

Testimony of

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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
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Good afternoon. Mr. Chairmen, Ranking Members, and Members of Congress. I want to thank you for the opportunity to participate in this hearing and I also want to thank my fellow panelists for their participation in this hearing today.

I appreciate this opportunity to offer some thoughts on the Trans-Pacific Partnership negotiations.

As Members of the Committee know, we initially outlined and launched the negotiation of the Trans-Pacific Partnership (TPP) during latter part of George W. Bush Administration, when I had the privilege to serve as the United States Trade Representative (USTR) from 2006-2009.

Initially TPP began in 2007 as an exploratory services and investment negotiation between the P-4 (Brunei, Chile, New Zealand, and Singapore) and the United States. By September 2008 the TPP had become a P-8 negotiation involving the P-5 along with Australia and Peru, and Vietnam interested. By then we had also made overtures to Japan, Mexico, and Canada.

At the time, the U.S. already had FTAs with Chile, Peru, Singapore and Australia, and was awaiting Congressional approval for KORUS FTA. But we were concerned about a growing network of Asia-Pacific bilateral/regional agreements that would exclude the U.S. At the same time, progress had stalled in the Doha Round of multilateral trade negotiations.

We thought then, and I still believe, that the TPP represented an opportunity to open markets and maintain access for U.S. trade and investment interests in the Asia-Pacific region. The TPP will create WTO-plus precedents for future bilateral, plurilateral, and multilateral negotiations, and lay the groundwork for a potential Free Trade Area of the Asia-Pacific (FTAAP).

While I support TPP in concept, I am no longer in government. And despite USTR's commitment to transparency, I am not privy to any insider information about the negotiations and am not in a position to comment on progress being made until it is public. That is what the statutory private sector advisory committee system is for. It is why we were here today, it is why there are congressional hearings and formal, and informal, consultations.

It is very easy to second guess ones predecessors and successors as trade negotiators and often very unfair because each negotiation is unique. While I defer to Ambassador Kirk and the experts at USTR in the conduct of this negotiation, I am happy to share some general thoughts that were my own guides in deciding to launch this negotiation.

Most important, the key was to create a high standard, high bar trade agreement, building on the standards that were set in agreements such as the KORUS FTA, to create a WTO-plus caliber deal. This agreement has always been about setting the right precedents. This should be as true whether it is in relation to maintaining strong protections for intellectual property; delivering market access; leveling the playing field when it comes to private firms competing with state owned (SOEs) and state supported enterprises (SSEs); or opening government procurement. We need science-based sanitary and phytosanitary (SPS) standards, rather than facing SPS barriers that block trade. We must set high standards for the entire range of cross-border services and investment issues. While TPP directly affects U.S. trade interests with the current TPP

participants, in my view, this agreement should be negotiated with other countries – China, India, Brazil, Indonesia and the EU, for example - and future trade agreements in mind. This focus on precedents makes particular sense given the modest new market potential involved in the current talks.

It is perhaps inescapable that the result of the most recently concluded negotiation becomes the starting point – or at a frame of reference -- for the next agreement. A high-standard TPP is crucial to set the bar for future negotiations.

It was never our intent to stop at P-5 or what one could today call TPP-9 or TPP-11 (with Canada and Mexico) or TPP-12 (with Japan, if they choose to come in). The idea is that any country willing to accept a high bar agreement should be able to join. The bigger, the better, although sequencing issues can get sticky.

In fact, there is no reason TPP needs to stay within the Asia-Pacific region if a country outside the region wants to embrace this high standard agreement. The original vision kept open the prospect of ultimately using TPP precedents to help revitalize the WTO and the multilateral trading system.

Which gets me to the issue of multilateral vs. bilateral and regional trade agreements. I am proud of the exceptional trade agreements negotiated during the Bush Administration. At the beginning of our administration, the U.S. had free trade agreements with three countries. By the time we left office, the U.S. had concluded FTAs with seventeen more and fourteen of those were in effect.

The FTAs with Colombia, Panama and Korea that we negotiated and signed were finally submitted by the Obama Administration for Congressional approval last year and signed into law. The KORUS FTA went into effect in March; and the Colombia Trade Promotion Agreement went into effect Tuesday. All three received significant bipartisan support in Congress.

So as of today, the U.S. has FTAs in effect with 19 countries. As you can see from the attachments to my testimony, our FTAs have made important contributions to the U.S. economy. Small and medium businesses have benefited from the export opportunities, and in the past five years, the U.S. has even run a manufacturing trade surplus with our FTA partners.

According to the National Association of Manufactures, even though U.S. trade agreements only cover 12.5% of GDP outside the U.S., they account for nearly 55% of U.S. manufactured goods exports and a \$30 billion manufactured goods surplus.

Bilateral and regional agreements tend to be broader in scope and more ambitious than multilateral agreements. That said, they are no substitute for a vibrant and expanding multilateral system – hence my continued focus on making the U.S. TPP strategy and integral part of a broader multilateral strategy that should include sectoral agreements like expansion of the Information Technology Agreement (ITA), a services sectoral agreement, and a trade facilitation agreement.

Multilateral agreements involve more countries and are more readily enforced. They also help to stem the commercially damaging proliferation of rules of origin that damage global supply chains and skew commercial transaction based on comparative advantage. The noodle bowl of bilateral and regional deals is alive and well and both helping and hurting the cause of free and fair trade around the world.

Before I close, I'd like to flag three institutional factors that concern me related to the TPP.

First: The absence of Trade Promotion Authority. It is almost too late in the negotiation process for the Administration to seek the fast track authority for an up or down vote without amendments for implementation of a TPP agreement. This should worry negotiators from all countries and Members of Congress alike.

Second: The Obama Administration's decision to exclude registered lobbyists from the statutory private sector advisory committees that advise our trade negotiators. This means that those registered to lobby Congress cannot directly influence the negotiations and those influencing the negotiations cannot lobby Congress – so there is now a disconnect between input received by the Executive and Legislative branches of government from the designated representatives of industry, labor, environmental, consumer, agriculture and other NGO groups.

Third: The Obama Administration's highly ill-advised trade reorganization proposal to fold USTR into the Commerce Department is surely a drag on the morale and attention of the superb career negotiators at USTR and the other agencies involved in the TPP talks.

All three of these issues represent self-inflicted wounds that arguably undermine U.S. negotiators and the strength of our stance at the negotiating table.

Mr. Chairman, thank you for the opportunity to appear before you today, and I would be pleased to answer any questions you or the Members of the Committee may have.

United States House of Representatives
Committee on Foreign Affairs

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SUSAN SCHWAB	none (Employers include University of Maryland and + Mayer Brown LLP)
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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?
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