

U.S. Trade Representative Says Congress May Consider Free Trade Pacts Next Month

Job creation via congressional approval of the pending free trade agreements (FTAs) was the hot topic at an agricultural roundtable led by U.S. Trade Representative (USTR) Ron Kirk recently at Blue Diamond Growers headquarters in Sacramento.

The audience included Susanne Stirling, vice president of international affairs for the California Chamber of Commerce, and Blue Diamond President and CEO Mark Jansen, a member of the CalChamber Board of Directors.

According to Ambassador Kirk, Congress is expected to consider approving the FTAs with South Korea, Colombia and Panama when it reconvenes in September, actions that would greatly increase U.S. exporters' ability to compete in the global marketplace.

Flanked by California Department of Food and Agriculture Secretary Karen Ross, USTR Chief Agricultural Negotiator Issi Siddiqui and Jansen, Ambassador Kirk commended California's agricultural organizations for making the state the largest exporter of agricultural goods in the nation.

"Every billion dollars in agriculture exports supports almost 8,500 jobs, on the farm and on production lines," Ambassador Kirk said.

Disconnect

Although the benefits of free trade are clear to organizations such as Blue Diamond Growers, a longtime CalChamber member, there is a disconnect between the importance of free trade and the general public, according to Ambassador Kirk.

"A conversation with agricultural representatives who strongly support trade agreements in Sacramento is much different than in cities such as Detroit or Pittsburgh, where people have come to believe that the reason that factories are shutting down is due to trade," he explained.

Ambassador Kirk urged participants at the round table to educate their friends and neighbors on the positive impact that trade agreements and exports bring to local communities.



Photo Courtesy Blue Diamond Growers

Ambassador Ron Kirk, U.S. trade representative, discusses pending trade agreements with agricultural roundtable participants. Seated from left: Karen Ross, secretary, California Department of Food and Agriculture; Blue Diamond President and CEO Mark Jansen; and Chief Agricultural Negotiator Issi Siddiqui, Office of the U.S. Trade Representative.

"We need to do everything we can right now and double down to help deliver one message—exports, particularly farm exports, help keep America strong and help us create jobs," said Ambassador Kirk. "We need to get beyond the anxiety and anger Americans have when you mention free trade issues."

"The most compelling argument to make to our friends and neighbors is that 95 percent of our customers are somewhere else now and we don't want to create a world in which American growers, manufacturers, entrepreneurs, farmers and ranchers are cut off from all those consumers ... This is great for California and we have to make sure that America knows that this is also good for America."

Market Access

With almonds being California's largest food export, valued at \$2 billion, and the sixth largest food export in the United States, Blue Diamond almond growers will gain needed market access when the FTAs pass Congress. Blue

Diamond is a cooperative owned by more than half of California's almond growers. Seventy percent of the almond crop is exported to 95 countries.

A record 1.95 billion-pound crop was estimated to be produced in California as growers began delivering the new crop in mid-August. California grows more than 80 percent of the world's almond supply. Worldwide consumption of almonds has grown every year since 2005 at an average annual growth rate of 10%.

Within five years of the removal of the 21% shelled duty, 45% inshell duty and the 5% duty on processed almonds, sales to South Korea could increase 40% to \$100 million.

At the level of 70% duty on almonds in Colombia, within five years of the duty's removal, sales to Colombia could be \$2.5 million.

Although the duty in Panama is 2% on shelled and inshell almonds and 15% on processed almonds, the same level of sales predicted for Colombia could also be achieved.

Senate Fiscal Committee Passes Job Killer Mandate

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- hires the majority of its predecessor's employees; and
- is generally in the same business, must recognize the incumbent union and bargain with it in good faith.

Since AB 350 mandates that subsequent employers hire the predecessor's employees, it would allow the incumbent union to demand recognition of its status as the bargaining representative. CalChamber believes the decision of whether to have a union in the workplace should be left to the employers and employees, after following the proper procedures outlined by the National Labor Relations Act. Neither party should be forced into such a relationship.

Unemployment Rate Unaffected

AB 350 also will not reduce the current unemployment rate in California. Because AB 350 mandates that a subsequent contractor of property services must hire all the prior contractor's employees, the subsequent contractor will be forced to either:

- displace its existing workforce to take on the new employees; or
- eliminate positions it would have opened to new applicants in the industry, as those positions will be filled by the prior contractor's employees.

Accordingly, AB 350 does not create any additional jobs.

AB 350 also does not provide general stability for employees in this industry.

Rather, it provides stability only for those limited employees of the prior contractor. Existing employees of the subsequent contractor or other property service employees who would have received a job with the subsequent contractor, will face instability as a result of AB 350. Accordingly, AB 350 creates winners and losers amongst employees in the property services industry, something in which the government should not engage.

Eliminates Background Checks

Given that AB 350 essentially mandates a subsequent contractor to hire the prior contractor's employees, AB 350 also precludes the subsequent contractor/ employer from conducting any pre-hiring background checks or interviews to determine if the employees of the prior contractor/employer are individuals who meet the unique and specific criteria of the subsequent employer. As such, AB 350 basically eliminates any distinction from one contractor to the next regarding the type of workforce that contractor can deliver, thereby minimizing competition amongst contractors. In addition, by limiting a subsequent employer's ability to properly conduct background checks of potential employees, AB 350 is setting up these subsequent employers for potential negligent hiring litigation.

Alters At-Will Presumption

Under AB 350, once employees of the

prior contractor are hired, the subsequent employer is restricted from terminating them for 60 days, unless there is "cause." In California, it is presumed that the employment relationship is at-will, unless the employer and employee have agreed otherwise. AB 350 alters that presumption, and provides these employees with a significantly higher protection from termination. After 60 days, an employer must offer continued employment to these individuals, unless the employer can identify objective incidents of unsatisfactory performance. Accordingly, these employees of the prior contractor are basically guaranteed continued employment as well as priority over any other employees in the industry.

Key Vote

AB 350 passed Senate Appropriations on August 22, 5-3.

Ayes: Alquist (D-Santa Clara), Kehoe (D-San Diego), Lieu (D-Torrance), Price (D-Los Angeles), Steinberg (D-Sacramento).

Noes: Emmerson (R-Hemet), Runner (R-Antelope Valley), Walters (R-Laguna Nigel).

No Vote Recorded: Pavley (D-Agoura Hills).

The bill will be considered next by the entire Senate.

Staff Contact: Jennifer Barrera

CalChamber-Sponsored Seminars/Trade Shows

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International Trade

9/11 Commemoration. World Trade Center. September 8, San Diego. (619) 215-9966.

Research and Development Tax Credit Webinar. Center for International Trade Development, El Camino College. September 13, Web. (310) 973-3175.

International Investment Forum. Sevastopol Institute of Banking of the Ukrainian Academy of Banking of the National Bank of Ukraine. September 16-17.

Trade Mission to South Africa. U.S. Chamber of Commerce. September 19-23, South Africa. (202) 482-5496.

Cargo Loss: Natural Disasters and Piracy Theft. Women in International Trade. September 21, Long Beach. (800) 514-6407.

International Trade Finance Workshop. Center for International Trade Development. September 23, Sacramento. (916) 563-3200.

Introduction to Global Exporting. California Manufacturing Technology Consulting. October 5, Torrance. (310) 263-3060.

Labor Law

Determining Independent Contractor Status. CalChamber. September 8, Webinar; September 19, On Demand. (800) 331-8877.

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Jobs Connection

Up to 30,000 jobs are generated by trade related to almond exports. The estimated \$2 billion in income generated by California almond exports is returned to local almond growers. This income helps to stimulate jobs and the economy in local California communities.

Before the roundtable, Ambassadors Kirk and Siddiqui and Secretary Ross toured Blue Diamond's Sacramento plant, the world's largest almond processing facility.

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