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Introduction

Good morning. Senator Cardin, Ranking Member Barrasso, and distinguished Members of the Committee, I thank you for the opportunity to testify this morning. I applaud your leadership in holding this hearing on tax treaties.

My name is Nancy McLernon and I am President and CEO of the Organization for International Investment (OFII). OFII is a business association exclusively comprised of U.S. subsidiaries of foreign companies. Our mission is to ensure that the United States remains the most attractive location for global investment. As such, we advocate for non-discriminatory treatment in U.S. law and regulation for these firms and the millions of Americans they employ.

Overview

OFII and its member companies strongly support expansion and updating of our nation's tax treaty network. These bilateral agreements provide a reliable tax environment for companies doing business in several jurisdictions. Tax treaties prevent double taxation and provide important sharing of information between governments to ensure appropriate taxes are paid. Although many proponents focus on how tax treaties impact home-grown companies, they are also extremely important in promoting a competitive environment for foreign investment in the United States.

Foreign Direct Investment Important to U.S. Economy

Foreign direct investment is a catalyst for economic growth that fuels American manufacturing, innovation, trade, and overall job creation.

U.S. subsidiaries employ 5.6 million workers in the United States, including 17 percent of the U.S. manufacturing workforce, and account for 6.3 percent of private sector GDP. In addition, these companies engage in high levels of research and development, make extensive capital investments in new facilities and equipment, and produce a large share of U.S. exports to markets abroad. In a recent study, we found that insourcing companies outperformed the private sector average across a number of key economic indicators over the past decade. For example, U.S. subsidiaries increased research and development funding at double the rate and their contributions to U.S. GDP increased by over 25 percent, nearly double the private sector's 14 percent increase.

In every state and every industry sector, U.S. subsidiaries of global companies are important players in providing high-quality jobs and much-needed investment. Recent examples include: Denmark-based Novo Nordisk's $225 million redevelopment project and new headquarters opening in New Jersey; Sweden-based Electrolux's announcement to add 650 jobs at their plant in Tennessee within the next few years; British-based Balfour Beatty's new office in Baltimore

and over $1.9 billion spent on construction projects in the state of Maryland; and Belgium-based Solvay's Soda Ash plant expansion in Wyoming to increase production by 12 percent.

As a business community, these insourcing companies generate precisely the types of high-value jobs and economic activities policymakers are working to bring to their states.

However, competition to attract and retain global investment has never been stronger, providing companies with an unprecedented array of options when looking to expand into new markets around the world. Over the last decade, the United States has seen its share of global investment dramatically decline, from roughly 37 percent in 2000 to just over 17 percent in 2012. This is why it is critically important for the United States to implement policies that make the United States more attractive for global companies to invest.

Tax Treaties Encourage Increased Foreign Direct Investment in the United States

Tax treaties, while not as prominent as bilateral trade agreements, play an essential role in encouraging greater foreign direct investment in the U.S. economy. This can be seen by the growth in investment flows from our treaty partners. For example, since the Protocol to the French Income Tax Treaty was ratified at the end of 2009, we have seen a 144 percent increase in FDI flows from France. In fact, French investment increased sevenfold between 2011 and 2012, reaching nearly $22 billion.

The reason for this is simple. When companies operate in multiple tax jurisdictions, situations can occur where two countries *both* try to tax a single item of earned income that moves across borders. One country may tax the income because the corporation is a resident in that country, while the other country may tax the income because the activity generating the income occurred within its borders. This double taxation can be a clear barrier to foreign direct investment.

Tax treaties help ensure that businesses are not taxed twice on the same income while accounting for concerns of tax avoidance. This is done, in part, by reducing or eliminating withholding taxes on cross border income flows between affiliated companies. By ensuring that common business expenses like royalty and interest payments are not subject to double taxation, tax treaties allow insourcing companies to invest more in the very business activities that drive economic growth, like expanding operations, purchasing new equipment, hiring more U.S. workers, and selling trademarked or licensed goods.

In addition, tax treaties promote information sharing between governments and lay the foundation for cooperative efforts between tax authorities to better administer and enforce tax laws. This too creates a more conducive environment for foreign direct investment as it provides companies with greater certainty on the application of tax rules.

In these and other ways, the U.S. network of more than sixty bilateral income tax treaties plays a significant role in providing certainty to cross-border businesses while advancing the economic interests of the United States in the global economy.

Likewise, the pending bilateral treaties and protocols before the Committee today contain pro-investment measures and will help coordinate and enforce tax administration with important economic partners.

Specifics on Pending Protocols & Tax Treaties:
Switzerland, Luxembourg, Hungary & Chile

The protocols with Switzerland and Luxembourg modernize outdated information exchange capabilities between nations, which is critical to resolving cross border investigations, protecting the integrity and fairness of the global tax system and improving the legal and regulatory climates for multinational firms. This will provide greater certainty to companies based in countries that rank as the sixth and seventh largest investors into the United States in developing their near- and medium-term investment plans. That certainty will benefit not only the companies, but their employees and the communities in which they are located as well.

Switzerland and Luxembourg based companies have infused billions of dollars and hired thousands of United States workers for decades. For example, Zurich Insurance Group recently celebrated 100 years in the state of Illinois and Nestle USA has been an insourcing company for over 110 years. Overall, foreign direct investment from Switzerland and Luxembourg stands at $204 billion and $202 billion respectively through the end of 2012. Swiss-based firms alone provide 446,300 American jobs. Collectively, these countries account for nearly nine percent of all direct jobs from global investment in the United States.

Hungarian based companies are also significant investors in the U.S. market, with cumulative investment totaling over $20 billion. Hungary ranked in the top ten investing countries for the United States for 2012.

The proposed treaty with Chile would be an important milestone as only the second tax treaty with a South American country. By reducing withholding taxes, this treaty could encourage greater investment from an important economic ally as well as providing greater protection to U.S. companies operating in that market.

Prompt Consideration Sends an Important Signal to the Business Community and Trading Partners and Gives U.S. Negotiators Greater Credibility

It is important to note that failure to act on these agreements in an expeditious manner has a number of negative consequences. The failure of the Senate to ratify many of these agreements in the past few years has slowed the progress on tax treaties with other countries and sends a message to the international community that the United States is not committed to maintaining these important adjuncts to international commerce.

The proposed treaties we are discussing today are not the only tax treaties that have been signed and are awaiting Senate ratification. Last year, the United States signed tax treaties or protocols with Japan, Poland, and Spain. In addition to that, the United States is negotiating with the United Kingdom and Vietnam. These are significant markets for the United States, considering that British and Japanese companies have invested $795 billion combined in the United States, making them the top two investing countries by cumulative stock.

The lingering ratification process also scares away potential new investment from firms, based in proposed treaty countries, which are evaluating investment locations around the world and making long-term strategic plans. It is difficult for these businesses to commit to U.S. investments unless they are confident a treaty will promptly come into force.

Conclusion

In closing, bilateral tax treaties and protocols encourage the flow of cross-border investment and economic activity.

The United States needs to restore life back into our tax treaty network. It needs to send a message to our negotiating partners and businesses around the world that the United States takes these treaties seriously and wants to encourage greater levels of foreign direct investment and the jobs it generates.

Approving the Protocols with Switzerland and Luxembourg and the Conventions with Chile and Hungary will accomplish these important goals.