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Hearing of the U.S. House of Representatives
Committee on Ways and Means Subcommittee on Trade

“Second in a Series of Three Hearings on the Pending,
Job-Creating Trade Agreements: The U.S.-Panama FTA”

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1100 Longworth House Office Building

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on behalf of

Caterpillar
U.S. Chamber of Commerce
National Association of Manufacturers
Business Roundtable

and the

Latin American Trade Coalition

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Chairman Brady, Ranking Member McDermott, Members of the Subcommittee:

I'm Doug Oberhelman, Chairman and CEO of Caterpillar, Inc. Today, I have the honor to testify in support of the U.S.-Panama Free Trade Agreement (also known as the "Panama FTA" or "FTA") on behalf of Caterpillar, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Business Roundtable. Caterpillar is also pleased to co-chair the Latin American Trade Coalition, a broad-based group of 1,200 U.S. companies and associations that directly employ more than 10 million American workers — all of which have joined together to press for approval of the Panama and Colombia FTAs.

In recent months, Caterpillar has been identified in the press as the company leading the charge to ensure that the Obama Administration and Congress enact all three pending Free Trade Agreements (FTAs) — not just the Korea FTA, but the Colombia and Panama FTAs as well. That's a fair characterization, and one we are proud to accept.

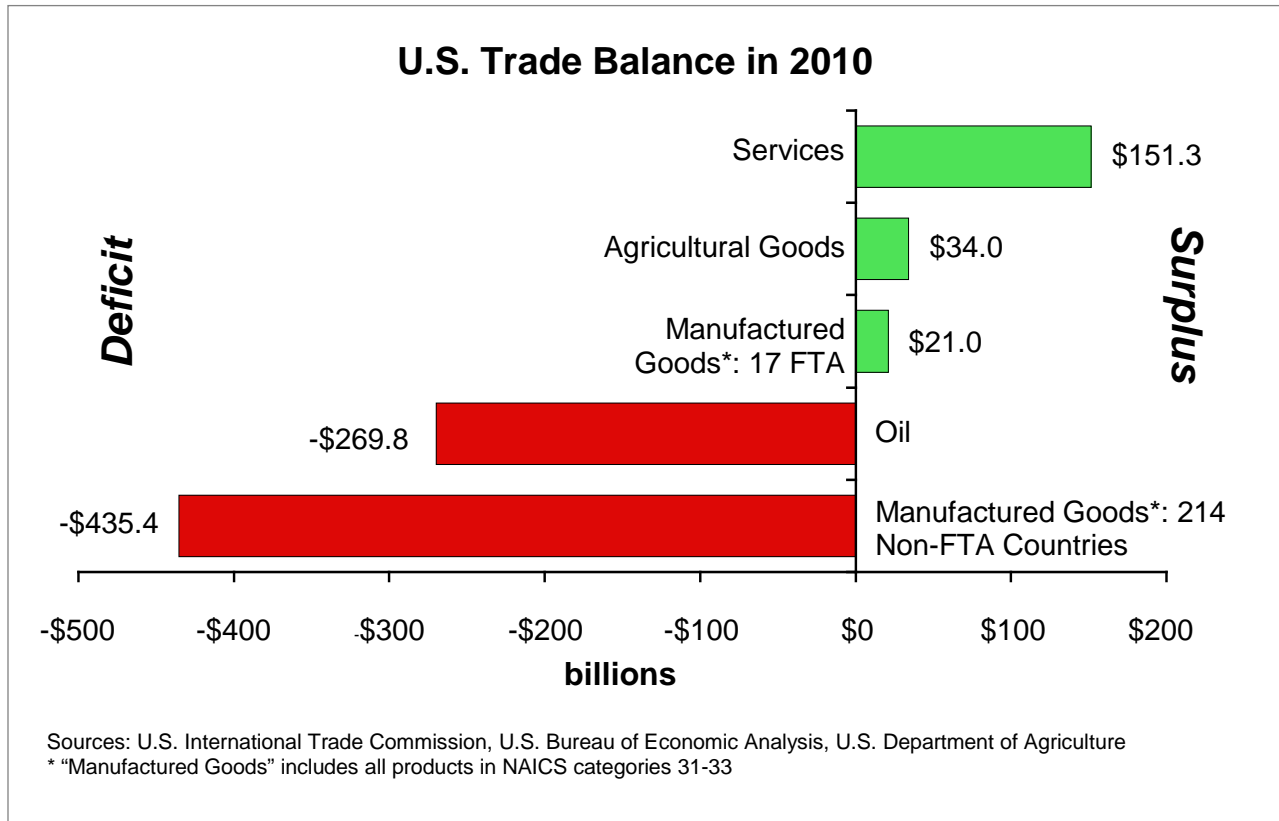
In fact, our support for expanding trade goes beyond the pending FTAs. We also strongly support completing a balanced and ambitious World Trade Organization Doha Development Agenda, finishing the Trans Pacific Partnership, and bringing Russia into the WTO in a commercially meaningful way so it plays by the same rules as everyone else. We also support renewal of the Andean Trade Preference Act and the Generalized System of Preferences.

But for today's purposes, I want to focus the pending Latin American FTAs, with special emphasis on Panama. Caterpillar and the companies that I represent strongly support the Panama FTA as well as the Colombian and Korean FTAs because they promote sustainable economic growth — and the creation of good jobs — both at home and abroad.

In Latin America and the Caribbean, the United States now has FTAs with Mexico, Chile, Central America, the Dominican Republic, and Peru. I'm pleased to report that Caterpillar exports have dramatically benefited from these FTAs. Since the FTAs have gone into effect, Caterpillar exports last year have risen five-fold to Mexico, three-fold to Chile, and by more than 60% to Peru. Others have benefited as well, and not just from the Latin American FTAs but from all of them.

Allow me to explain. It is no secret that the United States consistently runs a trade surplus in services and agriculture. However, the public and many policymakers too often fail to realize that the United States also runs a trade surplus in manufactured goods with our 17 FTA partners. The United States had a combined trade surplus of \$21 billion in manufactured goods trade with our current FTA partners in 2010, despite the overall trade deficit we have in manufactured goods trade with the world. Our cumulative manufactured goods trade surplus with our FTA partners for the last three years is nearly \$70 billion. During that same period, our manufacturing goods deficit with countries with which we do not have trade agreements accumulated to \$1.3 trillion (see graph on next page).

But the message about the success of FTAs is too important to get lost. It is proof that American manufacturers can compete with anyone — provided they have open markets and a level playing field. That’s exactly what trade agreements like the ones with Panama, Colombia, and Korea will provide.



In addition to helping U.S. manufacturers of industrial goods, the Panama FTA will substantially improve market access for American farm products, consumer goods, and services. For Caterpillar, the agreement means that Panama’s 10% duty on off-highway trucks, motor graders, wheeled scrapers and diesel engines will be eliminated. The agreement will also bolster the rule of law, investor protections, internationally recognized workers’ rights, transparency and intellectual property protections.

Some dismiss Panama as a small country that should not be a U.S. trade priority. Others take trade with Latin America for granted. We think that’s incredibly short-sighted. Last year, Caterpillar exported more U.S. products to Panama than Korea. We exported more products to Colombia than India or Germany. In fact, Caterpillar exports to Latin America increased 58% last year — a faster rate of growth than we saw to any other region of the world. Today, six of Caterpillar’s ten largest export markets are in Latin America.

Nor is Caterpillar the only company benefiting from booming exports to Latin America. U.S. exports to its FTA partners in Latin America and the Caribbean surpassed \$200 billion in 2010 — a sum larger than U.S. exports to China, Japan, and Korea combined.

Beyond the purely commercial benefits, the Panama FTA will also strengthen the century-old U.S.-Panama geostrategic partnership. From the time of the Panama Canal's construction, the United States and Panama have made common cause on issues from security to commerce. The United States is either the origin or the destination for over half of all cargo passing through the canal.

With one-third of its population speaking English fluently and a fully dollarized economy, Panama is a great place to do business. At Caterpillar, we are pleased with the success of our investments in Panama and with the high quality of our Panamanian workforce.

Panamanian President Ricardo Martinelli has continued to strengthen his country's ties with United States at a time when a number of countries in the region are taking a different course. President Martinelli has called the FTA his administration's "number one priority." Panama's legislature displayed similar enthusiasm with a strong vote in favor of the FTA just weeks after its signing, and the agreement incorporated new labor and environmental provisions reflected in the May 10 (2007) Bipartisan Agreement on Trade. Both the Panamanian administration and the legislature have been responsible partners in working to meet the additional requests that have subsequently been raised by the U.S. Congress and Administration. Notably, the Panamanian government signed a Tax Information Exchange Agreement with the United States on November 30, 2010.

We are pleased that Congress and many in the Administration now recognize the importance of trade with Latin America. To demonstrate that commitment, we hope the first order of business will be passing the trade agreements with Colombia and Panama as well as the agreement with Korea.

Opening Markets

From the perspective of the business community, the FTA's chief virtue is that it further opens Panama's market to products and services made by American workers, farmers, and companies. Panama's purchases of U.S. manufactured goods and farm products reached \$5.58 billion last year, and the \$5.69 billion U.S. merchandise trade surplus with Panama in 2010 was among the largest with any country. Goods exports to Panama from Illinois — where Caterpillar is headquartered — have grown quickly in recent years, from \$29 million in 2005 to surpassing \$117 million in 2010, led by rapid growth in exports of machinery. The United States is far and away Panama's largest trading partner, accounting for 30% of Panama's imports and 39% of its exports.

Trade barriers can take many forms. One of the most onerous trade barriers is inadequate infrastructure. After all, if you can't physically get your products to market, the magnitude of the tariffs doesn't really matter.

This is one reason why the expansion of the Panama Canal — one of the biggest public works project since the Three Gorges Dam in China — is so exciting for Caterpillar. With many newer, larger ships unable to use the canal — which is already at capacity — it takes longer than it should for some U.S. exports to reach overseas markets. An expanded canal will allow many American manufacturers to be more competitive by shortening their supply chain and reducing inventories.

We are also excited about construction of a new metro system in Panama City and the Petaquilla mine, which will be the 5th largest copper mine in the world. We are doing our best to earn the business associated with the canal and all the other infrastructure projects being built in Panama. If we can sell all our U.S.-produced products to Panama duty-free, it will help our customers and provide us with a competitive edge over products made in other parts of the world.

U.S. export success in Panama comes despite a fundamental imbalance in the proverbial playing field. The United States unilaterally opened its market to Panama and its neighbors through the Caribbean Basin Initiative in 1983 and expanded that access through successive acts with the support of strong bipartisan majorities in Congress. Currently, under the Caribbean Basin Trade Partnership Act (CBTPA), fully 96% of all imports from Panama already enter the U.S. market duty-free. By contrast, Panama's average applied duty on imports of manufactured goods is 7.1%, and agricultural products face even higher tariffs. In other words, Panama enjoys virtually free access to our marketplace, while U.S. products continue to be taxed at steep rates when entering Panama.

Critically, the FTA will cut Panama's tariffs on U.S. products, and as a result it will transform an imbalanced trade relationship into a more mutually beneficial, reciprocal partnership. The day the agreement enters into force, 88% of Panama's tariffs on U.S. consumer and industrial goods and a majority of the tariffs on U.S. farm exports will be eliminated. In turn, the agreement locks in Panama's access to the U.S. market, creating a new level of certainty for investors and traders in that country.

The unilateral preferences have always been subject to re-authorization by Congress with no guarantees that they would be continued. As you know, Colombia recently lost its own preferential access to the U.S. market with the lapse of the Andean Trade Preference Act in February, generating hardship for many Colombians. Without the extension of these preferential programs, Panama also risks losing a significant part of its exports, resulting in lost jobs and a lower standard of living.

The FTA makes Panama's favorable access to our markets permanent and provides additional benefits in the form of improved market functioning and enhanced economic growth. In other words, the FTA will provide continuity in a long-term U.S. policy with

regard to Panama — one that boosts economic development and reinforces democratic consolidation.

Manufacturing: The Panama FTA offers immediate opportunities for the U.S. manufacturing sector. The fastest-growing product categories among U.S. manufactured exports to Panama have been sophisticated machinery, organic chemicals, and sound equipment. From 2005 to 2010, 42 states increased their exports of manufactured goods to Panama, all of which occurred despite sometimes steep tariffs on U.S. exports. The Panama FTA promises to not only accelerate this growth by reducing the landed cost of U.S. goods to Panama considerably, but it will open up opportunities in new product categories. The benefits of the agreement are significantly front-loaded. When the agreement goes into effect, 88% of U.S. exports of consumer and industrial goods will become totally duty-free immediately. The remainder will be duty-free within ten years.

For Caterpillar, the world's largest producer of earthmoving equipment, expanding the Panama Canal is an important opportunity. If we can sell our U.S.-produced products throughout Panama duty-free, it will provide us with a competitive edge over products made in other parts of the world. Consider Panama's significant tariffs on manufactured goods. Panama's tariff on off-highway trucks and diesel engines is 10%. For other Caterpillar-type products tariffs range from 3% to 5%.

For other manufactured products, Panama's tariffs are even higher. Panama's tariff on autos is 15%. For furniture, the tariff is 15%. For computers, Panama's tariffs are anywhere from 5% to 15%. By eliminating these duties, the FTA will provide the average Panamanian consumer with a higher standard of living by offering more product choices at lower prices.

What does the United States have to do in return? For mining and construction equipment, like off-highway trucks and bulldozers: absolutely nothing. The U.S. tariff on these products is already at zero, and that won't change.

Agriculture: The FTA will provide new market opportunities for a wide range of U.S. agricultural products. Upon implementation, over half of these products will be duty free, with tariffs on most remaining U.S. farm exports phased out within 15 years. The agreement is comprehensive in its coverage, providing commercially meaningful access for U.S. agricultural priorities while taking into account both U.S. and Panamanian agricultural sensitivities. The agreement also creates a mechanism for sanitary and phytosanitary cooperation and should ease related non-tariff barriers to U.S. agricultural exports to Panama. The American Farm Bureau Federation expects exports to grow by \$195 million per year upon full implementation. Every additional billion dollars worth of agricultural exports creates 9,000 new jobs. In other words, the FTA could directly generate nearly 2,000 farm jobs.

Government Procurement: Panama is currently negotiating accession, but is not yet a party, to the World Trade Organization's Government Procurement Agreement. If

approved, the Panama FTA will guarantee U.S. firms the opportunity to bid for Panamanian government contracts on a level playing field. Guaranteed and favorable access to these procurement opportunities is important to a broad range of U.S. businesses.

Services: Service providers will also benefit significantly from the agreement. Panama's service sector is a growing market and accounts for 80% of Panama's GDP or \$13.6 billion, while 67% of its labor force is employed in service industries. The Panama FTA's services commitments cover both the cross-border supply of services and the right to invest and establish a local service presence and are strengthened by a set of detailed disciplines on regulatory transparency, which is fundamental to meaningful services market access.

Panama agreed to exceed commitments made in the WTO, and to dismantle significant services and investment barriers, such as lifting restrictions on investment in retail trade, ensuring access to contracts related to the Panama Canal, and providing new access in professional services that previously had been reserved exclusively to Panamanian nationals. These commitments and improvements in Panama's services regime will allow U.S. firms to take full advantage of the benefits of the agreement across all sectors, including express delivery, logistics, energy, audiovisual, computer, construction, wholesaling, health, education, and environmental services.

The Rule of Law

Intellectual Property: The agreement will strengthen protection and enforcement of U.S. trademarks, patents, and geographic indicators, internet domain names and copyrighted works, creating new opportunities for U.S. innovation-based and creative industries in Panama. In specific terms, the Panama FTA includes strong intellectual property enforcement mechanisms and penalties provisions, including the criminalization of end-user piracy and counterfeiting and the authority to seize and destroy not only counterfeit goods but also the equipment used to produce them. The agreement also provides necessary mechanisms to fight the problem of trans-shipment of counterfeit goods with specific provisions that are aimed at goods-in-transit.

Investment Protections and Dispute Settlement: U.S. direct investors in Panama will benefit from the strong investment chapter in the agreement, particularly the sections dealing with investment protections and dispute settlement. Both the Colombia and Panama FTAs incorporate many of the basic protections that Americans and foreign investors already enjoy in the United States, from protections found in the Due Process, Equal Protection and Takings Clauses of the U.S. Constitution to the Administrative Procedure Act's protection against "arbitrary and capricious" regulatory action and a host of other federal and state laws.

The FTAs' dispute settlement procedures are open to the public and allow interested parties to provide their input. As such, these trade agreements provide an opportunity for

the partner countries to improve their investment climate by undertaking legal and judicial reforms and resolving investment disputes.

Increased Transparency: The agreement's dispute settlement mechanisms provide for open public hearings, public access to documents, and the opportunity for third parties to submit views. Transparency in customs operations will aid express delivery shipments, and will require more open and public processes for customs rulings and administration. For customs procedures, Panama committed to publish laws and regulations on the Internet and, to the extent possible, will publish proposed regulations in advance and allow interested parties an opportunity to comment on the proposals. Moreover, transparency in these areas is an essential tool in combating corruption and promoting habits of transparency in government.

Growth, Income, and Jobs

The Panama FTA is a great step forward in the evolution of our trading relationship with Panama from one based on unilateral trade preferences to reciprocal market access. As such, the economic, employment, and pocketbook impacts of the agreement are quite positive. Indeed, the FTA is expected to make valuable contributions to economic growth, incomes, and employment opportunities in cities and states across the country.

Both Texas and Florida surpassed \$1 billion in exports to Panama in 2010, while nine states, including Illinois, had exports to Panama in excess of \$100 million. Nineteen more enjoyed exports of at least \$10 million. Fully 45 states saw their exports to Panama at least double between 2005 and 2010. This market is growing more important every year for producers all across the United States.

It's not only workers at large companies like Caterpillar who benefit from increased trade. Panama is also a great market for U.S. small business. In 2008 (the latest year for which data are available), more than 8,600 U.S. companies exported their products to Panama. Of this total, 7,275, or 85%, were small and medium-sized enterprises. These so-called SMEs exported \$1.65 billion worth of merchandise to Panama in 2008. This represented 36% of all U.S. merchandise exports to Panama, well above the 30.2% share of U.S. exports that our smaller companies contribute globally.

With its economy overwhelmingly based on services, Panama's economy complements the strengths of the U.S. economy. Panama has no significant textile or apparel industry, and its agricultural exports (mostly tropical products) largely do not compete with U.S. farm and ranch products.

Additional Benefits

In addition to contributing strongly to the expansion of trade and economic relations between the United States and Panama, the FTA will lend a helping hand for a close ally in Latin America and will enhance U.S. efforts to strengthen democracy in the region. The

embrace of democratic norms throughout the hemisphere over the past 25 years has been remarkable. But in some countries, populist economic policies and weak political parties, among other factors, have recently endangered this progress. The recent surge in populism shows that democratic elections do not by themselves guarantee the rule of law.

While questions of the rule of law in the region may legitimately be addressed in a number of ways, we believe that ambitious and comprehensive free trade agreements would do a great deal to enhance the rule of law and transparent governance in the region. While the commercial benefits are substantial, they go beyond just opening overseas markets for America's workers, farmers and companies. These agreements assist in the creation of a transparent, rules-based economic environment, which is a critical element in the success of democratic institutions and market-based economic policies.

The commercial benefits of recent free trade agreements have surpassed all expectations. Consider the U.S.-Chile Free Trade Agreement, which was implemented on January 1, 2004, and immediately began to pay dividends for American businesses and farmers. While the U.S. International Trade Commission (USITC) had forecast total export growth of 18-52% over the first 12 years of the agreement's implementation, U.S. exports to Chile quadrupled over just seven years (2003-2010). This outcome is eight times as robust as the USITC's most optimistic scenario. Given the similarities between the Panama FTA, Colombia FTA, and the U.S.-Chile Free Trade Agreement, we may surely expect impressive benefits from this new agreement as well.

While exports are important, we are also pleased to report that imports from Chile have also increased. As we all know, free trade is about more than just exporting — it is about providing more choices at lower costs for consumers, which leads to a higher standard of living. Sometimes, as is the case with Chile, free trade is about having access to fresh grapes in the winter and more crushed grapes (i.e., wine) year-round. With Panama and Colombia, our consumers will benefit from more access to tropical fruits, seafood, flowers, and high-quality coffee among other products.

Conclusion

Mr. Chairman, Representatives, earlier today I spoke at the U.S. Chamber of Commerce. My message was straightforward. American companies and workers can successfully compete in world markets providing we are: (1) willing to address our fundamental competitive challenges, (2) tackle those issues with a sense of urgency, and (3) hold leaders accountable for results. I believe these principles apply to individuals, businesses, and nations.

In many ways the trade agreements with Panama, Colombia, and Korea provide a chance to demonstrate what I mean. Opening foreign markets is a fundamental competitive challenge if the United States is going to increase exports and generate more American jobs. We need to open those markets with a sense of urgency, before our competitors in Asia, Europe, South America, and Canada leapfrog us with their own trade agreements.

This brings me to the issue of accountability. I trust that the time for avoiding eye contact on tough issues and coming up with excuses for inaction is over. We need to work together to improve U.S. competitiveness, open foreign markets and create U.S. jobs. If we succeed, accountability is a concept we will all embrace. But, if “business as usual” becomes our guiding principle, accountability is something we will all fear.

Let’s not take any chances. I urge you to act now to pass the Panama, Colombia, and Korea FTAs. These agreements promote U.S. exports and support American jobs. More importantly, they also promote understanding and improve living standards of citizens in both countries.

That concludes my remarks. At this time I would be pleased to answer any questions. Thank you very much.