Remarks by Under Secretary Francisco Sánchez
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Thank you very much, Bart (Legum), for that kind introduction. And congratulations on becoming the 69th Chair of ABA’s Section of International Law. I know you’ll serve with the same distinction that has defined your career.

And of course, I want to thank all of you with the Section. You have done great work to, as your motto says: “advance the rule of law around the world.” You have gathered here to address important issues, from corruption, to compliance, to regulations. And I greatly appreciate this chance to lend my voice to the conversation.

At the outset, let me stress that in many ways, this feels like a homecoming. I am a native Floridian. I was born and raised in this state. And I got both my bachelor’s degree and law degree at Florida State University. And in the late 1980’s, after some time working for then Governor Bob Graham, I entered private practice at one of the most prestigious law firms here in Miami.

It was a great time in my life. And it was incredibly rewarding to be a part of this vibrant legal community. However, after six years, I decided to leave. My parents thought I was crazy for two reasons. One, I decided to leave just a few months before making partner.

Number two — if that wasn’t bad enough — I left to go to the Kennedy School of Government because I knew that at some point I wanted to pursue public service at the federal level. And the only people more unpopular than lawyers are government officials. So again, my parents thought I was crazy.

That said, it’s an extraordinary privilege to serve as President Obama’s Under Secretary for International Trade. Every day, I am focused on enhancing the competitiveness of American companies, while strengthening economic ties between the United States and our global partners. And as I go about this work, I fully appreciate how important your profession is in expanding the channels of trade and investment.

Your work to advance the rule of law reduces risk and increases predictability. And it helps ensure free and fair trade. That’s why there is a great need for your talents, especially in this day and age. The 21st century global economy is changing all the rules of the game.

We are operating in an increasingly connected world. And to borrow a few lines from President Obama: “the prosperity we enjoy as a Nation of laws increasingly depends on preserving the rights and liberties, not just in our own country, but also in other nations”. And “in an
increasingly interconnected world … legal issues of intellectual property … and business transactions affect us all.”

So the rule of law is critical to the world’s development. And to support this development, the Commerce Department is firmly committed to liberalizing trade of U.S. legal services so that all global markets have access to our nation’s great legal minds.

We view this as a priority for a number of reasons. From our vantage point, the U.S. legal profession is a backbone of trade. When U.S. firms operate overseas, they want their lawyers in the market with them, especially those who are knowledgeable about their business, and with whom they have trusted relationships.

So trusted legal counsel is critical in helping U.S. companies export their products and services. And this goal is aligned with President Obama’s National Export Initiative. Launched in 2010, the goal is to double U.S. exports by the end of 2014, and we are having great success.

Last year alone, U.S. exports reached a record $2.1 trillion in value, supporting nearly 10 million jobs. This year, we are again on record pace. Again, the legal industry has played a big role in this success, helping American businesses operate in the global markets. And in 2010 — the latest data available — the industry itself exported $7.3 billion in legal services.

So liberalizing trade of U.S. legal services is good for our economy here in America. It’s also good for our partners around the world. America’s professionals can help others shape a legal system that gives businesses their best chance to flourish. So exporting legal services is a win for all parties. And at the Commerce Department, we want to ensure that the international markets are fair and open for these services.

We know from firsthand experience how these conditions benefit our operations. Here in the U.S., we’ve benefited by allowing non-citizen lawyers to practice both home-country and international law with certain provisions. This brings different perspectives to our system, helping us compete in the global economy.

Unfortunately, some of our international friends have yet to come around to the same view. Many countries have restrictions on the ability of foreign lawyers to provide legal services, often forcing companies to hire domestic lawyers who may not have the expertise needed for international transactions. And this is a terrible formula for global growth.

Please allow me to give three quick examples of the challenges we see. Right now in India, foreign lawyers cannot open offices in India, appear in Indian courts, or provide advice related to Indian law.

In Brazil, the market is currently open to U.S. law firms who have existing partnerships with Brazilian entities. However, a proposed administrative rule threatens these partnerships by prohibiting associations between Brazilian and foreign lawyers or law firms.
This proposed regulation would apply retroactively to existing arrangements between Brazilian
and international firms. In other words, foreign-qualified lawyers wouldn’t even be able to
affiliate with Brazilian law firms. The new regulation is currently under consideration by Brazil’s
federal bar association.

And in China, foreign lawyers are prohibited from sitting for the bar in China or practicing
Chinese domestic law. Instead, they are restricted to practicing the law of their home country
and international law. These and other restrictions, collectively, require foreign companies
seeking legal counsel on domestic Chinese legal matters to hire Chinese law firms.

Again, these barriers are bad for global growth. When competition is unfair, we all lose. That’s
because it means that good ideas and quality talent are shut out. That’s why the Commerce
Department is firmly committed to working with partners to eliminate these trade barriers.

In these three instances, we are proactively engaging our government counterparts to champion
common sense reforms. And in the larger picture, we have a multi-pronged strategy that also
includes trade negotiations, assistance to firms, and trade promotion activities, including trade
missions.

Please allow me to highlight a few of the major initiatives we’re involved with to address
barriers to trade in professional services. One is the Trans Pacific Partnership. As many of you
know, it’s an ambitious, high-standard trade agreement for doing business in the Asia-Pacific.

It seeks to address new and emerging trade issues and 21st-century challenges. Working with
our colleagues at the Office of the United States Trade Representative, we are addressing
traditional trade issues involving:

- goods and services;
- rules on intellectual property; and
- technical barriers to trade.

In our discussions with nine Pacific trading partners, now including Canada and Mexico, we
have identified broad market access goals to increase the opportunities available to US
professionals in these markets.

Basically, we are fighting for fairness. We want U.S. firms to receive the same treatment that a
domestic firm would receive in that market so that decisions are based on what a firm can do, not
who they are, or where they’re from.

In addition to the TPP, we are also participating in discussions going on in Geneva centered on a
potential International Services Agreement. We now have 19 countries actively involved in
these discussions, which would encompass all service sectors and modes of supply.

For legal and other professional services, the potential ISA would reflect the highest levels of
liberalization in each sector. So there is great potential for increased cooperation and progress.
And we look forward to making the most of it.
In addition to formal trade negotiations, we are also involved in several bilateral discussions such as:

- the U.S.-China Joint Commission on Commerce and Trade;
- the U.S.-Brazil Commercial Dialogue
- and the U.S. India High Tech Cooperation Group.

And I want to assure you that with everything we do, we don’t just talk about the problems. We take action to solve them, and make an impact on the ground. Case in point: the U.S.-Korea Trade Agreement that went into effect earlier this year.

Under the terms of the Agreement, U.S. law firms are now permitted to open offices in Korea. Over a dozen U.S. law firms have applied to open offices in Korea, and at least two have already done so as of August of this year.

By 2014, the Trade Agreement will also allow U.S. Foreign Legal Consultant offices to enter into cooperative agreements with Korean law firms. As a result, they’ll be able to jointly deal with cases where domestic and foreign legal issues are mixed. And by 2017 — they will be allowed to establish joint ventures with local firms and hire Korean-licensed lawyers.

So we’re making an impact through policy. We’re also looking to make an impact through trade promotion. We are in the process of evaluating interest from the legal community in a trade mission to China.

The purpose of the mission would be:

- to introduce U.S. law firms without a presence in China to the Chinese market;
- to introduce U.S. law firms that already have a presence to additional cities where they might establish a new office, or enter into business relationships with local law firms; and
- to further on-going dialogue with Chinese authorities on opening the Chinese legal services market to expanded practice by U.S. firms.

I’d love to hear your thoughts about such an endeavor. I also want to work with all of you to help shape a freer and fairer trade environment.

As I said earlier, in this global economy, the world is more connected than ever before. What happens in one area of the world impacts other areas. So we must spread the rule of law across the globe because it’s essential to economic growth. As part of this effort, the Commerce Department is working to liberalize U.S. legal services. This will benefit our own economy because U.S. exports are good for jobs. And it will benefit our international friends because they’ll have access to our great legal minds.

A lot of progress has occurred in this effort, yet there is still a long way to go. And to take additional steps forward, we know that we have to work with you. So I look forward to working with ABA far into the future.
Together, we can continue to expand the channels to trade and investment. Together, we can strengthen the global economy. And together, we can ensure that the future is defined by those timeless values of opportunity, diversity, community and fairness.

Once again, my thanks to ABA’s Section of International Law for inviting me to be a part of this fall meeting. Please enjoy the rest of the conference.