Statement of Stephen D. Snoke,
Executive Vice President and General Counsel,
Hitachi High Technologies America, Inc.

My name is Stephen Snoke. I am Executive Vice President and General Counsel of Hitachi High Technologies America, Inc. On behalf of our company, I am pleased to share with you today our comments regarding the APA program. I will speak briefly about our company, our experience with the APA program, the reasons for our continued support of it, and our views about how the program can be improved. After my comments, Alan Granwell of Ivins, Phillips & Barker, who, along with Robert Cole of Alston & Bird, has represented the company in the APA program, will offer comments and recommendations regarding the APA program during the balance of our time.

Hitachi High Technologies America, a domestic corporation, is an indirectly controlled subsidiary of Hitachi, Ltd., a Japanese corporation, whose stock is publicly traded on numerous exchanges worldwide. Hitachi High Technologies America is owned 53 percent by Hitachi High-Technologies Corporation, a Japanese corporation whose stock is publicly traded on the Tokyo and Osaka stock exchanges, and 47 percent by Hitachi America, Ltd., a domestic corporation. Hitachi, Ltd. owns 100 percent of the stock of Hitachi America, Ltd. and 55 percent of the stock of Hitachi High-Technologies Corporation, with the remaining 45 percent owned by public shareholders.

Through our 457 U.S. employees, Hitachi High Technologies America functions as a trading company, specializing in the sale of electronic components and products, scientific and industrial instruments, and materials used in the manufacture of these goods, and as a distribution company for products manufactured by Hitachi High-Technologies Corporation and other Hitachi Group companies. We are based in Schaumburg, Illinois, and we have key operational facilities in Dallas, Texas, and in San Jose and Pleasanton, California.

Since its formation in 2002, Hitachi High Technologies America has participated actively in the APA program. Its predecessor, Nissei Sangyo America, Ltd., began the process in 2000. Participating in the APA program helps our company to reduce a real risk of international double taxation. The United States and Japan, where Hitachi High-Technologies Corporation, our major trading partner, is located, impose comparably high rates of corporate income tax. The APA program offers an established mechanism for achieving a bilateral consensus on transfer pricing issues, so that our company is not faced with the prospect of an adjustment in Japan or the United States without a correlative adjustment in the other country.

This is at the heart of the APA program. It must take into account in concrete form the important role a foreign taxing authority plays in bilateral APAs. A bilateral APA fundamentally is a negotiation between the IRS and the foreign taxing authority on how to divide revenues from controlled transactions of related taxpayers in a manner consistent with the two countries' laws and agreements. The taxpayer's ultimate role is to provide information to the competent authorities and to encourage them to reach a principled agreement as quickly as possible.

In the 15 years prior to entering the APA program, our company and its predecessor never experienced a transfer pricing adjustment, even though we were subject to three large case audits during that period. However, we did experience significant costs in *defending* transfer pricing audits during such period, costs that we viewed as particularly burdensome in view of the ultimate result of these audits—no transfer pricing adjustment. We opted to participate in the APA program because we believed that a principled, consensus-based approach to transfer pricing can avoid the expense of protracted, adversarial field audits. We continue to support the APA program for this reason.

Our continued support, however, does not imply that the APA program cannot be improved, in our view. The most significant improvement would be to make every effort to reduce the transaction costs of participation, particularly in the context of an APA renewal. Professional fees that we incurred in connection with negotiating and concluding our first bilateral APA were comparable to the professional fees our company incurred to defend our prior IRS field audit. Ideally, our first APA should have cost less.

Nevertheless, even if a cost savings cannot be achieved in a first-time APA, we strongly believe that a subsequent renewal of the agreement should show a demonstrable return on the taxpayer's initial investment of time and resources. An APA renewal should not be viewed as an opportunity to revisit settled issues, even if those issues were resolved between the competent authorities in a manner not wholly satisfactory to some IRS personnel on the APA team. In other words, the APA program must strive to offer taxpayers clear cost savings if it is to be regarded as a success.

Discussions between the IRS and the taxpayer should not resemble an adversarial transfer pricing audit. Rather, they should be an opportunity for taxpayers and the IRS to build consensus around a principled negotiating position that will lead swiftly to a final agreement between the two countries. In your review of the APA program, we encourage you to consider this fundamental reality of the taxpayer's position.

Thank you for this opportunity to comment on the APA program. I will be pleased to respond to any questions you may have.

If there are no further questions, Alan Granwell will offer more specific comments and recommendations regarding the program.