Testimony of Daniel Mark Ogden, Esquire

Attorney at Law and International Trade Consultant

On behalf of the National District Export Council, Inc.

House Committee on Small Business

Subcommittee on Agriculture, Energy and Trade

Hearing:

Small Business Trade Agenda: Opportunities in the 113th Congress

February 28, 2013

2361 Rayburn House Office Building

Washington, D.C.

20515-6315

202-225-5821

I. INTRODUCTION

Chairman Tipton and Ranking Member Murphy, I would like to thank you for the invitation to testify at this hearing of the House Committee on Small Business Subcommittee on Agriculture, Energy and Trade on the subject of Small Business Trade Agenda: Opportunities in the 113th Congress, and for the opportunity to share my views on this subject with the members of this Subcommittee.

Witness Background

My name is Daniel Ogden. I am an attorney, a licensed customs broker, and an international trade consultant who for over 25 years has counseled and represented U.S. and foreign companies of all sizes on a multitude of international trade and business legal and regulatory issues. I am also the current Chairman of the National District Export Council, a former Vice Chairman of the North Texas District Export Council, and a Director and Corporate Secretary of Export University, Inc.

I am appearing here today on behalf of myself as well on behalf of the National District Export Council, Inc., of which I am the Chairman. My testimony will be based upon my knowledge of international trade not only from the insights I have gained from working with numerous exporters in my law and international trade consulting practice, but also from my experiences in interacting with many small business exporters in the 8 years that I have been affiliated with the District Export Councils. The views I will express represent my own personal views as well as those of the National District Export Council, unless otherwise noted.

Subject of Testimony

The subject of my testimony today will cover the importance of trade to the well-being and wealth of the U.S. economy, to the health and profitability of small business, and to the creation of job growth in the United States. I will also discuss the challenges and barriers to success that small business exporters face from government laws and regulations, both foreign and domestic, and the role that the government in the United States should play in advancing the international trade interests of the United States.

District Export Councils

Please allow me to first provide a brief overview of who and what are the District Export Councils. The mission of the District Export Councils (DECs) is to encourage and support exports of U.S. goods and services that strengthens the profitability of individual companies, stimulates U.S. economic growth, create jobs, and improves the international economic competitive position of the United States. This mission is supported through activities such as:

- Counseling and mentoring of local businesses in exporting;
- Identifying export financing sources for businesses;
- Creating greater export awareness in the business community locally;
- Supporting programs and services of the U.S. Export Assistance Centers;

- Providing export training and education through Export University® programs;
- Identifying issues affecting export trade and suggestions for improvement;
- Advocating trade policy and legislation supporting exporters and the U.S. export sector.

District Export Council members, of whom there are over 1,400 nationwide, are leaders from the local business community who volunteer their time to be mentors of exporters within their local area. DEC members are appointed by various U.S. Secretaries of Commerce based upon their expertise on various facets of international trade and whose knowledge of international business provides a source of professional advice for local firms. Closely affiliated with the Commerce Department's Export Assistance Centers and the U.S. & Foreign Commercial Service, the 59 DECs currently existing nationwide support the U.S. Government's export promotion efforts and serve as a communications link between the business community and the U.S. & Foreign Commercial Service. Individual District Export Councils focus on carrying out their mission in their local communities. While DECs and individual DEC members engage in advocacy on a variety of export and trade issues, neither DECs or individual DEC members represent the U.S. Government in any capacity, nor do DECs or individual DEC members engage in any activity requiring lobbyist registration.

National District Export Council

The National District Export Council is an umbrella group that represents local District Export Councils on a national basis. The National DEC consists of 16 District Export Council members who have been elected to the National DEC by DEC members from each of the eight U.S. Commercial Service Networks. The mission of the National District Export Council is provide support and guidance for fulfillment of the mission of the DECs, and to facilitate communication between the DECs, between the DECs and the U.S. Department of Commerce, and between the DECs and the international business community and policymakers. The National DEC, in essence, serves as a coordinator of DEC activities that occur on a national basis as well as serving as a representative of local DECs by interfacing directly with the Department of Commerce and other U.S. governmental trade agencies.

The National District Export Council also represents America's exporters on a nationwide basis. It is unique in its ability to do so due to its close relationship with the U.S. Department of Commerce and the fact that District Export Councils are constituted and managed by exporters at the grass roots level. Unlike other organizations such as trade associations that are managed by professional staff, exporters participate directly in District Export Council management and make decisions themselves on the various activities undertaken by a District Export Council. Further, District Export Councils work very closely with the U.S. Department of Commerce and this is particularly true with the National District Export Council. As a result, District Export Councils have unique relationships with both American exporters and the U.S. Department of Commerce that no other organization can claim.

As an example of these relationships and how the National District Export Council is able to represent American exporters, the National DEC has established a close working relationship with the Market Access and Compliance ("MAC") unit of the Commerce Department. MAC, along with the USTR office, plays the key role in the effort of the U.S. government to reduce and eliminate foreign trade barriers. One to the objectives that the National DEC has in its relationship with MAC is to inform exporters on the role played by MAC in reducing foreign trade barriers that exporters face, and to inform MAC as to the specific nature of these barriers. While MAC does a great job in identifying foreign trade barriers in general, and maintains a web site where exporters can report trade barriers, the simple fact is that there is no way for MAC to exhaustively know the specific trade barriers that individual exporters face.

As a result, the National DEC prepared a survey in 2011, which it sent out to more than 1,400 DEC members who were either exporters or export service providers, in an attempt to obtain detailed information on specific types of foreign trade barriers, which countries they existed in, and what the response was of exporters to these barriers. Following completion of this survey the National DEC provided the results to MAC in order to assist MAC in understanding more fully the foreign trade barriers that are hampering U.S. exporters. This information has proven useful to MAC in its operations and also introduced to many exporters and export service providers the fact that there is a federal agency that is engaged in an effort to reduce or eliminate foreign trade barriers, a fact of which even many experienced exporters and export service providers were not aware. Subsequently, as a follow-up to this survey, the National DEC and MAC (with the assistance of the USTR's office and the U.S. Chamber of Commerce) put together a workshop on Foreign Trade Barriers in 2012 that gave exporters a chance to meet with MAC personnel where they could directly discuss the foreign trade barriers they were facing, and where they could learn about the efforts of both MAC and the USTR in overcoming specific trade barriers.

This relationship between the National DEC and MAC is merely one of many examples where the National District Export Council, and the District Export Councils in general, are helping to advance the interests of America's exporters in some unique ways that no other organization is able to do.

Export University

I would also like to mention at the outset the mission of Export University, Inc. Export University is a "branded" approach to conducting trade education and training which is offered by DECs nationwide with the full support and partnership of the U.S. Department of Commerce. Export University is the premier export education and training program in the United States. From its founding in 2005 by the Florida District Export Council, Export University has grown into a national program which is exemplified by excellence in export education. Export University is not an academic program but is rather a trade education and training program designed to provide companies with practical information which can be immediately utilized in their export efforts. It is one of the primary methods by which District Export Councils provide export mentoring and education to companies within their local communities.

In sum, the District Export Councils are not only a vital link between the U.S. government and the exporting community, but as a result of their exporter mentoring, trade advocacy and educational efforts such as Export University, they have come to play an essential role in the increasing success of the U.S. export sector.

II. OPPORTUNITIES AND CHALLENGES FOR SMALL BUSINESS EXPORTERS

The focus of this hearing is on the opportunities for the 113th Congress to develop a small business trade agenda. This is an eminently worthy goal for international sales by U.S. small businesses constitute an every-increasingly large proportion of U.S. exports. In order for my testimony to be helpful in providing insights for developing this trade agenda, it will be beneficial for me to first discuss the nature of small business exporters and the opportunities and challenges they face.

The Nature of Small Business Exporters

Like exporters of any size, small business exporters face both opportunities and challenges in the international marketplace. However, because of the nature of small business exporters, their opportunities are affected by these challenges disproportionately as compared to larger exporting firms. In order to understand the disproportionate effect of the challenges, a discussion of the nature of small business exporters is in order.

Small Business Exporters are Small Businesses First

Initially, it must be stressed, and this is a key point, that small business exporters are small businesses first. The fact that they derive a significant portion of their revenues from exports does not detract from the fact that they face the same challenges to their profitability that all small businesses in the United States face. Some of the most significant of these challenges that all U.S. small businesses face arises from the U.S. domestic regulatory and legislative environment which has a significant impact on their profitability. In fact, among all small businesses, small business exporters face unique challenges in this regard as not only do they have challenges to their profitability in the foreign arena but also from the domestic arena in the United States as well. Therefore, before discussing the challenges faced by U.S. small business exporters from foreign regulatory and legislative environments, and how Congress can assist in those challenges. it is important to first examine this environment at home.

The Impact of U.S. Regulatory, Legislative & Tax Policies on the Health of Small Businesses

Healthy small business exporters are healthy small businesses. The health of any business is measured by its profitability. While this profitability is impacted by numerous factors, the regulatory, legislative and tax environment in the United States unquestionably is a significant factor as relates to small business profitability. For example, many small business exporters are manufacturers (part of the resurgence in U.S. manufacturing is being led by small business exporters). Like any other manufacturer, small business manufacturer-exporters are greatly affected by U.S. regulatory agencies such as OSHA and the EPA and the voluminous regulations they produce. Additionally, like many small businesses, small business exporters are affected by laws such as Dodd-Frank, which is greatly limiting access to loans for small businesses, and Sarbanes-Oxley, which, as a result of its numerous and burdensome financial and other reporting requirements for publicly-traded corporations, discourages small businesses from seeking investment capital through public stock offerings. Finally, the fact that many small business exporters are Sub-Chapter S corporations, like many other small businesses, means that current tax laws severely impacts their ability to reinvest their retained earnings in their operations.

One unintended consequence of these U.S. regulatory, legislative and tax policies is that in many instances these policies forces manufacturers to move production to other countries that have regulatory, legislative and tax environments that are more conducive to the profitability of a business. This fact often is not true just for large manufacturers, but for small manufacturers as well. When it comes to small business manufacturers, while the decision to locate production facilities overseas is determined by a multitude of factors, one of those factors is often U.S. regulatory, legislative and tax policies. The more that small business manufacturers locate their production facilities overseas, the less they will export from the United States and just as important, the less Americans will be employed in such production.

In seeking, then, to answer the question "what can Congress do to assist small businesses in increasing their exports?", one answer quite simply is to stop over-regulating, over-legislating, and over-taxing small business in general. That answer may perhaps do more for the health of small business exporters than other single thing the United States government could do.

The Impact of U.S. Export Controls Reform on Small Business Exporters

While general U.S. regulatory, legislative and tax policies that are friendly to small business will help to improve the health of U.S. small businesses in general, including small business exporters, there is one specific area of U.S. regulatory and legislative policies that in particular affects small business exporters. By its very nature U.S. export controls laws and regulations directly impact all American exporters, but, as is the case in general with laws and regulations, they have a disproportionate impact on small business exporters. Large exporting firms generally have the requisite staff and resources to manage the complexities of export controls compliance. As a general rule, small business exporters usually do not such resources and often will have a single employee with other responsibilities who is also responsible for export compliance. Or, instead, they may instead be forced to outsource export compliance to an outside consultant. Many exporters, however, do neither and therefore are non-compliant in various degrees when it comes to export controls.

There are, of course, very good policy reasons for the U.S. to have export control laws as they help to protect U.S. national security and economic vitality. And further, it is the responsibility of all U.S. exporters to ensure that they are in compliance. The importance of export control laws, however, does not necessitate that they either be so complex and cumbersome that they discourage companies from exporting, or that they fail to be updated and modernized to reflect the current stage of technological developments and the realities of the international marketplace. It does no good, for example, to have stringent controls on the export of computer chips that are several generations old and can be purchased on eBay for a few dollars. The challenge faced by the U.S. government, then, is to have export controls that are effective in meeting U.S. national security, foreign, and commercial policy, yet do not discourage exports. While meeting this challenge–which on its face may appear to be contradictory–is difficult, a continuous review and updating of export control law and regulation can overcome this challenge and accomplish the dual goal of both protecting vital U.S. interests and increasing U.S. exports.

Fortunately, there is at present on ongoing attempt by the current Administration to reform U.S. export controls, called, appropriately, export control reform or ECR. This process, although for many years being called for by those both inside and outside of government, was really begun in earnest at the prompting of former Defense Secretary Robert Gates. Without getting into the weeds of ECR, the overall objective is to simplify both the administration of and compliance with U.S. export controls law and regulation. While there are many things that the executive branch can itself do to advance this objective, Congress also has a vital role to play. The simpler it is for the U.S. government to administer our export control laws, and the simpler to is for U.S. exporters to comply with them, the greater the likelihood will be that U.S. exporters will in fact comply with such laws and regulations–thereby accomplishing the policy objectives behind such laws and regulations–and the greater the likelihood that U.S. exporters will increase their exports due to the fact that U.S. export controls law and regulation will not be a negative factor in their export efforts. These facts are doubly true for small business exporters.

The Defining Characteristics of Small Business Exporters

In considering the opportunities it has to develop a small business trade agenda, Congress needs to have a firm understanding about the defining characteristics of small business exporters. When thinking about small business and exporting, first a definition is in order. When one thinks of a small business, quite often the thought is that of a business like your favorite dry cleaners. While dry cleaners are certainly small businesses, when it comes to small business exporters, they run the gamut from a single entrepreneur who drop ships his products to his overseas eBay customers to a company with 500 employees who ships its products to multiple countries. What really defines a small business in general is not so much the size of a company in terms of its employees or annual revenues, but rather its level of entrepreneurship. To be successful, small businesses by necessity have to be entrepreneurial and the founders and owners of small businesses must be and generally are entrepreneurs. What defines entrepreneurship? In a word, risk-taking. The degree by which a company is willing to take risks, calculated and reasonable risks, but risks nevertheless, to a large extent determines its level of entrepreneurship. And when it comes to exporting, this is exponentially true.

To be a successful small business exporter means by definition that you are willing to take risks in order to increase your market share, grow your company, and improve your profitability. This need to be a risk-taker is due to the fact that the international marketplace is fraught with risks arising from political, economic, cultural, legal and other factors. But as any true entrepreneur knows, risk means opportunity. And it is this opportunity that drives small businesses to become exporters. It is true that many small business exporters are occasional exporters, meaning that they export not as a result of a deliberate strategy, but rather in reaction to requests for orders. But when many a small business sets out to deliberately survey the global square, because by nature it is a risk taker, it often sees not just roadblocks but also opportunities.

The reality is, of course, that these roadblocks to exporting do exist and present barriers to exporting that U.S. firms of all sizes, and particularly small businesses, have a difficult time overcoming. American small business exporters, of course, like all exporters, do not operate in a vacuum as their operations are affected by numerous factors. Perhaps the most single important factor is U.S. trade policy. Therefore, before discussing some of the unique and specific challenges small business exporters face in regard to trade policy, a few comments about U.S. trade policy in general are in order.

U.S. Trade Policy Fundamentals

Rather than cite numerous statistics indicating the importance of trade to the U.S. economy, it is sufficient to state that more than ever, due to the increasingly foreign competitive challenges faced by U.S. companies (and particularly small businesses), as well as to the global marketplace that has become a reality, trade policy is arguably–along with national security policy–the most critical policy the federal government faces today. If the U.S. economy is to have sustainable growth and generate wealth, which should be the goal of any economic policy, then we must have the right trade policy. It is not an option. It is a necessity.

The question then is, what should that trade policy be? This is a complex question that demands detailed answers. For the purposes of today, I would like to provide some answers to that question from the standpoint of small businesses in the United States.

Trade Policy and Wealth Creation

Before I do so, however, I would like to make a few general points about international trade and it relationship to the wealth creation of an economy. Exporting, at least for most, is generally praised as a worthy and worthwhile activity. Importing, on the other hand, is frowned upon for obvious reasons which are not necessary to recite. The simple fact of the matter is, however, that trade is a two-way street. Every export is also an import and vice versa. Imports in of themselves are not a bad thing and in fact are vital to the success of many U.S. firms, and especially for small businesses who quite often have very thin profit margins. Being able to freely source the inputs and means of production is critical to the profitability of small business, including small business exporters. Those who do decry imports also–and oddly–generally ignore the existence and importance of exports to wealth creation and the U.S. economy as they tend to be anti-trade in general.

At its fundamental core, trade policy should be based on one underlying principle–free market economics. This principle was postulated over 200 years ago by Adam Smith in his seminal work the *Wealth of Nations*, which set forth the proposition that mercantilism–in today's parlance, protectionism–leads not to wealth but rather to poverty. Smith argued that the mercantilism of his day distorted a market by introducing artificial barriers to trade and thus impoverished a country as a whole.

An accompanying principle, which is also an important component of a free market trade policy, was advanced by David Ricardo in his *Theory of Comparative Advantage*. This theory, in simple terms, states that a nation should sell what it is good at producing and buy what it is not. This theory actually is borne out every day in the business practices of companies. A Coca-Cola bottler, for example, does not turn raw materials into the glass for which it uses to bottle Coke because it is not good at turning raw materials into glass. Rather, it purchases the glass which it uses to produce the bottles which contain the world's most recognized and consumed soft drink. The same principle holds true for countries. In Africa, for example, many countries have abandoned their comparative and natural advantage in the agricultural sector in an attempt to become producers and exporters of heavy industrial products, largely due to the bankrupt Soviet-inspired economic philosophy that a strong economy is by necessity a heavy industrial economy. As a result, many of these countries are now net importers of food, having neglected or destroyed their agricultural sectors and therefore have created not wealth, but poverty. And the failure of countries all around the world to recognize this principle is a prime driver of trade protectionism.

Dangers of Protectionism

In spite of attempts by politicians, economists, political philosophers and ideologues over the last 150 years to the contrary, these fundamental economic principles spelled out by Smith and Ricardo have been proven by economic reality to be factually true. Protectionism is the mother's milk of economic depression. It is not a creator of wealth but rather is a creator of poverty. Trade policies that are protectionist in nature are a dead end and only hurt the very persons they are ill-designed to help. Protectionism was one of the major causes of the Great Depression. "Beggar thy neighbor" trade policies, such as the 1930 Smoot-Hawley Tariff (which is still on the books as the default tariff for non-MFN and non-GSP nations), merely led to a rapid and calamitous reduction in economic growth and activity both in the U.S. and abroad. The Great Depression was the price we paid for such a policy.

Avoidance of a protectionist trade policy used either as a strategy or a tactic should be at the core of U.S. trade policy. Protectionism is not a monopoly held by either party in our historically two–party system of government. It is a disease that is bi-partisan in nature. As a nation, we cannot afford its fruits no matter how loud the cries are for it.

Importance of Trade Agreements to Small Business Exporters

The temptation to implement protectionist trade policies is not, of course, unique to the United States and as a general measure is succumbed to far more often in most other countries. Protectionist trade policies are a fact of life that small business exporters have to deal with on a daily basis. This fact makes trade agreements an essential component of U.S. trade policy.

Reduction and Elimination of Tariffs

Since the conclusion of the Second Would War, the focus of trade agreements has been the reduction or elimination of tariffs on imported goods. These reductions or eliminations that have resulted from both bilateral and multilateral trade agreement, starting with the GATT in 1947, have been extremely beneficial to U.S. exporters in that the they have leveled the playing field for U.S. exporters to compete against local producers in foreign markets. Tariffs are, in fact, the number one barrier to trade and trade agreements should continue to focus on them.

Non-Tariff Trade Barriers

The tendency of trade agreement to focus on reducing and eliminating tariffs, however, while certainly vital, has resulted in an increased focus on non-tariff trade barriers. The temptation of protectionism is a constant. As more countries enter into free trade agreements and as a result reduce or eliminate their tariffs, non–tariff trade barriers have become the protectionist tool of choice. These barriers include such matters as customs facilitation and procedures, local product standards, intellectual property protection, packaging and marking requirements, consumer product health and safety requirements, just to name a few. While it may be argued that these barriers in of themselves are an essential exercise of the inherent police powers of government (to regulate for the health, safety and welfare of a society), the problem when it comes to trade is that these barriers are often applied *discriminatorily* against foreign producers exporting to that country and in fact are often designed solely for the purpose of either keeping imports out of that country or making it very difficult for foreign exporters to compete against local producers.

Real World Examples of Non-Tariff Trade Barriers Faced by Small Business Exporters

I would like to cite a few real world examples to illustrate the nature of these barriers and their effect on small business exporters. One of my fellow North Texas District Export Council members owns a small business, International Chem-Crete Corporation, that produces construction materials that it exports around the world. One of the prevailing standards for his company's industry are the standards promulgated by ASTM International for materials, products, systems and services used in construction, manufacturing and transportation. The implementation of these standards by any country makes perfect sense as these standards are internationally recognized for their role in producing high quality products and services. While International Chem-Crete produces its construction materials according to the applicable ASTM standards, it often finds that many countries to which it has targeted for exports have local standards that differ from the internationally recognized ASTM standards. The only rational explanation for this fact is that these countries maintain these local standards in an attempt to raise the costs of foreign producers exporting to that country, which costs invariably result due to the necessity of product modifications required to be able to meet such local standards for sales into that particular market. International Chem-Crete also has to deal with the EU REACH regulations that regulate sales of chemical-related products in the European Union by foreign-owned companies (these regulations do not apply to EU-owned companies). Its need to comply with REACH is true in spite of the fact that International Chem-Crete has even set up a local production facility in Slovakia for the purpose of supplying the EU market. The EU REACH regulations are a clear example of a non-tariff trade barrier designed to protect local industry from foreign competition.

A second real-world example is that of a small business client of mine that produces a paint coating that protects against and reverses rust oxidation which it presently exports to several countries and regions. This company has patents covering its product formulas but, as often is the case in these situations, has not disclosed in its patents all of its proprietary technologies in order to prevent reverse engineering of its products. As a result, the maintenance of its non-publicly disclosed proprietary technology as trade secrets is vital to the success of its business. A major component of this company's export strategy is to license its technology through patent and trade secrets licenses for production of its products in local markets. The prevention of the theft or unlawful disclosure of its trade secrets in such local markets is crucial due to the risk of reverse engineering. As any company who has ever dealt with trade secrets issues will tell you, the only even partially effective legal remedy against a theft or unlawful disclosure of trade secrets is an injunction enjoining a party from using such secrets and even then the effectiveness of this remedy is often questionable.

The challenges to exporters regarding the theft or unlawful disclosure of their trade secrets in their export markets is a hugely significantly and growing problem. In just the last week Deputy Secretary of Commerce Blank has stressed the importance of this issue in what the Commerce Department is calling a “Strategy to Mitigate the Theft of U.S. Trade Secrets”. While much of this strategy is targeted at thefts of trade secrets by foreign parties that occurs in the United States, the point has been made that a prevention of the loss of trade secrets is more and more being seen as a critical component of the international competitiveness of the U.S. economy. This is not only true for a loss of trade secrets in the U.S., but also in other countries. The non–tariff trade barrier in this instance is the lack of an effective remedy in many countries, such as injunctive relief, for the consequences of a theft or unlawful disclosure of a trade secret. If American exporters are unable to obtain remedies such as injunctive relief in foreign markets for a theft or an unlawful disclosure of their trade secrets, it will greatly reduce their willingness to do business in such markets where their trade secrets may be at risk.

A third real-world example comes from a fellow member of the National District Export Council. His employer, NOW International, is a producer and world-wide exporter of various health and food products. As an example of the barriers it faces, NOW International is subject to food laws which differ from region to region. For example, for fish products such as omega 3 oils, cod liver oil or shark cartilage, in many countries it needs to register such products in order to obtain a veterinary certificate. The same holds true for its dairy products. In some instances it has taken more than 7 months to complete the process to obtain a registration number and an accompanying certificate. Fortunately, NOW International has been in the financial position where it was able to wait until these certificates were issued. Had it not been able to do so, it was looking at the loss of over a million dollars in business in 2013 alone. Many other U.S. companies in the same industry may not be in the financial position of being able to wait until such certificates are issued and therefore will lose export sales. An additional barrier specific to NOW International’s industry is the implementation of an EU Directive by the European Food Safety Authority as this directive is arguably designed to keep American companies out of the EU market.

Again, the point needs to be made that while government regulations in all countries are all too often a fact of life that businesses of all sizes and types have to deal with, when it comes to trade, many of these regulation are not designed or implemented for legitimate or rational reasons, but are merely used to create non-tariff trade barriers for the purpose of discriminating against foreign producers and exporters.

Effect of Non-Tariff Trade Barriers on Small Business Exporters

While non-tariff trade barriers are damaging to all American exporters, this is particularly true for our small business exporters. Large companies have the resources to hire teams of specialist that can manage the requirements imposed by these barriers and often have the requisite cash flow necessary for the time it takes to overcome such barriers. An example of this can be illustrated by the experiences of the employer of another one of my fellow North Texas District Export Council members, Mary Kay, Inc. Mary Kay is famous worldwide for its beauty products. One of its core strategies is establishing local production facilities in many of the countries in which its products are sold. Much if not most of the components of the end products produced in those countries, however, are exported from the U.S. to those countries. As an example of a non-tariff barrier faced by Mary Kay, Brazil is notorious for using customs procedures to make it difficult to export to Brazil. While products can eventually clear Brazilians customs, getting them to do so is often onerous and time-consuming. Although it is very frustrating and expensive, a large, multinational company like Mary Kay has the resources and patience to eventually get its end product components through Brazilian customs as it is an integral part of its international business strategy. Small businesses, however, do not have such resources and have limited patience due to the nature of their business. Quite often they are operating on paper-thin margins and have very limited cash flow. Rather than dealing with the hassles of getting their products into a country such as Brazil where they face customs delays, which in turn results in having to wait for payment by customers to whom they have provided trade credit, they often will just refrain from exporting to such a country even though there is a demand for their products in that country.

Non-tariff trade barriers are perhaps the number one impediment to the increase in small business exports for the United States. The reduction or elimination of these barriers must be addressed if America's small businesses are to increase their exports and market shares in the reality of the global marketplace in which they operate.

The Need for Inclusion of Non-Tariff Trade Barriers Provisions in Trade Agreements

The U.S. at present is negotiating a multilateral trade agreement, the Trans-Pacific Partnership, and is contemplating a trade agreement with the European Union. It is essential that these agreements, along with future trade agreements, have provisions that substantially deal with non-tariff trade barriers, including enforcement mechanisms. In recent years there has been a trend to include such matters as labor provisions and environmental protections in trade agreements. While there are disagreements over the merits of having such matters in trade agreement, these matters are less important than the inclusion of non-tariff trade barriers provisions in trade agreements as they do not specifically deal with trade issues and would be better left to treaties that focus specifically on such matters. Non-tariff trade barriers, on the other hand, directly affect the ability to engage in trade and are vital components of future trade agreements.

At present, unless a non-tariff barrier falls under the coverage of a trade agreement of some nature—which does provide the U.S. government a means to ultimately legally challenge such barriers if commercial diplomatic negotiations to eliminates such barrier fails—commercial diplomacy is in fact the only recourse. While the enforceability of trade agreements through the WTO or other means may be uneven, the fact that a trade agreement includes provisions to reduce or eliminate non-tariff trade barriers–such as standards barriers, for example–makes it far more likely that such barriers will be successfully challenged due to legal remedies than having to rely solely of the good graces of U.S. commercial diplomacy, valuable though it is. It is imperative, therefore, that, ongoing and future negotiations on trade agreement stress not only tariff reduction and elimination but also non-tariff trade barriers reduction and elimination. While trade agreement provisions reducing or eliminating non-tariff trade barriers will help all U.S. exporters, they particularly will help small business exporters proportionally more.

Trade Promotion Authority Renewal

The last several years have seen trade agreement being approved by the United States at a snail's pace for various reasons, most of which have been political in nature. One of those reasons has been the expiration of Trade Promotion Authority (TPA). The National District Export Council over two years ago passed a Resolution supporting the renewal of TPA. This renewal is crucial for several reasons. First, the U.S. is not in a position to have 535 members of Congress negotiate international trade agreements. The U.S. needs to speak with one voice in negotiating these agreements. Second, TPA historically has worked very well in providing an effective means for the U.S. to negotiate trade agreements. Third, the interests of the United States when it comes to trade should be bi-partisan in nature. TPA helps to achieve that objective. And finally, and perhaps most importantly of all, the U.S. is falling behind other nation in entering into trade agreements, which thereby putting its exporters at a competitive disadvantage versus U.S. trade competitors. The tardy and belated enactment of the Korea, Panama and Colombia FTAs cost U.S. exporters lost sales in the millions of dollars. TPA renewal will help to ensure that this does not happen again.

Additionally, TPA in no way limits the Constitutional authority of the Congress to approve trade agreements. Rather, it only gives the Executive Branch the power to negotiate these agreements, not approve them. If Congress is concerned that trade agreements contain certain provisions, such as those I have recommended regarding non-tariff trade barriers, it can under TPA for a particular agreement broadly require that such provisions be included while leaving to the Executive Branch the negotiation of those particular provisions.

Renewal of Trade Promotion Authority would be beneficial to all American exporters as it would increase the number of trade agreements the U.S. enters into and would do so more quickly. This renewal should be part of any small business trade agenda that the U.S. Congress develops.

Opportunities and Challenges for Small Business Exporters: Conclusion

In conclusion, among all exporters small business exporters face unique challenges to their profitability and success. While fortunately the opportunities in exporting have never been greater, those opportunities to a significant degree will depend in part upon the development of a trade agenda by the 113th Congress that is forward looking and addresses these challenges. Before I provide some specific recommendations for this agenda, I would like to discuss what I believe should be the proper role of the federal government's executive branch in assisting U.S. small business exporters in overcoming these challenges and taking advantage of these opportunities.

III. THE ROLE OF THE FEDERAL GOVERNMENT IN EXPORT ASSISTANCE

While Congress has a critical role in assisting small business exporters by fashioning a trade agenda that will result in legislation reducing the barriers and challenges, both foreign and domestic, faced by small business exporters, the Executive Branch also plays a critical role in assisting small business exporters by providing services such as trade counseling and commercial diplomacy. I would like to address some issues related to this assistance.

Basis for the Role of the Federal Government in Export Assistance

While a detailed discussion of the constitutional and legal basis for the role of the federal government in providing assistance to U.S. exporters is beyond the scope of my testimony, I would like to briefly mention this basis as this issue is one about which many in Congress have questions. Initially, it is helpful, as is always in these types of discussions regarding the constitutionality of federal government actions, to separate out what the federal government may do and what it should do. These two separate and different questions are often combined with the result of a lack of clarity in answering these questions.

Constitutional Basis for Federal Export Assistance

In terms of what the federal government may do, briefly, the U.S. Constitution grants from the States to the federal government the exclusive power to regulate both foreign commerce as well as the exportation and importation of goods. While the power to regulate is often seen as only the power to restrict or prohibit, it also includes the power to promote and assist as that is the nature of regulatory power. Therefore, the federal government under the Constitution has the power to control which items may be exported to certain countries as well as the power to provide assistance to exporters through trade counseling and commercial diplomacy.

Policy Basis for Federal Export Assistance

In terms of what the federal government should do, the primary issue is whether in this current time of budget deficits and the attendant debate over government spending, whether federal dollars should be spent on assisting private businesses. Without delving deeply into the whole "corporate welfare" discussion, I would argue that the dollars spent on exporter assistance are among the most productive use of taxpayer money. Unlike situations where subsidies are paid to various industrial and agricultural concerns, federal dollars spent on assisting exporters fund in-kind governmental services and involve no transfer of taxpayer money to private businesses. For example, the U.S. Export–Import Bank is often cited as an example of government subsidization of business. This charge is patently false as no taxpayer funds are used in the operations of the U.S. Export–Import Bank as it funds its operations from its earnings, which in turn are derived from the fees it charges. Even with the Small Business Administration, which is funded by taxpayer dollars, it cannot be legitimately argued that its international trade finance program is a subsidy as it makes loans not transfer payments. Other than these two export finance programs, the federal government's assistance to exporters is in the nature of services, such as Gold Key programs, trade missions, and the like. Not only do these programs not provide any transfer of taxpayer dollars to private businesses, they also have a direct and measurable effect on the generation of export sales, which leads not only to increased profitability of exporters, but also to U.S. economic growth and job creation. The dollars that the federal government spends in assisting American exporters are the best return on investment that the American taxpayer has and is taxpayer money well spent.

The Need for Federal Government Export Assistance

I would like to make one final and important point in this regard and that is to answer the question, why is it that U.S. exporters need governmental assistance in the form of services provided by the federal government? The answer to this question is simple and can be stated in one word–competition. In an ideal world, American exporters would not have a need for federal government export assistance as no other country would engage in the same for its exporters. We do not live in that world, however, and until we do, we are foolish if we place our heads in the sand and pretend that our exporters do not need a level playing field in terms of governmental export assistance and can be successful without such a level playing field.

The National District Export Council has done a study, which is appended to my testimony, of the comparable levels of assistance provided to exporters in other countries which are chief competitors of the United States when it comes to trade. This study reveals that the U.S. spends far less per exporter on export assistance than our chief competitors. By pointing this out I am not calling for a massive increase in federal spending in this regard. Rather, I am answering the question of why it is that American exporters should be provided federal government assistance in the first place in regard to their exporting efforts. This study directly answers this question.

As one of my colleagues on the North District Texas Export Council frequently states to me, "Dan, the way business is being done around the world is changing and as a country we must adapt if we are to be successful." He is right and in ensuring that our exporters have at least somewhat of a level playing field in which to globally compete, the federal government has a role by leveling that field through export assistance. And, it goes without saying that this role is especially needed by small business exporters.

Federal Government Export Assistance Services

Department of Commerce

At present, the primary federal agency for export assistance, including trade counseling, is the U.S. Department of Commerce's International Trade Administration (ITA), and specifically, the U.S. and Foreign Commercial Service (US&FCS). The US&FCS offers a wide variety of exporter services such Gold Key programs and Trade Promotion Programs (TPP). These services are jointly provided by both the US&FCS Office of Domestic Operations (ODO) and its Office of International Operations (OIO). As mentioned earlier in my testimony, the Market Access and Compliance unit of the International Trade Administration also play a critical role in assisting exporters in overcoming foreign trade barriers by engaging in commercial diplomacy and trade agreement compliance enforcement.

The United States & Foreign Commercial Service

The US&FCS is the federal agency with which the District Export Councils work most closely. DEC members will tell you to a person the importance of the role that the US&FCS plays in export assistance. As an example, the Gold Key program is designed, among other things, to assist U.S. exporters in finding overseas distributors and agents that can help them sell their products in foreign markets. What is critical in this regard, as well as in other US&FCS programs, is that U.S. Export Assistance Centers (USEACs), which are the main vehicle by which the ODO delivers its services, are in place locally to interface directly with exporters, and that the USEACS have the ability to directly interface with OIO Foreign Commercial officers (FCOs) since they are all part of the same agency. As exporters who use Gold Keys will tell you, one of the major advantages of having a FCO with you at a meeting in a foreign country is that by having a U.S. government official at the meeting with you, potential local distributors or customers are often impressed since in the culture of many countries, having a government official with you is critical to closing a deal. And it is in the coordination between the domestic and foreign operations within one unified agency that makes this possible.

This ability to work with a unified domestic and foreign commercial service is critical for U.S. exporters. Previously, the foreign commercial service component was under the province of the State Department. As a result, commercial assistance to exporters in foreign countries was often spotty as commercial service functions gave way to other State Department objectives. The movement of the foreign commercial service function to the Commerce Department, and the creation of a unified commercial service having both foreign and domestic functions, was and is a win for U.S. exporters. Despite the calls by some to once again move the operations of the foreign commercial service function to the State Department–largely made for policy instead of customer service reasons–it is critical that if the most efficacious export assistance is to be provided to exporters that the U.S. Commercial Service remains a unified agency with both domestic and foreign operations under one roof and that such agency remain within the Department of Commerce.

The Dual Roles of the US&FCS and the SBA in Export Assistance

An important policy objective of federal government export assistance should be that there is one federal agency where exporters go for services such as trade counseling and export assistance. This helps to eliminate duplication, which is a waste of taxpayer dollars, and confusion on the part of the customer of these services, which is the American exporter.

At present, the US&FCS plays the primary role in trade counseling for exporters at the federal level. However, there is another agency, the Small Business Administration, that also engages in trade counseling. The SBA has an Office of International Trade which includes programs for export loans, STEP grant, and international trade counseling. The SBA export loan and STEP grant programs are not offered by the US&FCS and therefore do not duplicate any services provided by the US&FCS. (While it may be argued that the SBA export loan program is duplicative of the export loan programs of the U.S. Export-Import Bank, that is a discussion for another day.)

The issue at present is whether there should be two different federal agencies that offer international trade counseling programs. While the SBA international trade counseling program does not provide the broad expanse of services that is provided by the US&FCS, nevertheless there is a duplication of effort in the trade counseling programs of both the US&FCS and SBA that is unnecessary, wasteful and confusing.

The rationale often provided by both agencies for this dual effort is that each agency serves different customers, i.e. exporters. The argument is that the customers served by the SBA are and should be what are called "New to Export" exporters and that the customers served by the

US&FCS are and should be what are called “New to Market” exporters. This idea in simple terms is that the SBA will help those companies who are new to exporting and that the US&FCS will help those companies who are already exporting and want to expand their export markets. The key to this rationale is the distinction that is made between “New to Export” and “New to Market” exporters.

This distinction is a phony distinction that exists on paper or in one’s mind only, that does not work in the real world, and in fact is counterproductive to the objective of the services that are designed to be provided to exporters. As an initial comment, the SBA was created to serve small businesses. Therefore, this distinction between “New to Export” and “New to Market” exporters makes no sense from a small business perspective as not all “New to Export” exporters are in fact small businesses (a false assumption that is often made).

Secondly, and most importantly, this supposed line between “New to Export” and “New to Market” exporters does not in fact exist in the real world. What is a “New to Export” exporter? Is it a company that has never ever sold it products outside of the U.S. It is a company that only makes drop shipments to foreign eBay customers? It is a company that is an occasional exporter who only makes export sales in response to occasional foreign orders? Is it a company who has a well-developed product line of domestic sales who and who has a deliberate export strategy but has never actually had a single foreign sale? All of these companies might perhaps fall under this definition and, except for the first example cited, also arguably fall under the “New to Market” exporter definition. Also, what is a “New to Market” exporter? Is it also an occasional exporter who only makes export sales in response to occasional foreign orders but does not have a deliberate export strategy? Is it a company who has never exported but has a plan to export to several foreign markets? Again, these two examples arguably will fit under either the New to Export” or “New to Market” definition.

Finally, this distinction leads to confusion over where a company who desires some trade counseling should go as between these two agencies. While these definitions are only internally used, for the exporter they make no sense. Businesses don’t like to have to be bounced around in terms of where they go to seek government help. While it is very unlikely that either agency would refuse to provide trade counseling of some nature should the “wrong” company walk into their office, that only makes this point even more, that the trade counseling provided by these two agencies is duplicative in nature.

There is a much simpler way to define what the types of customers are that the SBA and US&FCS should serve and it is easy to understand–“Pre-Export” and “Export Ready”. This distinction is as follows. A “Pre-Export” customer is a situation where someone has decided that they want to start a business and needs some information and help on how to get started, how to write a business plan, how to set up a corporation or limited liability company, how to get access to venture capital, and the like. These types of questions are exactly what the SBA was designed for, to help would be entrepreneurs to start a business or to help small businesses improve their basic marketing and financial operations. Many of these small businesses will never become exporters because they do not have exportable goods or services (such as hair stylists and dry cleaners), or because they are content to serve local markets and have no compelling reason to look to foreign sales. For those small businesses who, however, will eventually become exporters, the SBA is able to help them to set up their businesses in the first place and to get off the ground. Then, when they have developed an exportable product, have some sustained cash flow, and have profitable operations in the U.S. domestic market, these businesses will then be “Export Ready” and they can be referred by the SBA to the US&FCS who can provide them assistance in beginning to export. Even for those entrepreneurs who deliberately plan to start a business for the purpose of exporting products, and therefore will not necessarily be engaging in a linear progression from domestic sales only to including foreign sales, this definition of “Pre-Export” and “Export Ready” still works as the SBA can provide counseling on the fundamentals of starting a business and the US&FCS can provide counseling on exporting.

This distinction would provide a far more rational way of doing international trade counseling by the federal government and would avoid a duplication of services. This distinction also eliminates the rationale for having two different federal agencies engage in international trade counseling and supports the argument, that is offered here, that there should be only one federal agency involved in providing international trade counseling, namely the US&FCS.

The rationale for the US&FCS being the exclusive federal agency for international trade counseling also is supported by the fact that while at present the SBA has a broad focus on both domestic and foreign business operations, the US&FCS’ only focus is on exporting. Further, the level of understanding of international trade is far superior in the US&FCS than it is in the SBA. Recently, the SBA has taken to providing training in international trade to its personnel that have never previously had such training whatsoever. The US&FCS, on the other hand, hires personnel who already have some knowledge and orientation to international trade–many of whom have exporting experience in the private sector–and provides ongoing training. In conclusion, as regards the role of US&FCS and the SBA in export assistance, the SBA should be limited to its export loan and STEP grant programs and the SBA international trade counseling program should be eliminated as unnecessary and duplicative of the international trade counseling program of the US&FCS.

US&FCS Capabilities and Resources

The US&FCS is, by its very nature, is the far most capable federal agency of providing U.S. small businesses export assistance This is due to its at present unified domestic and foreign components, its relationship with sister agencies within the ITA, and its core of personnel who have exporting experience in the private sector. This is not to state, however, that the US&FCS does not need to have better and more capable personnel. I have received many reports from exporters that they have received varying levels of service in Gold Key programs from foreign commercial service personnel. They attribute part of this problem to the use in foreign embassies of local citizens who may not have received much training. There is a need for continual training by the US&FCS of it personnel, both foreign and domestic. While I earlier mentioned that the US&FCS does engage in ongoing training, this needs to be strengthened. I have personally attended training sessions of US&FCS personnel and while this training has been very good, there needs to be more of it, a point in which US&FCS administrators agree.

If the US&FCS is to become the exclusive federal agency for international trade counseling, and if they are to ensure that their personnel receive the necessary training to provide high quality assistance to their customers, the American exporter, then the US&FCS will need additional resources both human and financial. Part of this issue can be resolved by transferring from the SBA budget to the ITA funds that were used by SBA for their international trade counseling programs. While at present the appropriations process does not appropriate funding specifically for the US&FCS (which, arguably, it should), at least by shifting funding from the SBA to the ITA, additional funds will freed up that the ITA will be able to use in its US&FCS operations.

Additionally, a legitimate concern that the US&FCS has had in supporting the rationale that it should focus on "New to Market" exporters has been that it does not have the resources, both human and financial to counsel "New to Export" exporters. A transfer of funding from the SBA to the ITA resulting from the elimination of the SBA international trade counseling program would help to alleviate this concern. While under the previously discussed categories of "Pre-Export" and "Export Ready" the US&FCS would refer new business startups to the SBA, those businesses of any size who are already in business and who are ready to export could be counseled by the US&FCS using the dollars that would have been used by the SBA for counseling "New to Export" businesses.

Finally, as I discussed earlier, and as indicated by the documents appended to my testimony, the amount spent on export assistance by the US&FCS should be increased. While there is no such thing, as is often contended inside the Beltway, as insignificant government spending (nowadays this amount is usually anything below one billion dollars), it is a fact that the return on investment for federal government spending on export assistance is higher than perhaps any other government program. If the federal government is going to engage in discretionary spending, as of course it will, it should prioritize that spending to fund those programs that provide the best return. A great deal of federal government spending provides little or no return for taxpayers or is better spend at the state level. Since the federal government is in the best position of government at any level to provide assistance to exporters, and since the return to the U.S. economy as a whole is substantial, then taxpayer dollars spent on federal government assistance to exporters is money well spent.

Role of State Governments in Export Assistance

In recent years state governments have begun to play a larger role in providing export assistance to U.S. exporters. Quite often this assistance is duplicative of that provided by the federal government. However, with our system of dual sovereignty, state governments have the right to provide this assistance and the federal government has no arguable basis to ban it, not that it would ever contemplate doing so. Therefore, unlike the situation presently existing where both the US&FCS and SBA provide duplicative services of international trade counseling, which duplication can and should be eliminated by the federal government, when it comes to state export assistance services which are duplicative, the proper model is coordination between the federal government and the states that provide export assistance. Proper coordination will help to eliminate duplication and can actually be beneficial for exporters in that state and federal resources can be combined in jointly providing certain types of export assistance. There is a need for stronger coordination so that the resources employed by both state and federal governments can be more effectively utilized.

I would like to offer, however, one caution in this regard, which is that Congress should avoid the temptation to think that it can merely offload certain types of export assistance, such as trade counseling, to the states and thereby reduce federal spending. This would be very problematic for several reasons. First, not every state has export assistance programs and under our system of government there is no way to force states to do so. Second, states lack the federal capability to work together with U.S. commercial service personnel overseas in the same way that the US&FCS does. Third, the level of expertise in international trade maintained by state governments is uneven and is below that of the federal government. For these reasons, the federal government should remain the lead governmental unit in the United States providing that assistance.

Organization of the Federal Government Trade Function

One final topic I would like to address that is tangentially related to the role of the federal government in export assistance is to very briefly discuss how the federal government trade function should be organized as well as to discuss a proposed plan by the Commerce Department to reorganize the ITA.

Federal Trade Function Reorganization

There have been in the last few years various proposals floated to create a unified single trade agency, the latest being the Administration's proposal to create a Department of Business. While the National District Export Council has not taken a formal position on this issue, as a general matter it is concerned that any reorganization that is done may perhaps negatively impact the trade position of the United States and also may perhaps negatively affect the export assistance that the federal government currently provides to American exporters. Any reorganization that is done needs to be carefully thought out and done not for political or budgetary reasons.

One possible alternative to a major reorganization that creates a single federal wide trade Department would be to merely combine all of the international trade functions of the Department of Commerce into a new Department of International Trade, yet leaving intact the USTR, the U.S. Export-Import Bank and other trade-related agencies outside of the Commerce Department as they presently exist. In essence, this would merely be a rationalization of the Commerce Department's present international trade functions, which now exist in several Commerce constituent agencies, and would create a Department that is focused singularly on trade rather than the multi-focus that the Commerce Department currently has. Historically, the Commerce Department has been an area where the federal government has placed agencies that it did not know what else to do with. As a result, perhaps more than any other federal department, the Commerce Department has a multitude of governmental functions. Spinning off its international trade functions all into one new Department would not create any new federal bureaucracy since those functions already exist in current Commerce Department agencies and would also avoid the cross-Departmental culture clash that the Department of Homeland Security has suffered. While this alternative would also need careful consideration, it is arguably a better one than combining all of the U.S. federal agencies that have anything to do with trade into one big new Department.

International Trade Administration Reorganization

Finally, the Commerce Department has informed Congress of its plan to reorganize the International Trade Administration. The National District Export Council has had numerous discussions with ITA officials about this reorganization plan. The National District Export Council is not per se opposed to this plan and thinks that many of its features are positive. One positive feature is that the goal of this plan to improve the integration of the market access and compliance functions currently administered by MAC with the export assistance functions currently administered by the US&FCS. If done properly, this would be an important improvement as it would benefit U.S. exporters by having a unified approach taken by the ITA in terms of assisting exporters both in finding new markets and customers and being able to actually get their goods into those new markets and into the hands of those new customers. At present, the operations of the US&FCS and MAC are not integrated and the intent of this plan to do so could prove beneficial as to the export assistance provided to exporters by the ITA.

One concern that the National District Export Council has it whether the plan will ensure that it actually increases the service provided to ITA customers, meaning American exporters. In particular, it wants the plan to ensure that the operations of the US&FCS continue to be customer focused and managed by the field as much as possible. There is always a natural tension in governmental services between the field and departmental headquarters for services that have a field component. The National District Export Council understands that such tension exists and also understand that finding the ideal middle ground between management by the field and management by headquarters is often very difficult. Nevertheless, on balance the field is closest to the customer and as any smart business knows, maintaining that closeness is critical to customer service. One way to help ensure that this would be the case is for this the appropriate Congressional committees that have oversight of this plan to seek the input of exporters as to the importance that such exporters place on the field operations of the US&FCS and how this plan might affect those operations.

IV. RECOMMENDATIONS

In summary, I would like to recommend the following be part of the small business trade agenda of the 113th Congress:

1. Congress should maintain an aggressive trade agenda that increases the number of trade agreements, both bi-lateral and multilateral, including the Trans-Pacific Partnership, a trade agreement with the European Union, and other new agreements;

2. Congress should require that new trade agreements have provisions, including enforcement mechanisms, that reduce or eliminate non-tariff trade barriers;

3. Congress should renew Trade Promotion Authority in order to expedite the passage of trade agreement to ensure that the United States is not falling behind other nation in entering into trade agreements and thereby putting its exporters at a competitive disadvantage.

4. Congress should maintain the unity of the United States commercial service function by

keeping the commercial service function’s domestic and international operations within one agency, namely the U.S. and Foreign Commercial Service within the Department of Commerce, and should not transfer either the domestic or international operations functions to another agency or department, thereby ensuring the survival and unity of both commercial service functional components;

5. Congress should eliminate the trade counseling program of the Small Business Administration and shift the funding for such program to the U.S. and Foreign Commercial Service, thereby eliminating the unnecessary and wasteful duplication of export assistance services;

6. Congress should increase the funding of the International Trade Administration, which will benefit the services provided to American exporters by both the U.S. and Foreign Commercial Service and the Market Access and Compliance unit;

7. The appropriate Congressional committees that have oversight of the International Trade Administration reorganization plan should seek the input of exporters as to the importance that such exporters place on the field operations of the US&FCS and how this plan might affect those operations;

8. To the extent that it is able, Congress should improve the coordination of federal and state resources that are being used by both federal government and state governments to provide export assistance to U.S. exporters;

9. Congress should enact reforms to the U.S. export control laws that simplifies both the administration by the federal government and the compliance by U.S. exporters of such export controls;

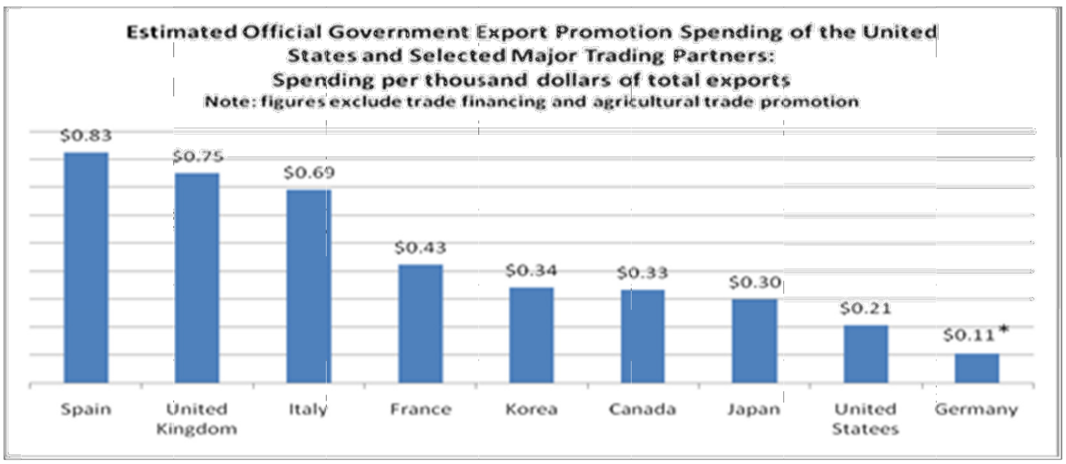
10. Congress should pursue regulatory, legislative and tax policies that reduce or eliminate the negative impacts that these policies have on U.S. small businesses, including small business exporters, and specifically those regulations, laws and taxes that affects their proclivity to manufacture goods in the U.S., that limits their access to loans and investment capital, and that limits their ability to reinvest their retained earning back into their business operations, all of which damages small business profitability and job creation and which diminishes economic growth in the United States and improvement in the U.S. international economic competitive position.

DISTRICT EXPORT COUNCIL
Working for America's Exporters

Foreign Competition and Trade Promotion Assistance

U.S. firms face stiff competition from foreign companies whose governments provide higher levels of direct and indirect support. Governments of our major trading partners outspend and out staff the United States on trade promotion. Examples:

- Canada's population and economy are one-tenth that of the United States'. Yet, Canada's Trade Commissioner Service is similar in size and budget to the U.S. Commercial Service.
- With an economy less than one-fifth the size of the United States, the United Kingdom outspends and out staffs the United States in absolute terms.



* Excludes substantial indirect support funded by mandatory fees. German firms are required by law to join a domestic chamber. Mandatory membership fees are used to support the German Chambers of Commerce Abroad. Additionally, the Association of German Trade Fairs organizes trade fairs abroad on behalf of the Government. Association funding comes from a fee levied on all exhibitors at German trade fairs.

Several competitor countries subsidize services to small companies, including participation on trade missions, in foreign trade shows, and to introduce SMEs to key markets. Highlights:

- The UK's Passport to Export program for SMEs provides free one-on-one mentoring, subsidized training, and a subsidized visit to an overseas market.
- Germany provides support to firms exhibiting in trade fairs abroad. 60 percent of all German firms participate in trade fairs; two thirds of which exhibit abroad.
- France's Trade Missions Overseas program provides up to $3,750 to SMEs and includes French pavilions at trade fairs, products and displays, and other trade promotions.
- The Netherlands and Australia have grant programs that pay (up to $110,000 in the Netherlands) for new exporters' market development costs.

www.districtexportcouncil.com

originally published 2008

Country Comparative Analysis

May 19, 2010

Country	United Kingdom (UK Trade and Investment)	Canada (Canadian Trade Commission)
Mission	Deliver maximum value for the UK economy and for business in an increasingly globalized and competitive world, and to market the UK as a springboard for global growth.	Works to expand the participation of Canadian business in world markets and to increase the interaction of Canadian entrepreneurs with global business partners; promotes Canada as a competitive location and partner for investment, innovation, and value-added production.
Key Programs	"Enquiry Service" (like the TIC) call center, Marketing, Public Web Presence knowledge center, Inward Investment, and Market Research; sector teams.	Going Global (a grant program that encourages the innovation, science and technology pillar of the Global Commerce Support Program), Increasing Free Trade Agreements, and Invest in Canada.
Key Services	Fiscal Compass Programme (helps UK companies access foreign major projects), Gateway to Global Growth (consulting service to help companies diversity into markets) Tradeshow Access Programme (grants for NTE or inexperienced exporters to exhibit at select trade shows), Olympic Legacy, Passport to Export (for new to export companies), Export Communications Review for SMEs, and Overseas Market Introduction Service (i.e. Gold Key).	Four core services: 1) export capacity 2) market potential 3) qualify contacts and 4) problem solving.
Funding (US$)	$507 million (2009-10), including $386 million for trade promotion programs and $121 million for investment programs.	$196 million (2008-09)
Number of Employees	2400 (2009-10)	900 (2008-9)
Number of Offices	98 countries; 165 cities worldwide; 12 Offices in the UK	150 offices across world, 23 offices in the U.S. and 18 Canada.
Priority Industries	Financial services, creative industries, life science, information/communication technologies, and energy technologies.	Determined by priority market.
Priority Markets	China, India, U.S., and emerging markets.	13- Brazil, Latin America/Caribbean, Mexico, U.S., ASEAN, Australia/New Zealand, China, India, Japan, Korea, Europe, Russia, and Gulf Cooperation Council (GCC).

Country	China (MOFCOM, CCPIT, CIPA)	Japan (Japan External Trade Organization)
Mission	Three organizations cover the Commercial Service portfolio: MOFCOM: market access, advocacy, major projects, CCPOIT: trade mission, trade shows, promotion, and CIPA: investment.	Assist SMEs both in Japan and overseas. Promote FDI into Japan. Promote cross-border business tie-ups in high tech and other key industry sectors, and ontribute to Japan's trade policies.
Key Programs	Uses "soft power" to leverage foreign purchases by state owned enterprises to win deals.	Venture Incubation Program: support for high-tech companies in the U.S.; Invest Japan Business Support Centers (IBSCs): FDI promotion; and Regional Industry Tie-up (RIT) Program: Partner building.
Key Services	Exhibitions, familiarization and orientation visits, matchmaking, investment promotion, advocacy, publications and outreach, and trade policy. CIPA on average sends 60 trade missions a year overseas and 2 a year in China to promote investment in China.	Counseling, trade & investment seminars, market research, trade fairs (support participation of SMEs in major trade fairs overseas), trade missions (dispatch trade missions to help SMEs connect with foreign buyers/business partners abroad), and trade policy/IPR protection.
Funding (US$)	CIPA's annual budget for investment promotion is 10,000,000 Yuan Renminbi (US$1,464,483)	$255 million (FY06)
Number of Employees	MOFCOM: 1,163 officers; CCPIT: 2,673 CIPA: 71.	1580 (FY10) (800 in Japan, 780 overseas including 600 trade specialists and 100 consultants).
Number of Offices	MOFCOM: 209 offices worldwide; CCPIT: 16 countries; CIPA: Budapest, Hungary, partners with 112 economic sections in overseas embassies.	Overseas: 54 countries, 71 cities Domestic: 36 cities
Priority Industries	Construction, manufacturing, re-exports/outward processing metals; raw materials (lumber); mining and oil processing machinery, clothing: IT; computers, machinery; and electronics.	Textiles, food, design; content, and machines/equipment and parts (sectors were determined based on requests from industry and producer organizations).
Priority Markets	Vietnam, Hong Kong/Macau, U.S., Australia, and Thailand.	U.S.

Country	Italy (Institute for Foreign Commerce [ICE])	Germany (Germany Trade & Invest [GTAI])
Mission	Trade Promotion	Trade Promotion
Key Programs	Counseling; customized market research, and tariff/customs research.	Seminars and events, pavilions at trade fairs, trade delegations, market research, export credit guarantees, and investment guarantees.
Key Services	Advice on trade contracts, labor and investment law, contact lists, partner lists, business meetings, background checks, and promotional events.	Counseling, trade fairs, visa services, recruiting, legal, customs, background checks, partner searches, business trips and events, advertising, office representation, education, and promotion.
Funding (US$)	2010: $225 million; plans $33 million for "Made in Italy" promotion	2010 Germany Ministry of Economics and Technology (BMWI) budget for export promotion $134.8 million. Federal annual budget for trade missions $1.7 million (50% for renewable energy) via consultants.
Number of Employees	690	approximately 2,700 (not including German Chambers of Commerce)
Number of Offices	117 offices in 87 countries; 17 offices in Italy	120 Foreign Chambers of Trade (AHKx) in 80 countries, German Federal Foreign Office has commercial service staff in 220 Germany embassies and consulates in 145 countries
Priority Industries	tbd	Aircraft, machinery, vehicles, plastics, optical/medical instruments, pharmaceuticals, mineral fuel, iron/steel products, furniture, and organic chemicals.
Priority Markets	tbd	France, Netherlands, US, UK, Italy, Austria, Belgium, China, Switzerland, and Poland.

Country	France (UBIFRANCE L'Agence française pour le développement international des entreprises [PAPEETE])	Spain (Spanish Ministry of Industry, Tourism and Commerce. Foreign Trade Institute [ICEX])
Mission	Trade and investment promotion.	Spanish Ministry of Industry, Tourism and Commerce (www.mityc.es) conducts international trade and promotion. The main instrument for commercial promotion is the Foreign Trade Institute (ICEX) (www.icex.es).
Key Programs	Programme France's "one stop shopping" helps with export promotion and export financing.	Trade mission, trade fairs, visits by potential buyers to Spain, promotion events and development of marketing materials.
Key Services	Counseling, matchmaking, marketing and PR services, and student programs.	Sector marketing plans, internship programs, marketing "Made in Spain" brand, regional authorities, and chambers of Commerce.
Funding (US$)	$160 million	tbd (Spain's efforts in U.S. for the "Made in Spain" program's 2009 budget is EUR 20 million (20,000,000 EUR = US$24,404,715) for 289 programs (trade mission, trade fairs, etc) for 1,500 Spanish companies. With a similar budget for 2010).
Number of Employees	1,500 (2010)	approximately 1,500
Number of Offices	64 offices in 44 countries	80 countries
Priority Industries	Wine, food, building, IT, bio tech, trade events, heavy industry, fashion, capital goods, energy, environment, and chemicals.	Agricultural products, consumer products, industrial products, services, and cultural industries.
Priority Markets	EU, US, China, Russia, UAE, Canada, Japan, Algeria, Morocco, and Brazil.	Brazil, China, Russia, Mexico, US, India, Algeria, Morocco, Japan, South Korea, and Gulf States.

Country	**Brazil (Agência de Promoção de Exportações (APEX])**
Mission	Promote the export of products and services, help increase the exports of Brazilian businesses, and attract foreign investment. Works to increase the number of exporting businesses, add value to the portfolio of exported products, consolidate the country's presence in traditional markets and open new markets abroad for national products and services. Provides assistance to businesses of all sizes at any stage of exporting maturity, ranging from non-exporting enterprises to advanced. Promote foreign direct investment.
Key Programs	Integrated Sectorial Projects (PSIs) – carried out through partnership between Apex-Brasil and associations representing sectors of the Brazilian economy for trade promotion programs. Operating in 70 sectors of the Brazilian economy. Multi-sector fairs: focuses on exporting companies that are not strictly associated with PSIs. Multi-sector fairs are EXPOCOMER (Panama), FILDA (Angola), FIHAV (Cuba), ANUGA (Germany) and SIAL (France). Buyer Program promotes meetings in Brazil, between Brazilian businesses and foreign clients in specific sectors and markets, and match-making. Trade Mission: promotes missions and prospective visits abroad. Provides support system for companies, workshops, visits to trade centers, retail chains, trade associations, and Chambers of Commerce. Trading Companies Program: Brings companies onto the international market, through export and trading companies, promotes business meetings between representatives and international buyers.
Key Services	Country profiles; product group profiles; opportunity studies; local market studies; Apex-Brasil Internationalization and Market Workshops; Importer Lists; Trade Intelligence Capacity Building; Trade Intelligence Consultancy; and Exporter Qualification.
Funding (US$)	R$250 million (250,000,000 Brazil Reais = US$137,333,878)
Number of Employees	250
Number of Offices	Business Centers (CNs) in Miami (USA), Dubai (UAE), Warsaw (Poland), Beijing (China), Havana (Cuba) and Moscow (Russia). Opening office in Angola in 2010
Priority Industries	Operates in 79 sectors of the Brazilian economy. Support provided to more than 7,000 business companies in all regions of Brazil.
Priority Markets	USA, UAE, Cuba, Poland, China, Angola. Developed by sector priority. Annually conducts over 200 studies on markets and sectors.