ECAT Emergency Committee for American Trade

TESTIMONY OF LINDA MENGHETTI
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ON THE TRANS-PACIFIC PARTNERSHIP AGREEMENT: CHALLENGES AND POTENTIAL

BEFORE THE SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION, AND TRADE AND THE SUBCOMMITTEE ON ASIA PACIFIC OF THE COMMITTEE ON FOREIGN AFFAIRS OF THE U.S. HOUSE OF REPRESENTATIVES

May 17, 2012

Mr. Chairmen and Ranking Members, Members of Congress. Thank you for the opportunity to appear before both your Subcommittees today. My name is Linda Menghetti and I am Vice President of the Emergency Committee for American Trade – ECAT.

Founded in 1967, ECAT is an organization of the heads of leading U.S. international business enterprises representing all major sectors of the American economy. Their annual worldwide sales exceed $3.0 trillion and they employ more than 6.4 million persons. ECAT's purpose is to promote economic growth through the expansion of international trade and investment. ECAT also serves as the secretariat to the broader U.S. Business Coalition for TPP that represents U.S. agricultural producers, manufacturers and service providers that seek a comprehensive, ambitious and high-standard outcome from the TPP negotiations.

International trade and investment are important because they significantly improve the lives of the American people. Participation in international commerce not only sustains many American jobs, it raises the pay scales for millions of workers and saves the average American family thousands of dollars per year. Workers at companies engaged in global commerce earn, on average, almost one-fourth more than those working in U.S. firms only engaged domestically. International trade and investment also create new opportunities that help sustain and build jobs in the United States, helping to overcome the losses in U.S. employment which result from low-economic growth in the U.S. market, combined with higher rates of productivity. Many of our companies seek the growth in markets overseas – which can generate 40, 50 and even 70 percent of our U.S. companies' global revenues. And all Americans benefit from the lower prices, inflation and interest rates that international trade helps generate. Expansionary international trade and investment policies are also important for the United States to continue to serve as the world's leading example for achieving economic success and prosperity through freedom, free-market principles, the rule of law and economic engagement. The United States' successful participation in the Trans-Pacific Partnership (TPP) negotiations, therefore, is a critical part of sustaining American leadership on these issues which are so important economically to the United States.

The Asia-Pacific region is one of the most dynamic regions in the world in terms of economic and population growth, as well as accelerated international economic integration. In the Asia-Pacific region, there are over 100 free trade agreements in negotiation or in force, most of which exclude the United States and leave our farmers, manufacturers, service providers and workers at a competitive disadvantage. Major agreements include the ASEAN-Australia-New Zealand free trade agreement, the China-New Zealand free trade agreement and agreements between ASEAN and China and ASEAN and India. Just this week, Japan, China and Korea announced that they would be working together on a new free-trade pact. These agreements reflect a deepening of commercial ties amongst these partners, which leaves the United States at risk of being excluded from these vital growth markets.

Thanks to the work of many members of your two Subcommittees, including Chairmen Royce and Manzullo and Congressman Meeks, the United States was finally able to approve the Korea-U.S. Free Trade Agreement last year and bring it into force in March 2012. That brings to three the number of trade agreements the United States has in Asia – with trade agreements already in place with Singapore and Australia. We've done a bit better in our own part of the Pacific, with trade agreements with Canada and Mexico (NAFTA), Chile and Peru.

But as important as movement on the Korea-U.S. FTA and the other trade agreements is, the United States remains far behind the curve in the Asia Pacific. The successful conclusion of the TPP is critical to reversing that trend. Together, the TPP countries already represent the United States' fourth-largest trading partner by value, with over $210 billion in goods and services trade with the United States and more than 196 million new consumers, which will generate new opportunities for businesses throughout the U.S. economy and every state in the nation.

The TPP negotiations also provide an unparalleled opportunity to forge a stronger template for regional trade agreements that truly takes account of the international integration that will only increase throughout the 21st century. Achieving a Trans-Pacific Partnership agreement that is all-inclusive, high-standard and commercially meaningful will bring substantial benefits to U.S. businesses and their workers, as well as support broader U.S. interests in the Asia Pacific. In addition, an agreement that deals directly with how businesses operate in the 21st century – including through global supply and production chains, electronic commerce and cloud computing – will help the United States and its TPP partners better innovate and compete in the global marketplace.

The vision of the TPP is that it will extend over time to the other countries of the Asia Pacific, becoming a building block for regional integration and potentially the long-envisioned Free Trade Area of the Asia Pacific. Establishing a template based on expanded trade, investment, transparency and the rule of law for all of the Asia Pacific is very much in America's interest and a top business priority.

An East West Center working paper predicts that the conclusion and eventual expansion of the TPP agreement would allow "global benefits [to] grow from $16 billion in 2015 to $84 billion in 2020 and $104 billion in 2025." The Center also estimated that trade with Asia supported 27 percent of U.S. export-related jobs, a figure which had expanded 12 percent from 2002 to 2006.

I. Background on the TPP Negotiations

Brunei, Chile, New Zealand and Singapore had completed their own free trade agreement, commonly referred to as the P-4 (or Trans Pacific Strategic Economic Partnership) in 2005, except for the chapters on investment and financial services which the parties continued to negotiate. The United States joined the P-4 negotiations on investment and financial services in February 2008 and, at the end of 2008, the Bush Administration announced that the United States would join negotiations to participate in an enlarged P-4, and was later joined by Australia, Peru and Vietnam. The Obama Administration reviewed the negotiations, sought public comment and consulted with Congress before making its announcement in late 2009 that the United States would participate fully in the TPP negotiations. Malaysia formally joined the negotiations in

October 2010. Canada, Japan and Mexico have requested to join the negotiations; those requests are being considered by the existing TPP negotiating partners.

Together, the current eight TPP negotiating countries already represent the United States' fourth-largest trading partner, with two-way goods trade in 2011 of $196.5 billion. U.S. goods exports to the TPP countries totaled $105.4 billion in 2011, and U.S. goods imports from the TPP countries totaled $91.1 billion that same year. U.S. cross-border services exports to these countries totaled nearly $29 billion and U.S. imports of services from these countries equaled approximately $13.5 billion in 2010. U.S. foreign direct investment in the TPP countries exceeded $297 billion and their investment in the United States equaled over $72 billion in 2010. Sources: U.S. Department of Commerce, Trade Stats Express (http://tse.export.gov); Bureau of Economic Analysis, Trade in Services (http://www.bea.gov/international/international_services.htm); Bureau of Economic Analysis, U.S. Direct Investment Abroad, Historical Cost Basis (http://www.bea.gov/international/di1usdbal.htm).

Over the last decade, U.S. trade with each of these countries has increased. What is most notable, as displayed in the chart below, is that U.S. exports to those countries with which the United States has already signed and implemented trade agreements – Australia, Singapore, Chile and Peru – have increased significantly in dollar value. Just those four countries accounted for 85 percent of the total increase in U.S. goods exports to the TPP countries between 2000 and 2011.

U.S. Goods Exports to TPP Countries
2000-2011
(In US$ millions)

Country	**2000**	**2011**	**Dollar Value Change 2000 - 2011**
Singapore	$15,999	$28,224	$12,226
Australia	$11,684	$25,491	$13,807
Chile	$3,183	$14,498	$11,315
Peru	$1,580	$7,412	$5,833
Vietnam	$331	$4,153	$3,823
Malaysia	$10,122	$12,326	$2,203
New Zealand	$1,900	$3,350	$1,450
Brunei	$155	$181	$27
Total	**$44,953**	**$95,636**	**$50,683**

Source: Data from U.S. International Trade Commission (dataweb.usitc.gov) (Note that there are slight discrepancies in the reporting of data by the Commerce Department and the U.S. International Trade Commission which results in slightly different figures.)

II. <u>Vision of the TPP Negotiations</u>

At the APEC Leaders' meeting in November 2011, the leaders of all the TPP countries laid out a strong vision for the TPP. In particular, the leaders affirmed the goal of the TPP negotiations is:

> *". . . to establish a comprehensive, next generation regional agreement that liberalizes trade and investment and addresses new and traditional trade issues and 21st-century challenges."*

The leaders went on to explain:

> *" We are confident that this agreement will be a* ***model for ambition*** *for other free trade agreements in the future, forging close linkages among our economies,* ***enhancing our competitiveness, benefitting our consumers and supporting the creation and retention of jobs, higher living standards, and the reduction of poverty in our countries****."*
>
> **Source:** *Trans-Pacific Partnership Leaders Statement, Honolulu, HI, November 2011* (emphasis added).

The "Broad Outlines" of the TPP agreement released in Honolulu were more detailed and ambitious than many had expected.

Before and after the Honolulu Leaders met, hundreds of negotiators from all nine countries have been working tirelessly to move toward these objectives. In March, the 11th round of negotiations was held in Melbourne, Australia, which I had the opportunity to attend. And I just returned over the weekend from the 12th round of negotiations being held in Dallas, Texas. The nine TPP countries have developed an ambitious negotiating agenda for the rest of the year, with the aim of completing the negotiations, as the President called for at the November APEC meetings.

For the business community, the TPP is important in its own right and as a building bloc that could eventually bring other major trading nations that share the ambitious vision to create a common set of rules and market opening more broadly throughout the Asia Pacific, providing even greater economic opportunity and benefits for the United States.

III. Status of the TPP Negotiations

In many ways, the TPP negotiations are the most complex and challenging that the United States and our TPP partner countries have faced outside of the World Trade Organization and the now moribund Doha development agenda.

There are more than 24 chapters under negotiation, many dealing with ambitious market-access provisions and highly detailed rules, along with brand new issues on the table, including electronic commerce, supply and production chains and regulatory coherence. With multiple negotiating partners at different levels of development and economic openness, the challenges are many.

The discussions that my colleagues and I held with numerous delegations in Dallas indicate that there is momentum in the negotiations and concrete progress is being made in many chapters, albeit on smaller and medium-sized issues. It is crucial that those issues are resolved quickly so that decisions can be made on the bigger issues – many of which are politically sensitive.

While progress is certainly being made, the TPP negotiations are at a critical crossroads. The essence of the issue is that there appears to be a great gap between the ambitious vision of our Leaders and what is being proposed at the negotiating table. And virtually every country appears to have areas where its current negotiating proposals are far below the Leaders' vision. Let me just note some of the more obvious areas of divergence, recognizing that there are many others for each country:

- For the United States, limited or non-existent market access for imports of apparel, footwear and agricultural products like dairy and sugar are not a "model for ambition."
- For Chile and New Zealand, the standards sought on intellectual property protection are not a "model for ambition."
- For Australia, the rejection of investor-state arbitration (which I would note was recently reaffirmed by both the European Union and the United States as a core part of a strong international investment policy) is not a "model for ambition."
- For several of the ASEAN countries, approaches on liberalizing financial and other services are not a "model for ambition."
- The list could go on and on.

While some of the gap between the Leaders' ambition and individual-country negotiating positions may well reflect the stage of the negotiations – that some issues won't be resolved until the very end – there is great concern that the ultimate outcome may diverge from the vision and be far less than comprehensive, far less than high-standard and far less economic-growth and job creating.

As these negotiations continue I urge you consider several principles as you discuss and provide your views to our own Administration and the other TPP negotiating partners.

As part of our work as the Secretariat to the U.S. Business Coalition for TPP, we developed early on key principles that we in the business community believe are critical to achieve for these negotiations to be successful. I have appended those principles to my testimony, but I'd like to highlight several here today.

- Comprehensiveness for market opening and application of rules;
- high standards;
- concrete progress on new issues;
- creation of a living agreement; and
- timeliness.

1. <u>Comprehensiveness or an Agreement that Excludes all Countries Sensitive Products and Issues</u>

A key challenge to these negotiations and their potential to be built out successfully to other important Asia-Pacific economies is whether the end-result can truly be comprehensive or whether each country will continue to seek to exempt special products or rules, making for an end-result that will be neither ambitious nor in our country's economic interest.

From our perspective, the final TPP should open markets for all trade in goods, services and investment and apply the core rules to all countries. Such a result will have enormous benefits across the U.S. economy. For farmers and ranchers, a successfully concluded agreement will create new markets for beef, pork, chicken, grains and other key agricultural crops. For our manufacturers of everything from consumer goods, medical equipment and medicines, to transportation and other heavy equipment, an ambitious TPP will eliminate tariffs and non-tariff barriers, making U.S. goods more competitive. For our service providers – be they information and communications technology, insurance and financial, express delivery, or other key services, a successful TPP will eliminate trade and investment barriers that block greater access and opportunity

Such an ambitious result is threatened; if the United States excludes wholly or essentially through rules of origin or other devices major manufactured or agricultural products – be it sugar, dairy and/or apparel, or Australia excludes investor-state enforcement or the ASEANs exclude financial services, what else will other countries currently negotiating the TPP – let alone a Japan, a Canada or a Mexico – take off the table?

We simply do not see a successful conclusion to these negotiations on a less-than-comprehensive basis. This is not a bilateral agreement, like many that the United States has done where products were left off wholly or largely. These negotiations are too big and will only get bigger.

I know that these issues are sensitive for some districts and states and the Members of Congress that represent them. As these negotiations continue, it is imperative, I would submit, that all of us need to consider how successful we can be as a nation if do not embrace a more-open economy here at home. We believe countries, including the United States, can seek appropriate phase-ins and other accommodations, but not broad-based exclusions from either market access or core rules.

Take the issue of textiles, apparel and footwear, where U.S. negotiators have proposed a rule of origin – the rule that defines which apparel and footwear products benefit from tariff cuts –that is based on outdated rules that would effectively exclude most trade in apparel products from coverage because the rules ignore the highly international production and supply chains in which these products are produced and sold. Continuing on such an approach will lead other countries to walk away from an ambitious outcome and impede the ability of the TPP countries to achieve a comprehensive and successful outcome. We are urging the Administration to develop creative proposals that address the development of international production and supply chains in this sector and that will incentivize U.S. supply chains and U.S. value. Overall, the Administration should seek to produce a simpler rule that will increase trade of these products and not result in their effective exclusion. This can be done in many ways, including by:

- Adopting a regional value-content rule;
- Adopting a tariff-heading shift or single-transformation rule;
- Covering products made with significant U.S. or other TPP inputs, such as U.S. cotton and yarn and U.S. exports, even if some of the product is processed in non-TPP countries; and
- Including tariff-preference levels.

Or take the issue of sugar where we've seen confectionery companies moving their operations out of the United States and into Canada because of high U.S. sugar prices brought on by Federal government-trade and other restrictions on sugar. Such limits are now costing U.S. consumers and food manufacturers as much as an additional $3.5 billion per year. The United States' refusal to even talk about the issue undermines as well a strong outcome, as well as the interests of many U.S. businesses and workers.

2. High Standard or Least-Common-Denominator Rules

The second issue is the ultimate standard for all the key rules. Will the TPP negotiations achieve a high-standard or a least-common-denominator outcome? Let me just note two areas where we believe that a strong outcome is critically important to the productivity, economic-growth and job-creation goals of the United States, as well as the other TPP countries. These issues are investment and intellectual property. Although I would hasten to add that there are other important rules from transparency, sanitary and phytosanitary, technical barriers to trade, competition policy and beyond.

a. Investment

So much of our attention in the United States and elsewhere has been on the cross-border trade of goods and services – and then usually just exports. Yet the success and competitiveness of U.S. industry will not be won by exports alone. Imports and investment are critically important, especially where successful manufacturing and services models increasingly rely on global supply and production chains to help drive innovation, efficiency and competitiveness.

Of particular importance are the investment and the investment rules that the TPP can help promote to ensure that U.S. companies have access to foreign markets and customers, are treated with the same type of core fairness and related principles set forth in our own constitution and law and have access to impartial enforcement mechanisms when difficulties arise.

Consider just three facts about U.S. companies that invest overseas (based on 2007 data, the last year for which such information is available):

- Our globally invested companies drive U.S. exports. While accounting for only about of quarter of all U.S. private-sector output, globally-invested companies generated nearly half (45.2 percent) of total U.S. goods exports in 2007.
- U.S. companies that invest overseas pay their workers about 18.7 percent more than purely domestic companies.
- U.S. companies that invest overseas are predominately using those overseas platforms to make sales overseas. In 2007, U.S. foreign affiliate sales equaled $4.7 trillion – almost four times U.S. goods exports that year of $1.2 billion. And only a small percentage (about 10 percent) of those sales came back to the United States.

Sources: *Global Investments, American Returns (GIAR)* (1998 and 1999 Update), Matthew Slaughter, Published by Emergency Committee for American Trade; *U.S. Multinational Companies: Operations in* 2006, Raymond J. Mataloni Jr., BEA (Nov. 2008); *How U.S. Multinational Companies Strengthen the U.S. Economy: Revised Update* (2010), Matthew Slaughter, Published by Business Roundtable and United States Council Foundation.

As well, over the last quarter century, expanding foreign direct investment has become an increasingly important catalyst of global economic integration, poverty reduction, employment and new economic growth and opportunity.

Given the importance of international investment to the U.S. economy and other TPP economies, it is critical for the TPP to achieve world-class investment standards to continue to attract the type of quality investment that all the TPP countries seek. Yet, the challenges are many. Australia continues to refuse to adopt the basic investor-state enforcement mechanism included in about 3,000 international instruments worldwide. As well, there are differences over the coverage of this enforcement mechanism for certain sectors or types of investment and there remain questions about whether to foster the free flow of capital or allow for significant restraints beyond the prudential flexibilities that provides governments substantial flexibility to take actions to protect the integrity of their economies. For the U.S. business community – as evident from a February 2012 letter that the heads of thirty-one associations, including ECAT, sent to the President before the Melbourne Round – a strong outcome on investment is absolutely critical.

b. ***Intellectual Property***

Equally vital are strong protections on intellectual property and their effective enforcement. These protections relate to patents, trademarks, copyrights and trade secrets. High levels of intellectual-property protections have been an essential element in fostering the explosive growth in new and more efficient technologies, increased productivity, life-saving medicines and other health technologies, as well as a wide variety of creative and educational works. High-standard intellectual-property protections are a key driver of economic growth in the United States and overseas. As recently highlighted in the March 2012 U.S. government report – *Intellectual Property and the U.S. Economy: Industries in Focus* – U.S. IP-intensive industries support more than one in every four jobs, over one-third of GDP, and approximately 60 percent of exports. Such protections are linked to the creation and retention of jobs in industries focused on everything from consumer and industrial products, educational products and entertainment to scientific products, medical products, including newly developed biotechnology products, and information and communications technology. For consumers, strong rules are also vital to protect against counterfeit products in numerous areas from pharmaceuticals to automotive parts. As well, there are important domestic and national-security interests in ensuring strong enforcement mechanisms against illicit trade, which has been linked increasingly to international crime networks.

In short, high-standard intellectual-property protections raise our standard of living. The strong intellectual-property protections sought by the United States in the TPP agreement are based in significant part on the U.S-Korea FTA, do not represent a threat to public health, the development and expansion of the Internet or free expression. Rather, we believe that they are a much-needed response to increasingly sophisticated threats to intellectual-property protection throughout the world that undermine the very creativity and innovation that is meant to be protected. As the heads of thirty-three associations, including my own, just wrote to the President. "More, not less, rigorous IP rules are needed to thwart the explosion in IP infringement, piracy and counterfeit products throughout all sectors of the economy." In particular, ECAT advocates that the TPP incorporate provisions equivalent or better than those included in the Korea-U.S. FTA, including ensuring transparent and consistent enforcement procedures, anti-camcording and strengthened signal-piracy language and authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. In addition, strong protections on medicines and biotechnology products, including provisions on patent-term extension, patent linkage and data protection, are critical.

3. Tackling New and Emerging Issues

Also vital is to achieve concrete progress on the new issues being addressed front and center in the TPP negotiations. There are several new issues – regulatory coherence, competitiveness, state-owned enterprises, supply and production chains, e-commerce, small- and medium-sized enterprises. To meet its promise, TPP must tread new ground on each of these issues with new commitments and paths forward. Let me just focus on two of these today: regulatory coherence and e-commerce.

a. Regulatory Coherence

As tariffs are reduced and eliminated, regulatory inconsistencies, conflicting standards and other related barriers gain increasing prominence and will, if unchecked, limit the benefits that any trade agreement can provide to the United States and the other parties. For that reason, the TPP countries are seeking to reduce such barriers through work on regulatory coherence. In the negotiations, progress is being made to foster the development within each of the TPP countries of a centralized system to review and seek public input on and require transparency in rulemaking. Here in the United States, we have a strong, centralized mechanism to assure that regulations are developed in a fair and open process that considers all key issues. Not all of the other countries in the TPP have such systems and the hope is that they will commit to develop them as part of this negotiation.

As important as this part of the negotiations is, we are also looking for the TPP to create mechanisms with a built-in agenda and timetable to provide for ongoing sectoral work on regulatory issues. Our hope is that this work would make continuous improvements, so that differences in regulations are minimized and they do not pose unnecessary barriers to U.S. exports or sales in foreign markets.

b. E-Commerce, Cross-Border Information Flows and Cloud Computing

We have all witnessed the incredible growth of information and communications technology (ICT) products and services. From new products to the ability to purchase virtually any product online, the growth of ICT trade and e-commerce has helped promote greater productivity, innovation and dynamism among industries across all sectors in the United States, as well as helping to expand the international economy. As a result, negotiations should ensure that trade and investment rules promote, rather than inhibit, the growth of the digital economy. Strong principles promoting e-commerce, cross-border information flows and technology will enhance the competitiveness of U.S. companies producing and consuming these goods and services for the benefit of the broader U.S. economy.

U.S. trade agreements have increasingly worked to incorporate such provisions through e-commerce and other parts of the agreements, but have yet to fully keep up with technological progress. The TPP provides an important negotiation to do just that, incorporating key commitments to spur continued innovation and prevent protectionist impulses that will undermine participation in the international economy. Among the new issues are ones that deal with cloud computing and the cross-border flow of information and data, as well as more traditional issues of market access, transparency and the need for independent regulators in telecommunications and other key industries. In particular, industry is seeking:

- The elimination of tariffs for all information and communications technology (ICT) not already covered by the Information Technology Agreement.
- Liberalization of key service sectors, including computer and related services, telecommunications services, ICT-enabled services, and "green" digital services.
- A permanent moratorium on customs duties on electronic transmissions and digital products and guarantees of national treatment and non-discrimination for such products.
- Liberalization of cross-border information flows that are vital for businesses to operate internationally, while ensuring that privacy is protected.
- Prohibitions on localization requirements that service providers use local computing/server infrastructure as a condition of supplying services.
- Improvements in regulatory transparency and the participation of all parties in standard setting.
- Elimination of technical barriers to trade.

4. Living Agreement

Another key issue is the importance of the TPP agreement being a living agreement, both in terms of its admission of new members, but also in its continued ability to open markets, eliminate barriers and reach new accords in areas where we may only have just begin to reach agreement.

To achieve its vision, the TPP must set forth a concrete path and mechanisms to allow for new members that seek the same type of ambitious outcome. It must also provide a concrete and time-limited path for continued work and improvements. While there appears to be genuine support for these goals among the TPP countries, it is important that these goals are fully operationalized in the final agreement, so that they do not just become unrealized aspirations.

5. Timeliness

Time is of the essence in concluding these negotiations. The world moves too quickly; new crises and challenges can develop overnight. None of us want the TPP negotiations to become the next Doha or Free Trade of the Americas negotiations that never concluded. The momentum that the TPP Leaders spurred in Honolulu is still helping push the negotiations forward, and we continue to support that work, as long as it promotes the goals of a comprehensive, ambitious and commercially meaningful agreement.

IV. Trade Promotion Authority

The lapse of trade-negotiating authority (sometimes called trade promotion authority or fast-track authority) for agreements concluded after June 2007 has been, without a doubt, a drag on the ability of the United States to pursue a robust trade-agreement agenda. As we have seen with the TPP negotiations, the lack of such authority does not prevent negotiations from moving forward, but questions continue to be asked by America's trading partners about its lack of renewal and the implications for the ultimate approval by Congress of the TPP. We saw similar questions in the mid-1990s through 2002, when the "fast track" legislation also lapsed and, despite several attempts, was not renewed for six years. Only one trade agreement was negotiated during that time and that trade agreement – the U.S.-Jordan FTA – while certainly important on many levels is perhaps the weakest trade agreement the United States has negotiated, with long phase-outs and lacking even time-limited enforcement mechanisms.

While it is vital for the TPP negotiations to continue apace. It is also vital that Congress and the Administration work aggressively and quickly to reforge the Congressional-Executive Branch partnership that trade-negotiating authority represents. Updating and renewing trade-negotiating authority is important to:

- **Enhance U.S. Leadership.** Although only technically necessary to facilitate implementation of a final agreement by Congress, these trade-negotiating procedures have taken on a much greater role in the eyes of U.S. trading partners, many of which have refused to take U.S. negotiators seriously (particularly in the context of multilateral negotiations) during periods that the authority was not in force.

- **Empower U.S. Negotiators.** Trade-negotiating authority is particularly critical to provide U.S. negotiators the clout necessary to extract concessions and successfully bring back the best-possible agreements. While setting forth detailed negotiating objectives, trade-negotiating authority has *never* mandated any particular outcomes or tied U.S. negotiators' hands. As a result, U.S. negotiators have the flexibility to negotiate complex trade agreements and the authority to bring back agreements that must be accepted or rejected in a timely manner and without amendment. This balance strengthens the U.S. negotiating position and the ability of U.S. negotiators to conclude the best-possible agreements.

- **Improve Executive-Congressional Consultations and Congressional Oversight in an Area of Overlapping Constitutional Authority.** Trade-negotiating authority procedures also require the Administration to consult extensively with Congress and seek Congressional input on the conduct of trade negotiations. These consultation mechanisms were greatly expanded in the Trade Act of 2002; and provides Congress with the ability to limit the application of trade-negotiating authority procedures as a result of an Administration's failure to consult. At the end of every negotiation, Congress retains the final ability to approve or disapprove that final agreement.

- **Promote Effective Congressional Consideration of Trade Agreements.** Equally important is the role that trade-negotiation authority plays in facilitating Congress' implementation of trade agreements, particularly in the U.S. Senate. With Congress' assent, trade-negotiating-authority legislation has limited certain congressional prerogatives, thereby expediting congressional consideration and implementation of trade agreements, preserving their integrity and preventing their renegotiation.

- **Promote New Economic Opportunities and Economic Growth.** Most essentially, trade-negotiating authority is vital to promote trade agreements that open markets and promote new economic opportunities for U.S. farmers, manufacturers, service providers and their workers. Since 1974, every major trade agreement concluded by the United States was done with trade-negotiating authority, except the U.S.-Jordan FTA.

We look forward to working with Congress and the Administration to update and achieve the timely renewal of trade-negotiating authority for the TPP and other trade agreements.

V. Conclusion

ECAT strongly supports the negotiation of a comprehensive, high-standard and commercially meaningful TPP that will become the template for trade and investment throughout the Asia Pacific. The current negotiation and its expansion to other Asia Pacific nations that share the same ambitious goals is a priority for the business community because it provides an enormous opportunity for expanding U.S. economic engagement and improving U.S. competitiveness in the Trans-Pacific corridor.

United States House of Representatives
Committee on Foreign Affairs

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Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee require the disclosure of the following information. A copy of this form should be attached to your written testimony and will be made publicly available in electronic format, per House Rules.

1. Name:	**2. Organization or organizations you are representing:**
Linda Menghetti Dempsey	Emergency Committee for American Trade
3. Date of Committee hearing:	
May 17, 2012	
4. Have you received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?	**5. Have any of the organizations you are representing received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify?**
☐ Yes ☑ No	☐ Yes ☑ No
6. If you answered yes to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.	
7. Signature:	
Linda Menghetti Dempsey	

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