here is an agency called the OCC, which is under new management. It's not the same as the old OCC, but the old OCC didn't do anything about the financial crisis, and they preempted the states from enforcing

or enacting new laws in housing and in mortgage relations. And so because of that, the financial crisis was exacerbated.

So we need to protect in any agreement the right of the states and the right of the two partners to enact stronger laws.

So what I encourage you to do is to enact a trade rule, if you do enact one, that acts as a floor, not a ceiling, of protection and further that allows the partners and their member states to go further and enact stronger regulations to protect consumer health safety and their pocketbook protections.

The other point that I want to make today, and my testimony is very similar by the way to my May 10th submission, the other main point that I want to make today is like the other NGOs and civil society organizations that testified yesterday and today, our main concerns are that this be as transparent a process as possible. WIPO operates under a transparent set of rules. WTO operates under a transparent set of rules.

We believe that you must first create a consumer advisory committee to this operation, and second, that that is just a minimum request.

We also believe that the documents should be open to the full public, the text, actual text, not summaries, not some sort of other, you know, short versions of the information, but actual text should be open.

We understand that over 600 industry lobbyists sitting on existing advisory committees already have access to the documents of most trade negotiations that go on between the U.S. and its other trading partners.

There are, as I understand it, one or two or maybe three or four consumer and environmental reps on those panels. So we think it's very critical that you nominate and appointment a consumer advisory committee but that you also provide for full disclosure of negotiating text.

In my written testimony, I talk and in my May 10th submission I talk about some of the particular issues, privacy, food, and other issues

that some of the other colleagues will be talking about.

One other point I want to make is we really think that something that should be kept out of this is anything that gives investors the equivalent power of governments, any form of investor-state tribunal that allows for dispute resolution, that gives investors more power than actual citizens have. I think it's a big mistake and something that should be kept out of this.

Thank you very much.

CHAIRMAN BELL: Well, thank you very much for your comments and observations.

We have a number of questions. Dan, would you like to start us off, please?

MR. MULLANEY: Yes. Thank you very much, Mr. Mierzwinski, for your testimony.

You mentioned the priority of advancing consumer interests. Can you envision a way in which the TTIP negotiations can both address duplicative and unnecessary regulations and also preserve protections or advance the interests for consumers

on both sides of the Atlantic?

MR. MIERZWINSKI: Well, I think that the question there is to avoid listening to industry lobbyists who simply want to eliminate public protections, and instead look for ways that you can achieve some sort of interoperability of standards, some sort of regulatory convergence that does not take away the rights at the local and federal levels to enact stronger standards.

Again, I think my experience has long been that if a higher-level government takes away the authority of other lower-level local governments to act, then actions never occur.

The Federal Government, as an example, only acts either after a crisis such as the *Exxon Valdez*, or in 1990s, then in the 2000s, we had in 2007 millions of units of Chinese toys laden with lead came onto our shores. Congress hadn't done anything about product safety for years and years. So the government acted after a crisis like that or a crisis like Enron or the financial crisis, but the only other time it ever acts is after the states

act.

So I think you've got to strike that balance. You've got to strike that harmony.

If you raise standards high enough, the states won't actually act unless they have to in the future, but if you take away their right to act, that's when consumers are left unprotected.

CHAIRMAN BELL: You made a number of suggestions in your testimony about transparency, communication --

MR. MIERZWINSKI: Uh-huh.

CHAIRMAN BELL: -- you highlighted the need for a consumer advisory committee. I was wondering if you could just elaborate on how you think we could improve in communications between trade negotiators and stakeholders like yourself.

MR. MIERZWINSKI: Well, first of all, I want to say that your Agency, USTR, has always been very open to the consumer groups who have requested meetings with Mr. Mullaney and others. So we do appreciate that.

But we understand that industry through

the existing advisory committees has special access to negotiating text, and so the first thing we would suggest is that there be a consumer advisory committee that has access to text, but making it a whole lot easier would be if text were open to the public, and as we understand it, and as my colleagues from other groups that have lobbied extensively in the Asian Pacific and the other free trade agreements that have been negotiated, there are numerous difficulties with secret text. ACTA is an example where I think secret text didn't help anybody.

So not just meetings. You're always open for meetings, but figure out a way to make the process itself more open and also create a consumer advisory committee so we at least are at the same level as the 600 industry lobbyists who already sit on X advisory committees.

CHAIRMAN BELL: Okay. Does anyone else have any further questions?

All right. Well, thank you very much.

MR. MIERZWINSKI: Thank you very much.

CHAIRMAN BELL: We'll now move to ASTM International.

MR. GROVE: Well, good morning. Thank you. I'm Jeff Grove with ASTM International. ASTM is one of the largest not-for-profit standards development organizations. We're very pleased to have members from 125 different countries, and we're a well-recognized member of the global standards community.

Focusing on Europe, we have members, about 1500 individual members from Europe, from leading European companies such as Areva, BASF, Siemens, small and medium size enterprises, and other important stakeholder organizations, all part of our standards development enterprise.

Many of our European members are actively involved in ASTM's standards development activities where they work to shape our standards to reflect their needs, including regulators from the European Aviation Safety Administration, EASA, who works alongside their peers from the Federal Aviation Administration to enhance aviation safety on both

sides of the Atlantic, particularly for general aviation.

ASTM is very pleased to be here today, and we strongly support the important objectives of TTIP, and we welcome this opportunity to make some comments and recommendations.

A couple of observations. First, the European approach to standardization shares many of the same objectives as the U.S. system. The European system's been very effective to facilitate the internal market in Europe, but it really does not connect well with the standard system here in the United States or the standard systems of our free trade partners.

The primary differences are over very important issues such as participation models, recognition and use of international standards, and the indirect referencing of certain European standards. For instance, participation in European standards development process is limited primarily to European experts working through their European Standards Organizations to develop a standard that

reflects a European consensus, while standards developed by ASTM International and many other global standards bodies that operate under a more international process follow an open, transparent, and balanced process that allows for the direct participation of individuals in order to reach a more global consensus.

Next, the U.S. is committed to the policy that there are multiple paths to international standards, and U.S. regulators work to fulfill their WTO commitments by referencing standards from ASTM and many other global standards bodies, including ISO, IEC, ASME, UL and other standards bodies, based upon important technical attributes and important principles that have been articulated by the WTO Technical Barriers to Trade Committee.

In Europe, however, it's different. The European Regulation on Standardization, Number 1025 of 2012, takes a much more prescriptive view by officially designating ISO, IEC, and ITU as the official international standards bodies for regulatory and trade purposes.

So rather than choosing the best standards based upon important technical attributes and WTO criteria, this European policy strictly considers the label of the standard or the source of the standard, not the standard itself.

So this conflicting policy complicates opportunities for cooperation and standards unless it is pursued through those bodies officially recognized by Europe, which is ISO and IEC, and in this context of seeking greater regulatory convergence, that's especially challenging considering that less than one percent of all the standards referenced in the U.S. Code of Federal Regulations comes from ISO and IEC.

So the final issue that complicates convergence is the indirect referencing as part of European Union's new approach to technical harmonization and standardization. There are over 4,000 European standards that are references as part of 30 new approach directives in Europe, and these directives cover products and materials used in construction, packaging, toys, medical devices,

equipment, machinery, and others.

But the indirect reference of these European standards means that while their use is voluntary, doing so meets the essential technical requirements of a directive and provides certainty in the form of presumption of conformity to those essential requirements of the directive.

This indirect reference and presumption of conformity is exclusive to European standards and those European standards that have been harmonized through ISO and IEC. There's no legal mechanism that exists to permit global standards developed by U.S.-domiciled organizations to receive the same treatment and be treated on equal footing.

Therefore, products that do not comply with European norms have to be further measured and tested against the essential requirements outlined in the directive.

So, in summary, there's two changes that we're primarily seeking: One is that Europe adopts a more modern and mainstream view over what constitutes an international standard and reflects

that in their regulatory process; and, two, that there's more flexibility under new approach directives for the indirect referencing of certain global standards that can demonstrate technical equivalence and global relevance in relation to WTO principles.

So I thank you very much for the opportunity to share those comments, and I look forward to any questions.

CHAIRMAN BELL: Great. Thank you very much, Mr. Grove.

I'll start off with one question. You state very eloquently in what you perceive as the difficulties or inconsistencies between the European and the U.S. approach. At the end of your presentation, you offered two potential pathways or solutions. I was wondering if you could elaborate a little bit more on that, on how you see this particular negotiation furthering those objectives.

MR. GROVE: Right. Well, thank you. So under the new approach to regulation, where there are 30 directives already in place covering a broad

range of products, there's no opportunity to use standards outside of those European norms, and the difficulty is that many U.S. manufacturers, particularly small and medium-sized enterprises, have had very limited input into the development of those European norms.

So one of the primary things when we talk to our members -- our members, 51 percent of our members come from SMEs, and the rest of our members represent other important players in the chain of commerce -- when we speak to our members, the biggest challenge they have in Europe is unfamiliarity with European norms and the inability to use the standards that they've helped to shape and that reflect their global business objectives, from ASTM and other U.S.-domiciled standards organizations, that can demonstrate that they meet World Trade Organization principles.

So that's primarily what we're seeking, some mechanism that will look at standards, consider the technical attributes of the standards. In many cases, they're probably achieving the same

regulatory goals: protecting children, establishing clean air, clear water principles. In many cases, they're probably achieving the same technical goals and technical attributes, but they're probably not identical, and the fact that they're not identical is causing this difficulty in duplicative testing, duplicative standards development.

So if there was some way to recognize multiple standards or develop some type of equivalence, so that there is more ability to use standards for multiple sources based on technical quality and market relevance.

CHAIRMAN BELL: Do you have specific recommendations on how to do that in light of, you know, past experiences, whether with MRAs or, you know, kind of horizontal approaches?

MR. GROVE: Right, right. I think it gets difficult on MRAs, and I know you'll have other witnesses today that represent more conformity and testing bodies. I think the difficulty comes in, in establishing formal MRAs.

I think what we are primarily seeking is

some new thinking in some areas, particular product areas, to be determined where there's an interest by industry on both sides of the Atlantic to share with regulators the fact that they believe these two standards accomplish the same objectives yet are different, and would like to offer to the regulators that perhaps in Europe, they reference both the European norm and the standard that's referenced by the U.S. regulatory body and allow industry the flexibility to demonstrate that they meet one of those two standards, and perhaps two is not the right number. It could be more than those two standards, but it's the idea of flexibility that could be embedded into the system at least on an experimental basis.

CHAIRMAN BELL: Thank you. Dan, I think you had some questions.

MR. MULLANEY: Yeah. Thank you. Thank you very much, Mr. Grove, for your testimony.

Referring to the issue of indirect referencing, what does this mean in practical terms for our companies in terms of being able to access

the EU market? Does it mean additional time and effort to access the market? Does it mean the products are blocked entirely? As a practical matter, if you could give me a sense of the impact of this indirect referencing on our trade?

MR. GROVE: Right. Well, thank you. So under the Pressure Equipment Directive, a very well-known directive that was passed about 10 or 15 years ago, it's become very difficult for U.S. manufacturers, suppliers to pressure vessel manufacturers, material suppliers to continue to sell their product to European companies or to take their product into the European marketplace using the standards they're most familiar with.

Therefore, they've had to either redesign their products to become more compliant with European norms, which oftentimes don't reflect the same technology and the same innovation that's in the U.S., in the North American marketplace and other markets around the world, or they've had to work with notified bodies, which brings a lot more expense in time to market to the process and results

in an uneven result. In some cases, they don't achieve market access at the end of the day. So it's costly and it's time to market or it could be produce redesign.

MR. MULLANEY: I realize the light is red. Can I ask one more question?

You made reference to small and medium-sized enterprises and their participation in the U.S. standards development process. What would you say on a comparative basis is the effect of these policies on small and medium-sized enterprises versus other companies?

MR. GROVE: Yeah. In submitted comments, you have the testimony of a small and medium-sized manufacturer from Baltimore, name Jim Shea, who talks about his experiences working both in the U.S. system and the international system, but I would say that the U.S. system is the envy of the world when it comes to incorporating small/medium-sized enterprises into standards development. It's a topic that all policymakers are concerned about.

Europe is spending a lot of time looking

at how the U.S. has been so effective, and really the reason why is because the barriers to participation are low and the ability to influence the process is very equal based on a balanced and consensus-based process. So a SME can have an equal vote to those of a multinational corporation at the same table, and that's why the U.S. system has been so effective in more adequately reflecting the needs of our enterprise.

MR. MULLANEY: Thank you. Thank you very much.

CHAIRMAN BELL: All right. Well, thank you for your participation.

MR. GROVE: Thank you.

CHAIRMAN BELL: We're now going to move to the Center for Food Safety.

MR. O'NEIL: Good morning. My name is Colin O'Neil. I'm the Director of Government Affairs for the Center for Food Safety, which is a legal, science, and public policy institute located in Washington, D.C., with offices in San Francisco, California, and Portland, Oregon.

We advocate with over a quarter of a million of our members for meaningful food and farming policies that protect food safety and advance nutritional standards in food security. We're also a member of the Transatlantic Consumers Dialogue.

While CFS is supporting of economic, regulatory, and cultural cooperation between the European Union and the United States, we are concerned that negotiations for a Transatlantic Trade and Investment Partnership may result in lowering food safety and public health standards in favor of advancing trade interests. We strongly oppose any proposal that would either dismantle the right to maintain existing food and public health policies or preclude the right to improve upon such policies in order to ensure that the highest standards of public safety are met.

Recent announcements by the U.S. and the EU officials, negotiating the TTIP, along with industry representatives, speak of the need to harmonize food safety environmental and consumer

protection standards. However, based on the current trade agreements and rulings by trade bodies such as the World Trade Organization, terms such as harmonization or regulatory convergence or coherence, all sounding rather sensible, have in practice resulted in setting a ceiling on standards. In other words, harmonization has codified low standards for food safety and public health and perversely restricted or prohibited countries from obtaining higher standards that protect citizens.

For example, in June 2012, the WTO ruled that some provisions of the U.S. country of origin meat labeling policy were barriers to trade and violated product-related technical regulation limits set by the WTO. The COOL program was passed by Congress as part of the 2008 Farm Bill with the aim of ensuring that U.S. families could know where their food was coming from and thus make informed choices in their purchasing and also make it easier for health regulators to track foodborne bacteria to its point of origin.

This binding WTO ruling means that Mexico

and Canada may soon impose trade sanctions against the U.S. if it does not weaken or eliminate provisions of its COOL program in order to comply with WTO rules.

Unfortunately, the majority of binding and enforceable rulings of the WTO and those of other trade bodies demonstrate a consistent pattern of lowering food environmental and consumer safety standards in behest of trade agendas.

We're also very concerned about the aggressive stance that the United States Trade Representative and agribusiness have toward eliminating non-tariff barriers such as import rules and/or labeling of genetically modified crops and organisms.

As former USTR Ambassador Ron Kirk has said, where it's GMOs or other issues, we want to deal with many of these non-tariff barriers that frustrate our trade.

Compared to the U.S., the European Food Safety Authority recognizes the precautionary principle and maintains stringent safety and

scientific standards in regard to approving and labeling GM crops and products. We support the right of the EU and individual countries to maintain high standards appropriate to their particular environment and cultures and the ability to respond to the mandates of its citizens, especially given that GM crops perpetuate and in some cases increase the use of synthetic nitrogen fertilizers and toxic chemicals contributing a high percentage of greenhouse gas emissions.

It is critical that trade measures instead advance ecological farm and food systems that help avert and adapt to catastrophic climate chaos and better ensure food security.

Also given that around 26 states here in the United States are currently moving to enact more comprehensive labeling requirements for GMOs, we oppose any trade measures that could threaten the right of U.S. citizens to dramatically determine high standards in food labeling.

Another aspect of harmonization of concern to CFS and other consumer and public health

organizations, such as the TACD, is the concept of substantial equivalency. In the U.S., some agencies may adopt a foreign country's regulatory standard and systems as being equivalent to those of the United States. Similarly, the U.S. can enter into mutual recognition agreements that allow nations to rely on the result of each other's inspection or certification regimes.

However, this is often very subjective, imprecise, and based on incomplete or outdated information. For example, the quixotic decision of the U.S. to maintain Australia's equivalency status after it adopted a privatized meat inspection system has resulted in repeated incidents of Australian meat imports being contaminated with fecal matter and digestive tract contents.

And, again, time does not permit a fuller discussion of this and other matters, but we look forward to continuing a dialogue as trade negotiations advance. We strongly urge that the process be fully open and that negotiating text will be published as they are developed.

As already noted, we encourage the support efforts to make the TTIP a model of a new trade system that provides a minimum standard of safety and protection for citizens of all countries.

Finally, we emphasize that citizen groups are prepared to rigorously defend high food safety standards and public health standards and are ready to reject any trade measures that would lead to a race to the bottom when setting standards that do not fully defend citizens and the environment.

Thank you for hearing our initial comments during this hearing.

CHAIRMAN BELL: All right. Well, thank you very much, Mr. O'Neil. We have some questions for you. Would USDA like to start us off, please?

MR. SPITZER: Thank you for your testimony, Mr. O'Neil.

In your view, are there circumstances under which it's appropriate for a country to restrict imports of product that they have found to be safe for consumption simply because they're produced in a different manner than is required or

favored in the importing country?

MR. O'NEIL: I'm sorry. Can you repeat that?

MR. SPITZER: Are there circumstances where you think it's appropriate for a country to restrict import of a product that they have found to be safe for consumption but they're restricting them simply because they are produced in a manner that's different from the production requirements or the production methods favored in the importing country?

MR. O'NEIL: I really think that some of those issues have to be case by case, and it depends on the material that we're talking about. Certainly there are examples of that happening, and I think there are open questions that you all will be debating. Certainly one issue that comes to mind is ractopamine, and I think one of the problems that we've run into here in the U.S. and what our membership, over 300,000 members, are very concerned about is minimal standards that do not meet international standards in many cases and are not mirroring decisions made by other countries or trade

bodies for that matter.

And so one of the questions is what are the standards being agreed to? And I think that's where the material depends.

CHAIRMAN BELL: Dan, did you have a question?

MR. MULLANEY: Yeah. Thank you. Thank you for your testimony, Mr. O'Neil.

You mentioned that these negotiations should avoid I think you described the circumstances in the past that codified low standards of food safety. I think you mentioned COOL as one example. Are there other examples in your view of areas where free trade agreements have codified low food standards?

MR. O'NEIL: Well, you know, I think where we're concerned about codifying low standards is in some of the equivalency standards. One of the other disturbing examples I think from our point of view is when China was declared equivalent for exporting poultry products to the U.S., but investigations showed that that decision was based on outdated

audit information and seemed to be motivated rather by quid pro quo to allow the U.S. beef exports to China.

Also, I think concerns about harmonizing tolerances, and it kind of gets to your question earlier about tolerances for maximum residues of unapproved new animal drugs in food shipped to the U.S.

MR. MULLANEY: Would you -- you had also in your written testimony mentioned I think issues of transparency. Do you have particular suggestions for how negotiators might improve communications between themselves and stakeholders such as yourself?

MR. O'NEIL: Certainly the issue of transparency is a concern, and for those of us in Washington, D.C. who follow it very closely, we tend to have information before everyone else, but for the average public and for our 300,000 members, they don't feel that processes like this in the past and certainly actually right now, that this is as open and transparent as possible.

I think one of the suggestions is negotiating text being published as they are developed rather then when they are finalized or when there's a deadline. That has been something that my colleague, who actually was supposed to testify before you today but couldn't make it, has reiterated in the past and I think something that would be very helpful. That would probably be my best suggestion short term.

MR. MULLANEY: Okay. Thank you.

CHAIRMAN BELL: All right. Well, thank you very much for your time.

MR. O'NEIL: Thank you.

CHAIRMAN BELL: Now I'd like to move to the Consumer Federation of America, and if you could also identify yourself for the record.

MR. WALDROP: Good morning. My name is Chris Waldrop. I'm the Director of Food Policy at Consumer Federation of America. CFA is a nonprofit association of nearly 300 consumer organizations around the country whose mission is to advance the consumer interests through research, education, and

advocacy. CFA is also a member of the Transatlantic Consumer Dialogue, a forum of consumer organizations in the U.S. and the European Union who develops and agrees on consumer policy recommendations to the U.S. and EU governments to promote the consumer interests.

CFA believes that close cooperation between the U.S. and EU is helpful to address common challenges and ensure that the transatlantic marketplace is safe and fair for consumers. Consumer protection should not be viewed as a barrier to trade. Rather, it strengthens trade by instilling consumer confidence and trust in the marketplace. When consumer protection is inadequate, markets fail as the recent economic crisis has so vividly demonstrated. Therefore, trade pacts must have at their center the advancement of consumer well-being.

Now, the remainder of my time is going to address both substance and process.

First, on substance, CFA will vigorously oppose any attempt through the TTIP to dismantle

existing consumer protections or to prevent new consumer protections from being implemented within the U.S. and the EU. Any agreement that aims towards regulatory convergence must require high standards for consumer protection and not impinge on a country's rights to enact stronger standards when they deem it necessary. These principles must be incorporated in the framework for the TTIP.

CFA works on a wide array of consumer issues, including privacy, food safety, financial services, and product safety. I'll just say a sentence about both of those, and we have more detail in my written comments.

On privacy rights, CFA strongly opposes including cross-border data flows in the TTIP negotiations. CFA supports the principles outlined in the U.S. Administration's Consumer Privacy Bill of Rights and has urged U.S. officials to turn them into legislation. Until and unless such legislation is enacted, it is premature to include any discussion of data flows in the TTIP.

On food issues, negotiations should not

result in reduced protection for consumers in terms of either safety or information and disclosure. CFA insists that the U.S. and EU must be allowed to establish non-discriminatory food safety, nutrition, and labeling standards that are stronger than any minimal standard negotiated through the trade agreement.

On financial services issues, negotiations of the TTIP should not result in the weakening or elimination of existing consumer protections for high-cost credit products, including, but not limited to, caps on interest rates and restrictions on abusive loan terms and collection tactics. Negotiations should also not limit the ability of the public to identify or determine the physical location of any financial institution.

Regarding product safety issues, negotiations of the TTIP should not result in the weakening of any product safety laws. The U.S. laws for product safety were strengthened relatively recently with the passage of the Consumer Product Safety Improvement Act, and these important consumer

protections are necessary to effectively protect consumers from unsafe products.

Now, on process, which directly impacts the substantive issues I just discussed, TTIP negotiations should be conducted through an open process in which the proceedings and negotiation text are publicly available and civil society can be actively involved. We urge the U.S. and the EU to create a consumer advisory committee that is briefed regularly and provided the opportunity to provide input into the process.

CFA believes that such transparency and engagement is absolutely crucial for these trade negotiations to be successful and credible. While it's encouraging that USTR has reached out to CFA and other consumer groups to ask for their input regarding the TTIP, it is impossible for us to provide meaningful input as the negotiations proceed without having access to information about the topics covered and the positions on them. It is essential that a consumer advisory committee be set up to provide a formal mechanism through which

consumers and the public can participate in a constructive and substantive manner.

In addition, USTR should provide regular updates on its website, including timely postings of proceedings and negotiation text, stakeholder comments, and input provided to the Agency so that this information will be made available to the public. Thank you very much for your time.

CHAIRMAN BELL: All right. Well, thank you very much, Mr. Waldrop.

I'll start off with a question. You articulate kind of your concerns with this process, and I'm curious, one of the fundamental approaches of, you know, trade agreements is preserving the regulatory integrity of our existing system. I'm curious. Do you see any opportunities as you, you know, as we look at this partnership with the European Union, through either procedures, mechanisms, you know, developing, you know, superior outcomes, not only for consumers but also for producers and exporters? You didn't really speak to that in your conversation, and I'm curious if you

see that possibility.

MR. WALDROP: Of course, I think that could be possible. I think the key though is to hold the consumer protection at the center of that. So any sort of mechanisms, any sort of efforts, discussions, negotiations that are looking at these types of, and I work on food issues, looking at food issues, for example, you know, I would recommend sort of a means test. Does this either increase or maintain consumer protections that are already in place, or does it strengthen them?

If you can apply that means test to whatever the mechanism is, whatever the negotiation is, and the answer's yes, then I think, yeah, you can see some progress there, where you could actually end up strengthening the protections for consumers.

CHAIRMAN BELL: And have you thought in particular what some of those mechanisms might look like?

MR. WALDROP: We have not. We're not prepared at this point to talk about some of those

mechanisms, but I will be happy to take that back to CFA, and we could certainly think that through and return to the USTR.

CHAIRMAN BELL: I think that's something we would be interested in hearing.

MR. WALDROP: Right.

CHAIRMAN BELL: Dan.

MR. MULLANEY: I just have one question, if I might, on the issue of a free flow of information. Can you envision a set of negotiated obligations that preserve the free flow of information and remained respectful of privacy legislation on both sides of the Atlantic?

MR. WALDROP: So on the privacy one, I'm going to have to defer that question. I don't work on privacy issues, and so I don't want to speak out of turn, but we can certainly connect you with our privacy expert who can get into a lot more detail on that.

MR. MULLANEY: Okay.

MR. WALDROP: I wanted to make sure I got her comments in though.

CHAIRMAN BELL: Any other questions? No.

All right. Well, thank you very much for your time.

MR. WALDROP: Okay. Thank you.

CHAIRMAN BELL: Okay. Our next witness is with the American National Standards Institute.

MR. BHATIA: Good morning. My name is Joe Bhatia, and I'm the President and CEO of American National Standards Institute, ANSI.

ANSI serves as the coordinator of the U.S. Voluntary Consensus Standardization System and as the official U.S. member body to numerous global standards and conformity assessment forums, including ISO and IEC. The Institute's advocacy and leadership at the international table actually has a direct impact on the acceptance of U.S. technologies in the international marketplace.

We represent the diverse interest of more than 125,000 companies and organizations, and ANSI strongly supports this transatlantic initiative as a means to reduce barriers between U.S. and Europe on trade matters. We offer a number of recommendations

that we think would be critical to a component of the TTIP agreement that would be effective.

The U.S. and EU have significantly different views on the use of international standards for regulatory purposes. This will complicate our opportunities for convergence.

Europe's new approach directive define essential requirements for products in the EU market and extend the presumption of compliance to select standards from three European Standards Organizations, CEN, CENELEC, and ETSI. U.S., on the other hand, follows a strategy, a national strategy developed under ANSI's leadership but with support from the public sector, which promotes a flexible, multiple-path approach. U.S. laws and policy calls for federal agencies to base technical regulations on voluntary consensus standards that are developed in the private sector and, in particular, relevant international standards whenever that is possible. U.S. regulators are given the flexibility to select the standards that best suit their needs.

ANSI believes that any regulatory

convergence mechanism must allow regulators, companies, and consumers on both sides of the Atlantic to choose international standards from multiple sources. Giving EU regulators that flexibility would enable them to select standards that best meet their objectives and would also result in greater regulatory alignment between the U.S. and EU.

The U.S. standardization system encourages the public and private sectors to follow the WTO TBT principles, principles that include transparency, due process, and balance, and are the balance of the U.S. standardization system. ANSI recommends that the EU empower its regulators to grant presumption of compliance to international standards as defined in the WTO TBT principles. This would actually allow technical qualities and relevance of specific standards to be the basis of selection rather than the development and the region of development.

ANSI also supports provisions that enable stakeholders to provide comments in the development of technical regulations, and we believe that there

must be accountability to ensure European regulators consider such comments when finalizing their measures.

In addition, allowing conformity assessment bodies the ability to offer services on national treatment basis will be an important tool to facilitate trade for manufacturers. It will provide a boost to global competitiveness of both U.S. and EU.

While the two regions should seek to minimize differences wherever possible, the TTIP negotiations should not hold the U.S. and EU to regulatory coherence objectives that are not viable. And in areas where U.S. and EU regulators do choose to cooperate, it is imperative that the impact assessment consider the full cost to society, not just the cost of compliance. The agreement should also embrace the WTO TBT assertion that public safety is paramount, and regulators on both side are given the authority to make measures that they deem appropriate to ensure quality of exports, protection of life and the environment, and prevention of

deceptive practices.

ANSI recently met with the European Standards Organizations and the European Commission and agreed to draft a memorandum of understanding which is intended to be finalized by the end of the year and is designed to support the upcoming negotiations of TTIP.

In principle, we believe that when it comes to global trade, transparent, consensus-based standards and conformity assessment systems are really not an obstacle to trade. They are, in fact, the tools for success. Thank you very much.

CHAIRMAN BELL: Well, thank you very much for your testimony. I'd like to turn to my Department of Commerce colleague to start us off with a question.

MR. JONES: Thank you, Doug, and thank you, Joe, for your testimony.

You and Mr. Grove and others have talked about your perceived need for flexibility for regulators, and you added also producers and consumers in your testimony just now to pick the

standard that most fits the public policy objective rather than choosing a standard developed by a particular organization.

Now, that clearly has economic advantages, but can you talk about the dual benefits a little bit, expound on those benefits you see for better regulation in that sort of an approach?

MR. BHATIA: Certainly. If you go back to the fundamental principles that are outlined in the WTO agreement, Technical Barriers to Trade Agreement, I think it quantifies the mechanisms by which the appropriate standards are developed, openness, due process, participation, the right to be heard by all the stakeholders that are impacted by the standard. Once these people are at the table, I think you have the opportunity to factor in all the critical issues, including technology issues, including the innovation issues, including the safety of the consumer issues and the regulatory needs.

And once you have those standards developed properly, I think the benefits are

automatic because everything that needs to be factored in has been factored in, and it allows both sides of the Atlantic to look at options that are liable to be acceptable to the technical as well as the industrial community.

Just to give an example, when we were in Dublin last month, I'm sorry, last year, late last year, they were looking for a solution that would be made up of standards from the U.S., like SAE or automotive standards, and the standards that come out of ISO and IEC and other parts of the globe, because we know in reality these are the global solutions that they've been using in practice.

I think we need to get an agreement that factors in these success stories. There are many more like that.

CHAIRMAN BELL: Dan, would you like to pose a question?

MR. MULLANEY: Thank you. Thank you, Mr. Bhatia, for your testimony.

You referenced I think the WTO committee decisions on international standards which defines

international standards, and I believe Mr. Grove did as well, and yet it seems, the implication of what you said and what Mr. Grove said, is that the United States and the EU seem to have different approaches to the international standards. So how do we reconcile the fact that you have a WTO decision that addresses international standards, and yet we seem to have two different views apparently of how that decision should be used?

MR. BHATIA: Yeah. Well, our U.S. standards -- suggests a multiple path approach. That doesn't rule out international standards from those bodies that we've been talking about. Multiple path approach includes standards from ISO and IEC as well as standards from other international standards organizations that follow those principles and that produce the documents that are relevant to the marketplace and multiple nations and that produce a quality output.

I think if you follow those guidelines and those principles, any negotiation can create a solution based on sectoral application and sectoral

acceptance. So everything will have to be looked at on a sectoral basis, be it trade associations, the industry associations, of like-minded manufacturers in different nations, would have to come to the table along with the consumers, along with the regulatory people, and decide what are the best solutions for not only standards but also for compliance mechanisms that they select as best for their activity and are acceptable to the other stakeholders in their countries.

I think that's the process we need to follow.

MR. MULLANEY: If I could be permitted to ask another question. You had mentioned on the regulatory impact assessments, that they should focus, I think you said, on the full costs and not just the costs of compliance. I wonder whether you could elaborate on that.

MR. BHATIA: Sure. Normally when we think about the cost, we think about the cost to the companies that are going to have to develop a product that complies with the regulations, you

know, standards. I think we need to also factor in the cost to society, cost to the consumers; is the cost passed on? Costs to the regulatory agencies to oversee the regulatory compliance and updating of the standards to accommodate innovation. We need to look at all aspects of the costs, not just the cost to the industry, which is often the only primary market that we look at.

CHAIRMAN BELL: I just had one follow-up question. You talked about, in response to Dan's question, kind of an approach that you think would be kind of consistent with kind of the WTO international standards concepts, and I'm curious, just in terms of our evaluation, do you see that as closer to the way the U.S. currently pursues this, or is it kind of somewhere in between the U.S. and what the EU does, or is it weighted towards the EU approach?

MR. BHATIA: I think all responsible organizations that are internationally active and are internationally accepted try to adhere to those principles, in fact, severally declare that they

comply with WTO principles. This includes the ISO and IEC systems as well as ASTM and SAE and IEEE and many, many more. These are the international bodies that are going to be creating solutions for the future, and we need to have multiple options develop the solutions that best meet our needs. Technology is moving at a rapid pace. We can't be locked into one or two or three organizations to cover the needs of global technology in the future years.

So I think we need to work within those principles and guidelines, and if they need to be revised and updated, we should do that collectively, and I think both of the systems allow that flexibility. Both of the systems look at those needs right now. They look at those criteria right now, and they try to embrace them as best as they can. So I can't comment which one is closer to it because it changes from sector to sector. In some sectors, they may be a little bit closer, and in some sectors, we're much further ahead.

For example, if you look at the API, you look at the pipeline, you know, technology

standards, they'll look at the API standards. When you look at the pressure vessels or elevator standards, they look at ASME. They won't look at the ISO and IEC as readily. When you look at the testing and measurement standards, they look at ASTM globally. They won't look at IEC and ISO standards.

Codex is another element that's not covered in the big three, yet they produce zillions of documents that are used globally everywhere.

So I think we have to remain practical, and we have to remain flexible.

CHAIRMAN BELL: All right. Well, thank you very much. We appreciate the nuance imbedded in your responses. Thank you.

MR. BHATIA: Okay. Thank you.

CHAIRMAN BELL: Our next witness is from the American Society of Mechanical Engineers.

MS. HIJIKATA: Good morning. Thank you for this opportunity to testify today.

My name is Heidi Hijikata. I am the Director of Global Development for the American Society of Mechanical Engineers, or ASME.

Since its founding in 1880, ASME has been a mission organization that serves the public good by advancing public safety and improving the quality of life. ASME now has more than 130,000 members in 158 countries.

ASME develops and maintains over 500 voluntary consensus standards used in over 100 countries around the world. These standards reduce the cost of goods and services; enhance safety, health, and quality of life; and facilitate innovation, trade, and competitiveness - all while substantially reducing the cost of government by providing a consistent and technically sound basis for regulation. ASME also provides conformity assessment services to over 6500 manufacturers in 75 countries.

We applaud this effort to increase transatlantic trade and investment through these negotiations and hope to provide helpful input by sharing our experience in three specific sectors.

The first involves pressure equipment, PE, a mature and highly regulated sector used

extensively throughout the industrialized world. The European Commission's introduction of the Pressure Equipment Directive, or PED, in 1997, led to the European Committee for Standardization or CEN's development of the new European PE standards as well as committee's rulings and guidelines that favored these EN standards. The specifics are described in detail in our submission to the *Federal Register* notice. ASME and PE manufacturers that use our standards made significant investments so that the manufacturers could use ASME standards under the PED. At the end of the day, the global PE industry chose, and continues to choose, to use multiple sectors in this very technical area.

ASME's experience in the commercial nuclear sector has been quite different. Because there is no European directive in this area, there is no mandate to any of the European standards or organizations to develop relevant standards. ASME is one of six standards developing organizations from around the world, including Europe, that decided to work together in a code comparison

project under the Nuclear Energy Agency. This effort led to the establishment of a Code Convergence Board that has been discussing how best to move forward, but regulatory bodies thus far have not been particularly receptive to this work. If regulators fail to recognize convergence code rules, the SDOs will likely stop participating in the effort aimed at standards convergence.

The third case deals with elevators or lifts. ASME develops standards for this sector and is the Secretariat of the U.S. Technical Advisory Group to ISO's TC 178. CEN has its own Technical Committee Number 10. An initial meeting between ASME and CEN on elevators and lifts was held in Dublin this past February. Should CEN wish to pursue specific recommendations and areas for potential cooperation, ASME is more than open to such a dialogue, but currently nothing is in place between ASME and either CEN or TC 10.

Based on these experiences, we offer the following suggestions to TTIP negotiators.

First, certain sectors, like pressure

equipment, face multiple regulatory requirements around the world. Different jurisdictions use different regulatory approaches in order to address varying levels of risk. While this creates more market segmentation for PE manufacturers, the TBT agreement and other guidance do allow for such differences. PE manufacturers understand and appreciate the situation but just need to know what regulations apply and what they need to do in order to meet them. While variations between U.S. and European PE regulations did lead to increased costs and inefficiencies for both ASME and PE manufacturers using ASME standards, those costs have now mostly been incurred, and arbitrarily changing the system again would likely create unnecessary market disruption and even more costs.

Second, as shown in the commercial nuclear area, technical convergence and cooperation do not necessarily lead to regulatory or administrative convergence. It would be wrong to assume that increased alignment or harmonization of standards will necessarily lead to increased regulatory

compatibility.

Third, there may be sectors such as elevators and lifts where increased cooperation between the relevant European Standards Organization and another SDO, such as ASME, may indeed lead to increased regulatory compatibility. Such discussions need to take place between the relevant technical, and not political or administrative, entities and need to make business sense for the organizations involved.

Thank you again for this opportunity to share our perspective on these important matters.

CHAIRMAN BELL: All right. Thank you very much, Ms. Hijikata.

Given the nature of the three recommendations, do you have specific mechanisms that you see would be most productive in terms of pushing forward those recommendations? Mechanisms in terms of how, you know, either agreements or understandings that could be identified and negotiated in this agreement.

MS. HIJIKATA: Well, I think one of the

recommendations, although we are recommending for pressure equipment, that really nothing be done to further change the system, that our manufacturers have really figured out the best way to address, but if you go back in our submission, we do talk about some of the things we have had to overcome together with our manufacturers in the last 11 years since the PED was actually implemented.

For example, in the area of material specifications, we, ASME, went ahead and submitted a European Approval of Materials, EAM requests, to the Commission which cost us well over $10,000 just to do that. The Commission went ahead and denied that request, citing that the materials used were similar to existing EN specifications, and so their European Approval of Materials mechanism really wasn't appropriate.

To us, we still don't understand this. if they're that similar, why can't they be used somewhat interchangeably? So that we think that the current structure is far too rigid and does not allow for the flexibility that my colleagues from

ASTM International and ANSI previously addressed. That's one example.

CHAIRMAN BELL: So it's introducing principles of transparency and broader participation. Is that kind of where you see this to avoid these kind of problems in the future?

MS. HIJIKATA: Certainly those would be elements of it, but it also could be for a specific technical specifications if they are very close to being equal, that they be considered the same and we not have to rework our products and materials in order to comply with an EN, just to comply with the EN.

CHAIRMAN BELL: Some kind of equivalency.

MS. HIJIKATA: Something like that, yes.

CHAIRMAN BELL: Okay. Thank you. I think my Commerce colleague has some questions as well.

MS. HIJIKATA: Sure. Thanks.

MR. JONES: Thank you, Doug. And welcome, Heidi.

I found your comments about the increased technical cooperation between the standards

development organizations interesting. Can you describe how you see this cooperation fitting into or complementing the government-to-government aspect of the TTIP negotiation?

MS. HIJIKATA: You mean specifically on elevators and lifts?

MR. JONES: Either using that as an example or more generally.

MS. HIJIKATA: I mean as I mentioned with elevators and lifts, we only had our first conversation a couple of months ago in February in Dublin. It was maybe an hour, hour and a half meeting. It was not long. So we did not get into a great deal of detail.

I think in order to be effective, it needs to be clear how discussions between SDOs can fit into the broader regulatory system. For example, a proposal which was somewhat floated at that meeting from the European side got into issues which were clearly not under the jurisdiction of the private sector standards developers. They really got into the regulatory piece, and it implied that it was not

clear what was the approval rule for the private sector standards side as opposed to the regulators.

Now, in my mind, there's no reason why the regulators couldn't also participate in that meeting or that process at some point, but if it is just between the standards developers, it needs to focus on the standard development technical piece of it and not the regulatory implementation of those standards.

MR. JONES: Let me try to rephrase the question slightly. So in a trade agreement, we don't dig down into setting standards or technical regulations. We set processes that govern the way that process happens, and hopefully that results in outcomes that benefit both the regulators and consumers and the producers and increases efficiency.

So how do you see the governmental negotiation process that focuses on improving the process by which standards and regulations are developed, coexisting with the cooperation among standards development organizations that you're

talking about in the elevator case?

MS. HIJIKATA: I think, you know, again encouraging from the government side a broader perspective, increased flexibility, openness to different approaches, different sources of standards, different methods would all enhance that. So I would encourage you to look at that aspect of it.

MR. JONES: And as a second question, and changing the topic a little bit, what opportunities do you see for increasing the transparency in the EU standards development process as part of this exercise?

MS. HIJIKATA: As my colleagues earlier from ASTM, in particular, and ANSI pointed out, I think there's a great opportunity. There are, certainly speaking from the ASTM and ASME perspective, our processes are very open. We are open to any qualified technical individual who would like to participate in our standards development committees. The European processes are not open like that. It is very difficult for non-European

players to be a part of that, and the resulting standards therefore are not as globally relevant or able to be used widely around the world. So I really encourage increased transparency, increased openness, balance, all those kinds of things that need to be better incorporated into the European system.

CHAIRMAN BELL: Well, thank you very much for your testimony.

Our next witness is from the Rubber Manufacturers Association and European Tyre and Rubber Manufacturers' Association.

MS. NORBERG: Good morning. My name is Tracey Norberg. I'm a Senior Vice President and General Counsel at the Rubber Manufacturers Association. I'm very pleased to be here today both representing my organization and the European Tyre and Rubber Manufacturers' Association based in Brussels.

RMA represents the tire manufacturing companies that actually manufacture tires here in the United States. So our members include

Bridgestone America, Continental Tires The Americas, Cooper Tire Rubber Company, Michelin North America, Pirelli North America, Goodyear Tire and Rubber Company, Toyo Tire Holdings of Americas, and Yokohama Tire Corporation. You probably have one of these names on the sidewall of your tires on your vehicle.

The European membership is very similar. They do have some companies that manufacture tires in Europe and do not in the United States. For sake of brevity, I won't read their list, but it is very similar, and they do have a few extra members.

Together, as the trade associations both representing the U.S. and Europe in tire manufacturing associations, we really truly form the biggest components of the global tire manufacturing industry, and we believe this process really presents some unique opportunities to address some issues that have not yet been addressed through another process that we have been involved with, developing global technical regulations for light vehicle tires.

In a very competitive global tire industry, having similar regulations is really key to reducing technical barriers to trade. Tire manufacturing is truly global in nature. Global sourcing is the name of the game, and reducing the types of burdens that would require duplicative testing would really lower costs and not sacrifice safety in any sector, but it's really important for the competitiveness of this industry.

Modern state-of-the-art radial passenger tires are critical to safe performance of modern vehicles. They're really the only thing that touches the road, if you think about it, and the market for passenger tires and light trucks, as I said, it's global as is the demand for both original equipment tires by our customers but also for replacement tires when those original tires wear out.

Light vehicle tires must comply with an increasing complex web of regulatory practices across the globe, and you probably wouldn't find it surprising to hear that the majority of those

regulations are either based on U.S. regulations or European regulations. And so as part of developing a global technical regulation for light vehicle tires, really the focus has been on both U.S. regulations and European regulations, trying to merge those two sources together in a comprehensive way to create a truly global technical standard for tires.

We've been active since about 1997 in these efforts. It's not been a short-term project for us, and through a number of different programs. The latest effort is under the auspices of the 1998 Agreement on Global Technical Regulations, and it's a pretty active group that has been involved since the mid-2000s looking at light vehicle tire regulations. The current group is sponsored by France and chaired by the United Kingdom.

There are two phases to this project. First, the light vehicle tire phase, and that's nearly completed at this point. And as I said, the global regulation that's being drafted is based on both Federal Motor Vehicle Safety Regulations here

in the United States and also the UNECE regulations that govern in Europe. It's been a very robust process, and really we feel that it is sort of the cornerstone of reducing those technical barriers.

Once that work is completed then, the industry and governments together will begin looking at the next set of tire regulations, which would be for the medium and heavy duty truck tires, and that phase is expected to take two to three years.

While this process offers a great mechanism for creating that regulatory framework for a truly global tire, there are some things that process doesn't offer, and from our perspective, there's a huge opportunity for this venue to try and address or being to address some of those issues that this global technical regulation process does not address.

The first point there is that it does not address administrative provisions for reciprocal recognition among contracting parties, and all that means is that if you buy a tire here in the United States, it has DOT on the sidewall which means that

tire company is certifying that it meets Federal Motor Vehicle Safety Standards. If you buy a tire in Europe, it has an E mark. Now, there is no way under this global technical regulation to reconcile the E mark versus the DOT mark, and that's really what we're talking about. Is there a way we could have a global mark to say these tires meet standards?

The next piece kind of goes hand-in-hand with that, and that is recognizing whether the tires are conforming with the regulations and a mechanism for enforcement. Right now, that's a country-based effort, and there's no kind of coordination to assure that it's more of a global approach.

And as I said, we see this venue as an opportunity to begin that dialogue because U.S. and European regulations are where it's at when it comes to tire manufacturing regulations, and we believe the leadership here and the momentum here is a great way to address those issues.

So I appreciate your time, and I'm happy to answer questions.

CHAIRMAN BELL: Great. Well, thank you very much.

I know my Department of Transportation colleague has some questions for you, but I wonder if you could comment, I don't know if you've been here for some of the earlier presentations, but certainly one of the themes, in particular the consumer groups have been sounding, is the concern that any type of convergence or movement towards, you know, unified standards not jeopardize consumer safety. And you make kind of a reference to that in your presentation, and I'm curious and would appreciate if you could maybe elaborate on, you know, how you see these existing processes, perhaps supplemented by things that could be done in this agreement, address those consumer safety concerns.

MS. NORBERG: I think in this situation, we probably have the benefit in the fact that the global technical regulation is well underway, and the Department of Transportation officials and NHTSA officials have really championed assuring that the Federal Motor Vehicle Safety Standards form the

backbone of the regulations, particularly in the area of tire endurance performance.

You probably recall the Ford Firestone recall of some years ago and the resulting Tread Act. Tires in the United States have to meet the toughest testing standards anywhere in the world, and the GTR contains those provisions. So I think from a safety standpoint, you can absolutely be assured that the U.S. standard for safety would be met in the GTR.

CHAIRMAN BELL: So is the principle here then that you have kind of the intimate participation of your regulators and kind of safety standards-based approach? Is that kind of what is the backbone to what you're describing?

MS. NORBERG: How the GTR process works really is it's the countries negotiating what the GTR looks like, but the industry informs the process by participating in a working group to develop the structure and format of the proposal, and in the case of the tire proposal, it contains all of the safety standards that are governed here in the

United States, and they've added in some optional modules for performances that are not safety related that are in force in the EU and not here. But from the point of view of safety, it's absolutely -- I would say the U.S. standards govern.

CHAIRMAN BELL: Okay. Thank you. Dennis.

MR. MARVICH: Thank you. You note that the global technical regulation process does not include administrative provisions for reciprocal recognition between contracting parties through a recognized globally accepted certification mark that would substitute for national certification marks. You also note in your written submission, also in your testimony, that the GTR process does not allow for reciprocal recognition of conformity of production and compliance testing.

So given that the United States and the European regulations are enforced in different ways, self-certification versus type approval, two questions: What effect would your proposal for allowing mutual recognition have on traditional enforcement practices of each party? And also, do

you see this as basically a bilateral issue to be resolved between the United States and EU, or is it a multilateral issue to be resolved in Geneva under the United Nations?

MS. NORBERG: I think the reason why we brought this issue to this forum is because really the GTR is based on the U.S. and EU regulations, and most of the other countries globally follow the lead of one of the two models. And so if we could address the issues on a bilateral basis, it paves the way for addressing the issues on a multilateral basis.

We see tire regulations developing all over the globe and truly all over the globe, and they sort of picked NHTSA regulations off the shelf and plunked them in and try and use how the U.S. approaches enforcement and even rely on the U.S.'s enforcement as their basis, or we see the same thing where they pick up the UNECE regulations and plunk those in and then rely on the approval type approach.

So while you would say it's multilateral,

it's kind of a big, you know, we follow either the Europe or U.S. approach. So from our perspective, addressing it here really does start addressing it at a multilateral level.

From the point of view of looking at a type approval versus self-certification, yeah, they're absolutely completely different, and that's part of the challenge, but I think through some discussion and dialogue, there's got to be a way where we can have some mutual recognition of the certainty of the process that these tires are performing at the appropriate level and meeting the standards. You know, it's different paths to the same end and, you know, I think, sure, there's not an answer we can easily plunk off the shelf, but I really think it's part of a dialogue that needs to happen and through industry, yes, we can talk about it, but in terms of trying to have that dialogue with governments to say, what would be acceptable if you were to see a tire that was type approved in Europe, would it be acceptable here, and could there be a path forward for that and vice versa? Could

there be a path forward in Europe with a tire that's been self-certified? Because the fact is they're both performing at the standard level.

So I mean that's, you know, and I think given the fact that the TTIP is setting that structure, potentially maybe there's that flexibility then, too, in the implementation phase, have that additional dialogue to try and find an appropriate mechanism of moving forward. Does that make sense? Okay. Sort of. Okay.

CHAIRMAN BELL: Did you have any further questions?

MR. MARVICH: I don't think I have anything further. The only remark I would make regarding what you just said is that, and correct me if I'm wrong, I'm not sure one could accomplish that through the trade agreement, I mean to that level, but certainly there's a desire here to try to deal with these problems that seem to be intractable in other areas.

CHAIRMAN BELL: Precisely why we're listening to testimony so we can hear how we do

pursue these types of objectives. Very good. I think that concludes our questions. Thank you very much.

MS. NORBERG: Thank you very much.

CHAIRMAN BELL: All right. Our next witness is from the Association of Home Appliance Manufacturers.

MR. MESSNER: Hello. Thank you. I'm Kevin Messner. I'm with the Association of Home Appliance Manufacturers.

I just wanted to touch on two areas, a real-time occurrence of what's happening right now on a regulatory issue in Europe: that's technical barriers to trade, as an example of some things that this TTIP could address, and then also the transparency issues of the ability for others outside of Europe to actually meet and talk to anyone in the EC or in Europe as they develop regulations.

So this is real world. It's happening right now. I'll give a little background for those of you who aren't chemical engineers. The coolant

in refrigerators -- this is what we're dealing with, refrigerators and room air conditioners. So the coolant and refrigerant in the refrigerators is what the issue is here. They have a F-gas regulation, F-gas for fluorinated gas regulation that deals with a possible substance that's used as a coolant.

So the industry over time has gone from coolants that are ozone depleting, high global warming impact, and transitioned to a current F-gas in the U.S. which is non-ozone depleting, but it still has a global warming impact.

Then there's kind of a next generation of coolant that would be non-ozone depleting and very, very low global warming impact, and one of those alternatives is known as hydrocarbons or isobutane, but it's essentially, you think of, it's a chemical like propane. It's flammable, but it can be used as coolant.

So in EU, most refrigerators use hydrocarbons for the refrigeration, for the coolant, and also there's the insulation as well. So it's a flammable coolant. It has special things that have

to be done to deal with that, but most of the refrigerators are over there.

In the U.S., you weren't allowed to use this hydrocarbon refrigerant until EPA approved it, and they just approved it about a year ago. So Europe's on track. The EUC, the European Commission has a proposal to ban the use of F-gases that are above a certain GW, global warming, potential of 150, which essentially would require manufacturers to use a hydrocarbon refrigerant which was just only recently approved by EPA, and you've got to make sure that there's no fire issues. You've got redesign the refrigerator and all these types of things.

So the European Commission realizes that domestically they already do that. The exports or the imports into the EUC may not. So it's an easy thing to ban politically. And that's what they did. They propose to ban it, just refrigerators in 2015 about a year, probably a year after it'll become effective.

So we are a global industry as well. We

have members, European members, Asian members, U.S. members, global industry, and we would like to have harmonization on all these regulatory and all these issues. Canada just approved the use of this refrigerant in March. We have a North American market with them, with the RCC U.S. and Canada, that type of thing, trying to keep that harmonized.

So manufacturers now, if they want to, can start redesigning or planning for their products and then they could, if they want to go to the hydrocarbon refrigerant, then be able to export to the EU.

That's kind of the technical barriers to trade issue in the sense that -- and then I'll go in a little bit to the transparency issues.

So there aren't that many products that fit into this category that are exported from the U.S. into EU for refrigerators, and so the consultants, the European Commission started with a consultant's report, a German consulting agency that looked at this, and they presented a draft proposal that said that you should not ban the use of HFCs in

refrigerators. And their rationale was because it goes below, it's insignificant -- there's EU directives and EU regulations where it has to have an environmental significant threshold; it didn't meet that because there were so few. It needs to have an impactful volume of products, of 200,000, and U.S. data showed a couple of years ago it was only about 50 or 60 thousand. So it was an insignificant level and insignificant volume. So even their own consultants said don't ban it. It's not the right thing to do.

We reached out to the consultants; to get into the transparency issues, we reached out to the consultants during the draft proposal and said can we talk to you about this? Can we make sure that you understand the situation? And then there's differing charge size, you can only put 50 grams of this refrigerant in the U.S. If you do 150 grams in the EU, they're not harmonized. Can we talk you through this?

No, you can't talk to us right now. It's in a draft situation. Once it's done, then we'll

send it over to the EC and then you can talk to them.

But we already knew that they had already held meetings with folks in Europe about their draft proposal, but they weren't willing to talk to us. We said, fine, okay, we'll wait until the final proposal is done.

The final proposal came out, didn't recommend the ban. So then we reached out to DG Climate and said, hey, okay, now the proposal's done. Now can we talk to you?

Oh, no, you can't talk to us now because now we are in the rulemaking process, and so you can't talk to anybody here now.

I said, okay, well, I just called you before, and you said it's in the consultant. So I called the consultant, and they said you have to wait until it's done. And so when can I talk to you next?

And they literally said, okay, we have to do an impact assessment. After that's done, there's an opportunity to talk to us, but we probably won't

be able to. That probably won't happen.

I said, okay. So then I met with the EU delegation people here and said, hey, we really like to meet with the people over there and at least express our views. They may not agree with us, but we should at least have an understanding so that we're operating from the same facts.

Yes, that makes sense. Okay. That should happen. They eventually, and I don't think it was necessarily directly because of what we did, but eventually the DG Climate held a public stakeholder forum. So I flew over for that forum to discuss it. I asked them, it was a lot of time and expense to fly over there, can I sit down and meet with you?

No, no, you can come to the public stakeholder forum, and that's the opportunity for you to present. Well, that public stakeholder forum was a room probably twice as large as this, zigzagging tables of probably I'm guessing 200 stakeholders, and they just went literally around the room, and everybody had 2 minutes to stand up, say what they will, and the next person, boom, boom.

That was it.

I stood up, said my two minutes, said, look, I'd like to really sit down and meet with you here. I'm in Brussels. It would be great to sit down and go through this in a little more detail than two minutes. No, can't do that. I e-mailed them, literally sent them about three e-mails and called during that time, no, would not, and we know that they had met with the European people that were in Brussels during that time. They said, no, this is not the right time.

So there was literally no opportunity for them to sit down and discuss this.

So as you work through TTIP, and we'd also like this regulation that we see as a technical barrier to trade, but as they work through TTIP, their process needs to be open to hear the opinions of others outside of Brussels, and maybe I'm the Ugly American that comes into Brussels to try give our position, but it shouldn't just be European only, if you're in Brussels, then you get to talk with somebody there.

So I just wanted to put those on the table, as you work through this TTIP, and also we're hopeful that the U.S. Government can stop this regulation and it would have a technical barrier to trade at this point as well. So I'll be happy to answer any questions.

CHAIRMAN BELL: All right. Well, good. Thank you very much, to your speed gaining experience in Brussels.

MR. MESSNER: Yeah.

CHAIRMAN BELL: So I think we do have some questions. Dan, would you like to start us off?

MR. MULLANEY: Sure. Thank you very much for that case study, unfortunate case study.

MR. MESSNER: Yes.

MR. MULLANEY: Let me ask you, at what point in this process, to the extent you're aware of the entire process, would it have been advantageous for you to have had input? Was there say a green paper circulated for comment and a white paper and something that happened before the consultants? I appreciate, for your intervention in your testimony

this morning, started with wanting to talk to the consultants. Presumably there was something that happened before that.

I'm wondering where, from your perspective, knowing this particular case, would it have been most useful for you to be able to interject your views to affect the outcome of this? Is it a regulation that they're putting out?

MR. MESSNER: Yes, it's a proposed regulation.

MR. MULLANEY: Proposed regulation.

MR. MESSNER: Well, the earlier you can be involved, the better. So my understanding, this is hearing third-hand from people that are over there, is the consultants in the development of their draft report were talking to people. They needed to talk to people and get an understanding. They couldn't just sit there in their research offices in Germany and come up with this stuff. They needed to talk to people to understand. So it would have been great to at least be aware, know that those talks were happening, and I don't know how that -- well, you

know, a little side track but not exactly.

One of the issues is it's very hard to know what is going on there, and so this is a little different issue, but it's another bit shocking case study. I was meeting with another DG Environment, I believe it was about a different regulation, and it might have been DG Energy, and I said, you know, it would really be nice if you guys would at least post on your website or have a list server like we do in the U.S. where you can sign up to a list serving, just get notices, and this is a quote, not a quote, but remembering two years, but essentially they said your companies have people trolling our websites every day; that's all they do. We don't need to do that kind of thing.

And I said, well, first of all, our companies do not have people just spending time trolling, you know, spending time trolling the European Commission's website looking for possible regulations as a full-time job. Secondly, even if they were, then that would be a great way to reduce non-efficient ways of doing business by eliminating

that if that were to occur.

So that's the kind of attitude that it seems they have. So knowing whether or not and where that is, is very, very difficult. There's no list.

So even if the drafts, if we had notice of it, if the draft polls consultants -- so that's a draft that they circulate. Essentially they circulate you'd think for consultants and to talk through. Evidently not. They wouldn't with us. So at any point we would have been happy to engage. We were not able to engage at any point, but the earlier the better.

MR. MULLANEY: One follow-up. Do you have any or do you have an idea of the views that the European side may have put to the consultants? Were your competitors in Europe consulted by these consultants? Do you have sense of how they view this proposed regulation and how it might be different from your own?

MR. MESSNER: Right. So this is our -- there's the larger refrigerant community. So our

piece is refrigerators and room air conditioners, where they're proposing to ban room air conditions in 2020, and there's no substitute, but those are our products that we represent. There's also the HVACs, the central air conditioners, the larger air conditioners. We don't represent them.

They're putting a flammable refrigerant which they use a lot more refrigerant in theirs on the top of the building. It's an explosive -- that's very -- nobody's willing to really even -- regulators over there aren't willing to say you've got to do that.

So there's a bit of -- I'm separating those out in the sense that they weren't there in a ban. They were in the phase down because they have a lot more refrigerant sitting on the top of a building, a lot of propane essentially, it's not propane, but on the building. So they were all of the position nobody wanted to ban, nobody wanted a ban.

Everyone recognized that refrigerators were an easy political thing to throw a ban out to,

basically a bone to the environmentalists to say, hey, at least we can have ban in there of some sort, and politically we wouldn't take any heat.

There is an association, an appliance association in Brussels which a lot of our members are members of. Our members are global. You just have to do business in the U.S. We're not a U.S. manufacturer association. Their association rules are you have to manufacture in Europe. So that gets into some issues where we're over there talking and we try to stay aligned as best we can.

So they were probably less engaged on the issue of the exports coming in due to just the way that they were looking at things, if that's -- I'll try not to -- that may be a little too subtle, but --

CHAIRMAN BELL: Just one concluding question. So whatever the inadequacies of the process, it sounds like the consultant actually produced a report that you thought was favorable. Do you have any comments in terms of process and procedures, whether it's transparency -- you spoke

to the whole question of participation, but with, you know, subsequent to when the report was issued and the final outcome of the decision, obviously you've characterized as prejudicial to your interest --

MR. MESSNER: Uh-huh.

CHAIRMAN BELL: -- any kind of further insights in terms, you know, from a process point of view that would be helpful for us to understand?

MR. MESSNER: Yeah, I mean I think, and maybe I'm just used to the U.S. process, but the U.S. process, even if it's undergoing a rulemaking, it doesn't mean that agencies won't talk to you. Now, you have to do an ex parte or, you know, they can't necessarily reveal what they're planning to do, but they can certainly listen to what you have to say and ask questions so that they have an understanding through the regulatory process. There's nothing wrong with that. It's not revealing anything to talk to anyone. It doesn't stain the regulatory process to listen to different stakeholders, and you can also go to OMB and OIRA,

and they put it in the docket and say we're having a meeting, and they listen and they ask questions if they have any.

And that doesn't seem -- that concept, I don't know if that's -- I think that concept could happen and it might be. I feel like it is happening over there if you're located there, but it's not happening if you're not located there.

CHAIRMAN BELL: You need to be part of the club so to speak.

MR. MESSNER: Yeah, exactly, yeah. Hire a local consultant, and they'll help you, too. It's kind of the same thing we did with Mexico. They do test reviews. Well, if you hire somebody local, then you might be okay.

CHAIRMAN BELL: All right. Well, good. Well, thank you very much for sharing your experiences.

MR. MESSNER: Thank you for listening. I appreciate it.

CHAIRMAN BELL: Our next witness is with the Underwriters Laboratories.

MS. BOGER: Hello. Good morning. My name is Jennifer Boger, and I work for UL or Underwriters Laboratories. On behalf of UL, I want to express my appreciation of being able to address the Panel today and provide our viewpoints on the Transatlantic Trade and Investment Partnership or TTIP.

UL supports the transatlantic initiative as a means to prevent new and overcome existing barriers to trade in goods and services between our respective markets.

In our role as a standards developer and conformity assessment organization, we see the value of TTIP being a high standard agreement. We believe also that TTIP provides opportunities to realize the articulated goal of advancing trade, investment, and job creation in both the United States and the European Union.

Done carefully, and by acknowledging and respecting the differences in our standards, regulatory and conformity assessment systems, it is our belief that an ambitious agreement can still be

reached.

Quickly I would like to provide a little bit of background on UL. UL is a mission driven organization that has dedicated its 119-year-long history to delivering safer working and living environments. We are a global engineering services company. We conduct safety science research and we develop standards; but we also offer a diverse set of auditing, testing, inspection, and certification services; and provide consumer educational and technical training programs.

UL has tested, assessed, and inspected billions of product systems and processes. A key part of UL's mission is to foster quality assurance and improvement while maintaining our reputation for professionalism and integrity.

We serve more than 65,000 companies in more than 100 countries. In 2012, more than 22 billion products in the marketplace carried the UL mark.

Trade liberalization, in a manner that also levels the playing field for U.S. companies, is

critical for manufacturers and our ability to conduct business operations effectively in the United States and overseas markets. There are several ways to achieve these goals.

The U.S.-EU High Level Regulatory Cooperation Forum, the HLRCF, has done much to drive progress and regulatory cooperation and alignment to date and has laid a very good foundation for the next evolution of engagement.

We support continuing current initiatives -- e-mobility which are electric vehicles, nanotechnology, and Smart Grid -- while also advancing cooperation on emerging technologies such as health IT and cybersecurity. Both sectors will have a far-reaching impact on the safety of people, on technology innovation, and on public-private solutions for oversight.

We think it might be worthwhile for the HLRCF to undertake a private-public exercise to comprehensively access the scope and differences in our systems so we can better understand what implications are for future regulatory cooperation.

At the top of our mind is a need for the U.S. and EU trade negotiators not to be afraid to acknowledge the elephant in a room and address the legitimate philosophical, structural, and legal differences that can result in different risk models and, by extension, different approaches to regulation in the U.S. and the EU.

We do agree that there are areas where aligning our respective regulatory and standards regimes will both lead to desired economic gains and still ensure product safety.

There are two areas where most progress can be made: (1) where technical equivalent standards are accepted in both markets and where technical requirements and the conformity pathway are equivalent; and (2) for new and emerging technologies.

Broad statements calling for functional equivalence and mutual recognition agreements for most sectors, without a full understanding of what this would mean in practice, and whether this is possible or desirable, is problematic.

Given the vast structural differences between the U.S. and the EU, it is critical that the agreement build upon the WTO Technical Barriers to Trade principles, including preserving the decision making authority of regulators.

It is also important for the two sides to continue to prioritize cooperation on new and emerging technologies in order to prevent regulatory barriers from being erected in the first place. New technologies are likely to have significant economic impacts in the future.

If the end objective is to minimize regulatory compliance barriers and to promote innovation and competitiveness while sustaining high levels of public safety, then the U.S. and the EU should be open to leveraging additional tools to achieve this objective.

One possibility is to enhance the business climate for related services. Sometimes technical requirements cannot be fully harmonized, and systemic regulatory difference may mean that MRAs and common conformity assessment mechanisms may not

be possible. In these instances, services that help companies deliver on an innovation, compliance, and market access become the enabler for achieving this goal.

Three ways to reduce NTBs through TTIP would be to (1) address current restrictions in the EU related to accreditation for certification bodies; (2) codify national treatment for conformity assessment organizations in Europe; and (3) create a unified accreditation scheme in the TBT chapter of the TTIP that would apply uniform accreditation criteria for all testing laboratories, including first and third party laboratories. These steps would enhance market access, address current market deformities, and provide greater confidence to consumers and regulators.

I want to close by thanking the Panel today and offering UL's assistance to become a constructive partner through the process. Thank you very much for your time.

CHAIRMAN BELL: All right, Ms. Boger. Thank you very much.

We have some questions for you. Dan, would you like to start us off, please?

MR. MULLANEY: Sure. Thanks very much for your testimony. You referenced a national treatment for conformity assessment bodies, and as I understand it, essentially the system limits organizations from becoming a notified body unless they have a territorial presence in the EU. That's what I understood from your written statement.

What are the effects, the negative effects, if there are negative effects, of this EU approach? And how would providing national treatment facilitate trade for manufacturers doing business in the U.S. and the EU?

MS. BOGER: I'll start with the problems and then the possible solutions and benefits.

MR. MULLANEY: Please.

MS. BOGER: There are two problems with the accreditation scheme in Europe right now. One is, as you said, we need to have a notified body presence in every EU member state where we wish to do business, and so that requires us to get multiple

accreditations, and sometimes we've had to get market access by buying our way in, in some aspects. We can't just, you know, serve the entire EU from an operation we might have in Denmark, for instance. And so that creates a lot of different costs, and it also requires us to go to many different accreditors for the same end result.

The way around that, national treatment would allow us to provide our services on a business case, so we don't have redundancies, we don't have a higher cost in order for us to do a business, and it would be better for manufacturers to be able to have their products tested, and whether from the U.S. or in other laboratories that we have around the world, because these laboratories are specialized with specialized equipment. So it allows us to facilitate businesses streamlining of their operations as well, if that answers your question.

MR. MULLANEY: If I might, maybe -- that was very helpful. Thank you. I wonder if you can maybe spell out a bit more in the same light with respect to your comment on accreditation.

MS. BOGER: On accreditation with the first and third parties.

MR. MULLANEY: Yeah.

MS. BOGER: Yes. It is our understanding that when you are a testing laboratory in Europe, you are bound to accreditation criteria, and that's the same as the U.S. and we like that, and we think that accreditation should be rigorous. That helps hold everyone to a high standard to ensure that the products that they are testing are tested appropriately using effective tests methods and so the results are the same.

In the EU, for many products, they use a system self-declaration, and it's our understanding that many of those laboratories that are manufacturer-owned laboratories are not held to the same accreditation criteria. And so I think that there are many companies that are high standards companies and probably do a very good job of their own testing, but there are many companies that do not. And if all these companies are not held to the same standard, then we don't necessarily have the

same output or the same result, and that creates market ambiguity and unfairness.

CHAIRMAN BELL: Thank you. Commerce.

MR. JONES: Thanks, Doug. And thank you, Jennifer, for your testimony.

You mentioned two areas where you thought progress in reducing regulatory differences or even mutual recognition might be most foreseeable, both where technical regulations and regulatory approaches are similar, and in new and emerging technologies where the differences had yet to emerge.

I'm wondering, the latter, we tend to know what those are, but I'm wondering if you could provide now or subsequently your ideas on areas where you would see the technical regulations and regulatory approaches being sufficiently similar, that that sort of regulatory coherence might be possible.

MS. BOGER: Yes, absolutely. I can provide a couple of quick examples and then elaborate on why we think a study would be helpful.

The products that may make more sense or areas where voltage and frequency are not an issue, such as information communication technology, ICT, that really stands out as an area that is moving forward. Other areas that might work might include toys, textiles, furniture, maybe even some chemicals. Areas where convergence is technically feasible and in some cases well along the way, and again that's ICT.

We do recommend though that a public-private study take place to fully understand the differences between our two systems because each sector is extremely different, and the implications for the sectors and how you harmonize and how you move forward is really going to be on a sector-by-sector basis.

We would like very much to be supportive of any system that's put into place to study these, offer engineering experience, our scientific approach to harmonization, and try to help look where there are areas.

I think through such a study, the analysis

will bring out a list of priorities above the short list that I provided now, but I really do think an empirical study needs to be done to fully understand this better.

CHAIRMAN BELL: All right. Well, thank you very much for your time.

MS. BOGER: Thank you.

CHAIRMAN BELL: Our next witness is with the American Fuel and Petroleum Manufacturers.

MS. SHORE: Good morning. I think we're still morning. I'm Joanne Shore. I'm with the American Fuel and Petrochemical Manufacturers, and I'd like to thank you for the opportunity to testify today.

AFPM strongly opposes the proposed modifications to Article 7a of the European Union Fuel Quality Directive, herein referred to as the proposal. We respectfully request that the U.S. Trade Representative include this as a topic to be addressed in the U.S. Transatlantic Trade and Investment Partnership negotiations with the EU.

If implemented, the proposal will

adversely affect fuel trade between the U.S. and EU, which runs counter to the objectives of the TTIP agreement to increase transatlantic trade and investment by reducing barriers to this trade. As a result, the proposal is critically important to consider in the U.S. and the EU trade talks.

Our members manufacture virtually all of the fuel and petrochemicals produced in the United States, as well as fuels that in some cases are exported to the EU. As such, our businesses will be directly and adversely affected if the European Commission adopts this proposal. Our concern is that the proposal singles out bitumen or oil sands crude, and oil shale derived crude by assigning them a higher carbon intensity value than other crude oils. Canada produces nearly all the world's supply of crude from oil sands, most of which is processed in U.S. refineries. If the proposal is implemented, the fuels produced from such crudes likely would not be exportable to the EU, adversely affecting the significant fuels trade between the U.S. and Europe.

I'll now describe three major concerns.

The first is the World Trade Organization issue. We believe, as does Canada, that this proposal raises potential WTO concerns related to the core principles of most favored nation and national treatment and to the strictures concerning market-distorting technical barriers to trade. Should this proposal be adopted in its current form, we will give serious thought to requesting that the U.S. Government seek redress at the WTO.

Second, the proposal will significantly impact the U.S. and EU fuels trade, as I've already mentioned, potentially restricting U.S. exports of diesel and other petroleum products to the EU. Compliance would require establishing extensive, costly, and unworkable systems to trade crude oil molecules through production into finished products and on to the end user.

In 2012, the U.S. refining industry exported 335,000 barrels a day of diesel to the EU, and the EU exported almost the same volume of gasoline to the U.S. Together, they represented about $32 billion in trade for the year.

If adopted, the proposal would require U.S. refiners to ensure that any petroleum product destined for the EU was not produced using crude oil derived from oil sands or oil shale. Since crude oils are commingled based on refinery configuration and economics, the need to ensure that oil sands crude does not end up in a particular refinery's feed stock would require establishing a complex record keeping and accounting scheme. In addition, products from oil sands feed stock would require segregation, adding to distribution and storage constraints.

The onerous nature of such accounting and the difficulty of maintaining the required segregation of crude oil and products would likely have a significant impact on U.S.-EU fuel trade.

Third, this proposal would have little or no impact on the global production of oil sands crudes and would result in higher global greenhouse gas emissions.

Crude oil and fuel markets are global in nature. If U.S.-produced diesel is not exported to

the EU, the supply shortfall, which represents about eight percent of total EU consumption, would need to be imported from elsewhere. Both well-to-tank greenhouse gas emissions and security implications of these alternative import sources should be considered. Moreover, the proposal is unlikely to result in a net reduction in the use of oil sands crude globally because these crudes and the fuels produced from them would be shipped to other markets. Ironically, fuel consumption from increased transportation of these crudes and fuels to the other markets likely would increase global greenhouse gas emissions.

In conclusion, the EU and U.S. petroleum refining industries remain committed to making cost-effective contributions to reducing global greenhouse gas emissions. We conclude that the EU proposal would not achieve its stated goal of greenhouse gas emission reductions, would be unworkable, and would not have a meaningful impact on the use of oil sands crudes. Furthermore, it will damage U.S.-EU fuel trade, could be costly for

EU consumers, and will reduce EU energy security. Because of these perverse consequences, we respectfully request that the U.S. Trade Representative give this topic serious consideration in the TTIP negotiations with EU.

That concludes my remarks.

CHAIRMAN BELL: All right. Well, thank you very much. Dan, would you like to start us off, please?

MR. MULLANEY: Thank you very much, Ms. Shore, for your testimony.

I wonder if I might ask maybe somewhat of a process question.

MS. SHORE: Uh-huh.

MR. MULLANEY: As this measure was developed, Fuel Quality Directive, in your view, were there opportunities, adequate opportunities for your views to be input into the EU regulatory process?

MS. SHORE: The people that were working on this, I don't recall them expressing inadequate opportunity for input, but I would have to double-

check on that for sure. The EUROPIA, a similar organization in Europe, I know has expressed these same concerns to the Commission. So this is not the first time they have been raised.

CHAIRMAN BELL: Okay. Thank you. I understand that the European Commission has recently had some stakeholder consultations at which the U.S. Government was present. I understand that the Commission may be considering various approaches and different methodologies for actually implementing the directive. Do you have a sense as to whether any of the options being considered by the Commission would solve or address the problems that you've identified?

MS. SHORE: We're not aware of options that they are seriously considering at this point, but we have proposed to them and others have proposed the option that California actually is using at this time, for similar reason, because of the complexity of this topic, and the option is to develop a single carbon intensity measure for all refineries to use, and it can be based on a number

of things, but it essentially comes out of the crude oil slate that's currently being used in Europe as the single number at that point. And that basically eliminates the need to track.

CHAIRMAN BELL: All right. Well, thank you very much for your testimony.

So we're at a little bit of an inflection point here. Going forward, we're going to be focused primarily on agricultural issues.

Given that we have a rather lengthy morning and we're actually ahead of schedule, I'm going to use my executive authority, and we're going to take a 10-minute break. So we will be reconvening promptly at 11:45, which will put us back on schedule, and we will start with the American Soybean Association. So I appreciate our indulgence, and we'll be back in approximately 10 minutes. Thank you.

(Off the record at 11:35 a.m.)

(On the record at 11:47 a.m.)

CHAIRMAN BELL: All right. Thank you for the break. I think we'll all be in a slightly

better mood.

Let's go ahead and get started. The first witness or the next witness is from the American Soybean Association, and if you could please identify yourself.

And since we took a break, let me take just one minute to revisit the rules. We're asking witnesses to speak for five minutes. You will have a light system at the witness table. Green means you're within the first four minutes of the time allotted to you. Yellow indicates that you have one minute left, and a blinking red light indicates that your time has expired, and we would ask that you respect that, and then will be followed up by five minutes of questions from the Panel.

So, Mr. Wilkins.

MR. WILKINS: Yes, good morning.

CHAIRMAN BELL: Good morning. Please proceed.

MR. WILKINS: My name is Richard Wilkins. I'm a soybean farmer from Greenwood, Delaware, and I serve as Treasurer of the American Soybean

Association.

ASA represents U.S. soybean farmers on national and international policy issues. We appreciate the opportunity to present our views on the Transatlantic Trade and Investment Partnership negotiations at this hearing.

The European Union is an important export market for United States soybeans and soy products. In 1998, we exported 9.9 million tons of these products to the EU member states. However, by 2012, the volume of exports had fallen by an astonishing 82 percent to just 1.8 millions tons.

We believe important causes for this sharp decline include the EU's requirement that food products derived from agricultural biotechnology be labeled and more recently the EU's discriminatory policies on biofuel feedstocks under its renewable energy directive.

The EU began requiring labeling of foods containing biotech ingredients in 1999. The EU requires this labeling even though the enhanced crop in question has been determined safe and at least

equivalent in nutrition to its non-biotech counterpart.

While the EU requires labeling of foods containing biotech crop ingredients, it exempts from label requirements biotech yeasts and enzymes commonly used in European-made beer, wine, cheese, and other products.

Rather than include a label that could be negatively perceived by consumers, food product manufacturers have reformulated their ingredients to use non-biotech vegetable oils or import non-biotech soybeans and soybean oil from other suppliers.

The U.S. food industry asked the U.S. Trade Representative to challenge the EU's labeling policy in the WTO in November 2003. No action has been taken.

Another issue that should be addressed in the TTIP negotiations is the EU approval process for new biotech enhancement treats [sic] which is politically hamstrung to the point that European Food Safety Agency reviews are being greatly delayed. Even after EFSA gives a positive opinion,

it still takes months for final EU Commission approval.

Final approvals need to be subject to enforced deadlines with decisions based only on scientific criteria. In 2009, the EU enacted the Renewable Energy Directive, or RED, which imposes greenhouse gas emission reduction requirements on biofuels used in EU member states and requires documentation that the production of biofuel feedstocks meets specific sustainability standards.

The greenhouse gas formula for soy biodiesel is based on production and transportation data for Brazil. This significantly understates the emissions reductions of U.S. biodiesel, thus limits the amount of biodiesel derived from U.S. soybeans that can qualify under RED.

The United States soy industry has submitted to EU officials correct greenhouse gas emission data for U.S. soybeans, but the EU has not updated its data for U.S. soy.

The RED also contains sustainability requirements that are to be interpreted only to mean

compliance with onerous and costly procedures, including farm level audits. The U.S. soy industry has worked with the USTR and the U.S. Department of Agriculture to initiate negotiations with the EU on a bilateral agreement under which documented producer compliance with U.S. conservation laws would be deemed to meet the RED sustainability requirements.

This initiative was rejected by GC Energy in September of 2012. As a result, soybean oil from U.S. soybeans crushed in the EU will no longer be eligible for use in biodiesel production.

If the U.S. is to maintain even its current limited access to the EU market for soybean exports, the TTIP must guarantee that negotiations on an aggregate bilateral agreement will go forward as provided for under the RED.

The U.S. livestock industry is the largest market for U.S. soybean producers. In addition to restricting market access through tariffs and tariff rate quotas, the EU uses numerous sanitary measures to greatly limit present imports of U.S. livestock

products. These measures must be addressed in the TTIP negotiations.

Thank you again for the opportunity to testify today. I look forward to answering any questions.

CHAIRMAN BELL: All right. Well, thank you very much, Mr. Wilkins. We do have some questions.

I'd like to turn first to my USDA colleague to start us.

MR. SPITZER: Okay. Thanks. The first topic I wanted to cover in questions is about RED, and what the industry's objectives are, your organization's objectives are under RED. With regard to conservation measures, is it your view that we should be pursuing a bilateral solution based on equivalence of U.S. and EU conservation measures?

MR. WILKINS: In the United States, our system of conservation compliance is more in an aggregate approach whereby a farmer in the United States must comply with conservation rules and

regulations in order to be eligible for any type of USDA programs, which may also include crop insurance, in the future.

So our units, our farming units are basically certifying and subject to spot checks that they are complying with those provisions. Our point is that the present system that the European Union wishes us to comply with is farm specific, wanting each and every individual farming operation to be subject to a certification requirement. Certainly that's a costly approach because of the cost to the farm producer to be able to pay for those individuals that would be doing the certifying. And we just believe that it is much more in-depth than what is necessary.

MR. SPITZER: So you would see eligibility, having shown that you're eligible for the USDA programs, should be sufficient to meet their requirements for the EU program?

MR. WILKINS: That's correct, that a producer that's in compliance with USDA conservation requirements and watershed implementation plans and

whatnot, that if they're in compliance with those requirements, that they would be deemed to be sustainably producing.

Our biggest contention is that, as I said in my statement, that their greenhouse emissions data is based on Brazilian soybean production. Brazilian soybeans, the transportation of Brazilian soybeans from where they're produced to the port of export emits much more greenhouse gases than what our transportation system does.

So it's unfair. It could be perceived as being an artificial barrier rather than a scientific barrier.

MR. SPITZER: I did have a question on the greenhouse gas figure. Is your objective to have them adopt a greenhouse gas figure just for the United States or to revise their global figure for all soybeans?

MR. WILKINS: Our point is certainly as the United States, as an association that represents United States soybean farmers, is that it be corrected, greenhouse gas emissions data be

corrected as it relates to the United States soybeans, to allow us access to that important market. If they wish to use that as a calculation for soybeans from globally, then that would be up to them.

MR. SPITZER: Okay. I appreciate that. With regard to biotech policies, your submission suggests that moving to a GMO-free labeling system would lead to better access for U.S. soybeans. Why do you believe that that type of labeling policy would be preferable to the current policy of labeling GMO content where it exists?

MR. WILKINS: Well, genetically enhanced crops have been proven to be safe. In the pipeline today, there is a lot of genetic enhancements that are in the pipeline that could come to market that would provide not -- certainly the events that have been in the marketplace at this point are more yield-enhancing type of events.

We have the potential to increase the nutritional density of the foods that we produce with genetic enhancement, and the current slow

process of biotech approval is hampering the research and development efforts in that.

Myself as a farmer, I take great pride in my stewardship and also take great pride in wanting to leave this planet in better shape than it was when I arrived here, and if I can produce a more nutritionally dense, a more heart-healthy food for the consumers that are buying my products, that's my goal.

CHAIRMAN BELL: I think we'll conclude with that. Thank you very much. I appreciate your comments.

MR. WILKINS: Thank you for the opportunity.

CHAIRMAN BELL: All right. We're next going to hear from the American Olive Producers Association, Olive Oil Producers Association. I'm sure that's an important distinction.

MR. OTT: Thank you. Thank you for the distinction.

Well, good morning or afternoonish. I am Alexander Ott. I'm the Executive Director of the

American Olive Oil Producers Association. AOOPA is a federation of U.S. olive oil growers, processors, and state associations that represent over 90 percent of all U.S. olive oil production.

Our U.S. olive oil industry has great potential for growth, but we need our U.S. negotiators to address several obstacles to trade in U.S. olive oil development.

The following are the U.S. olive oil industry's primary trade objectives: U.S. and EC tariffs, U.S. and EC olive oil quality standard regulatory programs, persuading governments to stop distorting olive oil economics.

What we are proposing today is what the U.S. almond, the pistachio, and the wine industry proposed several decades ago. Now all three industries are exporting to Europe.

The TTIP is the foundation for the U.S. olive oil industry of the future. U.S. olive oil imports are 300,000 tons per year and would require 300,000 to 500,000 U.S. acres to produce this amount of olive oil.

Almonds have increased to 780,000 acres, pistachios to 255,000 acres, and wine grapes 546,000 acres. The almond, pistachio, and wine importers of yesteryear are the exporters of today.

TTIP can make possible the similar expansion for the U.S. olive oil industry. This was described to a certain extent during our Section 332 investigation hearing of the U.S. olive oil industry that was actually held in this very same room last December.

The U.S. olive oil tariff ranges from a low of 3.4 cents a kilogram to a high of 5 cents a kilogram, in contrast to the European Commission's tariff as a low of 1.41 kilogram and a high of 2.05 cents a kilogram.

Our negotiators need to work to limit these, and we would request that both the U.S. and the EU immediately eliminate all olive oil tariffs. Why should the EU olive oil growers object? Their annual support is in excess of 3 billion, and that's correct, you heard me right, $3 billion.

The EC has regulatory requirements for

inspecting imported olive oil, and today if a U.S. company exported U.S. extra virgin olive oil to the EC, the EC regulation requires a grade inspection. Today, the U.S. imports 98 percent of the olive oil consumed in the United States, and there's no grade inspection.

Countless U.S. studies have reported fraud in the labeling of olive oil, and the U.S. is not the only country to have done studies on fraudulent labeling. Australia, Canada, and South Africa have had the same fraud experiences.

We urge our negotiators to work for harmonization of border grade inspection and for mandatory inspection. However, unlike European border inspection, the U.S. olive oil industry would accept export inspection in Europe if the inspecting laboratory is accredited by the USDA.

We understand the TTIP will not address the EC agriculture support programs, but it is important for you to understand how these programs are retarding the development of the U.S. olive industry and how the imports are causing price

suppression.

We direct you to the AOOPA's prehearing brief for the USIT Section 332 olive oil investigation for a complete list of the EC's olive oil support programs.

As I noted earlier, these support programs total 3 billion while the U.S. receives no agricultural support payments, coupled or decoupled.

So, in conclusion, there appears to be a belief on the part of the importers and the EC olive oil industry that the U.S. olive oil policy is their domain. Well, we disagree.

The U.S. olive oil policy belongs to the U.S. consumers and as implemented through the U.S. Government, and U.S. consumers want the fraud to cease. Thank you very much for the opportunity.

CHAIRMAN BELL: All right. Well, thank you very much.

We have a number of questions. We will start off with our Commerce colleague.

MR. JONES: Thanks very much, Doug.

Thank you, Mr. Ott, for your testimony.

You mentioned in the written testimony intellectual property rights issues among the list of things that you are concerned about. I take it these are related to geographical indication issues?

MR. OTT: Correct.

MR. JONES: Can you elaborate on those a little bit?

MR. OTT: Well, based on where olive oil is produced, different campestral levels, but it doesn't change the fact that it's olive oil, and unfortunately there seems to be some differences just on those types of levels, and those are based on where actual olive oil is produced.

So looking at some type of a harmonization standard to that effect, I think that would definitely be beneficial.

CHAIRMAN BELL: USDA.

MR. SPITZER: I want to go back to also your original written request to testify. You also mentioned that there were some issues on rules of origin that you'd like to pursue, and I didn't hear anything about rules of origin in what you just

said.

MR. OTT: Well, right. Okay.

MS. SPITZER: So is the real issue grading standards or are there some other specific --

MR. OTT: Definitely grading standards is the key. I mean just having a harmonization standard, an equal playing field if you will, to allow us to compete on the same level -- I mean between the tariffs that are currently in place and then couple that with enforcement of olive oil going there but no enforcement here, different standards, the potential for fraud. The University of California Davis has done, you know, studies to show that.

It just definitely opens up a larger area for consumer confidence to be shattered, not knowing if what they are actually purchasing really is olive oil or not, and so if there's a way we could harmonize those standards, if there's a way that we could have those discussions, that would be great.

We have had, you know, some failed attempts of being shut out of the TPP process, but I

think this process here would be, you know, definitely a welcome to actually address some of these issues in some sort of a forum.

MR. SPITZER: So right now the U.S. doesn't have a border inspection requirement for quality control.

MR. OTT: That is correct.

MR. SPITZER: And so what you're advocating is some sort of inspection requirement be established?

MR. OTT: That would definitely be a start, absolutely. It's interesting that olive oil that we would ship over there would be tested and would have rules, but olive oil coming over here and, you know, 310 million potential consumers here in the United States, to not even have the opportunity to test whether or not that truly is extra virgin olive oil, that's somewhat challenging. I mean ours is tested over there, but theirs is not tested here. So let's at least get on the same playing field.

CHAIRMAN BELL: All right. Thank you very

much.

MR. OTT: All right. Thank you. I appreciate it.

CHAIRMAN BELL: Our next witness is with the American Pistachio Growers.

MR. DILLE: I think it's after noon. Good afternoon.

My name is Thomas Dille. I'm the Vice Chairman of the American Pistachio Growers.

Mr. Chairman and Trade Policy Staff Committee Panel, on behalf of the growers, processors, and affiliate members of the American Pistachio Growers, we appreciate the opportunity to make comments on the proposed TTIP.

American Pistachio Growers is a voluntary agricultural trade association representing growers, processors, and industry partners in California, Arizona, and New Mexico.

Open trade has served our pistachio growers, processors, and exporters very well. The success is because of the numerous U.S. trade agreements and the pistachio industry's policies

since 1981 to maximize the opportunities of every trade agreement and most U.S. programs.

The APG has several priorities for TTIP: one, the immediate elimination of tariffs; harmonize the sanitary and phytosanitary standards; and allow for export inspection in the exporting country.

The European tariff on raw pistachios is low relative to EC tariffs. The tariff itself, however, still reflects an impediment to trade.

Pistachio production in Europe is in Spain, Italy, Greece, and we suspect a little in Portugal and the Mediterranean Islands. We estimate the total European pistachio production to be 7500 metric tons per year. The APG's 2012 World Pistachio Trade Report is attached to my testimony and lists the EU's pistachio imports.

The U.S. industry has invested in the development of the European market and over the last 10 years has increased raw pistachio exports to Europe by a favor of almost 5. In 2012, the U.S. exported 43,000 tons of raw pistachios to Europe valued at $302 million.

This represents approximately 4.8 million in duties paid. The $4.8 million cost to EU's importers could be used in a number of ways to increase U.S. exports to Europe. If EU importers used the savings from a zero tariff, European trade would promote the product as a healthy, nutritious alternative, perform additional product research, or simply lower the price of the product for consumers.

There's another reason for eliminating the tariff on U.S. pistachios entering Europe. Europe provides the Islamic Republic of Iran with Generalized System of Preference treatment for pistachios. This provides Iran with a competitive advantage. As just stated, the U.S. tariff entering Europe is not high; however, it does give Iran a marketing advantage. It should be noted that the U.S. pistachio exporters use no USDA export financing to move product throughout the world.

Harmonizing sanitary and phytosanitary standards for a maximum residue level. Exporting agricultural products is a risky business because of all the potential problems associated with exports,

such as quality standards, different changing regulations, strikes, piracy, et cetera.

The U.S. has implemented the National Export Initiative that urges small and medium businesses to export. If a small pistachio exporter had its exports destroyed for some reason, such as excessive pesticide residue, it would be a financial disaster for the small exporter.

Pistachios cannot be grown according to each country's pesticide tolerance. So the U.S. growers pesticide practice is to follow California, federal, or Codex levels. We would request that our negotiators find solutions to ensure pesticide products approved in the U.S. have acceptance in Europe.

The U.S. pistachio industry continues to improve its ability to eliminate aflatoxin to a level of success unmatched by other pistachio producing countries. The industry strives to ensure that all U.S. exporters export the cleanest and safest product in the world. As a result, there were no findings of aflatoxin on any U.S. product in

2012 in excess of European allowable levels.

The U.S. has developed new technologies for aflatoxin control and expects these approaches to further reduce the minimum levels sometimes found in U.S. pistachios. As such, the industry has requested that our government propose to European negotiators a program that would accept and/or certify the U.S. aflatoxin export program.

We appreciate our opportunity. If you have any questions.

CHAIRMAN BELL: All right. Well, thank you very much.

We do have questions. USDA, would you like to start?

MR. SPITZER: Thank you, Mr. Dille. With regard to MRLs, maximum residue levels, as an objective for the negotiations, are there any differences right now in approved pesticides currently restricting trade, or is this more of a preventative measure for future differences?

MR. DILLE: I'd say it's more preventative measure, just saying that we need to harmonize what

the programs are so that we're not stressing anywhere. I believe I would have to ask for industry support on whether there's huge differences in MRLs. I do not believe there are.

MR. SPITZER: Okay. Thank you. And you suggested that we seek to obtain EU recognition of the U.S. export inspection program for aflatoxin. Is there any successful existing program already in place for any other commodity that could be a model for what you would like us to obtain?

MR. DILLE: For pistachios?

MR. SPITZER: Well, for any commodity.

MR. DILLE: I don't know about other commodities, only pistachios, but generally speaking every shipment made to Europe is tested before it leaves the port, obviously for economic reasons, to know that the shipment will hopefully pass the European test, and that's what our suggestion involves, is to save the money between two testing operations and make it one.

MR. SPITZER: So are they testing every shipment that arrives in --

MR. DILLE: I believe we're testing every shipment that goes to Europe.

MR. SPITZER: When they receive it, do they test every shipment now?

MR. DILLE: I believe they test every shipment as well.

MR. SPITZER: Okay. All right. Thank you very much.

CHAIRMAN BELL: All right. Well, that concludes our questions. Thank you.

Our next witness will be with the National Milk Producers Federation and U.S. Dairy Export Council.

MR. CASTANEDA: Good afternoon, everyone, a lot of friendly faces. My name is Jaime Castaneda. I am the Senior Vice President for the National Milk Producers Federation and the U.S. Dairy Export Council. I want to thank you for the opportunity to testify today.

NMPF and USDEC support the TTIP or TTIP negotiations, but today even listening to the olive oil industry and many other industries in the

agricultural sector, we can see that we're going to have a significant amount of difficulties in negotiating with the European Union based on what today we have on trade imbalance.

The U.S. market has been relatively open to EU dairy products as evidenced by the 1.3 billion sold here last year. In contrast, U.S. dairy exports to the EU last year were only 88 million, less than the U.S. sold to Australia and New Zealand, both major dairy exporting nations and competitors. Again, I repeat, we sold more to New Zealand and Australia than the European Union.

With global exports of 5.2 billion last year, the U.S. is a major dairy exporter, third in the world. We firmly believe that the TTIP offers a genuine opportunity to expand U.S. dairy exports and chip away at the sizable dairy trade deficit, but only if dairy tariff and non-tariff barriers, and I emphasize, non-tariff barriers, are dealt with in a holistic manner.

First, the critical issue of tariffs, provided that TTIP truly removes the non-tariff

barriers hindering U.S. dairy access to the EU market, we support full tariff elimination. Since EU dairy tariffs are on average three times of those of the U.S., the removal must be handled in a coordinated manner that reflects this disparity.

While tariffs are in the process of being phased out, tariff administration measures and complexity of the tariffs are extremely important. The existing procedures in the EU are extremely cumbersome and burdensome.

Second, a key outcome of these negotiations for us is to ensure that our products have access to the EU market without unwarranted burdens.

Unfortunately, this is currently not the case. We believe that our system is comparable to that of the EU, yet the U.S. faces many regulatory barriers and the threat of future trade restrictions.

Examples include both current issues such as those relating to somatic cell count requirements and other burdensome export certificate challenges

as well as emerging ones such as cloned animal regulations. We strongly USTR and USDA to resolve existing problems and ensure that brewing issues do not become tomorrow's barrier to trade. Given these many hurdles, we believe the appropriate focus must be on a broad recognition of the strengths of the U.S. regulatory system for dairy products in order to remove these various impediments.

In complement to sector-specific work to remove SPS barriers and TBTs, we believe it is also vital to include a strong SPS chapter in TTIP that builds upon the WTO SPS Agreement in an enforceable manner.

Thirdly, we need to seize the opportunity to finally eliminate U.S. and EU export subsidies. When in use, the EU's massive export subsidies allowances can tremendously distort the world dairy market.

I would like to say a few words about common food names GIs. U.S. exporters have been facing increasing barriers to their products in the EU and other markets as the EU seeks to monopolize

the use of many food names commonly used around the world. In light of these de facto barriers to trade, we welcome separate bilateral discussions on common names and GIs as is designed to address the legitimate concerns of both sides, particularly access of common food names such as parmesan and feta into the European Union. We strongly reject any suggestion, however, that this means that the U.S. should relinquish the right to use longstanding generic food names as part of that process. Surely, such an outcome that places new restrictions on U.S. companies and limited competition cannot be in keeping with the overarching TTIP goal of liberalizing transatlantic trade.

Finally, let me be clear. Those who think it makes sense that we have a dairy deficit with Europe are showing how little knowledge they have about dairy trade. We have lower prices than Europe. We have an incredible state-of-the-art technology on the U.S. dairy industry, and we create awesome dairy products, and our producers are of all sizes, extremely efficient.

On this issue and all others, we look forward to working with the U.S. negotiating team to ensure that TTIP provides true access for U.S. dairy exporters and reject any agreement that would only serve to enhance the EU's unbalanced advantage in transatlantic dairy trade. Thank you.

CHAIRMAN BELL: All right, Mr. Castaneda. Thank you very much.

Would you like to start us up, USDA?

MR. SPITZER: Thanks, Mr. Castaneda. With regard to the NTBs, are you suggesting that we should be attempting to achieve some kind of equivalence recognition with the Europeans?

MR. CASTANEDA: Only if it's true equivalency with full access for our products into Europe, yes. Not what Europe could actually -- what actually Europe is seeking today from the Food and Drug Administration, which is some type of equivalency so they can send product but we still encounter a number of different difficulties to send our products to Europe plus the tariffs.

MR. SPITZER: Okay. And then I think FDA

had a follow-up question.

MS. SUBERA-WIGGIN: Hello. Yes, we did. You just answered one of the questions. In your view, what has been the historical impediments to achieving this equivalence with the EU in the past?

MR. CASTANEDA: I think that the Food and Drug Administration and perhaps you're in a better position to answer that question, but for us, we have not been in favor of equivalency because it would have actually just given free access or enhance the already access that Europeans have while we would not be having the same treatment.

And what we want to be 100 percent sure because, as you know, the current relationship or agreements that, for instance, the Food and Drug Administration have with Europe, it seems that we on a regular basis accept that agreement, but Europe continuously come up with new trade barriers, if I may use that word, that forces the Food and Drug Administration to constantly be working with USDA to deal with that.

So on the veterinary equivalency

agreement, a best example is, for instance, the somatic cell count, which is not a food safety issue. They could call it a quality issue but has absolutely no reason why there should be any restrictions for any product going from the U.S. into Europe. So that's, sorry, that's -- but that's one of those examples.

MS. SUBERA-WIGGIN: Thank you.

MR. SPITZER: In terms of securing long-term, extended market access, is there a specific requirement that Europeans impose that you would see as the biggest challenge for the U.S. dairy industry?

MR. CASTANEDA: Well, putting aside which obviously is a significant challenge and a big barrier which is preventing products like parmesan and feta as well as others in other industries, like wine and I'm sure meat products, non-tariff barriers and the constant ability of Europe to, as soon as we enter into a specific market and to give you a quick example, we used to actually sell whey products, and we went from almost zero up to a significant amount

many years ago, and all of a sudden Europe decided that they needed to reclassify that product into a -- tariff line that raised obviously the tariffs and make it impossible for us to sell.

So what we need to do in the future, I mean this is the key challenge for us, lowering tariffs could actually be the easiest thing of all these negotiations, is to prevent that we encounter new barriers in the future after we do that.

I'll just give you an example. The EU has an agreement with Chile in which the EU gave 50 hundred tons of cheese, very little. Chile has not been able to sell one ton cheese into Europe because of a number of new requirements from a perspective of SPS and regulatory specific items.

MR. SPITZER: Your response is that they keep adding new requirements when something looks like --

MR. CASTANEDA: Correct.

MR. SPITZER: -- it may be taking off.

MR. CASTANEDA: Or they are not willing to try to resolve the problems that are preventing us,

or any other country, from entering Europe.

MR. SPITZER: Okay. Thank you very much.

MR. CASTANEDA: Sure.

CHAIRMAN BELL: Dan.

MR. MULLANEY: Thanks, Mr. Castaneda. One question. You mentioned barriers for entering into the EU based on common food names into the European Union. Do you have any views or comments on export of U.S. cheese products to countries outside the European Union, to the third markets?

MR. CASTANEDA: Sure. Absolutely. Thanks, Mr. Mullaney. That's another issue that certainly should be dealt on these parallel discussions that we're seeking with Europe, in which we need to address the fact that they continue to take, confiscate these common names all over the world. So we have obviously perfect examples, as you know, in the case of the EU, Korea, FDA in which EU forced Korea to grant specific common food names and monopolize it exclusively to Europe.

So I don't know if I'm answering your question, but certainly we have an interest to have

a global and holistic perspective or conversations with the EU about, yes, common food names and GIs on a separate track.

CHAIRMAN BELL: All right. Well, thank you very much for your testimony and responses to our questions.

MR. CASTANEDA: Sure. Thank you.

CHAIRMAN BELL: Okay. Our next witness is with the National Chicken Council, or I should say witnesses; if you both could identify yourselves for the record, that would be appreciated.

MR. ROENIG: Thank you. Good afternoon. I am Bill Roenig, Senior Vice President with the National Chicken Council, and with me today is Kevin Brosch.

MR. BROSCH: I'm a consultant here in Washington for the USA Poultry and Egg Export Council, which is the export arm of the poultry industry in the United States.

MR. ROENIG: Thank you, Kevin. And today we're representing the U.S. poultry industry, more specifically the National Chicken Council, USA

Poultry and Egg Export Council, and the National Turkey Federation. We very much appreciate this opportunity to share our input on the TTIP negotiations and what we hope will be a very successful agreement.

In addition to our comments, I'd like to ask that a letter of May 20th signed by 47 organizations and companies that was sent to Michael Froman, the nominee to become U.S. Trade Representative, be entered into the record, and I will mention a couple of things in that letter, and comments in that letter are very much parallel to the chicken industry's concern, poultry industry's concern about the negotiations.

About 20 percent of the chicken production is exported on an annual basis. Mostly it is dark meat, the leg quarters, which works out very well for our industry in the sense that North America very much prefers the white meat, the breast meat, but the rest of the world prefers the dark meat, and so we're able to better balance our production or supply with demand.

In the case of the European Union, it's quite likely that the exports there, if they were ever to happen again, would be much more of a diverse basket of poultry products going there. Yes, there would be some dark meat, but we'd also see whole birds and breast meat, prepared products, especially prepared products for the quick service operations.

You may have heard or will hear from many of those companies that they would like to source their products as globally as possible to get consistency and to get value for their customers.

We believe the market in the European Union is over $600 million on an annual basis. We have not enjoyed that market since 1997. Leading up to 1997, both governments had what we considered to be a good idea in terms of trying to establish equivalency, but while the effort perhaps was of good intentions, the worst situation actually happened in the sense that we were shut off.

So U.S. poultry exports to the European Union date back probably before World War I,

according to some evidence I've found, certainly during World War II and continuing up to 1997, but in 1997, the European Union determined that because we used pathogen reduction treatments, our poultry was unacceptable. And my understanding is they pulled out the precautionary principle, which they tend to do on issues like this, and as I understand the precautionary principle, basically scientists, other people don't know what will happen in 30 years. So you have to wait a long time to see what happens.

Well, in the case of pathogen reduction treatments, we've been using those for more than five decades in the United States. So we do know what happens. Number one, the pathogens are reduced. So the consumers of poultry are more healthy in terms of not getting foodborne illnesses. We know that there is no harm to the environment, and we know there's no other harm to humans. We have five decades of real-world experience. So I think we have met the precautionary principle.

In fact, the scientists in the European

Union have agreed with us and have approved three or four pathogen reduction treatments. However, when it becomes moved out of the scientific area into the political area, the politicians were not able to secure the support they needed to allow U.S. poultry exports to again be going to the European Union.

In 2009 thereabouts, our government did start a dispute settlement process with the European Union, but the hang-up was trying to name the panelists, and for whatever reason, that appeared to be too big of a hurdle for both governments to overcome, and so that effort has languished, and there's been no progress in establishing a panel. So we assume it's not only on the back shelf, but we think it's probably fallen off the shelf, but that effort was something we very strongly supported and thought there was an opportunity to begin to get back into that market.

So this agreement is perhaps the last, best opportunity to again get back into that market, and let me just quote from the letter that was sent to Mr. Froman, the last paragraph says that, "If

selected sectors or measures are excluded from the TTIP, or placed into a future negotiation category, the TTIP will fall short of achieving the Administration's goal for it to be a high class 21st century agreement, and it will likely fail to win the overall support of the food and agriculture sector that will be needed to ensure final passage of the agreement."

I see my time is up. I do appreciate the opportunity to provide these comments, and both Kevin and I would be most willing to address your questions. Thank you.

CHAIRMAN BELL: All right. Well, thank you very much, Mr. Roenig. USDA.

MR. SPITZER: Thank you, Mr. Roenig. You answered one of my questions with your estimate that U.S. exports could be $600 million annually if the barriers, the SPS barriers were eliminated.

Are there any exports of any kind of chicken products currently into the EU from the United States?

MR. ROENIG: I am not aware of any poultry

products that are qualified to go to the European Union. We would have to meet USDA's pathogen reduction standards, which have recently been tightened even further. So we have an even more stringent standard to meet. So a company would have to not use a pathogen reduction treatment to qualify to go to the European Union, but I'm not aware of any company that's willing to take that risk and have their product not approved as wholesome by USDA in anticipation of a possible market in the European Union.

So the answer to your question, I'm not aware of any, and if you look at the export statistics, there appears to be some going there, but I think it's more transit shipments than it is actual ending up in the EU.

MR. SPITZER: Aside from the pathogen reduction treatment issue, are there any other SPS barriers that impede U.S. exports of poultry or any other non-tariff barrier?

MR. ROENIG: I'm not aware of anything that we couldn't overcome. In the case of eggs,

which we're not really representing today as such, there's some animal welfare issues that perhaps could be addressed. In the case of poultry, I think the animal welfare issues could be addressed. It doesn't appear to be any problem feeding genetically modified grains or oil seeds to poultry. That doesn't seem to be a concern, but I suspect if we were to get back in the market, and somehow they agree to pathogen reduction, unless we have a really very good tight agreement, I suspect somebody somewhere will find something we're doing wrong.

MR. SPITZER: Preliminary question. Are we talking about chicken and turkey or just chicken?

MR. ROENIG: The 600 million would be chicken, turkey, duck, goose.

MR. SPITZER: Okay. And that's your estimate based on just the removal of the pathogen reduction treatment barrier, or is that also including duty-free access?

MR. ROENIG: That's assuming essentially duty-free or minimal duties. Our cost advantage -- the European Union probably has one of the highest

costs of poultry production in the world. So our cost would be like Brazil, very, very competitive. We could overcome a modest import duty. When the common agricultural policy was established, they had the so-called or protection for the higher grain prices, and then they had, not export subsidies, but export restitutions to bring them back down to the world, but to make a long story short, we could handle a modest import duty. Of course, we'd prefer zero, but we think we could be very competitive.

MR. SPITZER: Thank you very much for your time and for your information.

CHAIRMAN BELL: All right. Thank you.

MR. ROENIG: Thank you.

CHAIRMAN BELL: We're next going to hear from the witness from the Consumers Union.

MS. HALLORAN: Hi. I'm Jean Halloran, and I'm with Consumers Union, the advocacy arm of *Consumer Reports*. *Consumer Reports* is a nonprofit who works only on behalf of the consumer and has more than 8 million paid subscribers to its print and web information services.

I'd like to focus on several issues that are critical to consumers in this negotiation.

First of all, along with all other members of Transatlantic Consumer Dialogue, we urge you to uphold the highest standards of transparency as you move forward. This means disclosing your negotiating mandates and disclosing negotiating text as they are tabled. In preparing my remarks, I reviewed a leaked version of the EU draft mandate published in *Inside U.S. Trade*. It was most helpful in understanding what you'll be actually taking up. Disclosure of negotiating text will result in the highest quality of input from stakeholders as you move forward and potentially allow you to avoid pitfalls that could cause the failure of the entire process at the end of the game.

I and other members of the TACD further urge you to establish an official consumer advisory committee analogous to TEPAC. Your current advisory committees, which have hundreds of members who do see negotiating text, are overwhelmingly drawn from the business sector. Creating a CPAC would be an

excellent systematic way, in addition to making text public, to obtain balanced input and information that won't be forthcoming just from our business advisors.

I'll proceed now to the topics on which you'll be negotiating.

The EU draft mandate states that the agreement should include an investor-state dispute resolution mechanism. Consumers Union and other consumer groups strongly urge you not to do this. This appears to us to have the potential to become a way for corporations to make end runs around regulatory agencies, around courts, and around established rule of law.

We've recently been faced with a WTO challenge from Mexico and Canada against U.S. Country of Origin Labeling for beef, something overwhelmingly desired by American citizens, passed by Congress, and duly promulgated after notice and comment in regulations issued by USDA.

It was bad enough that other countries could challenge country of origin labels, and we

commend both USTR and USDA for staunchly defending these labels. But how much worse would it be if a passel of foreign beef processors were tying up USDA in arbitration fora? Or looking forward, a Chinese pork processor who yesterday became the owner of Smithfield.

The EU and U.S. lead the world in the sophistication of their court and legal systems, and there's ample provision for corporations to use these systems if they feel justice is not being served. We don't need a new system of investor-state dispute resolution superseding the courts and making life more difficult than it already is for our FDA, USDA, CPSC, FTC, FCC, CFPB, NHTSA, and other critically important yet already understaffed and underfunded consumer protection agencies.

The scope of regulatory issues that this agreement could tackle is vast. We believe that it's absolutely essential that this negotiation not result in reductions in product safety, food safety, auto or chemical safety, fraud and privacy protection, or financial security. The only way to

achieve this, we believe, if this agreement seeks to eliminate trade barriers through harmonization of regulation, is to harmonize upwards to the highest standards on both sides.

But we must also warn against setting even high standards in stone, lest you create a Lake Woebegone effect where all the children are soon above average. If the standard, for example, for *Salmonella* in chicken is fixed at certain level, we still want to have room for the standard to improve over time if modern technology finds a way to keep chicken breasts cleaner. This agreement should not lock us into mediocrity in our standards.

There are areas where the two trading blocs could work together to solve mutual regulatory problems, like assuring the safety of nanotech products and preventing overuse of antibiotics. They could share more information on product hazards and recalls. Regulators might even be able to agree in certain cases on data packages they wanted, even if they did not agree on how to apply criteria and came to different conclusions. There are also

opportunities in nutritional labeling, labeling for green attributes, and could solve a lot of the GMO difficulties by harmonizing up to the systems that the EU is using.

The challenges are significant, and we urge you to be transparent about them as you go along and to keep not just trade expansion but the overall welfare of all citizens as your highest and paramount goal. Thank you.

CHAIRMAN BELL: All right. Well, thank you very much for your comments.

We have a number of questions. I'd like to start with my Transportation colleague first.

MR. MARVICH: Thank you very much.

You mentioned not setting levels of safety in stone and mentioned the Lake Woebegone effect. I'd like to take off from there for just a minute.

If we assume an improvement in safety standards can be made over time, which is normal case, do you envision U.S. and EU regulators developing common approaches to regulating emerging safety technologies? And if so, how do you think

something like that could be accomplished?

MS. HALLORAN: Well, you absolutely have to build in the mechanisms for continuous improvement. You know, in some cases that could be, if a standard, you know, represents the best 20 percent, then it will automatically keep rising, you know, an energy efficiency standard could do that or the *Salmonella* standards are sort of for the best -- are based on a percentage of the average and getting below that.

Other standards are not amenable to that approach, and I think it has to be done on a case-by-case basis as to how you keep them from being set in stone and, you know, perhaps you need a mechanism for the regulators to get together, but it's going to be difficult and complicated, especially given that this is not the only forum. You know, you have Codex standards and many others.

MR. MARVICH: And to follow up just a bit, since the context of our discussion here today is the TTIP, do you see U.S. and EU regulators working on emerging opportunities to increase safety levels?

I mean in your experience, does that type of thing occur currently? Could you anticipate it being enhanced in any fashion under a TTIP?

MS. HALLORAN: I believe my colleagues who work on auto safety tell me that the discussions that are going on at this point are good. They seem happy with how that's proceeding, and in other areas, obviously it's been much more difficult, but it seems to me not out of the question if everybody conscientiously approached it and also worked at it from a standard of not trying to erode levels of safety but to bring about improvements.

MR. MARVICH: Thank you.

CHAIRMAN BELL: USDA, I think you had a question.

MS. HALLORAN: If I could say, I would echo the comment of Underwriters Laboratory that this will be all easier in areas that are emerging technologies rather than the ones where standards are long in place.

MR. MARVICH: Thank you.

MR. SPITZER: Hi. We did have a question

on pathogen reduction treatments for food. In your submission, you suggested TTIP could provide a forum for U.S. and EU regulators to develop common approaches for reducing the risks posed by pathogens in produce and other foods. Do you envision common approaches to risk assessment and risk management as part of that?

MS. HALLORAN: I'm not sure I understand what you're getting at.

MR. SPITZER: I think there's current divergences in the U.S. -- our system for assessing risk and coming up with ways to manage the risk are kind of unified. In Europe, they've got EFSA that does risk assessment, but the management of the risk is left up either to individual member state authorities or to some kind of regulation commission would produce. Do you have any suggestions for how we could kind of address bringing those together?

MS. HALLORAN: I don't actually have ideas on how they can completely reorganize themselves. I think that's a bit beyond my scope. There are difficulties within your dealing with the member

state situation. I mean, I know pathogen levels in chicken vary tremendously between Denmark and Hungary, for example, and so they have problems in their own common market in terms of ensuring common safety standards and how, you know, if we extend that, you know, between them and us, you know, those are issues that have to be faced and, you know, I hate to say it, but I think you might have to sort of take it on a case-by-case basis.

CHAIRMAN BELL: Okay. Dan, do you have a question as well?

MR. MULLANEY: Yeah, let me squeak by a question under the red light here, the blinking red light.

MS. HALLORAN: Okay.

MR. MULLANEY: You mentioned the desirability from your perspective of having text released as they are tabled. Would you have other suggestions for improving communications between the trade negotiators and public interest stakeholders like yourselves or any stakeholder?

MS. HALLORAN: Well, as I said, an

advisory committee would help. We certainly appreciate this hearing. This is a wonderful opportunity, and your offices had other outreach, which is very helpful.

But it's very discouraging to feel like you're sort of feeling in the dark for what to comment on, and I think we could just give much more pointed and useful input if we knew what we were talking about.

CHAIRMAN BELL: Okay. Well, great. Well, thank you very much for your time and responses to our questions.

MS. HALLORAN: Thank you.

CHAIRMAN BELL: Our next witness is from the International Dairy Foods Association.

MR. HOUGH: Good afternoon. My name is Clay Hough, and I am the Senior Group Vice President and General Counsel of the International Dairy Foods Association. Thank you for the opportunity to testify today on behalf of the International Dairy Foods Association.

IDFA is a trade association representing

the nation's dairy manufacturing and marketing industries and their suppliers with a membership of 550 companies. Together they manufacture more than 85 percent of the milk, cultured products, cheese, and frozen desserts produced and marketed in the United States, a roughly $125 billion a year industry. IDFA members compete in U.S. and foreign markets and are deeply committed to improving international trade opportunities for dairy products.

IDFA supports the TTIP negotiations and the opportunity for greater U.S. dairy exports to the European Union. With global exports of $5.2 billion last year, the U.S. is a major dairy exporter, yet we face a dairy trade deficit with the EU that exceeds $1 billion. In 2012, the EU exported $1.3 billion in dairy products to the U.S. while the U.S. companies exported only $88 million in dairy products to the EU. A successful TTIP agreement must remove the many tariff and non-tariff obstacles to trade that currently hinder greater U.S. dairy exports to the EU, especially

geographical indications, GIs.

The EU GI agenda is an attempt to monopolize and claw back the use of certain cheese and other food names that the U.S. and many other countries regard as generic. Many have been commonly used in the U.S. domestic market for generations, and our domestic cheese market comprises over 450 plants providing over 44,000 jobs producing 10.6 billion pounds of cheese with a wholesale value of $35.8 billion.

The importance of these well-recognized cheese names goes beyond their significant commercial impact to the U.S. dairy industry, however. Preservation of the right to continued use of these names affirms what producers throughout much of the new world, and certainly this country, strongly believe to be true, that we are using these terms in good faith and largely as a result of the influence of generations of European emigration. The EU's desire to claw back these generic names is an affront to the many companies, small and large, that have worked to help build the markets for these

products as well as to the industry as a whole through the incorrect suggestion that our use of these terms has not been legitimate.

We view these claw back efforts by the EU as de facto barriers to trade. They are a clear effort to limit competition and to bestow upon the EU producers a considerable portion of the valuable markets that our companies have devoted time and resources to help build.

Fundamentally, the EU effort to claw back common cheese names under the guise of GIs is market restrictive and anathema to the spirit and goal of trade liberalization that is the driving force behind the TTIP negotiations.

If this issue is to be discussed with the EU, it must be done in a completely separate context. A GI discussion forum could be established to provide the opportunity for dialogue on this topic, provided that the discussion forum is placed on a completely separate track, in terms of timing, form, and substance, from TTIP talks and provided we'd have absolutely no mandate to conclude if

common ground cannot be found.

Given that the role of a trade negotiation is to remove barriers to trade and competition, it is essential that any GI discussions are directed to focus first on finding an acceptable resolution to the trade barriers that our industry has experienced as a result of the EU's overreach on GIs. Examples of these barriers include our inability to sell parmesan and feta into the EU and the EU's increasingly aggressive efforts to block us from selling those and other products into other import and export markets as well. These issues need to be resolved before EU offensive interests regarding GIs can be considered.

In addition, at the recent meeting of the National Conference on Interstate Milk Shipments, the delegates voted to incorporate the International Certification Pilot Program into the Grade A Program. This pilot program had been operating to allow foreign dairy companies to work with third party certifiers to allow foreign dairy products to enter the U.S. as long as those products met NCIMS

requirements and inspection criteria on the farm, in processing plants, and in laboratories. By incorporating this program in the Grade A, the U.S. has responded to a concern voiced by the EU that the Grade A Program was operating as a trade barrier.

Overall, we continue to support the TTIP negotiations and look forward to an agreement that would remove the obstacles to trade that currently hinder U.S. dairy exports to the EU.

Thank you for the opportunity to comment.

CHAIRMAN BELL: All right. Well, thank you very much.

Let me start off with a very quick question. You cited a couple of examples where GIs have negatively impacted U.S. export prospects. I think it was feta and --

MR. HOUGH: Parmesan.

CHAIRMAN BELL: -- parmesan. Are there other examples in the dairy area where this is a problem?

MR. HOUGH: Well, we are concerned about the following, what we consider to be generic names:

asiago, brie, camembert, cheddar, edam, emmental, fontina, gorgonzola, gouda, havarti, mozzarella, munster, pecorino. So there's a long list of what we rightly consider to be generic common cheese names that have been made by our members in the United States, in some cases for as long as 100 years and, you know, we feel very strongly, and on this we are completely united with the producers and you heard Mr. Castaneda earlier, that the idea that in some way the U.S. domestic market, as well as other important markets, would be constrained or fundamentally infringed on this way by taking away our ability to use these common names we feel is, you know, an absurdity.

CHAIRMAN BELL: All right. Well, thank you. I can see you were well prepared for that question, but actually it's very helpful for us to kind of give a better sense of breadth of scope of the problem we're describing.

MR. HOUGH: Thank you.

CHAIRMAN BELL: Dan, go ahead.

MR. MULLANEY: Let me ask one follow-up to

that if I might. As between access to the EU market itself and access to third country markets, do you have sort of a priority as between those two objectives?

MR. HOUGH: Well, no. We want all of it. I mean, you know, this is obviously a TTIP negotiation, but we are asking, and we know very well that the EU has what we would consider offensive goals regarding GIs in the negotiation, and we feel that their activity overseas as well as what's, you know, this huge, huge dairy trade deficit that we have with the EU are both legitimate objects of the negotiations.

CHAIRMAN BELL: Thank you. USDA, do you have a question as well?

MR. SPITZER: Yeah. Thank you, Mr. Hough. The comment you made about the International Certification Pilot Program --

MR. HOUGH: Right.

MR. SPITZER: -- is very interesting. How does incorporating that into Grade A address the EU concerns?

MR. HOUGH: Well, I was on that -- I served on that pilot program for five years, actually more than that. It started in 2005. So I've been on it all along, and prior to the pilot program, there were three ways that a foreign company could get Grade A products into the United States. They could have equivalency, the country could have equivalency with the U.S., which is slow aborning. The company could become itself, a company or some political subdivision could become a member of the NCIMS and/or a foreign company could pay state regulatory authorities to come to their country and actually act as regulators.

So, for example, there were a number of companies that paid New York regulators to come to their country and essentially provide the Grade A certification function, the same in Florida.

The EU was of the opinion that neither of these -- well, the last -- in all fairness, states started not wanting to do that. It was too expensive, and so the EU has been making the point that essentially we can't get Grade A into the

United States, that any of these three options are not really working for us. And so we came up with a fourth option, which was that essentially a third party certifier that's been approved by the NCIMS can enter into a contractual relationship with any foreign dairy company and go and act as a regulator recognized under the NCIMS, and if, they just like a U.S. company, if they pass the test and the inspections, then they're in. So in effect we have created a fourth option which we feel is a good faith effort to solve this problem and speak to the European Union concern on this matter.

MR. SPITZER: Just a quick follow-up. Have there been any successful uses of this program for a foreign entity to get --

MR. HOUGH: Oh, yes. The pilot program, as I said, has been operating since 2005, and we have, you know, a good number. I think we have something like 12 companies that are currently Grade A listed. And so the number, they come in, they come off. I think we have two third party certifiers, and I think they have somewhere 10 or 12

companies, and now it's wide open for any company and for any third party certifier as long as they're approved.

CHAIRMAN BELL: All right. Well, thank you very much for your time.

MR. HOUGH: Okay.

CHAIRMAN BELL: Our next witness is from the National Renderers Association.

MR. COOK: Thank you, and good afternoon.

I am Tom Cook, President and CEO of the National Renderers Association. The NRA appreciates the opportunity to respond to the *Federal Register* Notice requesting comments on the proposed Transatlantic Trade and Investment Agreement.

The NRA is the international trade association for the industry that safely and efficiently recycles and processes animal and poultry byproducts from the food production system into valuable finished products for livestock, pet food, chemical, cosmetic, and energy industries. The rendering industry is valued at $10 billion while experts are averaging approximately $1.5

billion annually. We have 49 member companies that operate more than 200 rendering facilities in the United States and Canada and account for over 90 percent of the rendering capacity.

NRA members create a variety of products critical to other industries, and they are developing new products such as fuels and enzymes to match changing demands worldwide. Rendered products include fats, animal protein meal, chemicals, fatty acids, tallow, grease, and hides. The high quality fats and proteins improve the nutrition of farm animals and poultry. Renderers also contribute essential ingredients for industrial products such as lubricants, plastics, printing inks and explosives, and many other items that consumers count on.

Today I want to make our comments address tallow.

The World Health Organization declared in 1991, and reaffirmed in 2004, that tallow is not a health risk to either humans or animals. Also the World Organization for Animal Health states that

tallow free of impurities, a maximum level of .15 percent in weight, and derivatives made from this tallow should not be restricted for import or transit reasons regardless of the BSE status of the exporting country. I might add at this point that while the United States has been what they call a controlled risk category for many years, it was just this week that the OIE upgraded our risk classification to negligible risk.

However, U.S. tallow has been prohibited from being exported to the EU for the use in biodiesel, renewable fuel, and oleo chemical industries via onerous and non-science-based import requirements since 2002, when the EU published Regulation Rule 1774. This regulation was replaced in 2009 by the publication of Regulation 1069, and in 2011, the implementing Regulation 142 was published.

Even though the newer regulations were supposed to relax requirements to allow the import of tallow for the aforementioned uses, this has not necessarily been the case. Some requirements were

relaxed while other requirements were added. The end result is that the U.S. still will not be able to ship tallow for use in the EU for biodiesel, renewable fuel, and oleo chemical industries due to prohibitive import requirements that are more process oriented as opposed to being focused on safety of the end product. Trade in tallow for the use in EU biodiesel, renewable fuel, and oleo chemical industries benefits both importers and exporters with a potential trade value at approximately $500 million annually.

We believe that the main negotiating objective of the U.S. should be full consistency with the OIE in regards to the trade in animal fats. The trade of tallow, less than .15 impurities, and derivatives made from this tallow should not be restricted under any circumstances. Verification of impurities should be from a test that's common, easy to perform, and widely recognized. As long as the EU continues to attempt to regulate tallow as if it were a toxic substance, going against EU standards and against all available science, trade is unlikely

to occur.

I'd also like to take a moment to express our appreciation to the Office of Trade Representative and particularly the Animal and Plant Health Inspection Service at USDA for their continuing efforts in negotiations to gain market access for tallow. We commend the teamwork that's been shown between these two agencies on a very complex issue. Thank you very much.

CHAIRMAN BELL: All right. Well, thank you very much, Mr. Cook.

We have a few questions. Bob, you want to start us off.

MR. SPITZER: Thank you, Mr. Cook. I appreciate your comments, and I'll pass those onto my agency's colleagues.

Your estimate for exports to the EU is now $500 million. Before our access was cut off, U.S. trade was about $100 million. Can you explain a little bit more about what accounts for the increase in the prospect for exports?

MR. COOK: Well, there's a couple of

things. First of all, the value of the product has gone up, and secondly the previous numbers probably did not deal with the biodiesel, renewable fuels industry. We did have a market to the oleo chemical industry, but the biofuels and renewable fuels is a relatively new market, and that's where we believe the potential lies.

MR. SPITZER: And could you provide some examples of the specific burdensome requirements that the EU imposes on U.S. tallow?

MR. COOK: Well, some of them have to do with trying to segregate it. In other words, tallow is used for feed ingredients as well as the energy components, biodiesel and renewable fuels, and it's safe in all categories, and it should be safe. It's safe for humans and animals, and the Europeans treat it as it's almost a toxic substance, and they look at it from the standpoint of trying to segregate it so it doesn't get into the animal feed supply. So they do things like marketing and channeling, and I mean marking the product and making it meet higher processing standards than it should be.

MR. SPITZER: Do you think that the change in the U.S. status in the OIE will have an impact on EU approaches to tallow?

MR. COOK: Well, it should, but as I say, as I said in my statement, the OIE states that this is safe regardless of the country, the BSE status of the country that it comes from, and we've been under the so-called cloud of being a controlled risk for many years, when we've probably done more to prevent the introduction of BSE into this country than any other country in the world and probably have done it all to keep it out, and so it's good to finally get negligible risk, but it's another arrow in the quiver that should help us.

MR. SPITZER: Thank you.

CHAIRMAN BELL: Any other questions from my colleagues? No.

All right. Well, thank you very much.

MR. COOK: Thank you.

CHAIRMAN BELL: Okay. Our next witness is with CropLife America.

DR. GLENN: Good afternoon. I'm Dr. Barb

Glenn, Senior Vice President for Science and Regulatory Affairs for CropLife America.

CropLife America welcomes and supports the continued coordination between the U.S. and the European Union on TTIP and agricultural trade issues.

In spite of the opportunities, there are specific problems regarding regulatory convergence impacting U.S. crop industry, and we have articulated those in our comments to the docket.

CLA is a not-for-profit national trade organization. We represent the developers, manufacturers, formulators, and distributors of plant science solutions for agriculture and pest management in the U.S. Many members are multinational companies who market products worldwide.

CLA recommends that with respect to agriculture, that the U.S. Government work to achieve regulatory convergence within the TTIP. The lack of a science-based risk assessment approach in the EU's regulation of pesticides is a major hurdle.

Regulation of pesticides by principles of science-based risk assessment is firmly entrenched in U.S. law and regulation under the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act.

The lack of a risk-based approach in the EU is contrary to the Sanitary and Phytosanitary Agreement of the World Trade Organization to which the U.S. and the EU are signatories. The EU Regulation 1107/2009 also runs counter to regulatory practice within the U.S., accepted international guidelines, and even the EU precautionary principle as outlined in law and treaty which reference a risk-based approach.

The lack of a science-based risk assessment approach in the EU is evident in, first, the use of hazard-based categories to define compounds which precludes an examination of exposure and, second, in the use of these categories to trigger cutoff or removal of these products from the market.

Exposure assessments are a prerequisite of

risk assessment. It is not possible to determine the risk posed by chemicals and pesticides to human health and the environment without an exposure assessment, yet this is indeed precisely what Regulation 1107/2009 precludes.

For example, the categorization of chemicals as endocrine disruptors currently taking place in the EU runs counter to the science-based risk assessment approach used by the U.S. Environmental Protection Agency and specifically to the currently evolving U.S. policy on endocrine disruptors.

In addition, CLA is concerned about the abuse of the precautionary principle by the EU. Science-based risk assessment as the foundation for regulatory decisions must not be overruled by an incorrect and politically driven application of the precautionary principle. Where there is an element of risk, governments must regulate on science and not on public opinion.

For example, the announced suspension of uses of neonicotinoid insecticides is in

contradiction fully to the weight of evidence and of established administrative procedures.

Trade in food, feeds, and seed products produced using pesticides in the U.S. and around the world will indeed be impacted by the EU approach. For example, maximum residue levels for imports specified by the EU for products it categorizes as endocrine disruptors is effectively zero as current MRLs for such products would no longer apply, and even trace amounts of residues would prevent U.S. agricultural and food products from entering the EU.

CLA offers the following solutions. The forthcoming EU reevaluation of Regulation 1107/2009 and the current EU discussions around the regulation of neonicotinoids and endocrine disrupting compounds provide an opportunity to reassess that regulation's effectiveness, its concordance with international trade rules, and how regulatory convergence can be enhanced in the context of a U.S.-EU free trade agreement.

In the course of TTIP negotiations, CLA specifically requests, first, that the hazard-based

cutoff criteria in the EU Regulation 1107/2009 should not impact U.S.-EU trade.

Secondly, that the EU's use of suspension or bans of products to control product uses while avoiding risk assessments should not impact U.S.-EU trade.

Thirdly, the U.S. Government should defend itself using the authority of the SPS Agreement under WTO if the EU pursues its new proposed regulatory regime, specifically with endocrine disruptors, without an approach based on risk assessment.

Finally, we assert that there must be a transparent and accountable expert consultation process between the U.S. and EU when drafting new pesticide regulations, one which does not undermine the independent science-based authority that the U.S. EPA has under FIFRA.

CLA recognizes the importance of the U.S. interagency consultations to these negotiations. We would request and welcome the opportunity to meet with USTR and indeed all of you to provide

additional information on our concerns.

Thank you very much for this opportunity to comment right before lunch. I appreciate it.

CHAIRMAN BELL: We're hardy folk, but we are looking forward to lunch.

So we do have some questions. So I'll turn to my colleague to start us off. Thank you.

MR. MULLANEY: Thank you. Thank you very much for your testimony, Dr. Glenn.

You mentioned that the EU's hazard-based approach to the approval of crop protection chemicals precludes the risk assessment which you call in your written testimony and just now a prerequisite for risk assessment.

Would the approach that the United States has taken to SPS issues in recent FTAs, would those address the concerns raised in your submissions? They largely focus on the WTO SPS obligations and sort of reinforce those obligations among other things?

DR. GLENN: Well, that's a good question. It's my understanding that the SPS Agreement

articulates the need to use science-based risk assessment, and so therefore it follows that the lack of its use is the problem, and that is indeed exemplified in 1107/2009, their current pesticide regulation, complete regulatory divergence as compared to the FIFRA science-based risk assessment process used in the U.S.

MR. MULLANEY: What kind of regulatory coordination, cooperation, or other mechanisms do you think we could approach in the negotiations that could address these differences that you note between the U.S. and the EU hazard-based approach and the U.S. risk-based approach?

DR. GLENN: Well, I appreciate that question. I think our fourth solution that I tried to articulate is the answer. We feel that an expert consultation process could be very effective if it was imposed or mandated to occur. In fact, sort of an umbrella approach of senior level government officials, government to government, who sit down and discuss the regulation at that level and in a face-to-face manner, could be very, very effective.

Having that one body at that level, senior level, not regulator to regulator, senior level, could be effective. Having perhaps a second body of government to government to evaluate their review of that regulatory issue might be another second step.

At some point, we need to provide leadership that's involving face-to-face discussion of these things which are based on scientific risk assessment and science in the essence.

MR. MULLANEY: Thank you. I think you mentioned the EU reevaluation of 1107 and then the ongoing processes with respect to endocrine disruptors and nicotinoids, I think you said.

DR. GLENN: Yes.

MR. MULLANEY: Maybe could you describe two things, if you can, and if you need to follow up later, that would be fine as well.

DR. GLENN: Good.

MR. MULLANEY: One is where approximately the EU is in the process with respect to those two regulatory endeavors? And, second, we've had several discussions this morning of various

witnesses about where are the appropriate entry points, and are there appropriate entry points in various regulatory processes for U.S. interests to have their views submitted and taken into account. In your view, have there been those kinds of opportunities to provide input, have the input taken into account in either of these two processes, the endocrine disruptors or the nicotinoids?

DR. GLENN: Okay. Excellent two-part question. Number one, I'll try to address. You asked where approximately the EU is in their processes with respect to our two examples.

With respect to endocrine disruptors, it's our understanding that there is a draft document which articulates categories by which they would identify endocrine disruptors. Categorization again is unacceptable. However, that particular document is still in discussion among the directorates. It has not reached interservice consultation as far as two weeks ago.

So I think opportunities exist to bring forth opinions and ideas, and I know our European

Union sister organization is involved in working in that regard.

With regard to neonics, as you know, following a committee vote where there was a qualified majority was not found and then following an appeals committee vote in which a qualified majority was not found, the rule is that the Commission gets to decide, and they have suspended three neonicotinoids for two years. So this is the status. We do not know all the details about what will happen after two years. We do not know specifically the impacts on the MRL situation for those three neonics, but I think everyone is struggling to analyze what will happen for growers as well as applicators as well as our industry.

And with respect to the second part of your question, you asked where there were appropriate entry points for U.S. interests. I think if I could reflect again back on the endocrine disruptor situation, there was no public transparency or optimal chance for stakeholder input early. This is all about having early consultation.

That's why I mentioned the umbrella senior level discussion.

I would like to mention that the U.S. EPA has vast and detailed expertise in this area, and yet we know that they weren't fully included in early first document of categorization of endocrine disruptors. So this emerged very rapidly, and industry, many of us were caught off guard. So lack of public transparency in that regard. That was indeed last fall, and it's on a train track that's moving very fast according to the lead DG, which would be DG Environment. So there's been a problem there in obtaining stakeholder input.

And I would say that the process was broken with respect to interaction with our U.S. EPA. We strongly articulated the need for that. We know that they circled back. This has to be happening because we have the expertise on this particular program.

With respect to the neonicotinoid suspension, I understand that the USTR cried foul with respect to process and that, according to

administrative procedures, there was very little time to comment on the first implementing regulation proposing this process. This is totally unacceptable. We support the U.S. Government and USTR in that regard as they brought that forward to the EU.

So I hope that's helpful, and we'd be happy to get back to you with more detail in case I might have forgotten something that my colleagues will remember.

CHAIRMAN BELL: Okay. Any other questions?

Well, thank you very much. I appreciate your time.

DR. GLENN: You're welcome. Thank you very much for having us.

CHAIRMAN BELL: We're now going to conclude the morning/early afternoon session, and we will be reconvening at 2:30 sharp. We'll see folks then. Thank you.

(Whereupon, at 1:31 p.m., a lunch recess was taken.)

A F T E R N O O N S E S S I O N

(2:30 p.m.)

CHAIRMAN BELL: Welcome to the TTIP hearing. We're going to reconvene after our lunch break. We'll be starting off with testimony from the Pharmaceutical Research and Manufacturers of America.

Before I get going, I'll just re-note the rules since it looks like we have a new set of participants for this afternoon.

Testimony has been asked to be limited to five minutes. That will be followed by five minutes of questioning from the Panel. For the five minutes, there is a light system at the witness table. Green light will indicate the first four minutes of your testimony. The yellow light will go off at four minutes, between four and five minutes, and at five minutes, the red light will start blinking. So we would ask that you respect the deadlines that have been set.

So with that, let's go ahead and get started. If the PhRMA representative could come to

the witness table, that would be appreciated. Great. Thank you. And if everybody could make sure they introduce themselves for purposes of the record. Thank you.

MR. PRATT: Thank you. Well, good afternoon. My name is Neil Pratt, and I'm the Assistant General Counsel with the Pharmaceutical Research and Manufacturers of America, or PhRMA.

PhRMA and its members strongly support the negotiation of a high standard trade liberalizing agreement between the United States and the European Union. PhRMA welcomes the expansion of the world's most dynamic trading relationship that already contributes significantly to the economies and jobs on both sides of the Atlantic.

The proposed agreement will provide an important opportunity for the two sides to demonstrate economic leadership and a steadfast commitment to free trade as well as establishing some minimum benchmark standards that the U.S. and the EU should be seeking in free trade agreements with other countries.

PhRMA represents America's leading biopharmaceutical companies. Our members pioneer new ways to save lives, cure disease, and promote longer, healthier, and more productive lives.

In 2012 PhRMA members alone invested almost $50 billion in research and development.

Further, in 2009, the U.S. biopharmaceutical industry employed more than 650,000 workers, supported a total of 4 million jobs across the country, and contributed more than $917 billion in economic output when you take into account the direct, indirect, and induced effects.

Negotiations between the U.S. and the EU should be meaningful and comprehensive, addressing not only regulatory compatibility initiatives but also intellectual property protections, market access provisions, and customs, tariff, and public procurement measures.

The United States and the EU already provide the greatest global support for pharmaceutical research and development, and PhRMA believes the further reduction of non-tariff

barriers in both markets will spur future critical innovation.

That said, there are a number of issues of considerable concern to the industry in the current EU environment.

Shortsighted cost containment measures ostensibly proposed in response to the financial crisis, but too often implemented without predictable transparent and consultative processes, have significantly impacted our members businesses in Europe with negative spillovers, the result of parallel trade as well as international weapons pricing.

These measures raise serious concerns regarding the commitment in the number of EU member states to adequately reward innovation.

Another issue of concern to the industry is the EMA's current and proposed data disclosure policies. The biopharmaceutical industry is firmly committed to enhancing the public health through responsible reporting and publication of clinical research and safety information.

However, disclosure of company's non-public data submitted in clinical dossiers risks both patient level datasets as well as patient welfare.

PhRMA and its members urge the U.S. Government to engage with the EU and every available venue to ensure responsible data sharing.

With regard to the more general negotiation goals, PhRMA recommends that the pharmaceutical market access commitments contained in the U.S. and EU agreements with Korea form the basis for an U.S.-EU agreement's market access provisions.

Key principles, however, that should be built into a pharmaceutical chapter include recognizing the value that pharmaceuticals can play in reducing other more costly medical innovations or interventions, I should say, and improving the lives of patients, as well as respecting the right of physicians and other healthcare providers to prescribe the appropriate medicines for their patients based on clinical need.

Further, both the United States and EU recognize that IP protections are the lifeblood of innovation. As a result, both generally provide strong IP protections within the rubric of their respective systems, and any agreement between the United States and the EU must not dilute these protections.

Particular areas, however, where PhRMA would encourage enhancements and greater alignment between the respective IP systems include securing strong regulatory data protection provisions. Naturally, this would include 12 years of regulatory data protection for biologics as provided by U.S. law, seeking patent term adjustments for Patent Office delays in the EU, and ensuring that EU member states adopt effective patent enforcement system or systems that allow for early resolution of patent disputes before an infringing product is launched in the market.

With several countries such as India pursuing industrial policies that invalidate IP protections, it is imperative that the U.S. and EU

seek similar commitments to strong IP from their trading partners as part of their free trade agreements with other countries.

In addition, PhRMA has proposed a number of regulatory compatibility initiatives per a joint submission with its sister association in the fall. These proposals seek greater coordination between the FDA and EMA to reduce regulatory burden for both sponsors and agencies.

In summary, PhRMA and its members strongly support the proposed agreement and look forward to being an active stakeholder throughout the negotiations.

Thank you for this opportunity to provide comments.

CHAIRMAN BELL: Great. Thank you very much. We have a number of questions. Dan, why don't you start us off.

MR. MULLANEY: Sure. Thank you very much, Mr. Pratt, for your testimony.

Your submission and your oral testimony talked about our engagement with respect to other

countries and assuring alignment between the United States and EU in such engagement.

Are there particular IPR issues that you think could benefit from further U.S. and EU alignment? I think you referred generally to patents with respect to India. Are there other particular IPR issues that should fall under that category?

MR. PRATT: I would certainly suggest that there's -- you're obviously in a slightly, I imagine, a bit of a quandary here in terms of what to do with an IP chapter with the EU because on the one hand, there are strong IP protections in both the EU and the U.S. On the other hand, to have a free trade agreement that does not set strong standards in all the IP areas, we've obviously focused particularly on the pharmaceutical IP type issues, but I think that that's one of the reasons certainly that we support a strong IP chapter generally is that the need to be establishing or certainly indicating that the U.S. and the EU stand behind many of the principles that they already

implement.

So in terms of other measures around the world, we have many, but in terms of with the EU, no, we recognize that there is strong protections in both, but there are certainly improvements to be made, and we've identified some of those areas in our submission.

MR. MULLANEY: Say with respect to the U.S. and EU working together, sort of coordinating or sharing information with respect to third markets, are there things in particular?

MR. PRATT: Yeah, I think what we're specifically saying there is trying to ensure that there is a common understanding of the need for strong IP protection, and that as they go forward with future trade agreements, that they include those types of protections in those. I think, for example, the EU is negotiating, and FDA and India. We would like to see that they include strong IP protections in that agreement. It's important to be sending that message globally.

CHAIRMAN BELL: So beyond achieving

certain, let's say, convergence of objectives within our respective FDA programs, are there other types of mechanisms that you see that could be envisioned being used, whether it's an international fora or other types of situations, vis-à-vis these third countries where, you know, again mechanisms that, you know, going beyond just conceptual adherence to objectives that would be useful to promote strong IPR in the pharmaceutical area?

MR. PRATT: That raises an interesting question. It's candidly one that we haven't explored with our members in terms of what -- if there were a need for a new mechanism. Obviously there are existing mechanisms in place. I think you'd have to first evaluate to what extent we believe they're not adequate, and candidly we haven't undertaken that analysis.

CHAIRMAN BELL: Okay. I think our Commerce colleague has a question as well.

MR. JONES: Thanks, Doug.

Mr. Pratt, you mentioned when you talked about clarification of implementation of IPR, one of

the issues was early resolution of patent disputes before a drug is approved for marketing. Are there particular regimes within Europe currently where a good job is done on this or good models there?

MR. PRATT: I'll have to get back to you on that one. It's in terms of if we have specific models in mind. Obviously the model we all tend to think of, from a U.S. perspective, is the Orange Book, and that does not exist in the EU generally speaking, but if there are specific countries, I'll get back to you as to whether or not there are models that we could point to.

CHAIRMAN BELL: All right. I think HHS/FDA, you had a question.

MS. VALDEZ: Thank you. One of the areas of industry-regulator partnership is in the area of ICH, and I'm wondering if there are benefits from working bilaterally with the EU that are in addition to such ongoing multilateral efforts like ICH, and if so, could you provide some specific examples?

MR. PRATT: Yeah, I think in the context of our submission, we identify -- I think what we

were very mindful of when we prepared our submission was that there is a lot of good work ongoing both in the ICH and bilaterally. So we did try and identify particularly under Section, let me see, 4(a) in terms of some of the practices that could be improved. For example, mutual recognition of GMP and GCP would be an area that we feel would be very ripe for bilateral discussion between the EMA and FDA, but in terms of some of these other proposals, we don't want to derail that existing workflow. So if there are certain pieces, candidly we came up with some very broad ideas, and we very much look forward to working with the relevant agencies to then identify, okay, well, how do we move forward with those mutual interests.

CHAIRMAN BELL: All right. Well, thank you very much, Mr. Pratt. It sounds like you have a couple of follow-up items, and we'll look forward to hearing from you from.

And we'll now move to the next piece of testimony.

MR. PRATT: Thank you all.

CHAIRMAN BELL: Our next witness is from the Biotechnology Industry Organization.

MR. DAMOND: Good afternoon. My name is Joseph Damond. I'm the Senior Vice President for International Affairs at the Biotechnology Industry Organization, or BIO, and I appreciate the opportunity to appear today on behalf of BIO and its more than 1100 members.

We submitted a detailed set of comments outlining our organization's views and requests regarding negotiating objectives for TTIP.

To summarize its main points, our comments outline BIO's perspectives that TTIP offers a critical opportunity to do a number of things, reduce the divergences and promote streamlining and convergence of the way that biopharmaceuticals are regulated in the U.S. and the EU markets. It can build on previous U.S. and EU trade agreement provisions in order to ensure fair and transparent implementation of policies governing pricing and reimbursement of biopharmaceuticals and to ensure that innovation is rewarded in these systems. It

can advance the highest possible standards of protection for biotech-related IP and to work towards a harmonization of the U.S. and IP substantive and procedural frameworks, and it can create a more stable, long-term basis for trade in products arising from agricultural biotech, notably through the full, consistent, and timely implementation of existing laws and regulations governing the approval of these products.

Our written comments encompass considerably more detail on these areas, and BIO looks forward to an active engagement with USTR and other agencies in the U.S. Government as TTIP negotiations go forward.

Today we'd like to take a step back, though, from the details and focus on the big picture of why this negotiation is so important to the biotech industry and indeed for the future, shared leadership of the U.S. and the EU in this critical element of an innovation-based economy.

Much of the attention surrounding TTIP is that it's a very large agreement, big opportunities.

These are large economies, a lot of large complexities and ambitions for this agreement, which is all very true, but I want to focus today on the importance of this big agreement for small companies, how and why these goals relate to an industry that's composed mainly of small companies; in fact, how some of the biggest gains from this agreement can go to those companies.

The majority of our members are small innovators. There are more than a 1,000 companies, as I said, in a sector, located all over the U.S., and I should note over 1,000 companies in the EU as well. Collectively, the sector is big.

In the U.S. public biotech companies, those that are public companies account for about $64 billion in revenue last year and spent about $19 billion of that on R&D, and this excludes the large PhRMA companies which are also members of BIO by the way.

The sector is also the most R&D intensive in the country and creates over 1.4 million high-paying jobs. In many cases, these companies rely

extensively on building relationships with providers of venture capital in order to be able to make investments that can, in some cases, lead to breakthrough innovations for human health, environmental sustainability, food security, and other benefits to society.

But attracting that investment depends on the ability of the small innovators to provide a number of assurances. This is the business model.

One such assurance is the ability to seek, obtain, and enforce IP rights which will enable successful innovation to be appropriately rewarded.

Second concerns the ability to successfully navigate the vital but often complex and costly regulatory processes that are entered, ensuring the safety and efficacy of biotech products.

Third, in order to make innovation happen, small biotech individuals need to assure themselves and their investors that the small proportion of innovations that can be successfully commercialized will be fairly and appropriately valued in the

marketplace.

All of this goes a long way toward explaining why small biotech innovators do indeed regard the TTIP as a critical opportunity. For many of these companies, the U.S. and EU will, by virtue of their size, inevitably be the most important initial target markets for new innovative products, but the ability to maximize that potential is currently impeded by a range of divergences and barriers across the Atlantic.

These are similar issues faced by our larger companies in the sector, but if anything, they are more of an impediment to a smaller company, which lacks the resources and expertise to effectively and efficiently work within divergent regulatory and reimbursement regimes.

Making these systems more uniform and transparent would frankly benefit smaller companies the most.

In particular, when a small innovator looks at regulatory requirements that aim at very similar objectives but get there by different paths,

it introduces additional costs. When they confront subtle but meaningful and costly differences in the process for obtaining an important patent, or protecting vital data imposes additional costs, when they succeed in bringing a new drug to the verge of commercialization, but then face seemingly arbitrary and nontransparent restrictions, or when the developer of a new ag product faces a variety of regulatory barriers seemingly in conflict with established rules, all of these issues explain why this agreement would be so important.

Again, we put forward a long series of specific suggestions, and I'm glad to discuss those further and take your questions. Thank you.

CHAIRMAN BELL: All right. Thank you very much, Mr. Damond.

USDA wanted to initiate the first question, please.

MR. SPITZER: In your comments, both orally and written, you've described the gap between approval of ag biotech events in the EU and the U.S. as a major impediment to your industry. Do you have

any suggestions on how we might achieve narrowing that gap?

MR. DAMOND: Well, as I said, I think the key -- in some ways the answer is not very complicated because this issue has been discussed between the U.S. and the EU for many years. There have been a number of ways in which it's been litigated, including through the WTO, and there's been significant action actually and reform in the EU system over recent years.

And our belief is that the laws and the regulations on the books in the EU, the process and timelines for biotech ag approvals, if implemented effectively, would address this issue. The problem is that they're typically not, and that's what really creates this asynchronous approval between the U.S. and Europe.

So all we're basically asking for is implementation. We're not asking for a lot of new regulations or laws. In fact, we don't know that there need to be any. We're just asking for implementation.

MR. SPITZER: That's the challenge we've been facing as well. Another specific question on agriculture biotech technology, one of the issues is the difference in our approval processes for stack events, and wondered if you have any proposals or suggestions on how that might be approached?

MR. DAMOND: Well, we did comment on that as well, and as I said, as our comments said, we believe that the U.S. system, which has done an excellent job of ensuring consumer safety and health and which looks at events individually, is a very good and effective system and that we would propose aligning the system, the EU system more with that.

CHAIRMAN BELL: State.

MR. WASLEY: Thank you for your statement. Do you have any particular views on how to best deal with the issue of trade secret protections in the context of TTIP?

MR. DAMOND: I need to study that a little bit more. I do think that we commented a bit on that. It's not the highest of priorities that we identified. I can get you some more information. I

will get you some more information on that.

I do want to align myself though with the comments that were made previously on PhRMA about the disclosure of confidential information. It's not exactly the same thing. It's a trade secret, but that's of high concern to our companies, and as I mentioned, the smaller you are, in some ways, the more of a concern it is.

CHAIRMAN BELL: Dan.

MR. MULLANEY: Sure. Thanks for your testimony. Your submission discussed the need to pursue IPR objectives through the strongest possible IPR rules, principles, cooperation, and I believe I recall there was some discussion about how those things could interact. I was wondering if you could soft of elaborate on, you know, where you would place priority in each of those areas and how they would work together.

MR. DAMOND: You know, this is a really -- we realize, we recognize this is really a complicated area because both the U.S. and EU systems achieve similar objectives, which is strong

IP protection generally speaking, but differently, and the concern that, as I said, our companies have is just having to address two different systems imposes a lot of costs.

So our paper, I believe, does mention some specific ways in which those systems could be aligned, and it's not with respect necessarily of changing objectives so much as it is of reducing sort of needless duplication of systems where that's possible.

And we think, you know, we would hope that the two sides could be open-minded about I would say frankly there are some things that the U.S. does better and probably some things that the EU does better from the perspective of somebody who's trying to get a patent approved or get their intellectual property protected, and there's probably some best practices that could be gleaned from either side. And, again, our submission goes into that in some detail.

MR. MULLANEY: Thanks.

CHAIRMAN BELL: All right. Well, thank

you very much for your testimony and your responses to our questions.

MR. DAMOND: Thank you.

CHAIRMAN BELL: The witness for the American Medical Student Association.

DR. DEGESYS: Good afternoon. My name is Dr. Nida Degesys. I'm the National President of the American Medical Student Association. We thank you very much for the opportunity today to speak with you.

The American Medical Student Association, or AMSA, a nonprofit organization founded in 1950, is the oldest and largest independent association representing over 35,000 physicians-in-training in the United States. AMSA is also a national member organization of the International Federation of Medical Students' Associations, which is comprised of over 1 million medical students worldwide.

As physicians-in-training, we believe that trade agreements should promote public health and access to medicines. For this reason, we urge the exclusion of any and all intellectual property

provisions as well as any tobacco and alcohol provisions in the TTIP. Finally, we demand full transparency in the negotiations.

First, during our medical training, we witnessed firsthand how access to affordable medications is critical in preventing unnecessary deaths due to both infectious and non-communicable diseases.

Unfortunately, it appears that recent free trade agreements, including the Australia-U.S. Free Trade Agreement and the Korea-U.S. Free Trade Agreement, as well as the current Trans-Pacific Partnership agreement negotiations, compromise access by imposing unprecedented TRIPS-plus IP provisions. These provisions have the potential to jeopardize millions of lives in participating countries by granting monopoly protections to pharmaceutical companies which significantly drive up the cost of medicines.

Even in the U.S., there's been an outcry from the physician community regarding the high cost of medicines. Just last month, over 100 oncologists

agreed that the prices of brand name cancer drugs is "astronomical, unsustainable, and perhaps even immoral."

The U.S. healthcare system has greatly benefited from generic competition. On May 9, IMS Health released a report which found that patent expiries in 2012 reduced drug spending by $28.9 billion and that spending on pharmaceuticals decreased in 2012 by $33 a person when patients were able to access generic versions of medicines.

In light of this, AMSA urges USTR to not table strong intellectual property provisions in the TTIP that will increase the cost burden of healthcare for patients both at home and abroad. It is unacceptable that costs as a result of this agreement will become a barrier to access and ultimately a healthy life.

To ensure that the TTIP does not compromise access to medicines, we urge the following:

Prohibition of evergreening or the use of minor modifications of existing drugs to extend

market exclusivity;

Exemption from patent infringement of diagnostic, therapeutic, and surgical procedures similar to 35 U.S. Code 287(c);

Rejection of any provision to provide data exclusivity for biologics;

Removal of intellectual property as an actionable investment allowing pharmaceutical and medical device companies to skirt domestic regulation and overturn national public health legislation; and

We urge the preservation of existing national pharmaceutical benefit schemes such as the Pharmaceutical Benefits Board in Sweden, Pharmaceutical Price Regulation Scheme in the United Kingdom, and the Veteran Health Administration here in the U.S.

In addition, tobacco and alcohol significantly contribute to disease morbidity and mortality worldwide. Tobacco alone is responsible for 1 in 10 deaths, being the number one preventable cause of death, and the WHO estimates that tobacco

will kill more than 8 million people per year by the year 2030. Alcohol use accounts for nearly four percent of deaths globally each year. In light of the unique status and potential for harm that these products have, it is essential that both tobacco and alcohol be carved out of any TTIP agreement.

Finally, as the next generation of physician leaders, we are deeply troubled by the lack of transparency surrounding free trade agreement negotiations, including the current TPP, as well as the preferential access to agreement text and negotiators afforded to industry, including pharmaceutical, medical device, tobacco, and alcohol companies.

While free trade agreements are designed to bolster the economies of the participating member states, they also should benefit the citizenry of those member states. This privileged access is a conflict of interest that will only cater to the company's goal to maximize profits and will not create a trade agreement that will benefit the member state populations.

AMSA echoes the call by various civil society organizations for the U.S. and the EU to publicly release all negotiating and pre-negotiating text on an ongoing basis so that the full TTIP text can be subject to public scrutiny and reflect the priorities of the global citizenry.

On behalf of 35,000 physicians-in-training, we implore you to ensure that any TTIP agreement ensures our future patients are able to access evidence-based and effective medicines rather than forcing us to compromise our medical professionalism and the quality of care we provide our patients.

Thank you, and I look forward to your questions.

CHAIRMAN BELL: All right. Well, thank you very much for your testimony.

Skip, would you like to start with a Commerce question?

MR. JONES: Thank you very much, Doug. And thank you, Dr. Degesys, for your testimony.

In your written submission, you talk about

promoting real pharmaceutical innovation, and I'd be interested in what you understood by that phrase. And then elaborating on that, can you explain how you see the relationship between innovation and intellectual property protection?

DR. DEGESYS: The American Medical Student Association is by no means against innovation or research and development of pharmaceuticals. In fact, quite the opposite. We believe that medication is a wonderful tool that we use when providing care for our patients.

What we do not find, however, and studies written by Bolger and Levine would suggest, that patents don't actually spur this type of innovation, nor does it spur any type of productivity. And so the American Medical Student Association would argue that it is not necessary to increase the level of intellectual property provisions such as a TRIPS-plus IP provisions that have been placed in other free trade agreements in order to bolster or increase innovation of pharmaceuticals or medical devices.

CHAIRMAN BELL: So are you suggesting that patents should be jettisoned as a means of providing any kind of intellectual property protection?

DR. DEGESYS: We're not suggesting that the use of patents would -- that we would get rid of all patent use. I do think that Bolger and Levine in 2013 did suggest such things. I'm only merely suggesting that the studies have shown that patents have no evidence that they spur innovation.

CHAIRMAN BELL: Dan, you want to go ahead and ask a question.

MR. MULLANEY: I appreciate your insight into the one issue. I understand that many AMSA members attend research universities. My understanding is that those research universities are engaged in innovation, and they obtain patents, and the patents generate license revenue which then funds the further research. Do you think this is or is not a good model for fostering innovation in the transatlantic relationship?

DR. DEGESYS: Again, I would not suggest that it's the patent that's the problem. The

suggestion that we are making is that some of the additional intellectual property provisions, such as evergreening to extend market exclusivity, really hurts our patients. It reduces the availability of these medications. It creates much, much higher costs for our patients, costs that are so high that patients can no longer afford the medications.

CHAIRMAN BELL: Okay. Well, thank you very much for your testimony and your responses to our questions.

DR. DEGESYS: Thank you.

CHAIRMAN BELL: Our next witness is from the U.S. Chamber of Commerce.

MS. CHORLINS: Good afternoon. My name is Marjorie Chorlins, and I'm the Senior Director for Europe at the U.S. Chamber of Commerce. I am pleased to be here today to convey our members' support and enthusiasm for the proposed Transatlantic Trade and Investment Partnership.

The U.S. Chamber is the world's largest business federation representing the interests of more than 3 million businesses of all sizes,

sectors, and regions, as well as state and local chambers and industry associations.

No priority facing our nation is more important than spurring economic growth and putting Americans back to work. Expanding world trade can play a central role in reaching these goals, and in this context, the TTIP, no doubt, will be the most significant trade negotiation in years.

Deepening our commercial ties with the EU has the potential to ignite significant new trade flows, accelerate economic growth, and generate high quality jobs.

With total commerce surpassing $6.5 trillion, the U.S. and Europe enjoy the broadest and most successful economic relationship in the world.

Nonetheless, there's substantial benefits to be gleaned from still closer cooperation. Thus, we applaud the Administration's commitment to proceed with these negotiations.

The Chamber strongly encourages the U.S. negotiating team to strive for a comprehensive, ambitious, high standard agreement. Our May 10th

written submission to USTR details these views on specific components of a proposed agreement.

So today I will focus my comments on what we mean by a comprehensive, ambitious, and high standard agreement, highlighting several key elements of a meaningful accord.

By comprehensive, we mean that the agreement must cover trade in goods and services, investment, procurement, protection of intellectual property rights, and regulatory issues.

The Chamber's Board-approved policy regarding trade agreements is one of no exclusions, meaning that the chamber opposes exclusions of specific commodities or sectors from any liberalization. The TTIP should be no different.

By ambitious, we mean that negotiators must find creative ways to address tough issues, including our differences regarding sanitary and phytosanitary issues and regulatory cooperation more broadly.

By high standard, we mean that the TTIP must set the highest possible standards for others

to emulate in such areas as investment, intellectual property rights protection, competition policy, and treatment of state-owned enterprises.

The TTIP should eliminate virtually all consumer, industrial, and agricultural tariffs upon entry into force, and for those that remain, specify phase-out periods that reflect scheduled tariff elimination agreed under other U.S. and EU trade agreements.

In the case of services, it should liberalize all modes of delivery and apply to all sectors including financial services.

The agreement should facilitate the flow of goods in the supply chain by adopting common customs electronic data filing systems, minimizing inefficiencies in our security regimes, and modernizing our customs and other government agencies' border clearance processes.

It should include disciplines on technical barriers to trade to ensure least restrictive approaches to the regulation of goods. The TTIP should also support common agreement on what

constitutes an international standard.

Including a binding chapter on SPS measures that reinforces the importance of science and risk-based regulations and decision making is also critical.

The agreement should establish a framework for regulatory cooperation across all sectors, here again including financial services, to enable our regulators to become more efficient, transparent, and effective in fulfilling their mandate to protect consumers, investors, workers, and the environment. U.S. and EU regulators should determine where their regimes aim for compatible outcomes such that a product or service sold in one market can be made available in the other.

TTIP should also provide new tools and a governing process to guide cooperation on a horizontal and sector-specific basis. Regulatory cooperation is not about more or less regulation. We seek better processes that enable regulators to fulfill their statutory obligations in a manner that is not trade or market distorting.

The TTIP should create a binding framework with clear, consistent, and predictable rules on cloud computing and other ICT services, cross-border information flows, and prohibitions on requirements for local servers or infrastructure. Such a framework must allow flexibility on the method used to achieve high levels of privacy protection and continuing cooperative work on security matters. These provisions will not only bolster transatlantic digital trade, but will also serve as a global benchmark.

The TTIP should include a full investment promotion and protection chapter reflecting at least the high standard of protections in the 2012 model BIT. This includes a robust investor-state dispute settlement mechanism, which is essential to demonstrate to the world our willingness to commit to the same set of rules that we urge our trading partners to uphold.

The TTIP should commit both sides to further improve existing laws, regulatory measures, and standards regarding intellectual property rights

protection. It should establish that all levels of government and public entities in the EU and the U.S. will commit to consider on a fully non-discriminatory basis bids to provide goods and services from firms based in the U.S. and the EU. And, finally, it should demonstrate unified transatlantic leadership in highlighting acceptable transparency and due process obligations with regard to competition enforcement proceedings and ensuring that state-owned enterprises comply with their mutual and bilateral trade and investment agreement obligations.

The Chamber strongly supports the proposed TTIP. There is some debate in both the U.S. and Europe on whether to exclude certain sectors from the TTIP negotiations. As earlier noted, we maintain a firm no exclusions stance.

For the U.S. to achieve the goal of a true 21st century agreement with state-of-the-art rules, our negotiators must hold fast to the goal of a comprehensive, ambitious, and high standard accord. The Chamber stands ready to assist our U.S.

negotiating team in achieving this goal.

Thank you very much, and I look forward to answering your questions.

CHAIRMAN BELL: All right. Well, thank you, Ms. Chorlins.

Drawing from your written testimony as well, Chamber stresses the shift in focus from tariff elimination to regulatory convergence and cooperation, and you've suggested a number of ideas to facilitate trade and provide regulatory cooperation, including making regulatory cooperation a binding process.

Can you elaborate on what you think that would look like? And I guess the follow-up question would be is do you think the two systems are close enough that such a system wouldn't create a public pushback?

MS. CHORLINS: Let me start by saying that the Chamber has in previous submissions to USTR spoken specifically to the issue of regulatory cooperation and the architecture that we think might be viable in the context of this agreement. We're

happy to share that with you again.

Let me state here very briefly that when we talk about an architecture or a binding framework, what we're speaking of is essentially, if you will, a three part structure.

First, a series of binding horizontal obligations regarding such things as transparency and the importance, for example, of taking into account the impact, the transatlantic impact of potential regulations; so a series of obligations that would be binding across all regulatory agencies on both sides of the Atlantic to ensure that regulators are mindful and using the same processes as they go about fulfilling their obligations.

In addition to those horizontal standards, if you will, we imagine that there is room for sector-specific regulatory cooperation. In fact, we know from the work that was done even in the context of the High Level Regulatory Cooperation Forum in April that there are sectors with representation on both sides of the Atlantic where there is already good regulator-to-regulator cooperation.

So the idea here would be to the extent we are able in those sectors to drive towards closer cooperation or mutual recognition, that should be encouraged and indeed should be an objective of these negotiations.

In addition, we think that the agreement should include a framework that allows for ongoing dialogue where dialogue exists, but also the initiation of dialogue where it may not between regulators. We have some situations where, as I said, those dialogues are quite robust and well developed and others where they may exist but aren't as wholesome or they simply don't exist at all.

This is a long-term process, this idea of regulatory cooperation. It's not something that will happen overnight. It's not something that can be done completely within the confines of this negotiation, we recognize that, but we think having that mechanism in place that allows for that ongoing dialogue with an eye towards achieving discrete outcomes is critically important.

It also allows for the likelihood, indeed

the certainty, that we will find ourselves in situations down the road, even once the agreement is negotiated and ratified, where the regulators on either side of the Atlantic may approach a particular issue or sector from seeking to achieve the same outcomes essentially in terms of protection, but they may approach it differently.

So this mechanism would create that forum for dialogue between the regulators to try to minimize those instances where such divergence would occur.

MR. MULLANEY: If I could follow up. This process that you describe of regulatory cooperation, how would that relate to current obligations that agencies may have for notice and comment under the Administrative Procedures Act?

MS. CHORLINS: I will come back to you with a more specific and precise answer because I am not a lawyer or an APA expert. So at the risk of saying something horribly wrong, I'll leave it at that.

But I would say simply that in proposing

this framework and urging the negotiators to tackle this very complex area, our objective is not at all to undermine existing statutory obligations that exist either here or in the EU. It is rather to recognize that there are ways that our regulators can work together more cooperatively and more efficiently, and with an eye towards achieving outcomes that are less market distorting, but that allow us to ensure, allow regulators to ensure the same levels, appropriate levels of protection that they are mandated to achieve.

CHAIRMAN BELL: Questions?

MR. MULLANEY: One quick follow-up.

CHAIRMAN BELL: Yeah, sure.

MR. MULLANEY: Just changing topics for a second. Some of your comments focused on barriers that particularly burden small and medium-sized enterprises or disproportionately disadvantage SMEs. What is the best way for small and medium-sized enterprises to convey their concerns and suggestions to the negotiators during the course of this negotiation and in an efficient way?

MS. CHORLINS: That's a very good question, and I'd like to think that organizations such as the Chamber, whose membership is substantially made up of small and medium-sized enterprises, will be representing those views as we continue to engage with the negotiators. I think it will be incumbent upon us, and indeed it's our intention to communicate actively with our members and encourage them to weigh in to the extent they might have specific issues of concern to let us know.

Our views are, in fact, an amalgam of our members' interests or at least their stated interests, and so we're going to do our best, as I'm sure other membership organizations are that represent small and medium-sized enterprises, to ensure that their concerns are addressed.

Many of what I would describe as perhaps easier barriers to tackle in this negotiation, tariffs, for example, and some fairly straightforward non-tariff barriers related to customs procedures and things like that, are ones

that disproportionately affect small and medium-sized enterprises because they lack the resources to deal with existing systems the way that larger corporations do.

So even by addressing what may seem to be the lower hanging fruit, if you will, in the context of this negotiation, that will be a substantial advantage to our small and medium-sized enterprises.

CHAIRMAN BELL: All right. Well, good. Well, thank you very much, Ms. Chorlins.

Our next witness is with the AFL-CIO.

MS. DRAKE: Chairman Bell, members of the Committee, good afternoon.

I appreciate the opportunity to testify in the Transatlantic Trade and Investment Partnership.

The AFL-CIO, on behalf of its 57 affiliated unions, has submitted written testimony for the record, and I will highlight some of the most critical issues in that testimony here.

Through cooperation among the civil societies and governments of the U.S. and Europe, the TTIP represents a previously untapped

opportunity to ensure shared gains from trade, rather than simply narrow benefits for the one percent which has been the hallmark of prior neoliberal-style trade agreements like NAFTA and the WTO.

To date, increased globalization has led to reduced bargaining power and declining shares of national income for workers, even as their productivity rises and the corporate profits soar. This pattern has been well documented by entities as diverse as the Federal Reserve Board and the Economic Policy Institute.

We can only reverse this trend by reversing the policy choices that cause it.

For America's middle class to begin growing again, the Administration must develop trade policies to promote good job creation, fundamental labor rights, and democratic checks on the unbridled power of capital, not policies to protect profit margins for the world's largest corporations.

Pursuing new agreements using the same model will not achieve needed change, but continue

to undermine America's middle class.

In the TTIP, the Administration has the opportunity to deliberately choose a different set of policies. The primary goals of the TTIP must be full employment, decent work, and rising standards of living for all, not the enshrinement of destructive austerity, deregulation, or other neoliberal ideas prominent in U.S. trade policy.

Of critical importance are the regulatory labor and investment rules the agreement would establish.

The TTIP will primarily be about differing standards and approaches to market regulation. We oppose using TTIP as a backdoor route to attack important worker, consumer, food safety, and other protections.

Instead, the U.S. should use this negotiation to improve regulatory and labor market protections by adopting EU standards, like its chemical safety standard, REACH, and its directive guaranteeing workers' rights to information and consultation.

To the extent the TTIP promotes harmonization, it must require adoption of the strongest protections. This is particularly critical not only for labor policies, but also for financial services in which dangerously inadequate regulation led to the global financial crisis of 2008.

The TTIP's labor chapter must protect workers' rights to organize and act collectively. It must explicitly require each party to adopt and maintain in its statutes and regulations and practices thereunder, fundamental labor rights with specific reference to the ILO core conventions. The labor provisions must apply to all workers regardless of sector or citizenship and include enforceable standards for acceptable conditions of work and recruitment of migrant labor.

The enforceability provisions must ensure prompt action and that trade sanctions as strict as those applied in commercial disputes will be applied when necessary.

For investment disputes, the TTIP must use

state-to-state dispute settlement, not investor-to-state dispute settlement.

We strongly opposed ISDS, which privileges a single type of economic actor, foreign investors, to bring cases against sovereign governments to challenge democratically enacted measures in non-democratic fora. ISDS places the narrow, private interests of a single foreign enterprise on an equal footing with the public interest of an entire nation and provides redress that domestic enterprises cannot access when they have similar complaints about laws or regulations they dislike.

The TTIP must protect public services from degradation. It must not include any disciplines that would lower the quality of services, reduce access, or harm working conditions. The TTIP must not undermine public choices about providing for the common welfare.

In addition, the agreement must ensure that public procurement can be used to promote domestic policy goals such as full employment and the conservation of natural resources, must use

positive lists for all commitments, and must exclude new market access in maritime and air transport services.

Finally, because transparency and participation are vital, the process of creating the TTIP text must include deep and broad participation in consultation with labor, civil society, and elected officials at every level, including accurate, non-obfuscatory information about the status of controversial issues.

I thank the Committee for its time and encourage you to study the more detailed treatment of these and other issues in our written submission, and I'd be pleased to answer any questions you may have.

CHAIRMAN BELL: All right. Well, thank you, Ms. Drake.

Labor, would you like to start off?

MS. ZOLLNER: Sure. Hi.

MS. DRAKE: Hi.

MS. ZOLLNER: In your submission, you refer to exploring increasing consultations within

the TTIP between workers and multinational corporations, for example, through the EU directive on multinational works councils. Can you speak a little bit about how you could see that being incorporated or linked to the trade agreement specifically?

MS. DRAKE: Sure. Absolutely. I mean there are a couple of ways, and we're still exploring it with our partners in the ETUC, but in general, how the EU directive works is that any corporation that has more than 1,000 employees in EU, including at least 150 or more in each of two EU countries, creates this workers council in which workers can meet with the leadership of the business to discuss, get information on policy issues, discuss the direction of the company.

It's simply a right to information and consultation, and in our view, you would sort of tack on, as part of the TTIP, the United States to that, so that a corporation that was operating, had more than 1,000 employees, was operating in the U.S. and one European country or more with 150 or more

employees each, there would be representation of American workers on that board so that American workers could simply have equal rights to information and consultations.

And we're looking at, you know, how that would be structured, but we're considering it could be structured within the labor chapter. There are other places that it could be. We've recommended, for instance, that if our recommendation to exclude ISDS be ignored, that part of that would be that investors that want to avail themselves of the process would be held to higher standards, and one of those things could be inclusion of American workers on workers councils.

CHAIRMAN BELL: State.

MR. WASLEY: Thank you. I had a question about third countries. Do you see TTIP as providing an opportunity for enhanced U.S. and EU cooperation on labor rights in third countries, either through enhanced technical assistance or any other mechanism?

MS. DRAKE: We haven't directly addressed

the increased enhanced technical assistance, but we do think that that could work in a variety of ways. So, for instance, with the existing U.S.-Korea Free Trade Agreement, I know one of the issues that's been discussed on the Labor Affairs Council there is how to get Korean, multinational enterprises in particular, to improve their behavior when they operate in third countries, and a similar process could be instituted.

Likewise, we believe that if we really raise the bar and create a very high standards agreement, it would be something that the U.S. and the EU would incorporate into future trade agreements, and the more vehicles that we can create for cooperation and, like you said, cooperation on technical assistance, I think we would be supportive of.

CHAIRMAN BELL: Transportation.

MR. MARVICH: Thank you. You've covered in your written comments rather thoroughly the last thing that you mentioned in your testimony, and that's excluding new market access in aviation and

maritime services in a TTIP. Could you just elaborate a bit?

MS. DRAKE: Sure. Absolutely. We think that the existing Open Skies Agreement is the correctly vehicle to address market access for air transport services, and have a concern that including it in the TTIP really wouldn't be beneficial to American-based airlines or their employees because we've got the market here that's sought after. We've got the largest air transport market, and so it wouldn't really be apples for oranges, and there are all kinds of issues with foreign airlines operating here and the workers being subject to foreign labor law rather than U.S. labor law.

If the foreign ownership and control rules were changed, likewise you might have an airline putting American workers and foreign workers in competition for who can do the job the cheapest and agree to the lowest remuneration, benefits, labor rights, et cetera.

So we think that all of those things are

dangers that there's not a reciprocal benefit that's potentially out there for. So we would prefer that those be excluded, and I know the Transportation Trades Department also submitted comments, they're not testifying here today, but very thorough comments on the same issue.

And likewise for the maritime, we think that the Jones Act is really important for the creation and maintenance, not only of jobs for American sailors and others in the maritime services, but also for a national security function, to make sure that we have a civil domestic fleet that can be called upon, and I know that they were used extensively in the wars in Iraq and Afghanistan, and we would like to maintain that.

MR. MARVICH: Thank you.

CHAIRMAN BELL: All right. Well, thank you very much, Ms. Drake.

MS. DRAKE: Sure. Thank you.

CHAIRMAN BELL: Our next witness is from the Transatlantic Business Council.

MR. SLATER: Members of the Panel, I'm

Greg Slater, Director of Trade and Competition Policy from Intel Corporation and U.S. Chair of the Trade Working Group at the Transatlantic Business Council.

The TBC is a cross-sectoral business association representing companies headquartered in the U.S., Canada, the EU, and EFTA countries. TBC members have long supported a comprehensive and ambitious trade agreement between the U.S. and the EU. TBC submitted extensive comments on May 10th, and today I would just like to emphasize certain key points from those comments.

First, TBC urges that both administrations enter into negotiations with the recommendations of the High Level Working Group on the top of their minds, that is, the greatest benefit of a TTIP agreement is for it to be as comprehensive as possible and to address a broad range of bilateral trade and investment issues, including regulatory issues, and that it contributes to the development of global rules.

Second, political and private sector

thought leaders on both sides of the Atlantic have spelled out in recent months the compelling economic reasons for doing a comprehensive agreement. We strongly urge both governments to dedicate the necessary resources and political attention to complete negotiations as quickly as possible.

Staggering levels of persistent unemployment demand no less while years of trade-distorting, duplicative, and costly regulations in both the U.S. and the EU have prevented greater levels of transatlantic trade and undermined the competitiveness of U.S. and EU manufacturers and service providers.

Third, confidence during the TTIP negotiation process and certainly the U.S. legislative process required the adoption of trade promotion authority. As soon as the U.S. Congress confirms President Obama's nomination of Michael Froman as our new U.S. Trade Representative, we hope the Administration's next step in trade policy will be to work with the Senate Finance Committee and the House Ways and Means Subcommittee

to draft and enact robust TPA legislation.

Fourth, TBC's top priority for TTIP is in the area of regulatory coherence and cooperation. Regulatory differences in some sectors, including with respect to the role of science and evidence in developing regulatory measures, are acting as a major brake on transatlantic trade and economic growth.

Good examples are in the pharmaceutical, automobile, and chemical sectors. Lack of regulatory coherence increases costs and undermines competitiveness among actors in the global values supply chain, ultimately harming both businesses and consumers.

Significant differences often exist in regulatory philosophy and in prescribed test procedures and requirements between U.S. and EU regulations, although the intended safety and environmental outcomes may be very similar.

TTIP provides an opportunity to implement a best practices regime that effectively breaks down these differences across industrial sectors, ensures

that regulations are risk and evidence-based, and incorporates the cost-benefit analysis while respecting U.S. and EU sovereignty and without sacrificing safety or environmental standards.

We recommend that the U.S. and EU begin with areas where mutually beneficial change can be made as quickly as possible to build momentum for other areas. It is essential that adequate resources be devoted to determine which mechanisms are most appropriate in which sectors, including regulatory simplification, policy interoperability, convergence, and even harmonization where appropriate.

TTIP also needs to establish a framework for ongoing regulatory cooperation to address new regulatory issues.

For example, TTIP is an opportunity to improve upon current institutional, regulatory, and policy status quo regarding financial services. Improving dialogue to enhance compatibility between the U.S. and EU financial regulatory environment would help to decrease the opportunities for

regulatory arbitrage and reduce the cost of duplicative regulation as well as provide legal clarity on prudential market infrastructure and product issues for financial market participants on both sides of the Atlantic. It would also enhance the ability of financial supervisors to effectively monitor cross-border financial market activities.

As mentioned, our May 10th submission has a number of detailed recommendations on most issues raised in the High Level Working Group report.

Before closing, I just want to emphasize quickly a couple of additional issues.

Regarding cross-border data flows, the transfer of information is increasingly critical for all industrial sectors. TTIP must have an obligation that enables companies and their customers to electronically transfer information internally or across borders and access their own information stored in other countries.

Restricting international data flow as a means of protecting access to data or ensuring security is both inefficient and ineffective. That

approach will only slow down the expansion of trade by so many internet-dependent companies at a time when innovation in digital services is benefiting such a variety of industries.

The U.S. and EU could use TTIP to bridge their differences in privacy and cyber security without undermining data flows.

TTIP also provides a rare opportunity to establish and promote high standards of intellectual property where there is consensus on those standards and, for example, globally promoting trade secret best practices, to minimize trade secret theft and prohibiting the conditioning of market access on the transfer or localization of technology that we see in the Brit countries.

Speaking of IP and innovation, the agreement should have an innovation chapter that enables the free as possible movement of ideas, capital goods, services, and people to encourage both basic R&D and a commercialization of new technologies.

For example, cooperation on

nanotechnology-related regulatory developments could ensure consistent and sound environmental health and safety practices while incentivizing the development of those technologies.

As another example, the mobility of labor where appropriate --

CHAIRMAN BELL: Mr. Slater, I'd ask you, you've significantly gone over your five minutes, if you could wrap up your comments, that would be appreciated.

MR. SLATER: Quick access to essential skills with appropriate mobility rules will also enable innovation, which is increasingly collaborative and cross-border. Thank you.

CHAIRMAN BELL: So we do have some questions for you. We wanted to make sure we allowed enough time for that. Would you like to start off, Dan?

MR. MULLANEY: Sure. Yeah. Thank you, Mr. Slater, for your testimony.

You mentioned ongoing mechanisms for regulatory cooperation. What do you see in terms of

frameworks or mechanisms going forward for ensuring ongoing regulatory cooperation? Do you have a vision of how that would work or what kind of a framework or mechanism would be desirable?

MR. SLATER: I think the Chamber's answer was -- we support that, but I would build on it. Somebody asked a question about APA procedures. That could be used as a foundation or the lowest common denominator. We have a consistent level of APA measures, and different sectors may be able to go beyond that, may need to go beyond that, but at least you'd have common expectations, the minimum expectations in terms of transparency and public participation and cooperation.

I don't think one size fits all. I think some sectors need to have interoperability and perhaps can't work towards convergence, maybe over time, but other sectors may be able to achieve harmonization with new regulation. It just depends on the sector, but some mechanism to analyze like a regulatory hierarchy to analyze the possibilities of reduced costs and duplicative regulation would

really help, especially with new regulations rather than looking backwards.

MR. MULLANEY: You would envision some sort of an institutional framework for managing that, recognizing that different sectors, different issues will use different tools?

MR. SLATER: Correct.

MR. MULLANEY: But you envision some sort of an institutional framework, maybe for encouraging the cooperation using whatever tools might be available.

MR. SLATER: Having a hierarchy of tools to choose from, maybe with the lowest common denominator so that there's common expectations and approaches in terms of participation and transparency, but in terms of seeking the reduction of NTBs or the reduction of duplicative regulation, you'd have to have a set of tools, that you have some methodology to use to apply it, to find the best solution for the best sector or the best regulation.

CHAIRMAN BELL: In your written testimony,

you also made reference to it as well. You advocate for a strong IPR chapter. Are there areas where you see strong divergences between the U.S. and the EU approach in the IPR area?

MR. SLATER: Well, certainly the geographic indicator issue. There are some differences in the patent, how patents, you know, the patent area, including the compulsory licensing area, although in that area, the differences are minor compared to other countries. And so one possibility is where the differences exist, but the standard is much higher than what exists in other countries, you could still achieve a consensus that would be beneficial. And trade secret protection, even though member states in the EU vary according to their level of trade secret protection, the EU is analyzing whether they should have an EUI directive in recognizing the increasing problem with trade secret theft, and even though the TTIP may be on a faster schedule than EU trade secret reform, is there a way for the TTIP to set forth best practices that can be promoted globally.

CHAIRMAN BELL: Well, you sort of anticipated the second part of the question, which is how do we bridge some of those differences, and you've kind of suggested a few things. Are there other mechanisms or any further thoughts that you've given to that specific question?

MR. SLATER: You know, you can have preamble-type laudable goals that are not necessarily binding that set forth objectives, because at the time, either the EU or the U.S. can't achieve that level of protection, but would like to, or you could bind the parties to a certain level of protection that already exists in both countries that may not be exactly reflective of current law, but the idea would be to then commit the parties to promote that level of protection in other FTAs or in forums like OECD or APEC.

CHAIRMAN BELL: Okay. Good. Thank you very much. We appreciate your comments and responses to our questions.

MR. SLATER: Thank you.

CHAIRMAN BELL: Our next witness is with

the American Association of Exporters and Importers. I don't see anyone standing up. Is anyone here from again the American Association of Exporters and Importers? Marianne Rowden, I think, is the person we had listed.

All right. Well, the unfortunate distinction of being our first no show.

Well, then let's move on. Hopefully I think our next scheduled person was with American Apparel and Footwear Association. Excellent.

MR. LAMAR: Hi. Good afternoon. Chairman Bell and members of the Committee, thank you for providing us the opportunity to testify today. I'm here on behalf of the American Apparel and Footwear Association. We're the national trade association representing apparel, footwear, and other fashion product companies and their suppliers which compete in the global market.

Our members consist of about 400 American companies that represent one of the largest consumer segments in the United States. It's an industry of about $360 billion in sales supporting more than

4 million U.S. jobs.

Our members are also present throughout Europe where they employ millions of Europeans and sell billions of dollars worth of clothes, shoes, and other fashion products.

We strongly support negotiation of a high standard comprehensive trade agreement with the European Union that reduces barriers to trade and investment between Europe and the U.S.

Europe is an important partner of the U.S. apparel and footwear industry. Not only is Europe a top market, but it's also a key source of fabrics and other inputs that are used in the production of apparel and footwear in the United States and around the world by top American brands.

Strong U.S.-EU synergies exist throughout the supply chains as designers, compliance experts, and logistic professionals from both continents routinely collaborate to bring today's fashions into the homes in the United States, Europe, and throughout the world.

My recommendations below are going to

track pretty closely with my written testimony, but obviously I'll be sure to get it within the timeframe.

Number 1, we encourage elimination of all trade restriction taken since January 1, 2013. By this, I'm referring to the recent 26 percent penalty that the European Union imposed on denim jeans, women's blue jeans that are primarily made in Los Angeles in retaliation for the Byrd Amendment. We think it's a problem that these were just imposed right on the verge of negotiation of agreements. We would hope that one of the first things you all can do as you sit down with your counterparts is to get them to back off of this. I'm sure there's a lot of ways that you can do that, but I really wanted to flag that as an urgent piece of business because if we don't do this, we're going to lose a lot of American manufacturing jobs in an industry that's been a real success story for the United States.

Number 2, once you get into the guts of the agreement, we hope that you can seek elimination, immediate elimination of all duties.

Any final agreement should eliminate all duties on apparel, footwear, fashion accessories, and textiles between the U.S. and Europe. Such duty eliminations should be immediate and reciprocal.

Number 3, we urge you to use flexible rules of origin. Duty elimination is meaningless if the rules of origin are so restrictive that they cannot be used. Restrictive rules of origin, and that would include the yarn forward rule of origin here, used in some of the free trade agreements between the U.S. and other countries, discourage the use of the agreement by both importers and exporters, and we urge that the rule of origin in the TTIP be simple and flexible to encourage the development of trade and investment for U.S. companies using global supply chains.

Number 4, in the government procurement world, we urgently urge the preservation of the Berry Amendment in the government procurement chapter. The Berry Amendment is a staple of U.S. procurement law and FTAs for more than 70 years and ensures that all clothing and footwear purchased by

the U.S. military is made in the United States.

Number 5, we urge harmonization on regulations involving things like labeling and product safety. We strongly support efforts to harmonize regulations or requirements on these issues. These diverse, conflicting, and regulatory requirements are among the biggest cost our members face, and we believe there are ample opportunities in this area to develop common approaches for commonsense fact-based regulations. We further believe harmonization opportunities exist among the EU nations, within the EU nations, and also at sub-national levels in the U.S. as well, the U.S. and Europe as well.

Number 6, we would, and I'm disappointed that Marianne wasn't here because I would have liked to have heard her testimony here, too, but I'm sure it's similar, to include facilitative customs provisions. We support the negotiation of a customs chapter that emphasizes trade facilitation, treats trusted traders as partners, and focuses enforcement activities on traders who are more likely to present

risks.

Number 7, and my last point, is to negotiate what we call a global value chain agreement. The TTIP presents a strong opportunity to negotiate an agreement with global value chains in mind. I think there's been a lot of work on global value chains in the last couple of years, and this is sort of the first agreement that comes out after all that work has been done.

So we would hope that as you're negotiating this agreement, you can think of ways that could emphasize how companies with global supply chains can see the benefit of this rather than just looking at it from just a pure export/import view, look at it with the global value chain in mind.

There's some great studies and great work as I mentioned that's been done in this area, and I would be happy to share some of that with you as mentioned in our testimony as well.

With that, thank you very much, and I look forward to your questions.

CHAIRMAN BELL: Thank you very much, Mr. Lamar.

We have some questions for you. Mr. Mullaney, would you like to start?

MR. MULLANEY: Sure. Thank you very much for your testimony, and I do appreciate you highlighting the concern over the EU's imposition of these retaliatory tariffs especially on women's apparel. We do share that concern, and we have raised this issue on several occasions with very senior officials in the European Commission.

I wonder whether you are in a position to give us some kind of an update on the impact of this tariff increase on U.S. manufacturers in terms of cancellation of orders or threatened production shifts to other countries, those kinds of things.

MR. LAMAR: Companies are actively -- they're now actively exploring their options. Those that had orders that were already underway, you know, they had to pay an additional duty, and the increase goes from 12 to 38 percent. So it effectively prices them out of the market.

What they're telling me is that some companies, I think people are going to be treating it differently. A lot of it all rolls into moving production, either of those lines or of different lines outside of the U.S. or servicing the U.S. market with existing production that they may already have outside of the U.S., but the bottom line is that if it continues, and we're not sure that it goes away anytime soon -- I mean based on all of the reports we have, you know, maybe offline, I'd certainly like to hear your thoughts on it, is that this could be there for some time, that if it continues, that we're going to see companies stay offshore and then not come back. And this is one of those products, that when we think of U.S. apparel that's made and 98 percent import penetration, but this is one of those high fashion products where we actually do have a lot of production there. So it will be a lost export opportunity.

MR. MULLANEY: Thank you. And at the outset of your statement, you talked about the importance of the EU as a market for U.S. products,

and also I think you said as a supplier of fabrics and other input products. Are there any products of particular importance, those that have shown significant growth or growth potential in either direction, either imports or exports?

MR. LAMAR: Women's denim jeans. Seriously, that's one of them.

MR. MULLANEY: Women's denim jeans. The ones hit by the penalty.

MR. LAMAR: Right. For finished apparel, you know, Europe generally has been a bright spot. It's a place where there is a fairly good appetite for U.S.-made apparel. They value that Made in USA label, and you'll see that in Germany, United Kingdom, for example. It's one of the places that we view as a typical export market. So we're very excited to see this occur. Same with footwear. There's a lot of footwear export opportunities as well. I don't have any specific products, but I'd be happy to share with you a list that kind of breaks out some of our areas where we've seen better growth in recent years.

CHAIRMAN BELL: All right. Well, thank you very much, Mr. Lamar.

MR. LAMAR: Thank you.

MR. MULLANEY: Could I ask one more question. I'm sorry.

CHAIRMAN BELL: Sure.

MR. MULLANEY: The light's not red yet, is it?

CHAIRMAN BELL: No.

MR. MULLANEY: You mentioned I think fifth on your issue list this harmonization of label and product safety. I wondered whether you had at hand examples of the kind of harmonization you'd be looking for, and if it's in your written testimony, forgive me.

MR. LAMAR: It's in, if you look in our written testimony, we have attached to it, there was a previous request for comments that talked about some areas, and we highlighted out some things where we have the same, you know, the U.S. and the European Union, they define phthalates as they apply to children's pajamas differently, and the only

reason why we can determine why is because in the U.S., we spell pajamas with an A and in Europe they spell pyjamas with a Y, but they treat phthalates differently, and so there's a cost in the United States that's not in Europe. So that's an area where actually the Europeans we think do a better job. It's more based on science.

The USTR, you guys did a lot of work on labeling in the WTO, the Doha Round, with the European Union, and we think that there's a lot of text that you can probably just take right out of some of those proposals and really start in terms of some harmonization efforts as well in terms of what kinds of information is required in the label that goes on shoes and clothing.

So there's a couple of sort of immediate pickups, and I'd be happy to share with you additional thoughts and further opportunities.

MR. MULLANEY: That would be great. Thank you very much.

MR. LAMAR: Okay. Thanks. Thank you all.

CHAIRMAN BELL: Thank you.

Our next witness is from the American Craft Distillers Association.

MR. ERENZO: Good afternoon, Mr. Chairman and Committee.

CHAIRMAN BELL: Welcome.

MR. ERENZO: I'm going to speak about something perhaps a little lighter right now, and that's whiskey.

I'm here on behalf of the American Craft Distillers Association and all of the craft distillers, which are distinguished by the fact that they usually only produce about 30,000 gallons a year as compared to the millions and millions of gallons that the large producers produce, and their operations are generally hand-crafted operations. It's the fastest growing segment of the American beverage industry.

CHAIRMAN BELL: I'm sorry. Before you get started, can I interrupt you? Can you just give us your name for the record?

MR. ERENZO: Oh, I'm sorry. It's Ralph Erenzo.

CHAIRMAN BELL: All right. Thank you, Ralph.

MR. ERENZO: And I'm from Tuthilltown Spirits in Gardiner, New York.

CHAIRMAN BELL: Excellent. Please proceed.

MR. ERENZO: Craft distilling is the fastest growing beverage industry in the U.S. In roughly 2003, when we started our distillery, there were five other craft distilleries in the U.S. Since then, there are over 400 now, and that number is expected to double in the next five years.

In the U.S., in order to sell spirit as a type of whiskey, meaning bourbon whiskey, rye whiskey, oat whiskey, whatever you want to call it, the law requires that that whiskey be stored in a new charred oak barrel. There's no minimum time of aging for it to be called legally whiskey in the U.S.

In the EU, the law does not require the use of new charred oak barrels. You can use a used barrel to age your whiskey, as the Scotch and the

Irish do. But in EU law, in order to be called whiskey in the EU, it must be in that oak barrel for a minimum of three years.

EU explicitly recognizes American bourbon and rye and Tennessee whiskeys as products of America made under the rules and regulations of America. But they require anyone who is shipping whiskey to the EU to follow their three-year minimum rule.

So that means the 400 new distilleries in the U.S. that are trying to export their goods to Europe, their bourbon and their rye whiskeys to Europe, must take the word whiskey off of every one of their labels. We've been doing this for six years. It's a ridiculously added expense, and if you would imagine trying to sell to a dyed in the wool whiskey consumer your American spirit that has on the label rather than bourbon whiskey, it says aged grain spirit, you can imagine, that's a little difficult.

However, we give the Scotch and the Irish and the Canadians, in American law, a specific

exemption from the new charred oak barrel rule. So the Scotch and Irish can sell their malt whiskey in the U.S. as malt whiskey even though it hasn't been in a new barrel, whereas American distillers have to put it in a new barrel to call it malt whiskey.

That exemption is not extended to any other countries in the world, only Scotland, Ireland, and Canada. And so we are giving them the benefit of our largesse in our regulations, but we are not getting a reciprocal reaction from them.

So the American Craft Distillers Association would like to suggest that in your negotiations, we'd propose two resolutions that would help both the EU distillers and the American distillers. The EU is enjoying the same enormous growth of craft distilleries with distilleries in Sweden, Switzerland, Germany, France, Wales, all making malt whiskey, but they can't sell it as malt whiskey in the U.S. because they're not under the exemption. Only the Scotch and Irish can sell their malt whiskey in the U.S. as malt whiskey. All of the rest of the EU producers may not take advantage

of that. So they don't ship to the U.S.

We're suggesting two moves that would even this playing field a little bit.

One is that we expand the exemption under U.S. law from the new oak rule to all legal distilleries making legal whiskey in EU so that any country that's making malt whiskey could sell it here as malt whiskey and compete reasonably with the Scotch and the Irish whiskey makers.

The quid pro quo with that would be that we're suggesting that the U.S. pursue a change in the EU regulations. The EU regulations specifically recognize American whiskey but make us follow their rule. So we're suggesting that the U.S. negotiate with the EU the full recognition of American whiskey, and that includes our process and our legal methods of making the whiskey.

The Scotch Whiskey Association contends that any change in the rule over in the EU would damage the integrity of Scotch whiskey, but as we regularly remind them, we're not making Scotch whiskey. We're making American whiskey, bourbon,

and rye whiskey, and we'd like to sell it as whiskey in the EU. Thank you very much.

CHAIRMAN BELL: Well, it's rare that we have so nicely laid out our negotiating objectives for a particular sector. So I appreciate your --

MR. ERENZO: I've spent a lot of time thinking about this.

CHAIRMAN BELL: Obviously that's very much the case. You bring a certain clarity to the predicament that you're operating under.

Are there other areas that are either market barriers or of concern to you, and I guess the other question I would ask is you've presented in terms of, you know, the craft distillers, are there other let's say large-scale U.S. distillers where if this would apply to them, you know, outside of the ones that you mentioned in Kentucky, would this also -- I mean, how would this affect the overall market dynamics? Is this something specific to just the craft, or is it a broader issue for -- I mean I'm not that familiar with the whiskey market but I assume we have Jim Beam or, you know, whatever

other kinds.

MR. ERENZO: It is specific to the craft distillers because all of them are new. When this law was passed in the EU, the EU asked DISCUS, the Distilled Spirits Council of the United States, if they had any objection, and DISCUS, which has nine members, which are the largest whiskey producers in the world, also said, no, it's okay with us, and the reason they said that is because they had huge warehouses in Kentucky filled with whiskey more than four years old.

The new distillers can make whiskey younger than four years, can make it any age they want, and that's usually the first thing they do is they start making younger whiskey, as we did. Our claim to fame is Hudson Baby Bourbon and Hudson Whiskeys. Those are all under three years old. We can't sell them in EU as whiskey. We have to take the word whiskey off of every label. So for us it's much more important than for the large producers.

MR. MULLANEY: Thank you. Thank you very much. I agree, it's a very clear explanation.

Do you have any quantification of how this labeling requirement has affected your ability to sell craft American whiskey in the European market? I mean you asked us appropriately to imagine how difficult it would be just to sell the product as, you know, grain alcohol. Do you have like a sense of if we were able to call this product American craft whiskey or something similar, what level of sales would be?

MR. ERENZO: I can only tell you that my experience in traveling in Europe and selling our whiskey in Europe is that every bar, every restaurant, and every hotel I walk into has two American brands on the shelf, Jim Beam and Jack Daniels, and nothing else. And yet with these 400 distilleries opening in the U.S., there is a proliferation of brands available, and high quality, very high quality made whiskey.

You're looking at an open market in the EU because of the fact that all of these we discovered early on as well as all the other distillers. Now we're discovering that it's a great benefit to be

able to export. We avoid having to pay excise tax, which is a substantial part of our sales price. So we don't have to pay excise tax either at the federal or the state level for goods we ship out of the country. So it's a ready, open, willing market for our goods, and all of the distillers are prevented from selling their product by the natural name it has.

MR. MULLANEY: Thank you very much.

MR. ERENZO: You're welcome.

CHAIRMAN BELL: Any other questions from the Panel? Sure.

MR. SPITZER: Thanks for the elaboration orally because I didn't understand the aging or the used barrel element of what you had submitted in your written comments, but it was very clear in your oral presentation.

To what extent do you think this problem would resolve itself just over time once you have some stock that's three years old or older? Is that an issue, or is that not part of the practice of the industry?

MR. ERENZO: The problem for us is a level playing field and equal laws. But also it would resolve itself over time for us, but we're 10 years old. All of the new distilleries that are opening up, and they are opening up weekly across the country, all of those new distilleries will be artificially prohibited from selling their whiskey in the EU for the first three years of their operation, which is the most critical time for any small distillery.

It is an extremely capital intensive business, and it's probably arguably the most competitive and highly taxed and highly regulated industry in the world.

So they have enough against them when they start out, and we're trying to make it a little easier.

MR. SPITZER: Okay.

MR. ERENZO: Thank you very much.

CHAIRMAN BELL: All right. Thank you.

All right. We're going to move to the Tile Council of North America. If you could

introduce yourself.

MR. ASTRACHAN: Thank you. I am Eric Astrachan with the Tile Council of North America.

Mr. Bell, Mr. Mullaney, members of the TPSC, thank you for the opportunity to testify today.

I'm the Executive Director of the Tile Council, and also the head of delegation for ANSI to the ISO committee for standards, for the international standards committee TC 189 for tile standards.

The Tile Council is a trade association of the North American tile industry representing companies that account for over 99 percent of U.S. tile production and over 99 percent of U.S. mortar, grout, and related installation products manufacturing.

My testimony is divided into two parts. First, if I may, I'd like to briefly describe the nature of the domestic tile industry, and then I'd like to say a few words on the likely impact of a

free trade agreement with the EU on the U.S. tile industry.

The U.S. tile industry is quite sizable. In the last 12 months, our member companies, domestic production totaled $992 million, and our tile producing member companies employed approximately 10,000 American workers in domestic manufacturing jobs.

The U.S. industry is also quite vibrant. It includes companies with annual sales in excess of $1 billion, competing alongside dozens of family-owned craft facilities.

The domestic tile industry is high tech, the Tile Council and our member companies, on the cutting edge of tile technology, developing tile, for example, that is antimicrobial for hospitals and for food service settings as well as dairies, and building exterior tile that will help clean the air of smog and other volatile organic compounds, i.e., photocatalytic tile that reduces the smog out of the air.

And although the U.S. tile industry

remains large and innovative, the industry is very, very import sensitive.

For this reason, many of our free trade agreements have included long duty phase-outs for tile, as you're probably aware. Our industry would be particularly threatened if the final EU agreement fails to include ceramic tile in the longest possible basket of duty reductions. It's not an exaggeration to say that duty-free treatment for EU tile producers would be an existential threat to the U.S. tile industry. It's not an exaggeration to the jobs of more 10,000 employees that we represent.

Italian and Spanish companies, in particular, have the capacity to rapidly increase exports to the United States. Italy and Spain are the second and third largest tile exporting countries in the world by volume, and measured by value, Italy is the largest exporter of tile in the world. Indeed, the EU as a whole accounts for 11.2 percent of the world's production of ceramic tile and more than 18 times the United States' 0.6 percent production share.

So far our MFN tariffs have kept EU producers from swamping the U.S. market. Only 9 percent of Italy's exports are currently destined for the United States, though this 9 percent represents $496 million, making Italy the single largest exporter of tile to the U.S. by value.

Similarly, only 2.7 percent of Spain's exports are bound for the U.S., but this 2.7 percent equals $120 million in exports making Spain the fourth largest supplier to the United States.

Clearly, granting duty-free treatment to the world's largest exports of tile would have a devastating impact on U.S. manufacturers, and Italy and Spain exports such larges volumes of tile that even a few percentage points shift in each country's exports prompted by a reduction in duty would bury U.S. tile producers and take the profit frankly out of U.S. tile production.

The American tile industry is fiercely competitive, dynamic, and innovative, but we operate in a highly price-competitive industry.

The U.S. MFN tariffs of 10 percent and 8.5

percent on ceramic tile have been a key reason our member companies have been able to survive. This is just the sort of innovation, these are just the sort of jobs that U.S. trade policy should foster, and it's the U.S. MFN tariffs on tile that have fostered this innovation and job growth.

Before concluding, Mr. Chairman, I should briefly note that while the tile industry's biggest concern is the handling of tariff reductions, our submitted comments also covered several standards issues. We'd be happy, of course, to work with the USTR to address these non-tariff measures and the issues that we have with European standards not in compliance with U.S. tile standards.

Mr. Chairman, members of the TPSC, I thank you for the opportunity to testify and look forward to any questions.

CHAIRMAN BELL: Thank you. Some of my colleagues have questions, but before we turn to them, you went by it real quickly. What did you say the MFN applied rates were for the ceramic tiles?

MR. ASTRACHAN: The duty rates?

CHAIRMAN BELL: Yeah.

MR. ASTRACHAN: Those rates are 10 percent and 8.5 percent -- 10 percent and 8.5 percent.

CHAIRMAN BELL: Ten percent for the ceramics and 8.5 --

MR. ASTRACHAN: It's based on the glazed or unglazed.

CHAIRMAN BELL: Okay. Okay. And before I turn to my colleagues, do you see any export opportunities into Europe, or is this more concern with the state of the domestic market?

MR. ASTRACHAN: There is virtually no export of tile from the U.S. into Europe. There are very, very few exceptions, and very little export of tile from the U.S. into North America, most of which goes to Canada.

CHAIRMAN BELL: Okay. So some of these more innovative products that you described like the, I forget the technical term, but the smog eating tile --

MR. ASTRACHAN: Right.

CHAIRMAN BELL: -- and the micro --

MR. ASTRACHAN: Antimicrobial.

CHAIRMAN BELL: -- antimicrobial, yeah, there's not a potential market for those, or there's domestic competitors in Europe already?

MR. ASTRACHAN: Those are also produced in Europe.

CHAIRMAN BELL: Okay. Good. I know my Commerce colleague had some questions as well.

MR. ASTRACHAN: Thank you.

MR. JONES: Thank you, Doug. And thank you for your testimony.

I wanted to come back to the area that you noted we might take up in further conversations, that of the non-tariff barriers. Now, you noted that the EU maintains several standards that don't comport with U.S. standards, and you suggested these are there for protection purpose, to shield EU industry from increased cost and competition. And you suggest that we should seek in the negotiations to harmonize the differing testing and measurement practices, particularly with regard to water absorption and slip resistance.

Can you tell us which sets of standards are being followed on either side of the Atlantic? Is it national standards? Are there ISO standards? Who's following what? And has there been any work in the context of international standards development organizations to start working on global standards for harmonized standards in this area?

MR. ASTRACHAN: Yes. So with regards to which standards are being followed, in the United States, we follow the ASTM standard called C373 for measuring water absorption. That standard was first promulgated within ASTM in 1956. So the U.S. has a long history of measuring water absorption in this fashion. In the ISO standard -- let me step back for a moment. The standard for tile in the U.S. is ANSI 137.1.

The ISO standard for tile is ISO 13006, and the methodology that has followed in that standard for measuring water absorption is called the ISO boil method, and I would be happy to send you the exact number of that standard when I check with my office, but there is a number designation

for that standard, but it is known informally as the ISO boil method, which has not been around nearly as long.

You asked if there were efforts to harmonize those. The ANSI, of which I am the head of delegation to the ISO committee, has both the secretary and chairman roles in the TC 189, Technical Committee for Tile Standards, and we have been working on this particular issue at least since I joined Tile Council in 2001, and it is particularly their resistance to this for economic and market reasons that is frustrating to us because it results in tiles coming into this country that are not in compliance with ANSI 137.1 and frankly the false labeling of porcelain tile.

MR. JONES: So to be clear, you've been working on this for a dozen years, and it's getting nowhere given European resistance, and you think the reason is that they prefer not to have a global standard so that there's latitude for fraud. Is that what you're saying?

MR. ASTRACHAN: I apologize if it seemed

that I was saying latitude for fraud. Rather, I think it's for market and economic reasons. It's less expensive to produce according to the ISO boil method.

MR. MULLANEY: So the European tile manufacturers meeting this ISO boil method standard can import into the United States. Are there technical restrictions to the U.S. exporting ANSI 137.1 compliant tiles into Europe? Is that permissible, or maybe it hasn't come up because you don't ship to Europe? I just wonder if there's a standards-based barrier to exports to Europe.

MR. ASTRACHAN: There is not because the ANSI standard exceeds, if you will, in specificity and in performance the requirements of 13006 to better protect the U.S. consumer.

MR. MULLANEY: Okay.

CHAIRMAN BELL: Well, good. Well, thank you very much for your insights and testimony and responses to our questions.

MR. ASTRACHAN: Thank you. It was a pleasure.

CHAIRMAN BELL: All right. We are now turning to the Coalition for Sensible Safeguards.

MS. RABINOWITZ: Thank you for the opportunity to testify today on the proposed Transatlantic Trade and Investment Agreement.

My name is Randy Rabinowitz. I'm the Regulatory Program Director at the Center for Effective Government, and I am here today testifying on behalf of the Coalition of Sensible Safeguards.

CSS is an alliance of over 150 consumer, small business, labor, scientific, research, good government, faith, community, health, environmental, and public interest groups joined in the belief that our country's system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.

I would like to make just four points.

The trade negotiations you're about to embark on should not be used to weaken regulatory standards that protect health, safety, workers, and the environment. Regulatory harmonization should

not become synonymous with deregulation. Harmonizing regulation and reducing costs to business is a fine goal so long as federal and state governments in the United States retain the authority to protect citizens from public health threats.

And I might add, just listening to some people, when they say that all these regulations should be based on science or sound science, that's sort of in the eye of the beholder. My experience is that industry's views of sound science is the science that agrees with their interpretation. Probably the same is true of the public interest groups, that our interpretation of sound science. So it seems like sound science is in the eye of the beholder, and there could be a lot of interpretations of what that means.

We think that trade negotiations should set a regulatory floor, not a regulatory ceiling.

We also believe that trade negotiations should not be used to mandate various types of regulatory analyses not required by statute. There

is a common misperception that federal law requires cost-benefit analysis of all environmental and worker safety regulations. This is not true. Most health safety and environmental laws do not require cost-benefit analysis, and many environmental laws actually prohibit such analyses.

An Executive Order currently requires that these analyses be prepared in some, but not in all, cases. However, Congress has not codified that requirement, and it does not represent the law of the land.

Trade negotiations should not become a vehicle for mandating cost-benefit or other types of burdensome regulatory analyses when Congress has previously rejected such efforts.

Finally, negotiations with the potential to drastically affect domestic regulatory policy must be transparent and open to the public. Far too often, corporations enjoy disproportional access to high-level negotiators and their materials. If negotiators intend to act with the public's best interest at heart, then they ought to quickly

provide full access to the details of the negotiations.

The single most important transparency imperative is to make negotiating text available to the public as they are tabled.

In sum, the Coalition for Sensible Safeguards is troubled at the prospects of surrendering regulatory safeguards in the name of trade. As these negotiations proceed, decisions ought to be brokered in the light of day, and corporate interests should not override the public health and safety.

Effective standards and safeguards providing health safety and financial security for American families are a key component of a strong economy. More than that, standards and safeguards are at the very core of our American way of life and should not be sacrificed. Thank you very much.

CHAIRMAN BELL: All right. Well, thank you very much for your testimony. Dan.

MR. MULLANEY: You've implied I think some concern that the trade impact, cost-benefit

analyses, could be harmful. What would you say -- a two-part question. What would you say is a legitimate way of determining whether a particular regulation achieves its objective in a cost-efficient way? Is there another method of doing that? I'll break it into two parts. That will be the first part.

MS. RABINOWITZ: Well, I think the important thing here is in our country, Congress decides what the level of protection should be. So economics isn't the sole determinant. So in the area that I'm most specifically familiar with, which is workplace safety and health, Congress has decreed that costs are not the overriding factor; the protection of workers are. As a developed country, that is a policy choice that we have made to protect working people, even if it can be expensive at some times.

So cost efficiency is not the predominant concern under our law, and if we negotiate cost-benefit analysis as the litmus test, we're sort of are making it the predominant concern, and you

create sort of a super mandate that overrides the laws that Congress has enacted. And so that's our concern.

In certain places it's not appropriate, and if we as a developed nation decide we don't want people exposed to asbestos, then we think that should be our right, that we can afford to not have asbestos in our country and we want to get rid of it and that we should be able to do that. And if that protects the American public, and we will become less ill because of that, we shouldn't, because it will be less expensive for industry and they'll be able to sell or import more asbestos product, give up that right.

So it's one thing I know that OSHA recently did a big regulatory proceeding that was the result of trade negotiations on harmonizing labels and material safety data sheets that are shipped with chemicals, and the effort to harmonize those chemicals was so that all countries used the same format for these labels, and they used pictograms instead of words, and that way companies

didn't have to translate everything into various languages, and so it saved business a lot of money, and it didn't in any way reduce the protections that were available to workers.

I mean we're not opposed to those kinds of harmonizing efforts because they're not reducing the levels of protection that are available to American workers or the public generally. But there are times when harmonizing would have the effect of reducing levels or going down to a lowest common denominator that everybody can agree on, and that would be what we would be opposed to, taking away the discretion or overriding the laws as they exist.

And the Clean Air Act, for example, does not require a cost-benefit analysis. It prohibits setting public health standards on the basis of costs, and that's what the Supreme Court has said, and so to superimpose cost-benefit analysis on it would really change in a very important and meaningful way the level of environmental protections that are provided to the American public.

MR. MULLANEY: And using your labeling example, a regulation that was less onerous that achieved the same level of protection of a regulation that was more onerous, it would be legitimate to pick the less onerous regulation assuming it achieves the same level of protection.

MS. RABINOWITZ: If there are ways of categorizing things or labeling things. So, for example, there's a standard definition across countries of what is asbestos and what is not asbestos, and believe it or not, that's something that is actually actively disputed. Those would be good things. So when we talk about asbestos regulation, we're all talking about the same thing.

So there's no reason that those kinds of things can't be harmonized if people can reach agreement on those kinds of things, and lots of regulatory standards do include those kind of technical specifications and information. I think they come about in safety areas a lot.

There are other areas where the EU is actually ahead of us, like the chemical regulation

in the EU, they have a program called REACH, and I don't know what it stands for off hand, I'm embarrassed to say, but it's actually --

MR. MULLANEY: Research and Evaluation --

MS. RABINOWITZ: Okay. But it's actually considered to be stronger than our chemical regulations, and so in that regard, harmonization might be something that the chemical industry is not so much in favor of and we might, you know, my constituency groups might be more in favor of.

MR. MULLANEY: Thank you.

CHAIRMAN BELL: Let me ask you just -- I mean it's a slightly more abstract question.

So U.S. exporters not infrequently face regulations that quite often disguise protectionism, and do you see trade agreements as a legitimate way to tackle these barriers, or do you think that there would be better approaches?

MS. RABINOWITZ: I don't have an answer for the question. I'm not sure our Coalition has a position on that.

CHAIRMAN BELL: I mean because I think in

some senses it captures the dilemma that we're trying to address, which is human rights and the desires of, you know, any country to regulate as it sees fit, but when those regulations are abused for purposes of protectionism, and that's where you sometimes get this nexus.

MS. RABINOWITZ: Right. But I think the question is here, a lot of these toxic substance regulations about which we're most concerned, there's debate about what the science says. So this notion that legitimate interpretation of the science would have less regulation is often really a euphemism of industry interpretation.

CHAIRMAN BELL: I don't think we were saying -- that wasn't the question.

MS. RABINOWITZ: Okay.

CHAIRMAN BELL: The question was were regulations used as a form of protectionism and --

MS. RABINOWITZ: You'd have to give me a concrete example for me to be able to comment. So I don't think my group, we don't have a position on protecting domestic markets one way or the other.

So our concern is mostly about environmental health and safety laws and to make sure that they're not weakened as a result of trade negotiations.

CHAIRMAN BELL: Okay.

MS. RABINOWITZ: That's been a prior concern in other areas where you've been negotiating with less well-developed countries, and it's to some extent of less concern but not entirely out of the realm of concern. The EU is a more developed economic community, and so it may be less of a concern than it was when we were talking about NAFTA or something like that, and potentially toxic substance regulation or worker safety protections in Mexico or their enforcement, but it's still an important concern that we don't use trade negotiations -- I could give you a safety example of something I worked on.

CHAIRMAN BELL: I think I understand what you're saying. Okay. All right. That's good. I think we've used up our time. I think it was helpful for you to clarify the boundaries of your concerns.

MS. RABINOWITZ: Thank you.

CHAIRMAN BELL: Thank you.

All right. So we have come to our last witness, but not least, I'm sure. Thank you for your patience. We look forward to hearing your testimony with CF Industries, and if you could identify yourself for the record, that would be great.

MR. HOADLEY: Good afternoon. My name is Douglas Hoadley, and I am the Director of Agribusiness Analysis for CF Industries, one of the world's largest manufacturers and distributors of nitrogen and phosphate fertilizer products.

CF Industries appreciates the opportunity to appear before you today to address negotiating priorities for the proposed Transatlantic Trade and Investment Partnership agreement and has provided written comments to USTR. I would like to spend a few minutes telling you about CF Industries, its favorable production economics, and the importance of eliminating the EU's 6.5 percent tariff on fertilizer imports as part of the TTIP negotiations.

CF Industries operates world-class nitrogen manufacturing complexes in Louisiana, Oklahoma, Iowa, and Mississippi. It also conducts phosphate mining and manufacturing operations in Central Florida and distributes plant nutrients through a system of terminals and warehouses located primarily in the Midwestern United States. CF Industries is the largest producer of urea ammonium nitrate, or UAN, solutions in the world and is the largest U.S. producer of the commonly used nitrogen fertilizers, including ammonia, urea, and ammonium nitrate. CF Industries is also a major U.S. producer of phosphate fertilizers, such as diammonium phosphate, or DAP.

Nitrogen fertilizers are produced from natural gas feedstock. Natural gas currently accounts for about 65 percent of our cost of urea and 57 percent for the cost of UAN. As a result, the cost of natural gas in relation to product prices is a key driver of the economics of the nitrogen fertilizer business.

For most of the last decade, U.S. natural

gas prices were high and volatile and less favorable than natural gas prices in many other producing countries, making the export of domestically produced nitrogen products uncompetitive.

Today, U.S. produced nitrogen fertilizers are considerably more competitive in export markets. The advent of shale gas production in the United States and corresponding moderation of U.S. natural gas prices have dramatically changed U.S. nitrogen market economics. In fact, in 2012, CF Industries announced a $3.8 billion project to add new nitrogen capacity at its Louisiana and Iowa facilities, all of which would come on stream by 2016.

While much of this capacity will serve American farmers, CF Industries hopes to be able to export some UAN, urea, and DAP to the EU once these expansions are complete. Given our advantageous production economics, CF's products will be competitive in the EU if we are permitted to compete on a level playing field. However, if the EU, our largest trading partner, does not eliminate its excessive duty rate on fertilizers, the vast EU

export market will remain effectively closed to U.S. fertilizer exports.

The EU continues to maintain prohibitively high bound tariff rates of 6.5 percent on imports on most major fertilizers, including urea, UAN, and DAP. In contrast, import of these and other fertilizers from the EU and all other countries enter the United States duty-free and have for decades. As a result, bilateral fertilizer trade flows one way. For example, in 2011, U.S. imports of UAN from the EU totaled nearly 1.3 million metric tons, were valued at nearly $430 million, and accounted for over 1/3 of total U.S. imports of UAN. During that same year, U.S. exports of UAN totaled only 79 metric tons.

As a matter of commercial fairness and tariff parity, the EU must level the playing field in fertilizer trade and eliminate the tariffs it currently imposes on U.S. fertilizers given its duty-free access to our large market, one of the largest nitrogen consuming and importing markets in the world. CF Industries respectfully requests that

USTR insist on EU fertilizer tariff elimination as part of the TTIP negotiations.

We also request that the United States continue to push for regulatory cooperation to minimize non-tariff barriers to fertilizer trade. USTR should also ensure that regulatory cooperation with the EU is ongoing to minimize inconsistency in member state implementation of rules governing the use and handling of fertilizers. While CF Industries does not seek bilateral regulatory harmonization, we recommend that USTR maintain an ongoing dialogue with the EU to reduce or eliminate regulatory barriers that may impede bilateral trade in fertilizers. Finally, CF Industries urges the United States to obtain assurances from the EU that it will actively solicit and consider the interests of U.S. stakeholders when engaging in rulemaking that impacts bilateral trade. Thank you.

CHAIRMAN BELL: All right. Well, thank you very much. We have some questions for you.

I guess our first question is, you've obviously identified the tariffs that the EU has on

U.S. exports and your proposal that we seek elimination of those tariffs. Do you anticipate any resistance from EU competitors to such a move?

MR. HOADLEY: Perhaps some on the competitors. We've talked to consumers. We sent a vessel there last year, registered our product. There's a lot of interest of the consumers in getting our product, and especially once we bring in the new capacity, we would see this as a viable market. They import a lot of fertilizers already. So it would be nothing new. It would just put us on a level playing field.

CHAIRMAN BELL: Okay. So I mean do you see these customers, do you see them pressing for kind of greater competition within the EU market, or is it hard to ascertain at this stage?

MR. HOADLEY: Well, we wouldn't compete -- most of that market is AN, CAN, or NPKs, which is different. We're looking, we in the United States -- that's different products.

CHAIRMAN BELL: Okay.

MR. HOADLEY: AN is ammonium nitrate. So

the U.S. is already an importer of ammonium nitrate, and what we're really looking for is more on UAN, which they don't produce. So there really aren't any real competitors over there that I don't think would object to UAN.

CHAIRMAN BELL: Okay. So you would, in fact, be competing against other importers?

MR. HOADLEY: Yes.

CHAIRMAN BELL: Okay.

MR. MULLANEY: Can I ask? Did you say 79 metric tons?

MR. HOADLEY: 79, yes.

MR. MULLANEY: Not, not --

MR. HOADLEY: No, no, no, it was just a minor amount.

MR. MULLANEY: Just 79, okay.

MR. HOADLEY: Versus 1.3 million.

MR. MULLANEY: No, yeah, I got that one. You mentioned ongoing dialogues on I think you characterized it as differences in member states' requirements on handling of fertilizers, and correct me if I mischaracterized it, but is there, you know,

once you get beyond the tariffs, will we find regulatory issues, regulatory barriers that need to be --

MR. HOADLEY: I don't really think so. If you did away with the barriers -- and that's why we registered our product on the UAN at least and sent a vessel there, just to test the system. We didn't really see -- we just don't want any new regulatory barriers. Their fertilizer industry is pretty well regulated like ours is here, especially on products like ammonium nitrate, but we just don't want to see any new barriers in exchange for that 6.5 percent.

MR. MULLANEY: Right. Okay. Good. Thank you very much.

CHAIRMAN BELL: Well, any other questions from my colleagues? Yeah, go ahead.

MR. MARVICH: Before the product that you wish to export to the EU, you mentioned that currently that product is being imported into the EU. The EU is not producing it itself. And where are they getting it from? Where's the EU getting that product from currently? Do you have any idea

what the tariff rates are on those importers?

MR. HOADLEY: They're getting a lot of product from North Africa, particularly Egypt on the nitrogen side, and there's no tariffs. They're getting quite a bit from Russia. I don't believe there is -- there may be on a couple of products. Ammonium nitrate, I think there might be a small tariff. I can get back to you on that, but they've got very low tariffs. Otherwise, we'd be able to compete.

CHAIRMAN BELL: Okay. Well, that's very helpful. It gives us some guidance. Thank you very much.

MR. HOADLEY: Thank you.

CHAIRMAN BELL: All right. I think that basically concludes the hearing. We've heard from all of our witnesses. Thank you all very much for your participation. It's been very helpful, very insightful, and will certainly help guide our efforts going forward.

I think as Dan mentioned, when he started us off today and as well as yesterday, this is

obviously not the end of the road in terms of our soliciting views, and we certainly welcome any initiatives that you have in terms of sharing information with us further as your views evolve, and/or some of the questions that were posed, we would appreciate your following up with us.

So on that note, any other comments from any of the other Panelists?

No.

All right. This hearing is concluded.

(Whereupon, at 4:40 p.m., the meeting was adjourned.)

C E R T I F I C A T E

This is to certify that the attached proceedings in the matter of:

PUBLIC HEARING

BEFORE THE TRADE POLICY STAFF COMMITTEE (TPSC)

ON THE

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

May 30, 2013

Washington, D.C.

were held as herein appears, and that this is the original transcription thereof for the files of the Office of the United States Trade Representative.

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CATHY BELKA

Official Reporter