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**Hearing on United States-Japan Economic and Trade Relations
House Committee on Ways and Means
Main Committee Hearing Room, 1100 Longworth House Office Building
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On behalf of the U.S. Trade Representative, I would like to thank the Chairman, Ranking Member, and the other members of this Committee for convening this hearing today. I am Wendy Cutler, Assistant USTR for Japan, Korea and APEC Affairs and I very much welcome this opportunity to provide testimony on the state of our economic and trade relationship with Japan.

As you point out in your announcement for this hearing, Japan is currently our fourth largest goods trading partner with \$180 billion in total two-way goods trade during 2004. It is a huge magnet for the things we produce and grow. Overall, Japan is our third largest export market. It is also our third largest market for U.S. agricultural exports.

Not only is our trade relationship enormous in volume, it is also rich in complexity and it has significant ramifications for the Asian region and the world. Over the years, that relationship has grown from one dominated by acrimony to one where we are increasingly working together to find win-win solutions where possible. There is much that underlies this shift, including our changed world in the post-9/11 era and the spectacular economic dynamism of the Asian region. There is also the close friendship President Bush shares with Prime Minister Koizumi, which has helped create an environment conducive to good cooperation between our two Governments. And I should add that the Prime Minister, who just won re-election by an historic landslide, has done his part to accelerate economic reform in Japan, which in turn makes our job a little easier.

That said, old ways die hard in Japan. While we continue to make good progress up and down the trade front, we still run into heavily reinforced bulwarks against change.

Today, I would like to sketch out some of the progress we have made in recent years with Japan as well as underscore that there remains substantial inertia at work in the enormous and critically important Japanese market – inertia that continues to frustrate our efforts to do business there. Japan’s inability to move expeditiously to reopen its beef market is an example of this.

Achieving Progress

So let’s start with the good news. In recent years, Japan has significantly lowered retail rates for calling mobile networks, and by reducing monopoly control over networks and equipment, Japan has created conditions for one of the most competitive broadband markets in the world. It has dramatically reduced certain customs processing fees at its ports, thereby lowering the cost of doing business for U.S. exporters and express carriers. Japan has undertaken significant liberalization of both its electricity and gas sectors. It has significantly strengthened its intellectual property rights regime by, for example, extending the term of copyright protection for cinematographic works from 50 to 70 years. And it has bolstered the independence and staffing of its antitrust watchdog, the Japan Fair Trade Commission or JFTC, so that it can better promote a competitive environment in the Japanese market for domestic and foreign companies alike.

More recent progress will be detailed in our next annual Report to the Leaders under the Regulatory Reform and Competition Policy Initiative, which was established by President Bush and Prime Minister Koizumi in 2001. That Initiative is the chief mechanism we use to manage our trade and economic relationship with Japan. The Leaders Report, which should be finished shortly, will include a myriad of regulatory reform steps Japan has, or will be taking, in the key sectors.

In the telecommunications sector, Japan is poised to make substantial blocks of spectrum available primarily for new wireless entrants, helping break a longstanding oligopoly and thereby creating opportunities not only for U.S. telecommunications companies wanting to expand into the wireless business in Japan, but also equipment suppliers to those companies.

Japan is also removing numerous regulatory impediments to e-commerce, further strengthening copyright protection, cooperating closely with the private sector to combat spam, improving government network security, ensuring effective and transparent implementation of its new Privacy Law, and improving foreign firms' access to bidding on government IT systems.

Though not going far enough, the Japanese have finally made the decision to reduce landing fees at Narita International Airport, a step that will lower costs in Japan for U.S. airlines and express delivery companies.

Mr. Chairman, you will also find in this year's Report to the Leaders a new section on agriculture where we are addressing specific, ongoing concerns with Japan's phytosanitary regime – and we have obtained very encouraging progress. As you know, for years we have had problems with Japan's requirements to fumigate fruits and vegetables upon import for pests that are also reportedly present in Japan. That fumigation has either adversely affected the quality of the product (particularly for lettuce) or added unnecessary costs (for example on citrus) or both.

In response to U.S. concerns, we have recently obtained Japan's commitment to take steps to bring its phytosanitary measures in line with international standards. Japan has committed to conduct import risk assessments for quarantine pests in accordance with the relevant International Plant Protection Convention standard to use science to determine if these pests should be subject to quarantine measures. In concrete terms, Japan has removed three citrus pests from its fumigation target list, thereby eliminating over \$1 million in annual fumigation costs on imports of U.S. citrus. In another step in the right direction, Japan also has agreed to assess certain pests of lettuce to determine if fumigation requirements for them are really necessary. All told, we believe this effort under the Regulatory Reform Initiative is a positive and constructive path to addressing systemic phytosanitary regulatory impediments in Japan.

While I am on the issue of agriculture, I might add that we finally reached resolution with Japan on a long-standing WTO dispute over apples. (You may recall that we won a related case against Japan on testing of varietal fruits in the late 1990's.) Last month, Japan eliminated its

unjustified fire blight measures on imports of U.S. apples, following a resounding victory for the United States in the WTO. As a result, we expect U.S. apples will be shipped to Japan later this year.

Turning to some more comprehensive cross-cutting areas, this year's Report to the Leaders specifies that Japan has taken further steps to strengthen the JFTC's enforcement capabilities through recent amendments to the Antimonopoly Act that will increase penalties on companies participating in price-fixing and introduce a leniency program to combat cartels effective January 2006.

In addition, Japan passed legislation just last June to strengthen its Public Comment Procedures. That legislation was not as robust as we would have liked, but it should help increase transparency in the development and implementation of regulations in a system that has been notorious in the past for its opaqueness.

In another step forward, the Japanese Corporate Code has been amended in ways that will ultimately permit U.S. and other foreign firms to use modern merger techniques (such as triangular mergers) when making acquisitions in Japan.

Achieving progress in these cross-cutting areas is crucial for our companies as these are the areas where some deeply ingrained impediments to trade and investment remain. The automotive industry, for example, continues to face systemic issues such as regulatory transparency and competition policy concerns that can make Japan a difficult place to do business. That is why the cross-cutting issues are such a priority for us.

In sum, we have and will continue to make good progress in our efforts to further open markets in Japan in key sectors such as telecommunications, information technologies, medical devices and pharmaceuticals, energy, and agriculture. And we will continue to go after the hard-to-get-to impediments to trade in cross-sectoral areas such as competition policy and transparency.

That said, there are some formidable problem areas in our bilateral trade relations.

Fighting Inertia

Foremost among these is Japan's continued ban on beef imports from the United States. I know my USDA colleague Ellen Terpstra will have much to say about this, but allow me to offer a few words here as Ambassador Portman has devoted significant time to this problem and raised it on every possible occasion with his Japanese counterparts. In fact, he just delivered a strong message on the beef ban to Japan's Trade Minister, who was here in Washington earlier this month. This issue also remains a top priority for President Bush, who has raised it directly with Prime Minister Koizumi on several occasions.

We share your frustration over the glacial speed with which Japan has been moving to reopen its market to U.S. beef. We have repeatedly and consistently engaged Japan at all levels on this issue. This Administration has transmitted a huge amount of scientific information to the Japanese Government on the safety of U.S. beef.

The Food Safety Commission (FSC), charged with conducting the risk assessment of the safety of U.S. beef, appears to be in the final stages of its deliberations. But unfortunately, it is not there yet and this is very disappointing. Once the FSC completes its work, we understand that will initiate a 30-day public comment period, followed by a reopening of the market shortly thereafter.

By any reasonable measure, Japan has had ample time to reach a conclusion to this issue. We will continue to press hard on Japan at all levels until it does the right thing in line with science and fully reopens its market to U.S. beef.

Another item high on our bilateral agenda is the privatization of Japan Post. Whether or not privatization should be enacted is of course Japan's choice. Certainly Prime Minister Koizumi has pursued this major reform with great determination, and he has been most articulate about the broad domestic objectives that underpin his commitment to seeing his initiative achieved.

The ripple effects of these reforms are substantial, however, and the Administration is focused on the impact they will have on competition in Japan's banking, insurance, and express delivery markets where Japan Post is such a major player. Unequal conditions of competition in these markets between Japan Post and U.S. and other private companies have long been high on our list of concerns. The Administration is urging Japan to take this opportunity to make the policy choices that are necessary to finally achieve a level playing field.

In order for Japan to achieve fair play for all participants in these key markets, we are urging Japan to take three steps. First, we are calling on Japan to fully eliminate the web of legal, tax, and regulatory advantages that have allowed Japan Post to grow its businesses while putting U.S. and other companies at a substantial competitive disadvantage. Second, it is important that Japan Post not be permitted to expand its product offerings in those businesses where it competes with the private sector until a level playing field has been established. Third, it is imperative that Japan undertake the privatization process in manner that is fully transparent to all parties.

The Administration has been responding with a concerted interagency effort, using every opportunity at all levels of government, to urge Japan to embrace the three basic elements I have just described to you. Importantly, our views are also echoed by others, including key Japanese insurance companies, as well as Japanese, European, and Canadian business associations. We will remain vigilant as the process unfolds and urge Japan to do the same in its efforts to ensure that fair competition is actually achieved.

We are also devoting much attention to issues related to health care reform in Japan, particularly how these reform policies impact U.S. medical devices and pharmaceuticals industries. Over the years, we have worked very closely with these industries to ensure they get a fair shake in Japan. And we have seen some success as Japan has taken steps to expedite regulatory approvals and make its reimbursement pricing process more transparent than in the past.

Japan is currently cycling into yet another biennial review of the reimbursement prices it assigns to medical devices and pharmaceuticals, a process that has presented many problems in the past. Our chief concern is that the process is done in a transparent and fair manner. While we fully

understand the need for Japan to reduce rising costs related its national healthcare system, we also strongly believe innovation should be rewarded for these products. Indeed, by rewarding innovation, Japan ensures that Japanese patients can obtain the best drugs and devices, which in turn shortens the time they stay in hospitals, improves their lives, makes them more productive to society, and contributes to economic growth.

Even so, it is crucial these devices and drugs get to Japanese patients in a timely fashion. As I believe you will hear later today from industry, Japan's recent efforts to speed regulatory approvals through a merger of administrative agencies have, to our dismay, yielded poor results. Approvals, in fact, are slower now than before – thus undermining some past achievements.

Many important decisions on these pricing and approvals issues will be made in the coming months in Japan. Working closely with industry and in close cooperation with the Department of Commerce, we will continue to press Japan to find solutions in these problem areas that are both fair and equitable.

Before closing, I would like to highlight two other, broader aspects of our economic relationship with Japan.

Doha Development Agenda

First, as you know, Ambassador Portman is working hard in the run-up to the Hong Kong Ministerial meeting in December to set the stage to complete the Doha Development Agenda, or DDA, by the end of 2006. He spent most of last week in Paris conducting intensive discussions with the European Union and other WTO Members on this.

With the two largest economies in the world, the United States and Japan share a special responsibility to work together to use the power of open markets to pull people up and expand political as well as economic freedom. And there may be no other single action we could take to deliver the broad and long-term economic benefits of trade than successfully concluding the current round of global trade talks.

To this end, Ambassador Portman has been urging Japan to be more constructive and play a more forward-leaning role in the DDA. The good news is that we have begun seeing some positive efforts by Japan in recent months. Japan has, for example, stepped forward by focusing the attention of other Asian capitals on the non-agricultural market access (NAMA) issues to help set the stage for more progress this fall and has been an important leader in sponsoring and helping to push our agenda on sectoral initiatives. Japan will also be showing some leadership by hosting a Senior Officials Meeting in Geneva later this week to discuss the DDA. In addition, Japan, like us, has been utilizing the APEC process to help build momentum for Doha.

These steps are welcome, but as Ambassador Portman has been reminding Japan and others, all countries must pitch in to make substantial progress in the three agriculture pillars of export subsidies, market access, and domestic support. Frankly, the Japanese have allowed their protectionist domestic agriculture interests to prevail, and this has been disappointing. As a result, they have been incapable of finding a solution at home that would permit them to take a forward-leaning position on the market access piece of agriculture, which is the key concern of the U.S. agricultural community when it comes to Japan. If the DDA is to succeed, Japan will have to substantially reduce its tariffs on agricultural products and ensure meaningful improvements in market access. It's now up to Japan to decide whether or not it wants to get on the train as it leaves the station.

U.S.-Japan Cooperation in Asia

The other broader aspect of our economic relationship I would like to comment on is the importance of U.S.-Japan cooperation vis-à-vis Asia.

With its vibrant economies, able work forces, and enormous consumer markets, Asia has assumed greater economic, strategic and political relevance to the United States and Japan than ever before. For a whole host of reasons, it is very important that our two countries promote more growth and development in the region. And it is important that we set a good example in

the way we conduct our trade relations, opening our markets to goods and services from around the region, and above all, ensuring fair play in the marketplace.

In particular, the United States and Japan are working together to help ensure China's integration into the global economy is a smooth one. One of the ways we have been doing this is by working closely together to strengthen intellectual property rights protection and enforcement in China and around the region. Over the past year, officials from the U.S. and Japanese Governments have met on numerous occasions to discuss this topic. Those discussions have led to Japan's endorsement of an important new IPR initiative we have been promoting in APEC.

My central point here is that while we do have several difficult bilateral trade issues with Japan, we are still friends and allies with a great deal to gain from close cooperation on matters of global concern, such as advancing DDA, as well as matters of regional concern, such as strengthening intellectual property rights protection and enforcement.

Continued Vigilance Necessary

We have come a long way with Japan over the years and have found ways of doing business on the trade front that are generally yielding good results. This has been an incremental process occurring in sector after sector. The Japanese market is more open than it used to be. Japan's ministries are coming to grips with the importance of transparency in policy-making and are taking steps to improve this. And its IPR regime has seen vast improvements over the years. While we very much welcome all this progress, we should not be complacent. We have some very real trade problems with Japan today that require our focused and constant attention and engagement at all levels. I can tell you that USTR will do everything in its power to ensure these problems are resolved in a timely and fair manner. Thank you.