October 21, 2011

The Honorable Michael Punke
Ambassador Deputy U.S. Trade Representative and Permanent Representative to the WTO
Permanent Mission of the United States of America
11 Route de Pregny 1292 Geneva

Dear Ambassador Punke:

As it becomes increasingly clear that the Doha round of WTO negotiations remain at an impasse, many questions are being raised about what is appropriate for the agenda of the upcoming WTO Ministerial Conference in December. Given that many of us worked tirelessly on the major financial reform package promoted by the Obama administration last year, we, the undersigned organizations, are concerned about how current and any future expanded financial liberalization under the current WTO rules may affect financial reregulation efforts here at home and in other countries. Therefore, we believe it would be appropriate, now that sufficient time has passed from the height of the financial crisis, for the Ministers meeting at the WTO's December 2011 Ministerial Conference to instruct the Council on Trade in Services and the Committee on Trade in Financial Services to conduct a thorough review of WTO rules implicating financial services in light of the crisis.

In the aftermath of the global financial crisis, governments around the world as well as an unprecedented array of scholars have called for improved domestic and international-level financial regulation as a means to avoid future crises and restore global financial stability. For these measures to succeed, it is critical that the policies of the various international economic bodies are coherent.

The G-20 and IMF have issued proposals for international regulatory improvements. The review we propose would be helpful to study how the current WTO rules relate to these reforms. As you know, numerous government officials, leading economists, financial experts and trade lawyers are concerned that some WTO rules could undermine signatory countries' financial regulations and limit their policy space for improvements.

These experts note, for instance, that the provisions of the WTO's General Agreement on Trade in Services (GATS) prohibit commonly recommended financial policies, including capital controls and other capital management mechanisms, bans on risky financial services, size limits on banks, and "firewalls" between banking and investment services. As a young Treasury Department official in 1990, now-Treasury Secretary Timothy Geithner authored a memorandum highlighting many of the ways in which these rules could conflict with U.S. domestic financial regulation. Indeed, the United States promised in its WTO schedule of services commitments to "reform" the Glass-Steagall Act, which established a firewall between investment and banking services. Earlier this year, WTO signatory Barbados tabled a paper at WTO, which calls into question the WTO compatibility of various measures under the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, including measures to control the size of "too big to fail" banks.

The United Nations Commission of Experts on International Financial and Monetary Reforms, chaired by Nobel-prize winning economist Joseph Stiglitz and comprised of a host of distinguished academics, including former finance ministers and central bank heads from around the world, issued this warning in the aftermath of the global financial crisis: “Agreements that restrict a country’s ability to revise its regulatory regime—including not only domestic prudential but, crucially, capital account regulations—obviously have to be altered, in light of what has been learned about deficiencies in this crisis. In particular, there is concern that existing agreements under the WTO’s Financial Services Agreement might, were they enforced, impede countries from revising their regulatory structures in ways that would promote growth, equity, and stability.” The 2011 UNCTAD Trade and Development Report, released this fall, includes similar concerns.

The United States and much of the world are still reeling from the 2008 global financial crisis, which has created the greatest unemployment crisis in the United States in decades. In various fora – from national legislatures to the G-20 to the UN – governments have promoted reregulation of the financial sector. We understand that a group of WTO member countries are advancing a proposal in the Committee on Trade in Financial Services for inclusion of a rather modest paragraph in the Declaration for the pending 8th Ministerial Conference. This paragraph calls on the Committee on Trade in Financial Services to review WTO rules on financial services in light of the crisis to promote and ensure sufficient policy space for macroprudential regulation. It is precisely because there are differing opinions as to whether current WTO rules provide sufficient policy space that members should engage in this timely conversation. **We strongly urge the Obama administration to support this smart proposal, both within the Committee and in the General Council.**

We look forward to hearing from you and to learning about how the Obama administration can work at the WTO to promote its goal of enhanced financial stability through improved regulation. Supporting the proposal at the 8th Ministerial Conference for a forward workplan at WTO that includes review of the WTO rules for trade in financial services to ensure their compatibility with the global consensus for improved regulation would be an important first step.

To be in touch with any of the letter signatories, please contact Lori Wallach at Public Citizen (202-454-5107).

Sincerely,

AFL-CIO
Americans for Financial Reform
Citizens Trade Campaign
Consumer Watchdog
Public Citizen
U.S. Public Interest Research Group (PIRG)

Cc: United States Trade Representative Ron Kirk; U.S. Treasury Secretary Timothy Geithner; The Honorable Michael Froman, Deputy Assistant to the President and Deputy National Security Advisor for International Economic Affairs