Statement
of the
U.S. Chamber
of Commerce

ON: International Worker Rights, U.S. Foreign Policy and the International Economy

TO: House Committee on Foreign Affairs — Joint Hearing of the Subcommittee on Terrorism, Nonproliferation, and Trade and the Subcommittee on International Organizations, Human Rights and Oversight

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The Chamber's mission is to advance human progress through an economic,
political and social system based on individual freedom,
incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce 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.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business -- manufacturing, retailing, services, construction, wholesaling, and finance – is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 113 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

Chairmen Sherman and Carnahan, Ranking Members Royce and Rohrabacher, distinguished members of the House Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade and Subcommittee on International Organizations, Human Rights and Oversight: I greatly appreciate the opportunity to offer the perspective of the business community on the important topics under discussion here today. As the United States Congress and the Obama Administration devise strategies to expedite the economic recovery of the United States, the role of trade, investment, and international economic policy and their relationship with international worker rights may be more important than ever.

No priority facing our nation is more important than putting Americans back to work. Nearly 10% of the U.S. workforce is unemployed—a figure that soars beyond 17% when those who have stopped looking for jobs and the millions of part-time workers who want to work full-time are included. This is why the U.S. Chamber is calling on all Americans to unite around the ambitious goal of creating 20 million new jobs over the next 10 years. With 20 million jobs, we can re-employ the unemployed and meet the needs of our young people and a growing population.

International business presents some of the clearest opportunities for job creation. The rationale is clear: we cannot rely on domestic consumption (private or public) to generate more demand. The American consumer is cutting back and directing more income toward savings, and the federal government faces a budget deficit equivalent to nearly 10% of U.S. GDP this year. At the same time, 95% of the world's consumers lie outside the United States, and many foreign markets continue to grow briskly.

When President Obama delivered his State of the Union address in January, the U.S. Chamber hailed his call for a national goal in to double U.S. exports within five years. Doing so will play a critical role in the American economy's ability to create new jobs. Today's discussion of international economic policy and worker rights should be viewed through the prism of this practical and achievable goal and its importance to our economic future.

Benefits of International Trade

In this context, it is worthwhile to briefly re-examine the importance of trade to American workers and businesses. Few Americans are aware that the United States is the world's largest exporter of goods and services, notwithstanding media reports that China recently overtook Germany as the leading exporter of goods. U.S. exports of goods and services surpassed $1.83 trillion in 2008 and $1.55 trillion in 2009, according to the U.S. Department of Commerce.

These exports support millions of jobs. More than 50 million American workers are employed by companies that benefit from exports, according to the U.S. Department of the Treasury. This sum represents approximately 40% of the U.S. private sector workforce.

Trade is critical to the success of many sectors of the U.S. economy. Manufacturing is the sector that exports the most, with more than $1 trillion worth of exports in 2008, according to the U.S. Department of Commerce. The U.S. Department of Commerce reports that one in five manufacturing jobs depends on exports.

The strong export performance of U.S. manufacturers is one reason why the United States is by far the world's largest manufacturer. U.S. factories account for 22% of the world's manufacturing output, according to the UN Industrial Development Organization — or twice as much as China. This figure has held roughly steady for nearly four decades.

U.S. manufacturers have boosted their output by more than 50% over the past 15 years, according to the Federal Reserve. Vast productivity gains relating to increased use of automation and information technologies have helped U.S. manufacturers retain and in many areas enhance their global competitiveness in recent years, even as the number of Americans employed in manufacturing has declined since its peak in 1979.

U.S. exports of services are also booming, and they reached $507 billion last year. The United States achieved a trade surplus in services of $136 billion in 2009, according to the U.S. Department of Commerce. The United States is by far the world's largest exporter of services, and America's globally competitive service industries — which range from insurance and retail to telecommunications and express delivery — benefit immensely from opportunities abroad.

American farmers and ranchers also depend on exports. The U.S. Department of Agriculture reports that one in every three acres on American farms is planted for export markets. Agricultural exports broke the $100 billion mark for the first time in 2008.

In this context, tremendous benefits have flowed from U.S. free trade agreements (FTAs), which cover 17 countries. These countries represent approximately 7% of global GDP outside the United States, and yet last year these markets purchased more than 40% of U.S. exports, according to the U.S. Department of Commerce. In other words, U.S. FTAs do an outstanding job making big markets even out of small economies.

Trade deficits are a poor measure of the success of these agreements, but they are often cited by trade skeptics as a reason why the United States should not negotiate free trade agreements. However, taken as a group, the United States is now running a *trade surplus* in manufactured goods, agricultural products, and services with those 17 FTA partner countries, according to the U.S. Department of Commerce. In fact, imported oil and gas from Canada and Mexico accounts for most of the remaining U.S. trade deficit with these countries, which is surely a result of geology, not trade policy.

Also overlooked in the U.S. trade debate is the fact that more than 97% of the quarter million U.S. companies that export are small and medium-sized enterprises (SMEs), and they account for nearly a third of U.S. merchandise exports, according to the U.S. Department of Commerce. In fact, the number of SMEs that export has more than doubled over the past 15 years, soaring from 108,026 in 1992 to 259,381 in 2007. During the same period, their export revenue more than tripled from $103 billion in 1992 to $312 billion in 2007.

"Evidence shows that many SMEs could sharply boost exports by entering new markets," reports the U.S. Department of Commerce. "Compared with large firms, SMEs are especially dependent on U.S. government initiatives to open foreign markets. This is because, unlike big companies, most SMEs do not possess offshore business affiliates that can be used to circumvent trade barriers and gain market access."

Benefits of International Investment

International investment is equally critical to the future prospects of U.S. business. While three-quarters of U.S. multinationals' capital expenditures are in the United States, they have invested more than $3 trillion abroad, according to the U.S. Department of Commerce.

Most of these investments abroad are in sectors that cannot be served by means of exports from the United States. This includes many services as well as manufacturing operations for goods, such as detergent or potato chips, that generally cannot be exported due to high transportation costs or barriers to trade.

Even though these activities take place outside the United States, U.S. firms' investments abroad bring real benefits to Americans. U.S. companies earned more than $5 trillion in revenue through their foreign subsidiaries in 2008. In fact, roughly half of all revenue earned by the Fortune 200 came from their foreign affiliates in recent years. That revenue from abroad creates tremendous value for shareholders and helps fund U.S. multinationals' research and development activities, 80% of which continues to be performed in the United States, according to the U.S. Department of Commerce.

Contrary to myth, an open investment regime that allows U.S. multinationals to invest abroad does not create a zero sum game in which a job created abroad is a job eliminated at home. A recent study found that U.S. companies that invest abroad create 2.3 jobs in the U.S. for every one they create overseas. U.S. companies that invest abroad tend to be more successful in a variety of ways, and they pay higher wages and create more jobs in the United States.[1]

Nor does an open investment regime that allows U.S. multinationals to invest abroad create a race to the bottom. As noted, three-quarters of U.S. multinationals' capital expenditures are in the United States, and two-thirds of the portion that does go abroad is directed to developed countries with wages and labor standards similar to those in the United States, according to data from the U.S. Department of Commerce. When U.S. multinationals do invest in developing countries, they often create the best paying jobs around, with the best working conditions.

Finally, it is important to note that investment flows in as well as out. Foreign direct investment in the United States totals more than $2 trillion and sustains 5 million American jobs with an annual payroll of $350 billion, according to the U.S. Department of Commerce.

Trade Policy Goals

As noted, the U.S. Chamber of Commerce strongly supports President Obama's goal of doubling U.S. exports within five years. The historical record suggests this goal is challenging but achievable.

Standing in the way, however, is a complex array of foreign barriers to American exports. Those barriers are alive and well, and they pose a major competitive challenge to U.S. industry and agriculture and the millions of U.S. workers whose jobs depend on exports.

From a business perspective, the foremost goal of U.S. trade policy should be to tear down those barriers. Casting light on this challenge, the World Economic Forum issues an annual Global Enabling Trade report, which ranks countries according to their competitiveness in the trade arena. One of the report's several rankings gauges how high the tariffs are that a country's exporters face. Leading the pack as the country whose exporters face the lowest tariffs globally is Chile, with its massive network of free trade agreements with more than 50 countries around the globe.

While the report found the United States did well in a number of areas, America ranked a disastrous 114th out of 121 economies in terms of "tariffs faced" by our exports overseas. In other words, American exporters face higher tariffs abroad than nearly all our trade competitors. It is also worth noting that tariffs are just part of the problem, as they are often found alongside a wide variety of non-tariff barriers that shut U.S. goods and services out of foreign markets.

Historically, the only way the U.S. government has ever enticed a foreign government to open its market to American exports is by negotiating agreements for their elimination on a reciprocal basis, as in the case of bilateral FTAs, such as those pending with Colombia, Panama, and Korea. In addition, reciprocal market openings can be accomplished multilaterally, as in the Doha Round, the global trade agreement currently being negotiated under the WTO by the United States and 152 other countries. Finally, bilateral investment treaties represent the best tool to create a level playing field in investment.

Fundamentally, these agreements are about making trade *fair*. The U.S. market is largely open to imports from around the world, but other countries continue to slap tariffs on U.S. exports that are often 10 or 20 times higher than U.S. tariffs.

The ILO and the WTO

In keeping with the goal set by President Obama, the U.S. Chamber believes that Congress should focus more attention on the current and prospective benefits that trade offers to American workers and businesses. However, the U.S. debate over trade policy is often dominated by the question of the appropriate relationship between U.S. trade policy and respect for labor rights abroad. In the multilateral realm, national governments have assigned the International Labor Organization (ILO) responsibility for establishing international labor rights and ensuring they are respected in practice as well as principle.[2]

These same governments have declined to address labor rights within the WTO. The WTO Agreement (also known as GATT 1994) makes no explicit reference to labor issues. The first and only occasion when the topic of labor principles was raised at the political level within the WTO was in the declaration issued at the First WTO Ministerial Conference held in Singapore in 1996.

That document signaled general support for internationally recognized core labor rights but added: "We reject the use of labor standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question."[3] (The 1998 ILO Declaration on Fundamental Principles and Rights at Work also asserts that "labor standards should not be used for protectionist trade purposes."[4])

Opposition to adopting a more muscular approach to labor issues in the WTO appears to be very widespread within its membership at present. Moreover, because the 153-member WTO is a consensus-driven organization, it is unlikely to change course and agree to address labor principles as a central part of its mission in the foreseeable future.

Labor Rights and Trade Preferences

By contrast, countries often include commitments relating to internationally accepted labor rights in bilateral trade agreements and unilateral trade preference schemes such as the Generalized System of Preferences (GSP). The U.S. GSP program requires the president to determine if a country "has taken or is taking steps" to provide its workers with "internationally recognized worker rights," which the statute then defines. Enforcement is based in part on a petition-driven process in which civil society actors such as business organizations or labor unions may raise concerns with the U.S. government. Such petitions have resulted in countries temporarily losing GSP benefits on a number of occasions since the program was introduced more than three decades ago.

Recent legislation introduced in March 2009 in the House of Representatives proposes a more demanding approach to labor rights in trade preference legislation. A bill (H.R. 1318) to provide duty-free treatment for some goods produced in designated Reconstruction Opportunity Zones (ROZs) in Afghanistan and parts of Pakistan would require establishment of an enterprise-specific audit process widely regarded by business representatives as unworkable.

The legislation would authorize the Secretary of Labor to designate an entity such as an NGO to conduct firm-level inspections to ensure compliance with labor principles. Critics have called these requirements intrusive and impractical, especially for a region with extreme security challenges. Rather than create export opportunities and jobs, the program would generate uncertainty and impede investment. While the U.S. Chamber supports the goal of leveraging trade opportunities to lend stability to these troubled regions, it opposes the bill as drafted on these grounds (as well as the limited scope of its tariff preferences).

Labor Rights and FTAs

While the first bilateral free-trade agreement (FTA) negotiated by the United States (concluded in 1986 with Israel) made no mention of labor issues, the U.S. approach has evolved considerably since that time:

- The 1993 North American Agreement on Labor Cooperation (NAALC), often referred to as the labor side agreement of the North American Free Trade Agreement (NAFTA), obligates each party to "effectively enforce" its labor laws. It emphasizes a cooperative approach that includes technical assistance and consultation.

- The 2000 U.S.-Jordan FTA was the first U.S. bilateral trade agreement to include labor provisions within the main body of the agreement. The agreement obligates each party to "strive to ensure" that its laws incorporate the 1998 ILO Declaration on Fundamental Principles and Rights at Work and not derogate from domestic labor laws to encourage trade or investment. The agreement allows alleged failures to uphold labor rights to be submitted to a dispute settlement panel.

- The 2004 U.S.-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) expanded upon the Jordan model. CAFTA-DR includes in the main text of the agreement a binding obligation to effectively enforce domestic labor laws, and this commitment is subject to dispute settlement. The accord was accompanied by substantial technical assistance programs to ensure continued improvements in respect for labor principles.

Building on this foundation, the Bush Administration and Congressional leaders on May 10, 2007, reached a bipartisan accord on a new approach to labor and environmental issues in trade agreements. This accord led to changes in the text of pending trade agreements with Peru, Colombia, Panama, and South Korea.

This "May 10th trade deal" thus paved the way for Congressional approval of the U.S.-Peru Trade Promotion Agreement in late 2007 with broad bipartisan support. Under the agreement, the United States and Peru agreed to uphold the internationally accepted labor rights articulated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

These labor obligations are subject to the same dispute settlement and enforcement provisions as the agreement's purely commercial provisions. The trade agreement also includes a cooperative mechanism to promote respect for the ILO Declaration's principles and compliance with ILO Convention 182 on the Worst Forms of Child Labor.

An Elegant Compromise

The "May 10th trade deal" represents an elegant compromise that has attracted bipartisan support. The 1998 ILO Declaration is a convenient reference point because its principles represent a consensus that has been embraced by governments, organized labor, and employers alike. By contrast, the United States is a party to only two of the eight ILO core conventions, and a third has long been pending in the Senate.

This is unlikely to change. The U.S. Council for International Business (USCIB), the organization representing U.S. employers before the ILO, reports: "Under a tripartite agreement between the U.S. Government, the AFL-CIO and USCIB, no ILO convention will be forwarded to the U.S. Senate for ratification if such ratification would require any change in U.S. federal and state laws… the remaining five conventions have been found to directly conflict with U.S. law and practice and thus have not been considered for ratification since ratification would require extensive revisions to U.S. state and federal laws."[5]

Consequently, it is difficult to see how the United States could make more ambitious commitments relating to labor rights in trade agreements. Many members of Congress and representatives of the business community would view including the ILO core conventions in future FTAs as an effort to rewrite U.S. labor law through a trade agreement.

More troubling, the business community is dismayed that the May 10th trade agreement has failed to advance a bipartisan trade agenda. Just weeks after they applauded the agreement for realizing long sought goals relating to labor rights, the Democratic leadership of the House of Representatives and the AFL-CIO announced they would oppose the “flawed trade agreements with South Korea and Colombia.”

Further, in May 2009, the AFL-CIO’s Thea Lee testified in opposition to the U.S.-Panama FTA even though which includes the very changes the AFL-CIO sought and won in the May 10th agreement. Her critique called for a host of new, deep changes to the agreement—changes to the trade agreement “template,” she said. Panamanian officials were stunned. Noting that Panama has ratified all eight of the ILO core conventions and has labor laws that elicit only minor criticisms from House Democrats, they commented at the time: “This isn’t just moving the goal posts. This is moving the entire stadium.” The Colombians expressed a similar sentiment after the House refused to allow a vote on the U.S.-Colombia Trade Promotion Agreement in April 2008.

U.S. trade policy remains at an impasse. The Obama Administration has indicated repeatedly that it hopes to secure Congressional approval of the pending trade agreements with Colombia, Panama and Korea, but no action is forthcoming.

The cost of these delays may prove to be high. The U.S. Chamber recently released a study which found that the United States could suffer a net loss of more than 380,000 jobs and $40 billion in lost export sales if it fails to implement its pending trade agreements with Colombia and Korea while the European Union and Canada move ahead with their own agreements with the two countries. Those agreements are expected to be in force within the year. In addition, the EU concluded a trade agreement with Colombia just days ago.

If Washington delays, American workers and farmers will be put at a competitive disadvantage in Colombia and Korea. For example, Canadian wheat farmers will be able to sell their crop to Colombians at a huge discount, and European manufacturers will easily undercut their American competitors in the Korean market.

Conclusion

In conclusion, President Obama’s goal of doubling exports within five years looms large in the debate over trade agreements and labor rights. To reach this goal, the Administration and Congress need to shift the U.S. trade agenda from defense to offense. According to the World Trade Organization (WTO), there are 230 free trade agreements in force around the globe today, but the United States has FTAs with just 17 countries.

The WTO reports that there are more than 100 bilateral and regional trade agreements currently under negotiations among our trading partners. The United States is participating in just one of these (the Trans-Pacific Partnership).

On trade, if we stand still, we fall behind. We urge Congress and the Obama Administration to seek a more effective trade policy that opens foreign markets, boosts exports, and creates jobs. A bipartisan approach to addressing labor principles in U.S. trade agreements was achieved in the "May 10th trade deal," and it should be seized with both hands. Only by doing so can we take advantage of the opportunities trade presents for job creation.

Thank you very much.

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[1] Matthew J. Slaughter, U.S. Council for International Business and Business Roundtable, "How U.S. Multinational Companies Strengthen the U.S. Economy," March 2009, http://www.uscib.org/index.asp?documentID=3882.

[2] About the International Labor Organization, http://www.ilo.org/global/About_the_ILO/lang--en/index.htm.

[3] Singapore WTO Ministerial 1996: Ministerial Declaration, December 13, 1996, http://www.wto.org/english/thewto_e/minist_e/min96_e/wtodec_e.htm.

[4] "…labor standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up." ILO, http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm.

[5] Adam Greene, U.S. Council for International Business, "Issue Analysis: U.S. Ratification of ILO Core Labor Standards," April 2007. This understanding was formally recognized in a 1988 Declaration adopted as the Senate considered ILO Convention 144 and ratifies an understanding reached among the U.S. government, the AFL-CIO, and the U.S. Council for International Business. See 134 Cong. Rec. page S134 (Feb 1, 1988).