

**TESTIMONY OF
LAEL BRAINARD¹
COMMITTEE ON FINANCE
U.S. SENATE
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Chairman Baucus, Senator Grassley, distinguished members of the Committee, I appreciate the opportunity to testify today on the Trade Enforcement Act of 2007, S. 1919.

AN ERA OF RAPIDLY GROWING GLOBALIZATION

We are experiencing a period of breathtaking global integration that dwarfs previous episodes. Global trade has more than doubled in the last 7 years alone. The entry of India and China amounts to a 70 percent expansion of the global labor force--with wages less than a tenth of the level in wealthy economies. This expansion is more than three times bigger than the globalization challenge of the 1970s and 80s associated with the sequential advances of Japan, South Korea, and the other Asian tigers. It is also far larger than the more recent integration of the North American market.

If, as is now widely expected, these trends in population and productivity growth continue, the time will soon approach where the balance of global economic heft flips. According to my colleague, Homi Kharas, the so-called emerging BRIC (Brazil, Russia, India and China) economies will account for over half of world income by 2050, up from 13 percent today, while the share of the G7 wealthiest economies will slip from 57 percent today to one quarter of world

¹ Vice President and Bernard L. Schwartz Chair in International Economics at Brookings.

income in 2050. And by 2030, 83 percent of the world's middle class consumers will reside in what are today considered emerging markets.

What do these trends mean for American workers, farmers, and businesses? Like it or not, our future prosperity will depend more than ever on competing successfully on a level global playing field where everybody plays by a set of rules that are enforced. Already, our economy is undergoing a profound transformation. Globalization is expanding not just in scale but also in scope. A growing expanse of occupations and sectors are exposed to the bracing winds of global competition, with trade exposure at nearly 30 percent of U.S. income – almost three times higher than in 1970. With developing countries such as India successfully exporting higher skilled “knowledge” services, many Americans in white collar occupations are confronting the reality of low wage foreign competition for the first time. While some are well placed to take advantage of the new opportunities associated with the global economy, progressively deepening trade deficits and a sharp 20 percent decline in manufacturing jobs over the past 7 years have contributed to deep concerns among a growing number of Americans about the benefits and the fairness of trade.

At a time when our nation's continued economic leadership and the economic security of increasing numbers of Americans will depend on competing successfully in a highly competitive global marketplace, it is more important than ever that our nation's leaders work hard to ensure our trade partners play by the rules. At a time when support for trade and perceptions of fairness among Americans are slipping dramatically, the administration has been preoccupied with signing agreements rather than enforcing agreements. The Trade Enforcement Act of 2007 contains important provisions that put the emphasis squarely back on making sure trade rules are enforced and deliver benefits for American workers, farmers, and businesses.

MONITORING AND ENFORCEMENT LAG BEHIND

Over the past 7 years, the volume of economic activity covered by trade rules has grown at a breathtaking pace: U.S. exports and imports have grown by over \$1.4 trillion. The WTO has expanded to include 12 new members—chief among them the world’s fastest growing and most populous nation, which lacks adequate capabilities even to enforce its own product and food safety standards let alone intellectual property rights. The number of countries with which the United States has concluded free trade agreement has expanded by 16,² and the scope of those bilateral agreements has expanded across complex issues from investment to technical barriers to intellectual property.

With trade volumes shooting up, the disciplines covered by trade agreements spreading out, and trade agreements extending to countries with weaker oversight capacities, it would be natural to expect trade disputes and the associated enforcement actions to rise at least proportionally to exports. Yet, contrary to expectations, the administration is taking fewer enforcement actions per year – not more. If we took the simplest approach and assumed that the number of trade violations should be a more or less constant proportion of exports, you would expect the number of enforcement actions taken in the WTO by the United States to increase from roughly 11 per year in the years leading up to 2000 to increase to over 17 per year today. Instead, WTO enforcement actions have fallen to only 3 a year between 2000 and 2007. Despite wide expectations that China’s accession to the WTO would offer critical opportunities to press for adherence to international trade rules in areas of growing problems, such as intellectual property and import administration, the administration waited three

² Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Morocco, Nicaragua, Oman, Panama, Peru, Singapore, South Korea

years to take the first enforcement action against China, and GAO recently found that progress in addressing compliance deficits has been *slowing* since that time.

PUTTING ENFORCEMENT BACK AT THE TOP OF THE TRADE AGENDA

Extensive analysis by the GAO suggests that the growing gap between expected trade disputes and enforcement actions stems from a combination of a failure to prioritize, inadequate resources, and a reactive posture.³ Even where trade compliance issues have been clearly documented, as in the National Trade Estimate or in the USTR's top-to-bottom review of China's compliance, GAO analysis show that enforcement has targeted only a fraction of the problems. This analysis highlights several opportunities to substantially strengthen the priority and capability accorded to monitoring and enforcement and underscores the importance of several key provisions of the Trade Enforcement Act of 2007.

1. Raising the Priority of Monitoring and Enforcement

Monitoring and enforcing compliance with trade agreements is but one of many priorities at USTR. As the last several years have demonstrated, it is all too easy for the routine, technically detailed work of enforcement to take a back seat to higher profile negotiations and signing ceremonies. In the past, when Congress felt the Administration was not putting sufficient emphasis on a key priority such as agriculture, it has sought to create a Senate-confirmed post dedicated to the task, often with good results. Section 501 of the Trade Enforcement Act of 2007 follows that precedent by creating a Senate-confirmed

³ See GAO 05-537, *International Trade: Further Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements*, June 2005, and GAO, *US-China Trade: USTR's China Compliance Repots and Plans Could be Improved*, April 2008

Chief Enforcement Officer with the rank of Deputy USTR whose primary responsibility would be to investigate and prosecute trade enforcement cases. Adding a senior position accountable to Congress, who wakes up every morning and leaves the office every night entirely focused on investigating and prosecuting trade cases, would for the first time ensure that sustained attention is devoted to these issues at the highest levels.

2. Expanding and Coordinating Resources for Monitoring and Enforcement

GAO analysis suggests that a key driver of the gap between likely trade compliance problems and enforcement actions is inadequate resources for monitoring and enforcement and lack of coordination among agencies. With bilateral trade negotiations the top priority, USTR now has only one fifth of its staff (48 FTEs) devoted to monitoring and enforcement, with the remaining four fifths devoted to negotiations, trade policy development, and communication and management. Despite the explosion in trade volumes, trade partners, trade agreements, and trade provisions, staffing levels with primary monitoring and enforcement responsibility have not increased since 2002. Static and inadequate levels of staffing are exacerbated by inadequate training and lack of coordination across the key agencies. The \$5 million authorization for the interagency monitoring and enforcement effort in section 501 of the Trade Enforcement Act would help to address the shortfall in resources and the establishment of an interagency working group chaired by the USTR Enforcement Officer in section 502 would address the current coordination deficit.

3. Making Enforcement Proactive

With a premium on efficient use of resources, it is more important than ever to proactively prioritize and target those compliance gaps that have been

identified to have the greatest overall economic cost. One way to insist on greater prioritization and a more proactive approach to enforcement is the provision in Title I of the Trade Enforcement Act to reauthorize a carefully crafted version of Super 301. Title I would require USTR to identify in an annual report for Congress its enforcement priorities and would provide a channel for Congress to convey its enforcement priorities to be reflected in the report. This annual report would then serve as the blueprint for priority enforcement actions over the subsequent months.

4. Restoring Trust with Congress

One of the most critical elements in improving monitoring and enforcement is to restore a level of trust between congress and the administration. Perhaps the most immediate example of a breach of trust that undermines support for trade agreements is the section 421 safeguards provision of the China WTO agreement, which was critical in securing congressional support for the agreement. Surprisingly, the president has decided to deny relief in all the section 421 safeguard cases where relief was recommended by the ITC. Title III of the Trade Enforcement act would narrow the range of discretion for the President to deny relief and give Congress an opportunity to overcome the President's veto under certain circumstances.

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Today's debate over trade is dominated by talk of retreat and retrenchment on the one hand and a singular sprint to sign rather than enforce free trade agreements on the other. Both sides seem out of touch with a reality in which our prosperity and our security as Americans will increasingly depend on our ability to compete fairly in a growing global marketplace with clearly enforced rules.