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**CROWELL & MORING'S TED POSNER TESTIFIES BEFORE HOUSE COMMITTEE ON
WAYS AND MEANS, SUBCOMMITTEE ON TRADE**
*Former Director for International Trade and Investment at the National Security Council
Speaks on Investment Protections in U.S. Trade and Investment Agreements*

Washington, D.C. – May 14, 2009: Theodore R. Posner, partner in Crowell & Moring LLP's International Trade and International Dispute Resolution groups, testified today before the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Trade on investment obligations in U.S. bilateral investment treaties (BITs) and free trade agreements (FTAs) at a hearing titled, "Investment Protections in U.S. Trade and Investment Agreements."

In its Trade Policy Agenda, the Obama Administration recently announced that it would "review the implementation of our FTAs and BITs to ensure that they advance the public interest." The Congress will play an important part in that review.

Today's hearing examined some of the key issues, including how to identify the appropriate balance between protecting U.S. investors overseas and protecting the interests of the United States as a host to investment from other countries.

Posner, the former director for international trade and investment at the National Security Council (NSC), focused on the following three themes in his testimony:

- 1.) Investment protections in BITs and FTAs, together with the availability of a neutral forum in which to assert those protections, provide an essential set of rights to U.S. persons doing business in a globalized economy.
- 2.) The appropriate balance between protecting the interests of U.S. investors abroad and protecting the ability of Federal, State and local governments to regulate in the public interest at home was struck in the Trade Act of 2002, and that balance should not be disrupted.
- 3.) A productive debate on the future of U.S. investment policy needs to avoid certain popular misconceptions about how BITs and FTAs constrain U.S. regulators.

“On the whole, protections in BITs and FTAs have provided a significant degree of legal certainty that has facilitated investment and economic growth. At the same time, those protections have been crafted in a way that takes due consideration of U.S. interests as a host to foreign investors,” Posner said. “It is my hope that participants in the review of current policy will recognize these facts, and that the Administration and the Congress will continue to be strong supporters of BIT- and FTA-based investment protections.”

Posner's career has included over a decade of work on international trade and investment law and policy matters in the House of Representatives, the Senate, the Office of the U.S. Trade Representative (USTR), and the NSC. As international trade counsel to the Senate Finance Committee, he was instrumental in drafting and securing passage of the investment-related provisions of the Bipartisan Trade Promotion Authority Act of 2002, the legislation that framed U.S. trade policy for most of the past decade. In addition, as an attorney in the Office of the U.S. Trade Representative, Posner participated in most of those negotiations, as well as the 2004 revision of the U.S. Model Bilateral Investment Treaty.

Other witnesses at the hearing included Thea M. Lee, Policy Director and Chief International Economist, AFL-CIO; Ambassador Alan P. Larson, Senior International Policy Advisor, Covington & Burling LLP; Robert K. Stumberg, Professor of Law and Director of Harrison Institute for Public Law, Georgetown University Law Center; and Linda Menghetti, Vice President, Emergency Committee for American Trade.

For a copy of Posner's testimony, click here: <http://www.crowell.com/PDF/Testimony-of-Ted-Posner-Investment-Protections-in-US-Trade.pdf>.

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