

## **FINANCE COMMITTEE QUESTIONS FOR THE RECORD**

**United States Senate  
Committee on Finance**

**Hearing on  
Confirmation of Mr. Ronald Kirk to be  
United States Trade Representative  
March 9, 2009**

### **Questions from Chairman Baucus**

#### **Question 1:**

**The Congressional-Executive bipartisan consensus on trade has eroded, and it is essential that this consensus be rebuilt. Passage of the Trade Adjustment Assistance bill was the first step in doing so. And I intend to introduce customs reauthorization and trade enforcement bills in the next few months, which I believe will be important additional steps in rebuilding this consensus. What steps do you think we should take to rebuild the trade consensus? What steps will you take to do so?**

**Answer:** The first step is to listen and engage members on both sides of the aisle in both bodies of Congress. We must hear and address legitimate concerns as well as prove to members that the benefits of trade will reach their constituents.

#### **Question 2:**

**Many Members of Congress believe we should step up enforcement of our trade agreements and our trade remedy laws. A bill I introduced with Senators Hatch and Stabenow during the last Congress addressed this concern in part by requiring USTR to provide an annual report to Congress identifying its enforcement priorities for the upcoming year.**

**I plan to introduce a new trade enforcement bill in the coming months. But in light of the hundreds of trade barriers around the world, I'd like your input on where the administration should focus its enforcement resources. What are your top three enforcement priorities?**

**Answer:** Enforcement is itself a top priority and I will work with staff to identify the best way to deploy resources to maximize the benefits of our trade agreements and trade laws for American farmers, workers, and businesses.

**Question 3:**

**The trade enforcement bill I introduced during the last Congress calls for, among other things, the creation of a new, high-level Chief Trade Enforcement Officer at the Office of the U.S. Trade Representative to ensure that the administration focuses sufficient attention on enforcement. It also authorizes \$5 million in appropriations to build enforcement capacity at the staff level. Can you please let me know your thoughts on this provision? What do you see as the pros and cons of creating a new position along these lines?**

**Answer:** We will focus on enforcement as a top priority. We would welcome additional resources and are open to creating a new position for enforcement. We will work with you and your staff to discuss potential pros and cons of such a position.

**Question 4:**

**The global downturn in the housing market has led to a steep decrease in softwood lumber prices. U.S. lumber producers, including those in Montana, have seen production fall off, mills shut down, and workers laid off. In these troubled times, Canada has announced its intent to further subsidize its domestic industry, thus worsening competitive conditions for U.S. lumber producers and making it even more important to vigilantly enforce the U.S.–Canada Softwood Lumber Agreement (SLA). Do I have your commitment that you will enforce the SLA? What steps will you take to make sure Canada is complying with its obligations?**

**Answer:** Yes, USTR is committed to carefully monitoring and enforcing the SLA. We will continue monitoring compliance, work with the Canadians where possible, and pursue dispute resolution when necessary.

**Question 5:**

**I also encourage you to make the WTO trade case against Airbus a priority. Will you work to ensure that Airbus receives no further unfair and illegal subsidies?**

**Answer:** Yes.

**Question 6:**

**I am also concerned about enforcement of U.S. intellectual property rights abroad. I introduced a bill with Senator Hatch last year to strengthen the Special 301 provisions of U.S. law to address this concern.**

**Do you think the Special 301 provisions of U.S. law provide a sufficient enforcement tool? Do those provisions work as well today as they did 20 years ago? What do you see as the pros and cons of my proposal to strengthen the Special 301 provisions? What other tools does the administration need to better fight the intellectual property violations that have plagued U.S. industry?**

**Answer:** These are all important questions. I will direct staff to review the Special 301 provisions of U.S. law and work with you and your staff to assess their ongoing value and ways in which we can improve on the process.

**Question 7:**

**As indicated in my previous question, I have long supported enhanced protection and enforcement of U.S. intellectual property rights abroad. In addition to tough enforcement tools, I also think that negotiations can play an important role. And I think that the Anti-Counterfeiting Trade Agreement (ACTA) negotiations hold real promise. What are your plans with respect to this Agreement? Can you assure me that you will consult with all interested stakeholders as you move forward?**

**Answer:** In the President's Trade Policy Agenda, we noted that this Administration "will protect American innovations and creativity by negotiating and enforcing strong and effective intellectual property protections." Consistent with that priority, I support the goal of working with our trading partners to raise international standards for the enforcement of intellectual property rights. I will make it an early priority to consider the way forward on ACTA with that goal in mind. I can assure you that I am committed to working very closely with Congress and all interested stakeholders on all of our trade agreements and negotiations, including ACTA.

**Question 8:**

**As USTR, you will co-chair the U.S.-China Joint Commission on Commerce and Trade (JCCT) with the Commerce Secretary, which has proven effective at diffusing past trade problems. USTR has successfully used the WTO dispute settlement process in recent years to address trade issues with China. And USTR has also engaged China in the past as part of the Strategic Economic Dialogue. How do you expect to engage China? Do you plan on continuing the JCCT? Do you plan on being part of the dialogue Secretary Clinton has proposed? What metrics would you use to measure the success of our relationship with China?**

**Answer:** USTR will continue to press China on important trade issues through dialogue, and at the same time will not hesitate to resort to WTO dispute settlement when dispute settlement is the most effective way to address specific concerns. If confirmed, I expect to work closely with the Secretary of Commerce to further enhance the effectiveness of the JCCT as a channel for addressing trade issues, and will also work with Secretary Clinton, Secretary Geithner and other cabinet colleagues to achieve important outcomes in our other strategic and economic dialogues with China. I will judge our success based on the contribution our efforts make to implementing the President's national economic agenda, which calls for revival of the global economy and renewal of growth that benefits all people, with a proper regard for social and environmental goals and appropriate political accountability.

**Question 9:**

**The sheer magnitude of the copyright piracy problem in China is well established. And China's continued failure to come to grips with it has raised serious concerns in Congress. Can you assure me that you will press China hard to resolve this issue? How will you change your approach to intellectual property violations based on the successes and shortcomings of previous USTRs?**

**Answer:** Yes, I can assure you that, if confirmed, I will press China hard to make significantly greater progress on the issue of copyright piracy. In addition, I will work closely with Congress and industry stakeholders and will continue to devote considerable staff resources to address the many challenges that IP-intensive industries, such as the copyright industry, face in China. I will carefully consider the strategies of previous USTRs in responding to these intellectual property enforcement challenges, as the Administration develops its engagement strategies with China.

**Question 10:**

**China is not a member of the WTO Agreement on Government Procurement (GPA) and foreign companies regularly find that China's government procurement is non-transparent and favors domestic Chinese producers over foreign ones. China pledged in 2001 when it joined the WTO to sign the GPA "at the earliest possible time." China further committed at the 2006 JCCT meeting that it would submit a formal offer to accede to the GPA by the end of 2007. The initial proposal was submitted to the WTO as promised in December 2007, but its limited scope was extremely disappointing. Negotiations are ongoing and a new offer is reportedly expected soon. What will you do as USTR to ensure that China expands the sectors and scope covered in its GPA accession?**

**Answer:** I will make it very clear to China's economic leadership that to fulfill its WTO commitment to accede to the GPA, it will have to meet the high standards of coverage set by the United States and other GPA Parties. We will not accept China's accession on any terms that are less than fully reciprocal.

**Question 11:**

**In addition to discriminatory tariff and non-tariff barriers, U.S. companies also face challenges presented by discriminatory industrial policies, including in China. To date we have not seen a consistent U.S. strategy in dealing with these centrally-sanctioned, non-market-based policies. What will be your strategy for dealing with industrial policies in China and other countries?**

**Answer:** We will address the elements of China's and other countries industrial policies – for example, subsidies, discriminatory tax and other policies – and use all the tools available to us at the WTO and through bilateral efforts to ensure our producers are receiving fair treatment.

**Question 12:**

**The Agreement on Technical Barriers to Trade (TBT) outlines rules and procedures concerning the development, adoption, and application of voluntary product standards. Since acceding to the WTO, China has implemented nearly 20,000 national standards that are reportedly based on international standards. Nevertheless, China has issued several standards that do not comply with international standards and is promoting “indigenous innovation” to create domestic standards in competition with those agreed to in international bodies.**

**While all countries have the right to set their own standards, particularly in areas related to security, standards and certification regimes should not be used as a market access barrier or applied selectively. In your role as USTR, you will play a leading role in these issues. How will you address these concerns?**

**Answer:** Concern has grown that the Government of China seems to be actively pursuing the development of unique requirements, despite the existence of well-established international standards, as a means for protecting domestic companies from foreign competition. If confirmed, I will vigorously pursue an end to policies of this nature that are designed to protect and advance specific Chinese industries, using all appropriate tools. I will engage interagency expertise and cooperate with our trading partners in multilateral fora, in addition to concerted bilateral engagement.

**Question 13:**

**I am a strong proponent of economic engagement with Asia, and believe that we should engage in as many ways as we can. I think that the Trans-Pacific Partnership Agreement negotiations have real potential, and could grow into a significant regional agreement. Do you share this view? Do you support continuing the Trans-Pacific talks?**

**Answer:** I agree with your view on the importance of economic engagement with Asia and will establish and execute a strong strategy to best to do so. If confirmed, I will work with my staff and the Congress to assess continued U.S. participation in the TPP initiative.

**Question 14:**

**The United States faces significant challenges – from energy and the environment to economic growth and national security. Engagement with countries of the Asia-Pacific region is an integral aspect of any strategy to address these challenges. The member countries of the Asia-Pacific region are already promoting regional cooperation, and active U.S. involvement in APEC ensures the U.S. does not miss the opportunity to engage as an equal partner in this critical economic integration. Will USTR make U.S. involvement in APEC a priority as it looks to engage this important region?**

**Answer:** I recognize the importance of APEC in moving our trade agenda forward. I look forward to working closely with my APEC counterparts to ensure APEC remains the premier forum to promote Asian-Pacific regional economic integration and to lay the groundwork for a successful U.S. host year in 2011.

**Question 15:**

**In September 2007, Japan began a 10-year effort to privatize its postal and insurance monopolies. The United States has repeatedly been assured that privatization will lead to these two entities operating just as those in the private sector. U.S. insurance companies and their employees are concerned that they will face direct competition from Japan Post Insurance on certain insurance products before the privatization process is complete. Such an action would allow direct competition before the playing field is level and place U.S. companies at a serious and unfair disadvantage. What is your view of this issue? What will you do to ensure that U.S. insurers in Japan can compete on equal terms during Japan's insurance privatization process?**

**Answer:** USTR has been closely following developments in Japan and has raised the United States' serious concerns on this issue with Japanese officials. We are prepared to continue to press Japan in all appropriate fora to provide fair treatment to U.S. insurance companies.

**Question 16:**

**I have long supported increased trade and investment ties with Asia. And I have grown increasingly concerned that our trading partners are locking down agreements with the region while we sit on the sidelines. Bilateral Investment Treaty (BIT) negotiations with China, India, and Vietnam are a step in the right direction. Strong BITs based on the model BIT will help ensure that U.S. companies can compete in these vital growth markets. What do you plan to do with respect to these negotiations?**

**Answer:** We agree that Asia is an important region in which to intensify and deepen our trade and investment relationships. With respect to investment, it is critical that we ensure that U.S. firms and investors can compete on a level playing field in foreign markets and that they are treated according to the rule of law. Strong BITs promote economic reform, improve investment climates, enhance transparency, and strengthen the rule of law. In that regard, while we will be reviewing the U.S. BIT program to ensure that the agreements we negotiate are consistent with the public interest and our overall economic agenda, we also intend to move forward with the BIT discussions we have begun with these three important countries.

**I also urge you to tread carefully as you consider whether and how to revise the model BIT. Improvements can always be made, particularly in the area of increased transparency. But the current model BIT represents a carefully calibrated compromise between many competing viewpoints. Can you assure me that you will consult with all interested stakeholders as you consider any changes to the model BIT? And can you assure me that you will consult closely with me and my staff as you consider any such changes?**

**Answer:** We understand fully that the 2004 U.S. model BIT text represents a carefully calibrated compromise among all key domestic stakeholders. In exploring how best to address concerns relating to our BIT negotiations – whether through revisions to that text or through other investment initiatives – we and the State Department, with which we share responsibility on BITs, will make certain to consult extensively with all interested stakeholders. We will also make certain to consult closely with you and your staff, as well as the Senate Foreign Relations committee and other key Congressional committees, to ensure that the ultimate result of the review is a model BIT text that maximizes the benefits to our companies and workers, while ensuring that important public policy interests are not compromised.



**Question 17:**

**Sanitary and Phytosanitary (SPS) barriers prohibit access for many of our most valuable agricultural exports. BSE-related barriers to our beef exports have cost more than \$10 billion in lost exports since 2003. And Europe uses SPS barriers to block our most valuable agricultural exports, from biotech corn and soy to hormone-treated beef. I am increasingly concerned by the proliferation of new SPS barriers as countries seek mechanisms to protect their agricultural markets during this economic downturn.**

**Can you assure me that addressing SPS barriers will be a high priority for USTR? What are the Administration's priorities and what is your strategy for restoring agricultural trade with Europe? Will you work with Congress, your colleagues at USDA, and other agencies to develop a strategy for reducing these barriers in the short and long term?**

**Answer:** The Obama Administration is committed to addressing all SPS measures that are imposed without the scientific justification required by the WTO SPS Agreement. If confirmed, I will be committed to ensuring trading partners meet international trade obligations, including requirements of the SPS agreement. And, where they should fail to do so, I will aggressively utilize, in cooperation with my administration and Congressional colleagues, all available tools in the WTO and other mechanisms.

**Question 18:**

**Korea's current beef import protocol recognizes that all U.S. beef is safe and allows for the eventual importation of all U.S. beef regardless of age. And Korea currently allows beef from cattle less than 30 months old to enter Korea. While I am pleased to see that Korea has partially opened its market to U.S. beef, Korea has yet to fully implement the protocol it negotiated with the United States last April. Can I count on you to continue pressing for full opening of Korea's beef market so that we can move the free trade agreement (FTA) forward?**

**Answer:** U.S. beef from cattle under 30 months of age is selling well in Korea since the market was opened in June 2008 and Korea was the fourth largest 2008 export market for U.S. beef. I will work closely with Secretary Vilsack to engage with Korea as well as other trading partners to normalize our trade in beef in these important markets.

**According to OIE guidelines, U.S. beef from cattle of all ages is safe. Unfortunately, many of our trading partners continue to block U.S. beef exports, despite the lack of a scientific basis for doing so. As USTR, will you continue to place to full opening of beef markets, particularly in Korea, Japan, and China, at the top of your agenda?**

**Answer:** It is a top priority.

**Question 19:**

**I have long said that we should move the pending FTAs in the order in which they are ready to move. I was therefore pleased to see in USTR's recently released Trade Policy Agenda that the administration intends to move the Panama FTA "relatively quickly." I expect the Panama FTA will garner widespread support, and I see no reason to delay its consideration. What is your view? When and in what order should we consider the pending FTAs?**

**Answer:** We will review all three pending agreements expeditiously and will proceed with them as soon as outstanding issues with respect to each have been addressed. The Panama FTA seems to pose the fewest obstacles but I cannot commit to a timetable.

**Question 20:**

**Many Members of Congress remain concerned by the level of violence against Colombian labor leaders and the rate of impunity for the perpetrators of such crimes. I support the Colombia FTA, but have been clear that more must be done to address labor violence before the FTA can move forward. The President's Trade Agenda called for the development of benchmarks to address these labor issues, which I support. Can I count on you to develop these benchmarks in close cooperation with Colombia, key stakeholders, and the Finance Committee?**

**Answer:** Yes, we will work closely with all the relevant parties in developing those benchmarks.

**Can I also count on you to work with us as you establish benchmarks for the Korea FTA?**

**Answer:** Yes, I look forward to working with the Committee as we establish benchmarks for this agreement.

**Question 21:**

**While strong labor and environmental provisions are an important part of our FTAs, some of our FTA partners lack capacity to fully meet these obligations and to continue improving their domestic labor and environmental standards. How will you help ensure that adequate funding, resources, and trade capacity building programs are available to assist developing country trading partners meet their environment and labor obligations?**

**Answer:** I will work with the Department of Labor, USAID, and other agencies to seek the resources necessary to help developing country trading partners comply with these important goals and obligations.

**Question 22:**

**Although U.S. agricultural producers, manufacturers, and service suppliers believe that the WTO Doha Round holds great potential to open foreign markets, they are concerned that the current Doha Round negotiations are unbalanced. These groups feel that too little new market access is being offered by emerging economies, while too much is being asked of U.S. agricultural producers and manufacturers, both in terms of tariff reductions and domestic support. As USTR, what would you do to re-balance these negotiations and lead them to a successful conclusion?**

**Answer:** We have begun by making clear to our trading partners through the President's Trade Agenda that the Doha Round requires additional work to provide our producers with comparable certainty to new market access to that which we are providing for others.

**Question 23:**

**Global fisheries are being rapidly depleted, and environmentally harmful subsidies in many countries contribute to their decline. The United States has been a leader in the WTO negotiations aimed at ending harmful fishing subsidies. Will you continue to take a leadership role in these negotiations?**

**Answer:** Yes

**Question 24:**

**Liberalization of trade in environmental goods and services has the potential to ease the cost of mitigating climate change and addressing other environmental priorities around the globe. Unfortunately, negotiations to ease these trade barriers have been mired in definitional issues raised by a few countries and further slowed by lack of progress in other areas of the Doha Round. As USTR, are you prepared to advance a proposal to pursue environmental goods and services liberalization as a separate, plurilateral agreement?**

**Answer:** This is an important priority and I look forward to discussing the concept and potential of a separate plurilateral agreement on environmental goods and services.

**Question 25:**

**Our preference programs were established to help developing countries attain sustainable economic growth through trade. This is a worthy goal, but many Members are concerned that our preference programs provide too much assistance to countries that do not need the benefits, and not enough assistance to those that do. We must make sure these programs are assisting those countries that need the most help. What recommendations do you have to make our preference programs work better?**

**Answers:** We are aware that leadership in the House and Senate are considering trade preference program reform and I look forward to working with you to ensure that these programs are working as effectively as possible to achieve the goals Congress has set.

**Question 26:**

**As you know, I have long fought to open export markets for Montana's products. And I have been troubled by a 2005 Treasury ruling that has made it more difficult for Montana's farmers and ranchers to export their products to Cuba. The question is whether the Cuban buyer's payment must arrive in a U.S. bank before the goods leave the United States, or whether the payment must be received in advance of the transfer of title and physical control of the goods. The latter scenario was the practice for years without incident. I am concerned when I hear this transaction described as giving credit to the Cuban buyers, which is not the case at all. Congress intended to facilitate cash basis food sales to Cuba, and I think that the 2005 regulation runs counter to the intent of Congress. While the Treasury Secretary is responsible for administering Cuba sanctions, you must be the administration's advocate for responsible trade policies. What are your views on this issue? Will you weigh in with the President and the Secretary of the Treasury on this important matter?**

**Answer:** I look forward to working with you and other members of the Administration as we develop our trade policy with Cuba.

**Question 27:**

**The U.S. sugar program was significantly altered in the 2008 Farm Bill, including by the addition of provisions that require USDA to purchase excess sugar and convert it into ethanol. Current U.S. trade commitments, through NAFTA, the WTO, and other FTAs, require the United States to import significant amounts of sugar. Will you work to ensure that the United States implements its current trade commitments and any new trade agreements in a manner that does not jeopardize the U.S. sugar program, and does not create unnecessary costs for U.S. taxpayers and USDA?**

**Answer:** I fully understand the level of sensitivity associated with sugar, and if confirmed, I will work closely with USDA, U.S. stakeholders, and with you in implementing international trade commitments related to this commodity.

**Question 28:**

**The 2008 Farm Bill includes a dairy import assessment that would require dairy importers to pay a fee to support the marketing and promotion of dairy products. The Farm Bill conferees, including me, stipulated that USDA consult with USTR to ensure that any dairy import assessment be implemented in a manner consistent with U.S. international trade obligations. Can you assure me that you will consult closely with Secretary Vilsack to ensure that the dairy import assessment is implemented properly? Will you consult with me and other Members of Congress as you develop dairy import regulations?**

**Answer:** If confirmed, I can assure you that I will work closely with you, other Members of Congress, and Secretary Vilsack to ensure that the dairy import assessment is implemented according to the provisions of the Farm Bill.

**Question 29:**

**The 2008 Farm Bill moves the inspection and regulation of catfish from the Food and Drug Administration (FDA) to USDA's Food Safety and Inspection Service (FSIS). The impact of this provision will depend greatly on how USDA defines catfish and implements this rule. I am concerned that a broad definition could conflict with our international trade obligations and perhaps spark retaliation from our trading partners. Can you assure me that your staff will work with USDA to implement these measures in a manner that reflects our international trade obligations and bases our regulatory decisions on sound science? I am also concerned that FSIS lacks the capacity to regulate an entirely new product, as it is already criticized for lack of resources to properly regulate meat, poultry, and egg products. In its consultations with USDA, will USTR also consider whether new regulatory responsibilities will be detrimental to FSIS's current activities to ensure the safety of U.S. exports?**

**Answer:** USTR staff is working with FSIS to ensure that the draft proposed rule when published is consistent with US obligations for science based regulation and transparency.

**Question 30:**

**Services account for 80 percent of the U.S. economy and employ 80 percent of the U.S. workforce. What are your plans for opening foreign markets to U.S. service suppliers, particularly if the Doha Round remains stalled? What can Congress do to help?**

**Answer:** The United States remains committed to achieving a successful conclusion to the Doha Round that provides new market access for our service suppliers. In addition to the Doha Round negotiations, bilateral or regional free-trade agreements, which have been effective at providing comprehensive coverage of services, enhancing regulatory transparency and addressing specific impediments to trade.

There also are ways to expand global trade in services outside of formal trade agreements, such as through regulatory dialogues and nonbinding cooperative initiatives. I am committed to exploring all of these options as well as any that you might suggest.

**Question 31:**

**I am concerned about the misclassification of goods coming into the United States. The need for importers to correctly classify their goods according to the Harmonized Commodity Description and Coding System is essential for revenue, regulatory, and security compliance, yet the quality of commodity data submitted to Customs and Border Patrol (CBP) remains poor. According to the CBP, commodity code classification errors result in \$1 billion a year in lost revenue due to duty underpayments.**

**If goods are misclassified, it can undermine the tariff concessions that USTR negotiates in our trade agreements. Can we count on USTR to work with CBP to remedy this situation?**

**Answer:** We will work with CBP and your committee to ensure that this problem is examined and promptly and properly addressed.

## Questions from Senator Grassley

### Question 1:

**Last Thursday, I wrote to President Obama asking him to clarify his intentions with respect to the North American Free Trade Agreement.**

**On the campaign trail he called for renegotiation of this trade agreement. Yet the President's recently released Trade Policy Agenda states that the Administration will seek to "improve" the North American Free Trade Agreement "without having an adverse effect on trade."**

**I don't see how this trade agreement can be reopened without having an adverse effect on trade, and I'm concerned that Mexico in particular will seek to rebalance tariff concessions to the detriment of U.S. agricultural exporters in Iowa and across the United States.**

**If the President does seek to reopen the agreement, will you commit that you will not agree to any increases in, or reinstatements of, tariffs on U.S. agricultural products under this trade agreement if you are confirmed?**

**Answer:** We have received your letter and will provide you with a written response. But I can say three things now:

- (1) We fully understand how important the Mexican and Canadian markets are to our producers, and in particular to our agricultural interests.
- (2) The President already has spoken to President Calderon and Prime Minister Harper about the opportunity to "improve" the NAFTA, and make it more relevant to the situation that the three countries face over sixteen years after the original agreement was signed. That's in the interest of all three partners.
- (3) We will work closely with the Committee as we move forward in this collaborative effort to make our trade work for the benefit of the millions of people within the NAFTA region.

As I said to you during my hearing, I don't see the levying of additional tariffs as being in the category of strengthening that agreement.

**Question 2:**

**What role can trade play in contributing to our domestic economic recovery, and what actions would you recommend to the Administration to incorporate a pro-growth trade agenda into a national economic recovery strategy?**

**Answer:** Trade can create jobs at home by opening markets to our exports, encourage innovation through competition, and help consumers stretch the dollars they have.

In terms of actions, two have already been taken. First, with your leadership we are making real the social compact that Trade Adjustment Assistance incorporates into our trade policy. Those Americans trade displaces deserve our assistance in reentering the job market. Second, we need to begin restoring a bipartisan consensus on trade. In the stimulus, we all agreed that we will stay true to our international agreements and comply with our WTO obligations. We need to build on that consensus.

And going forward, we need to open new markets abroad and enforce the rules of trade so that our producers can get the access to new consumers and have the certainty of fair treatment that our trading partners have promised. We will do everything we can to play by the rules and we will ask the same of others. On a level playing field, there is no better worker or entrepreneur than the American worker and entrepreneur.



**Question 3:**

**(i) The President’s Trade Policy Agenda states that the Administration hopes to move on the Panama trade agreement “relatively quickly.” Can you elaborate? Should we expect to receive an implementing bill before the Easter recess?**

**Answer:** If confirmed, I will ask the staff to present to me their assessment of what Panama needs to do before we can comfortably send the agreement to Congress for ratification. We will do that as quickly as possible, but I am not in a position to attach a specific time frame to that task.

**(ii) The President’s Trade Policy Agenda states that the Administration will establish “benchmarks for progress” on the Colombia and South Korea trade agreements. Do you know what “benchmarks” are intended?**

**Answer:** Benchmarks represent the steps necessary to address the concerns that have been raised with respect to each agreement. We will work with Congress to establish benchmarks for both countries and we will discuss them with both countries.

**(iii) In the case of the Colombia trade agreement, are the contemplated benchmarks external to the agreement, or do you anticipate that the agreement will be reopened?**

**Answer:** We will work with you and other Members of Congress as we work to identify the nature of the benchmarks.

**(iv) Implementation of the Colombia trade agreement is my number one trade priority. If confirmed, will you commit to work with me to implement that trade agreement this year?**

**Answer:** I will commit to work with you toward that end. The concerns the President expressed with the situation in Colombia were not political rhetoric. They are real. They are also something we can work with Colombia to address. But we will need to address them before the agreement is sent forward for approval and before implementation.

**(v) Have you considered the economic benefits that we stand to gain upon implementation of the pending trade agreement with South Korea? Have you considered the impact of not implementing that trade agreement?**

**Answer:** The Korea agreement would be the biggest we have implemented in 20 years. Implementing a strong Korea FTA would create important new market access opportunities for American workers, farmers and businesses. To date, the failure to create a basis to move the agreement forward constitutes a major missed opportunity of the last several years.

**(vi) South Korea is currently negotiating with the European Union. Are you worried that the United States may get left behind in the South Korean market?**

**Answer:** Even once concluded, the EU-Korea deal would take time to implement so I do not expect that European producers would have better access to the Korean market than we would for any significant period of time.

**(vii) If we can find a way to address concerns about our bilateral trade in automobiles, would you be open to implementing our pending trade agreement with South Korea this year if confirmed?**

**Answer:** I also need to determine if there is any additional concerns, particularly in relation to U.S. beef. Assuming we have resolved these issues, I would welcome the opportunity to work with you toward that end but I cannot commit to a timetable.

**Question 4:**

**(i) The President’s Trade Policy Agenda states that we need to “build on” the labor provisions in our existing trade agreements. What specific “building” does the President have in mind?**

**Answer:** We have seen the text of trade agreements evolve over the last twenty years. In the case of labor language, text has gone from silence on labor rights to side agreements to inclusion in the core of the text. We expect to continue reviewing and making progress on the concepts in trade agreements to ensure that they reflect proper protection for the rights of workers and the environment. History tells us that we can always improve on our previous work.

**(ii) Do you agree that it would be improper to use trade negotiations and trade agreements as a means of obligating changes in federal or state labor laws in the United States?**

**Answer:** Yes. Domestic labor law, much like intellectual property law, must be written and set in our Congress.

**Question 5:**

**In 2006, the World Trade Organization (WTO) determined that the European Union's regulations regarding agricultural biotechnology are inconsistent with the European Union's obligations as a WTO member.**

**Regardless, the European Union continues to maintain policies that significantly restrict imports of U.S. agricultural biotechnology products, and in particular, corn.**

**The European Union's biotechnology restrictions negatively impact farmers in my home state of Iowa.**

**If confirmed, what will you do to see that the European Union brings its agricultural biotechnology policies into conformity with its WTO obligations?**

**Answer:** We will use every tool available to us, from diplomacy to the dispute resolution process, to achieve our goal of normalizing trade in biotech products with the EU.

**Question 6:**

**The European Commission is proposing to apply antidumping and countervailing duties on imports of U.S. biodiesel.**

**I'm concerned about the impact such duties could have on biodiesel producers and soybean farmers in Iowa.**

**Will you assure me that you will closely follow this issue if you are confirmed, and that you will not hesitate to act if Europe takes any actions that are inconsistent with its obligations under international trade agreements?**

**Answer:** If confirmed, I will closely monitor this issue going forward and will take appropriate steps to protect our rights if the investigation raises concerns under WTO rules.

**Question 7:**

**(i) The Administration recently asked for a delay in the next round of discussions for a Trans-Pacific Partnership trade agreement.**

**The President's Trade Policy Agenda does not even mention these negotiations. This causes me some concern.**

**I consider these negotiations to be an important complement to the Doha negotiations—one that we need to pursue vigorously.**

**If confirmed, will you ensure that the United States takes an active role in the negotiations for a Trans-Pacific Partnership trade agreement?**

**Answer:** We see active engagement with Asia as a priority and will establish and execute a strong strategy to best do so. If confirmed, I will work with my staff and this Congress to evaluate whether participating in the best approach to achieving this goal.

**(ii) The President's Trade Policy Agenda did not address the ongoing negotiations on an Anti-Counterfeiting Trade Agreement. What is your view on the merits of these negotiations—should they be continued?**

**Answer:** In the President's Trade Policy Agenda, we noted that this Administration "will protect American innovations and creativity by negotiating and enforcing strong and effective intellectual property protections." Consistent with that priority, I support the goal of working with our trading partners to raise international standards for the enforcement of intellectual property rights. I will make it an early priority to consider the way forward on ACTA with that goal in mind.

**Question 8:**

**(i) I've been watching with some concern as the Treasury and State Departments in this new Administration divide up responsibility for our relations with China. We have serious trade concerns with China, and the United States Trade Representative needs to play the leading role on those particular issues.**

**If you are confirmed, will you ensure that your office takes the lead on trade issues involving China?**

**Answer:** Yes. We understand the mandate and responsibility given to USTR by Congress, and if confirmed, I will ensure that USTR provides the leadership on trade issues that our nation requires – including with respect to China.

**(ii) During the last session of Congress, this Committee reported out a bill that addressed fundamental misalignments in currency exchange rates, including with respect to China. We are currently considering whether to reintroduce that bill. What is your view on this issue?**

**Answer:** The Treasury Department is responsible for issues pertaining to other countries' currency practices. Speaking more broadly, if confirmed, I will work closely with the other senior officials in the Administration and consult with Congress so that we can ensure that the Administration has all the tools needed to address our trade policy priorities.

**(iii) In June 2006, the Chinese government entered an appearance in a New York lawsuit alleging price-fixing by Chinese producers of vitamin C.**

**The Chinese government argued, in essence, that the Chinese defendants should be immune from suit because the government compelled them to coordinate their export prices.**

**The judge rejected the Chinese argument a few months ago, and the case is ongoing.**

**Are you aware of this case? What should the Administration do to discourage Chinese efforts to fix prices for products exported to the U.S. market?**

**Answer:** I understand USTR staff is aware of this case. I will be pleased to raise this matter with the Department of Justice and consider whether there are any steps USTR appropriately can take to address this issue.

**Question 9:**

**(i) The President’s Trade Policy Agenda states that the Administration won’t seek trade promotion authority until it consults with Congress to establish the “proper constraints” on that authority.**

**I don’t think the problem is a lack of constraints on the President’s negotiating authority.**

**The real problem has been a lack of willingness on the part of Congress to respect the bargain that Trade Promotion Authority strikes.**

**What additional “constraints” do you think the Administration has in mind, and how would they have changed outcomes on trade agreements in the last Congress?**

**Answer:** Since 1974, Congress has authorized the Executive to draft and submit trade agreement implementing bills to Congress for an "up or down" vote without amendments – in exchange for keeping Congress informed and involved before, during, and after negotiations on the trade agreements. In addition, Congress has established negotiating objectives to guide the Executive in shaping trade agreements. The parameters that Congress sets for the Executive amount to constraints on its ability to invoke the authority Congress provides.

In my view, if the existing framework for this authority had been sufficient, it is likely that Congress would have already renewed it. Therefore, additional work with Congress on an appropriate framework may be needed. When the time comes to consider initiating new negotiations that can develop significant new commercial opportunities for U.S. exporters, I will work with the Congress to seek renewed authority.

**ii) The President’s Trade Policy Agenda suggests that the Administration will not seek reinstatement of trade promotion authority any time soon.**

**But the same document also notes that trade is “slowing markedly” and that, for the first time since 1982, global trade flows are projected to decline.**

**Doesn’t that fact make the need for Trade Promotion Authority greater than ever? Shouldn’t we be doing everything we can to level the playing field and create new market access opportunities for U.S. exporters?**

**Answer:** U.S. leadership will be vital to restoring confidence and certainty to the world's financial and trading system. The first order of business for the Administration on trade is to ensure strong enforcement of the rules under our existing agreements. At the same time, we will be looking at how we can move the Doha negotiations forward and develop support for the three pending free trade agreements. When the time comes to consider initiating new negotiations that can develop significant new commercial opportunities for U.S. exporters, we will work with the Congress to seek renewed negotiating authority.

**Question 10:**

**As you may know, the United States has undertaken services commitments that are far more extensive than those of most of our trading partners.**

**Do you agree that we need to do more to open foreign markets to our service suppliers?**

**Answer:** Yes.

**How can we expand global trade in services?**

**Answer:** There are a number of ways to expand global trade in services. Enforcement of existing rules; pursuing improvements in foreign regulatory policies, particularly with respect to transparency; and a successful completion of the Doha round could all help us achieve that end.

**Question 11:**

**Congressional Democrats and their supporters repeatedly criticized the previous Administration for its alleged failure to enforce our trade agreements.**

**One former Clinton Administration official testified before this Committee that the previous Administration should have been filing at least 17 new cases each year at the World Trade Organization.**

**Do you think the number of new cases filed is a valid measure of an Administration's enforcement efforts?**

**Answer:** No. Cases filed are not determinative of success. I think winning access to markets for our producers is a measure of our efforts and I think filing cases can help us do that, but so can other tools.

**If this Administration does not file a substantial number of new cases this year, should we conclude that it is failing to enforce our trade agreements?**

**Answer:** No, the number of new cases filed is not a valid measure of an Administration's efforts to enforce U.S. rights under trade agreements. While WTO dispute settlement is a very important tool for resolving trade problems, it is not the only one. The other important tools in the USTR arsenal include bilateral consultations (including technical discussions); monitoring mechanisms (including those within trade agreements); and U.S. trade legislation (such as Special 301).

**Question 12:**

**(i) The World Trade Organization has issued a number of decisions against the Commerce Department's practice of "zeroing" in antidumping investigations.**

**Congress is going to have to figure out what, if anything, to do about those decisions.**

**In the meantime, if confirmed, will you consider whether the United States should file challenges to other countries' zeroing practices, such as those of Canada or India?**

**Answer:** We will continue to work with Congress and members of the public in defending at the WTO our laws against unfair trade. As I explained in my testimony, enforcement will be a top priority of this Administration

**(ii) Some suggest that we should respond to the World Trade Organization's decisions on zeroing by switching to a prospective duty assessment system.**

**What is your reaction to that idea?**

**Answer:** The current statutory framework provides for a retrospective system. Along with my colleagues at the Department of Commerce and Customs and Border Protection, I would be happy to work with the Congress to consider the appropriate approach to these issues.

**Question 13:**

**I understand that the Japanese government-owned company "Japan Post Insurance" is seeking approval to introduce a new product into the Japanese insurance market.**

**I also understand that Japan had promised to hold off on the issuance of new insurance products until the process of privatizing Japan Post had produced a level playing field for U.S. insurance suppliers in the Japanese market.**

**If you are confirmed, will you look into this issue and take whatever steps you feel are necessary to ensure that Japan adheres to its commitments in this sector?**

**Answer:** USTR has been closely following developments in Japan and has raised the United States' serious concerns on this issue with Japanese officials. We are prepared to continue to press Japan in all appropriate fora to provide fair treatment to U.S. insurance companies.



**Question 14:**

**(i) The President's Trade Policy Agenda states that we need to ask how trade policy can help address climate change.**

**What are your thoughts on this issue?**

**Answer:** Meeting and leading on the challenge of climate change are a core commitment of this Administration. The actions we take to establish that leadership will affect our market and trading patterns. Our role in that process will be to ensure that public policy is transparent, complies with our international obligations, and encourages others to follow. We can also consider how trade agreements might open markets in climate change technologies in a way that lowers prices, speeds up innovation, and also benefits American exports.

**(ii) The President's Trade Policy Agenda also states that we need to ask how trade policy can address the depletion of fisheries.**

**The World Trade Organization is already addressing the issue of fisheries subsidies in the Doha Development Round trade negotiations, and the United States has been an active participant in those negotiations for many years.**

**Do you have additional ideas for how the Administration could address the fisheries issue?**

**Answer:** My understanding is that WTO negotiations have made some progress on this issue. I will be reviewing the fisheries aspects of those negotiations and will look forward to working with you to consider other approaches as well.

**Question 15:**

**I have long been concerned about the use of differential export taxes by some of our trading partners.**

**Differential export taxes put U.S. producers and processors of soybeans at a disadvantage in the world market.**

**For example, Argentina imposes lower export taxes on processed soybean products such as soy oil, soy meal, and soy biodiesel, than on raw soybeans.**

**This tax differential provides an artificial incentive for the production and export of processed soy products from Argentina, thereby putting downward pressure on world prices for these processed products.**

**If confirmed, would you press for the elimination of differential export taxes in the Doha Development Round trade negotiations?**

**Answer:** I am aware of your concern and would like to work with you on this issue.

**Question 16:**

**China and Taiwan restrict imports of U.S. pork due to spurious and non-scientific concerns regarding ractopamine, a feed additive commonly used in U.S. pork production that improves meat metabolism and protein synthesis.**

**Ractopamine has been approved for use in the United States since 1999 and is registered for use in 26 countries. Although it has not even conducted a risk assessment for this product, China maintains a zero tolerance policy for ractopamine.**

**Taiwan recognized the safety of pork containing trace amounts of ractopamine in 2007 when Taiwan's government notified the World Trade Organization that it was prepared to adopt the draft international maximum residue limits for ractopamine.**

**However, Taiwan later reversed its decision in response to protests by Taiwanese farmers opposing imports of U.S. pork.**

**If confirmed, can I count on you to urge China and Taiwan to drop their scientifically unjustified restrictions on imports of pork containing traces of ractopamine?**

**Answer:** Sanitary and phytosanitary measures that are not science-based are a key problem for U.S. farm exporters. I intend to take action, including WTO cases where appropriate, in order to address this growing problem for U.S. agricultural producers.

**Question 17:**

**Russia recently delisted 33 U.S. pork plants from eligibility to export to Russia. The Russian government contends that it has done so due to sanitary concerns, but the pork from these plants is safe and is consumed in the U.S. market.**

**What steps will you take to see that Russia reverses this scientifically unjustified action that restricts U.S. pork exports if you are confirmed?**

**Answer:** USTR staff is working with the industry, USDA and other agencies to address this issue and to ensure that our pork exporters can continue to export their product to Russia.

**Question 18:**

**Despite being the world's leading agricultural exporter, the United States provides only about 5 percent of India's current food imports.**

**U.S. agricultural exports face major barriers to entry in the Indian market. India's average bound agricultural tariff is 114 percent, over ten times higher than that of the United States.**

**In addition, Indian regulatory measures unnecessarily impede exports of U.S. agricultural commodities.**

**If confirmed, will you commit to work to further open the Indian market to exports of U.S. agricultural products?**

**Answer:** If confirmed, I will work to further open the Indian market to exports of U.S. agricultural products. I also look forward to studying the International Trade Commission's report on India's agricultural market access realities and working to overcome barriers to U.S. exports.

**Question 19:**

**If confirmed, would you support providing for cumulation among our trade agreement partners in the Middle East and/or other regions of the world?**

**Answer:** As we consider next steps in trade expanding agreements, and ways to improve the functioning of our existing FTAs, I look forward to working with you on a range of issues, including cumulation.

**Question 20:**

**(i) With respect to our trade preference programs, the President’s Trade Policy Agenda states that the Administration “will give careful consideration to proposals to concentrate benefits more effectively on the poorest countries.”**

**Do you have any ideas for concentrating benefits in this manner?**

**Answer:** I know that our staff has ideas that they would like to present to me if I am confirmed. I also understand that you may have some ideas on this subject as well. I do not want to prejudge any of those and will work with this Congress to identify the best way to make preference programs work.

**(ii) With respect to least-developed countries, should we consider eliminating distinctions between African and non-African least-developed countries in terms of preferential access to the U.S. market?**

**Answer:** This is an important issue that has arisen as we consider whether and how to extend benefits to the least developed countries (primarily in Asia) that do not currently have access to our more advanced regional trade preference programs like AGOA. These are an important set of issues on which I would like to work with you.

**(iii) Should our trade preference programs be limited to least-developed countries? Or, should we expect more in terms of reciprocity from more eligible advanced developing countries?**

**If so, do you have any ideas for how we would achieve that?**

**Answer:** There may be areas or sectors where an advanced developing country is fully competitive and reciprocity in treatment may be required. I look forward to working with you on the evaluation of that question.

**Question 21:**

**(i) If confirmed, what will you do to help developing countries better appreciate the economic benefits associated with liberalizing South-South trade?**

**Answer:** We will work with developing countries as partners. We will present our views and the evidence for those views for their consideration as equals. That approach will hopefully lead to learning on both sides.

**(ii) Do you think that providing unilateral trade preferences to developing countries creates a disincentive to seek further trade liberalization through the negotiation of bilateral or multilateral trade agreements?**

**Answer:** I don't know whether it does and would be interested to learn your views and look into this question.

**(iii) Should we consider requiring eligible beneficiaries under our trade preference programs to implement domestic reforms as a condition of enjoying preferential access to our market? If so, what model would you recommend?**

**Answer:** As you know, our trade preference programs contain eligibility criteria that USTR reviews on an ongoing basis for compliance by our preference partners. I would welcome a further dialogue as we move forward.

**Question 22:**

**(i) Should the United States continue to extend duty-free access to super-competitive products from advanced developing economies such as India and Brazil?**

**Answer:** We should evaluate seriously whether or not to do so. I would ask for public input and further discourse before making a decision.

**(ii) Are there deficiencies with the current review process under the Generalized System of Preferences? If confirmed, how would you consider modifying the process to make it more effective?**

**Answer:** I am aware that both this Committee and the Ways and Means Committee have introduced or are likely to introduce proposals to reform GSP and other trade preference programs. I look forward to working with all interested parties to ensure that our preference programs are achieving their goals in the most effective manner possible.

**Question 23:**

**The President is required to make specific eligibility determinations with respect to Bolivia and Ecuador by July 1, 2009, under the Andean Trade Preference and Drug Eradication Act.**

**If confirmed, will you commit to a thorough review of the degree to which each of these countries conforms with each of the eligibility criteria under this trade preference program, and to report the results of your review to this Committee?**

**Answer:** Yes

**Question 24:**

**There are some who question the usefulness of the Caribbean Basin Initiative given that Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama have negotiated trade agreements with the United States and thus no longer utilize the program.**

**Does the Caribbean Basin Initiative remain an effective development tool in the Caribbean region?**

**Answer:** The Caribbean Basin remains a vital and important region for the United States. Last year, the US International Trade Commission completed a study of possible issues and future directions in the CBI program. I look forward to working with you, Caribbean leaders, and others to assess this important question.

**Would you recommend any changes to the program?**

**Answer:** I will ask my staff for their assessment if I am confirmed. We will always welcome recommendations and be open to working with you.

**Question 25:**

**(i) Do you believe that the African Growth and Opportunity Act has served as an effective tool for stimulating economic growth and prosperity among eligible beneficiary countries?**

**Answer:** Yes. AGOA has been an important source of jobs, investment, and economic growth for many African countries since its inception in 2000. It has helped to significantly increase and diversify our trade with Africa. At home and in Congress, AGOA has been a classic story of bipartisan and bicameral success, and Congress should be commended for passing several enhancements to AGOA. That said, there may be other things that can be done to improve the functioning of the program. We look forward to working with Congress and other AGOA stakeholders going forward.

**(ii) Are there ways in which the program can be improved to better meet these objectives?**

**Answer:** There are always potential improvements to our programs. I would welcome ideas for improvement. We will work with State and USAID to ensure AGOA beneficiaries receive the necessary trade-related development assistance so they can take full advantage of the opportunities under AGOA.

**Question 26:**

**The President’s Trade Policy Agenda states that the Administration “will pursue advances in... consumer product safety through plurilateral negotiations.”**

**Do you know whether the Administration has any specific negotiations in mind?**

**If such negotiations produce an agreement, do you anticipate that the Administration will request Trade Promotion Authority from Congress in order to implement the agreement?**

**What should we expect from our trading partners regarding the safety of their exports to the United States?**

**Answer:** There is no specific trade proposal. The Agenda stated that plurilateral negotiations are an option for tackling important economic challenges, and noted that consumer product safety is one such challenge. If we ever develop a proposal on trade and consumer product safety we would require it to reinforce the safety of consumers in the United States and around the world while addressing market access issues. This exercise would require extensive consultation with all stakeholders and Congress.

**Question 27:**

**(i) The President’s Trade Policy Agenda states that the Administration will “implement policies that address the heightened security threats associated with trade in the least trade-impeding manner possible”.**

**If confirmed, how will you work with Secretary Napolitano and the Commissioner of Customs to achieve this goal?**

**Answer:** I am aware that there must be an appropriate balance between securing trade and facilitating trade; therefore it is vitally important that I ensure that U.S. trade policy takes both concerns into account. The USTR has an interagency process in place for identifying and working through these kinds of questions. I will establish a relationship with Secretary Napolitano and the next Commissioner of Customs. I am aware of concerns that many members of this committee have had with the Department of Homeland Security and Customs and Border Protection (CBP) in the recent past. I intend to work with you and Secretary Napolitano to address those concerns to ensure that trade moves securely and efficiently.

**(ii) Are you aware of any role that the Office of the United States Trade Representative plays at the World Customs Organization and the World Trade Organization’s Committee on Customs Valuation?**

**Answer:** Under 19 USC 3009, the USTR is responsible for the coordination of U.S. trade policy in relation to the International Convention on the Harmonized Commodity Description and Coding System, commonly known as the WCO Harmonized System Convention. In this role, USTR is required to seek and consider information and advice from the private sector and interested Federal agencies prior to formulating a U.S. position with respect to the Convention. USTR personnel serve as the U.S. Delegate to the World Trade Organization’s Committee on Customs Valuation in Geneva.

**What type of relationship do you believe the agency should have with U.S. Customs and Border Protection and the Treasury Department?**

**Answer:** USTR must have a constructive, interactive and meaningful relationship with the Treasury Department and U.S. Customs and Border Protection. While USTR is responsible for formulating U.S. trade policy and negotiating trade agreements, the implementation and enforcement of many of the commitments falls to the Treasury Department and U.S. Customs and Border Protection. USTR must work with the Treasury Department and U.S. Customs and Border Protection to ensure that current agreements are enforced effectively and that any new agreements are administrable and enforceable.



**Should there be more coordination among these three bureaucracies with respect to domestic and international customs laws and regulations?**

**Answer:** As stated above, I believe that the three entities need to have constructive, interactive and meaningful interaction and coordination. If that is not occurring currently, then I intend to establish that coordination.

**If confirmed, will you commit to strive to improve coordination among the three agencies?**

**Answer:** Yes, as stated above, I will work to ensure that there is appropriate interaction and coordination between the three agencies, as well as other relevant agencies such as the Commerce Department and State Department.

**Question 28:**

**(i) In your view, does the Office of the United States Trade Representative have the resources it needs to effectively perform its mission?**

**Answer:** Like any other enterprise, we could always use more resources. But we will work to meet our mission with or without additional resources.

**(ii) Or, are there areas where the agency would benefit from additional targeted funding? If the latter, what are those areas?**

**Answer:** We could certainly use more resources for travel, personnel, translation services, and infrastructure. But as I said, we will present our needs to Congress and meet our mission with the resources we receive.

**Question 29:**

**In 1996, the United States initiated dispute settlement proceedings at the World Trade Organization over the European Union’s regime for the importation of bananas. The United States prevailed in the dispute, and the European Union has been obligated to bring its banana regime into compliance with its WTO obligations since 1997. Regardless, some twelve years later the European Union remains out of compliance and EU policies continue to discriminate against U.S. banana distributors.**

**If confirmed, what steps would you recommend to the President to encourage the European Union to comply with its WTO obligations in this regard?**

**Answer:** We remain committed to pressing the EU to liberalize, consistent with its WTO obligations, its banana import regime.

**Question 30:**

**The President’s Trade Policy Agenda states that with respect to the Doha Development Round trade negotiations, “it will be necessary to correct the imbalance in the current negotiations in which the value of what the United States would be expected to give is well-known and easily calculable, whereas the broad flexibilities available to others leaves unclear the value of new opportunities for our workers, farmers, ranchers, and businesses.”**

**If confirmed, what steps would you recommend to the President to achieve a more balanced outcome in the Doha negotiations? What is your view on the idea that there should be an “early harvest” of outcomes in these negotiations?**

**Answer:** The Administration has made clear to our trading partners that there needs to be an adjustment to the course of the negotiations. We intend to work with Congress, private stakeholders, and other agencies in the Administration to develop a strategy to address the problem in the current negotiations.

**Answer:** Given that many deadlines for completion of the Doha negotiations have already passed, my intention would be to give the greatest focus on moving the overall Doha negotiations as expeditiously as possible to a successful result that will yield meaningful new economic opportunities for our farmers and ranchers, industrial producers, and service suppliers.

**Question 31:**

**Mayor Kirk, last week the Finance Committee released a memo reflecting several issues with your tax returns. What is the status in resolving each specific issue in the memo, and of filing amended tax returns where necessary?**

**Answer:** On March 4, 2009, my wife and I signed Amended U.S. Individual Income Tax Returns on Form 1040X for the tax years 2005, 2006 and 2007. On March 5, the signed Amended U.S. Individual Income Tax Returns were filed, along with our personal checks payable to the U.S. Treasury, in the amount of \$5,215.00 (2005), \$1,087.00 (2006) and \$1,483.00 (2007). Electronic copies of the Amended U.S. Individual Income Tax Returns were provided to the Committee on Friday, March 6, 2009.

Each of the issues identified in the Senate Finance Committee memorandum and press release has been resolved. The specific steps taken to resolve each issue were reported to the Committee staff in a memorandum submitted on February 28, 2009. Further details were reported in the additional memoranda and exhibits submitted to the Committee Staff in response to the Committee's questions dated February 6 and February 19, 2009.

## Questions from Senator Rockefeller

### Question 1:

**I recognize that the US Trade Representative is tasked with negotiating the opening of foreign markets to US goods. Your goal is not to create more barriers, but many of our states worry that we've broken down more of our own barriers than our trade partners. If you met with American businesses you'd see that they're facing stiff challenges and international competition every day. I sponsored a bill last year that would have closed a number of loopholes and attacked a number of the major problems our domestic industry is facing, such as allowing US businesses to participate in WTO disputes, bolsters Congress's role in consulting with USTR on WTO disputes, makes currency manipulation subject to countervailing duties, and making countervailing duties subject to non-market economies, among other things. I plan on introducing this bill again this year and although it isn't in the direct purview of the US Trade Representative, I'd like to know what your view is on areas of our domestic trade laws that need reforming. I'd also like to know how you will attack wrongly decided WTO decisions, like zeroing and the Continued Dumping and Subsidies Offset Act (CDSOA or Byrd Amendment)? These were so clearly wrong that we must have a strategy for addressing them.**

**Answer:** You are correct to say that USTR has objected clearly and strongly to a number of WTO dispute decisions as not being grounded in the text of certain WTO agreements. I am committed to finding a way to address this problem effectively and look forward to working with you on it. As to other issues in the operation of the U.S. antidumping law, I hear and share your concern for domestic producers struggling in a very competitive global market. Where that competition is unfair, I will work with you and the Department of Commerce to provide effective remedies for it. I also agree that we need a strategy for effective enforcement and I will work with you and my colleagues in the Cabinet in its construction and execution.

**Question 2:**

**I would like to ask a question about our strategy in the WTO Doha Round talks as it relates to the so-called “Rules” negotiations – i.e., those dealing with disciplines against subsidies and “dumping” of products. As you know, China, Japan, India and others that have routinely violated international rules in this area are seeking to use the Doha talks to force weakening of U.S. laws against unfair trade. They are hoping we will make concessions in this area in return for an overall agreement in the Doha Round. Let me assure you that such an approach would lead to a catastrophic result when any agreement reached Congress. There is no tolerance in this body to weaken our trade laws and allow unfair imports to cause even more damage here.**

**It is clear that we need a very different approach to the Rules negotiations as compared to what we saw with the previous Administration. As far as I could tell, our prior strategy was to just let the trade law weakening proposals pile up on the other side, without putting forward any significant proposals of our own to *strengthen* international disciplines on unfair trade. I believe it is critical for the Administration to change this dynamic and put forward major, substantive proposals to enhance disciplines against unfair trade. These should include proposals to rectify the current disparate treatment of the U.S. income tax system vis-a-vis foreign VAT tax systems, proposals to force the WTO Appellate Body to follow a deferential standard in reviewing national unfair trade determinations, a proposal to revive the Continuing Dumping and Subsidy Offset Act (CDSOA) and proposals to rectify the raft of erroneous decisions the AB has issued over the years.**

**Please describe your strategy in this area and if you intend to put forward the type of proposals outlined above.**

**Answer:** As I stated at my confirmation hearing, we are reassessing what is on the table on the Doha round and will not agree to the current language. We will work with you and Congress to ensure that we make progress at the WTO on these talks in a way that ensures strong antidumping and countervailing duty rules, and that increases prosperity and market opportunities for our producers.

### **Question 3:**

**As you know, the United States specifically negotiated in the Uruguay Round to ensure that WTO dispute settlement panels and the Appellate Body would adopt a deferential standard of review in assessing national anti-subsidy and anti-dumping determinations. Where the relevant WTO agreements would permit of more than one reasonable interpretation, the intent was to allow national authorities to adopt whichever of these interpretations they felt would be most effective and beneficial. Over the years, the WTO Appellate Body has issued numerous decisions that have made a mockery of this standard of review, essentially finding that there is only one reasonable interpretation of key provisions – even where the provisions are unclear on their face and do not specifically speak to the issues in contention. Recently, the Appellate Body issued an analysis of the standard of review itself, an analysis that all but reads that standard out of existence.**

**For example, the WTO has engaged in an effort to eliminate the U.S. zeroing methodology in antidumping proceedings that has been applied for decades against those engaging in unfair and predatory trade practices. The WTO has sought to impose obligations on the U.S. that were never agreed to at the negotiating table, such as their ruling the Continued Dumping and Subsidy Offset Act (CDSOA also known as the Byrd Amendment) illegal. Many in the Congress, Democrats and Republicans, together with the Bush Administration aggressively pushed back against these efforts at the Doha Rules negotiations.**

**I think it is fair to say that the level of frustration with the WTO dispute settlement system in this body and in the country is reaching a critical level. This latest effort to rewrite the applicable standard of review – and to gut a provision that was critical to U.S. support for the Uruguay Round – shows just how out of control the situation is.**

**How do you plan to address this problem and to ensure that the WTO dispute settlement system will, going forward, operate in the manner intended? What can we do – and what will you do – to see that the past erroneous decisions issued by the Appellate Body are corrected? I would welcome the opportunity to work with you and USTR on how we can get a grip on this issue, and what steps Congress can take to achieve real change.**

**Answer:** As noted, I intend to work on this issue to attempt to find a more effective way of addressing these problems in the WTO dispute settlement system. We appreciate and would welcome the opportunity to work with you as well. We take your concerns seriously and are working on a strategy in relation to WTO decision with which we disagree.

**Question 4:**

**I have long followed the Japanese privatization of their postal industry and throughout that process they have promised transparency and fairness. At present, Japan Post continues to have the world's largest bank and insurance company. As this privatization struggles through its early stages, do you commit to vigorously enforcing US rights under existing trade agreements and that you will use the authority of US trade laws to ensure fair competition for US companies operating in the Japanese marketplace?**

**Answer:** USTR has been closely following developments in Japan and has raised the United States' serious concerns on this issue with Japanese officials. We are prepared to continue to press Japan in all appropriate fora to provide fair treatment to U.S. insurance companies.

**Question 5:**

**Currently, PET resin from India and Indonesia receives duty-free treatment under the Generalized System of Preferences (GSP) even though we have seen a massive growth in exports of PET resin from both of these countries and that Indonesia exceeded the competitive need limitation (CNL) by the third quarter of 2008. Indeed Indonesia is seeking a CNL waiver for PET resin. As a result of the large volume of low-priced imports, prices remain suppressed in the U.S. market and the domestic industry has been forced to close facilities, lay off employees, and has lost money in each of the last 3 years.**

**In light of the injury to U.S. manufacturers, I ask that you review the eligibility of the PET resin from India and Indonesia for duty-free treatment under the GSP and further ask that the USTR cast a critical eye on Indonesia's CNL waiver petition.**

**Answer:** I understand your concern with respect to these petitions to remove the GSP eligibility of polyethylene terephthalate (PET) resin for U.S. imports from India and Indonesia as well as the petition for a waiver of the competitive need limitations (CNL) for imports of PET resin from Indonesia.) We have received public comments and held public hearings on both petitions and have asked the U. S. International Trade Commission (USITC) for its advice on the impact on U.S. industry and consumers on each petition, if granted.

Before making a recommendation to the President, the interagency team will review the pertinent statutory and regulatory considerations, as well as information obtained from hearing testimony, public comments, and the advice from the USITC. We also will consult with the pertinent committees of the House and the Senate before finalizing a recommendation. The President must announce his decisions no later than June 30, 2008.

## Questions from Senator Bingaman

### Question 1:

**(i) The Peru FTA requires our trade partner to adopt internationally recognized labor standards. From a humanitarian perspective, these labor standards are clearly important. They also level the playing field for U.S. businesses. American businesses should not have to compete with companies that employ child labor or use forced labor. Unfortunately, our trading partners often do not have the capacity to effectively enforce these labor standards. Should the United States provide funds and technical assistance to help our trading partners enforce internationally recognized labor standards?**

**Answer:** We will coordinate closely with the Department of Labor and the State Department and consult with you on how best to ensure that we have adequate funding, resources, and cooperation programs to assist these countries in meeting their obligations.

**(ii) Would you support monitoring programs run by the International Labor Organization to ensure those standards are being met?**

**Answer:** Recognizing that the ILO can play a constructive role, we will consult with you and coordinate with the Department of Labor and the State Department to determine the appropriate role for the ILO in any particular country.

**(iii) Will you support including labor standards in all of our future trade agreements?**

**Answer:** It is critical to ensure that our free trade agreements have provisions that ensure adoption of and adherence to basic internationally recognized labor rights and we will work with you to consider the most effective ways to accomplish this goal in future agreements.

### Question 2:

**Do you support including environmental standards in all of our future trade agreements?**

**Answer:** It is critical to ensure that our trade agreements have provisions that promote environmental protection and conservation of natural resources and we will work with you to consider how best to do this in future agreements.



**Question 3:**

**Does USTR as it is currently set up have the budget and staffing levels needed to effectively fulfill its mission? If not, how would you like to see the USTR office expanded?**

**Answer:** We will meet our mission with the resources Congress gives us. It would certainly help us do our job better if we had more funding for monitoring and enforcement and associated travel, infrastructure and personnel. I appreciate your advice and assistance on seeking the appropriate level of resources in the future.

**Question 4:**

**Trade can be an effective tool to create economic opportunities in developing countries. Critics say, however, that our trade policy is often at odds with our development policies. For example, expanding market access for our agricultural goods is clearly important, but when those markets are in developing countries doing so can destroy the livelihoods of local farmers who have few, if any, other way to feed their families. What should the U.S. do to better align its trade and development agendas? And should development be a priority for our trade policy?**

**Answer:** Promoting growth at home and global economic development overseas are key goals of U.S. trade policy. The completion of the Doha Round can and should be a component of that policy. I also remain committed to working with you and the Committee to strengthen US trade preference programs and to take other steps to promote economic growth and poverty reduction in developing countries. I also look forward to working with you and my counterparts at State, MCC and USAID to ensure that the necessary trade-related development assistance is provided to our developing country partners to help them to participate in global markets and implement trade obligations effectively.

Trade has the ability to generate economic growth and development, and in turn, alleviate poverty. We will be working on how trade policy, both in our negotiations and trade preference programs, can better foster development, and look forward to hearing your input. We will also work closely with our counterparts at State, MCC and USAID to ensure that the necessary trade-related development assistance is provided to developing country partners to help them to participate in global markets and implement trade obligations effectively.

**Question 5:**

**National security and trade facilitation can be conflicting priorities, especially when it comes to port security. However, an attack on our ports could have severe consequences for trade. As the lead voice for United States trade policy, what role should USTR play in convincing our trade partners to cooperate with our efforts to improve our national security?**

**Answer:** USTR and the rest of the Cabinet have no higher priority than keeping Americans safe. We must make that clear in everything we do. In doing so, CBP has put into place programs that both provide for the security of ports and cargo and ensure the movement of goods in commerce. These goals can be achieved in tandem.

## Questions from Senator Kerry

### Question 1:

**As dire as our current economic situation is at home, the situation in Eastern Europe is catastrophic. Young democracies face the very real threat of political unrest as the economic growth they have experienced in recent years is quickly undone. I also believe we have an obligation to assist fledgling democracies such as the Republic of Georgia that are standing up against despite threatening political circumstances.**

**Do you believe that the U.S. should extend its hand in the form of a trade partnership with countries in conflict to help provide political and economic stability? What other assistance can or should the United States be providing to help these countries during this time?**

**Answer:** Increased trade and expanded partnership with countries in conflict may play a constructive role in giving people productive alternatives to conflict. In that sense we should strongly consider how to best use trade as a tool. We look forward to working with you and experts in the field on the matter. The second part of your question is the jurisdiction of the Department of State and USAID. We will work with those agencies in to ensure the necessary trade-related development assistance is provided to these countries.

### Question 2:

**(i) A high quality bilateral investment treaty with China would help reduce barriers to US companies doing business in China. In addition, it would encourage Chinese companies to invest here in the US, creating jobs for American workers.**

**What is your sense of the timing with respect to these negotiations? How high a priority will this be for your office, and have you been involved with discussions with the State Department and the Treasury Department?**

**Answer:** USTR co-leads the U.S.-China BIT negotiations with the State Department, with active participation from Treasury, Commerce, and other agencies. To date, the two sides have held three rounds of technical level negotiations. These negotiations are continuing. Whether and when we conclude an agreement will be influenced by guidance provided by the Administration, as well as actual progress in the talks. We will make certain to consult closely with you and your staff, as well as with other members of the Committee on Foreign Relations and other key Congressional committees.

**(ii) One of the principal objectives of a BIT is to ensure a level playing field for U.S. investors. I understand that the initial U.S. negotiating proposal was based on the U.S. model BIT. China presents a unique set of circumstances on a range of issues, however, not faced in other countries with which the US has negotiated BITs or trade agreements. One issue in which China is unique is the prevalence of state-owned enterprises (SOEs) in the economy. These SOEs often appear to benefit from formal and informal preferences by the Chinese government or at government direction, and their prominent role in China's economy can put U.S. companies at a significant competitive disadvantage. Under the model BIT, action by an SOE is only covered by China's obligations if the SOE is acting with delegated government authority. But, given the lack of transparency in the Chinese system, it is certain to be exceedingly difficult to prove that SOEs are acting with delegated authority. Additionally, there may be many ways in which the SOE distorts the market to the detriment of U.S. companies, even without delegated authority.**

**Do you agree that this is a serious problem that the U.S. government should seek to address?**

**Answer:** It is important for the Administration to identify effective ways to address the challenges for U.S. investors presented by China's state-owned enterprises ("SOEs") and the role they play in China's economy. In this regard, we will carefully consider the contributions our BIT negotiations as well as our ongoing economic dialogue with China can make to advance the objective of leveling the playing field for U.S. firms in the Chinese market.

**(iii) Do you believe that the model BIT comprehensively addresses the SOE problem I have described and, if not, how do you plan to modify the U.S. negotiating position to address the SOE problem I have described?**

**Answer:** The model BIT may not adequately address the SOE challenge. If it does not, we will work with State in an interagency process for model BIT modification.

**(iv) If you do not plan to modify the U.S. negotiating position, what is your plan for addressing the SOE problem I have described?**

**Answer:** As noted above, it would not be appropriate to prejudge the outcome of the Administration's assessment. We will work within the government to identify the full range of bilateral and multilateral opportunities to engage China on these issues. We will also be discussing these issues in consultation with the business community and other stakeholders.

**(v) Another issue in which China is unique is the issue of forced and coaxed technology transfer. It is well known that China uses a variety of tools to implement its industrial policy to promote technology transfer to China. While the model BIT prohibits certain types of forced technology transfers, it is not clear whether that obligation would cover many of the ways that China tries to force U.S. companies to transfer technology to China (e.g., requiring technology transfer as part of its standard-setting process). Also, the model BIT allows the use of subsidies and other “advantages” to promote technology transfer. To be clear – I am referring not to subsidies for R&D (which has a separate exemption), but subsidies and other “advantages” for the transfer of specific technologies. Yet, we know that China uses many direct and indirect methods to get U.S. companies to transfer technology that they would not transfer in the absence of these policies.**

**Do you agree that forced and coaxed technology transfer by China is a serious problem that the U.S. government should seek to address?**

**Answer:** I agree that it is an issue that warrants serious examination.

**(vi) Do you believe that the model BIT is adequate to address the issue of forced technology transfer and the issue of the use of subsidies and other “advantages” to coax a technology transfer? If not, how do you plan to modify the U.S. negotiating position to address this technology transfer problem I have described? If you do not plan to modify the U.S. negotiating position, what is your plan for addressing the technology transfer problem I have described?**

**Answer:** Again, we will review our pending BIT agreements as well as the model BIT to ensure that the unique challenges you are raising are properly addressed.

### **Question 3:**

**Although currency issues have generally been considered the domain of the Treasury Department, they clearly have an enormous impact on trade flows. Do you believe that the misalignment/manipulation of currency is a critical economic problem? If so, what steps would you advise to address it? Do you see any role for USTR in addressing currency manipulation?**

**Answer:** I appreciate the concerns that you have raised about China’s currency practices. The Treasury Department is responsible for issues pertaining to other countries’ currency practices and will make its determination concerning China’s currency in its semi-annual report to Congress on international economic and exchange rate policies. If confirmed, I will work closely with the other senior officials in the Administration to develop a comprehensive and integrated policy to address the full range of China’s trade policies that impact the United States. As part of this comprehensive effort, of course, we will need to review China’s actions for consistency with its WTO obligations. I will aggressively pursue WTO action whenever that approach will be the most effective and appropriate means to address U.S. concerns.

**Question 4:**

**Trade provides opportunities for economic growth and poverty alleviation that promotes prosperity and political stability in developing countries, which in turn promotes prosperity and security at home. President Obama has said, "Since extremely poor societies and weak states provide optimal breeding grounds for disease, terrorism, and conflict, the United States has a direct national security interest in dramatically reducing global poverty and joining with our allies in sharing more of our riches to help those most in need."**

**How will U.S. trade policies, under your leadership, continue to promote prosperity and political stability in developing countries while responding to domestic concerns about job security and the U.S. economy?**

**Answer:** USTR has an office of trade and development and offices responsible for different regions of the world where developing countries are disproportionately located. We will work closely with our counterparts at State, MCC and USAID to ensure that the necessary trade-related development assistance is provided to our developing countries partners to help them participate in global markets and implement trade obligations effectively. We will also work to ensure that our trade preference programs continue to meet the mission of creating export opportunities for developing countries, particularly LDCs. We believe in the power of markets, improved infrastructure, rule of law, and reduced barriers to trade as a component of poverty alleviation.

**Question 5:**

**Under the current tariff schedule, finished golf clubs made overseas have a lower duty than the component parts that are imported into the United States and assembled by American workers. The duty on these imported finished golf clubs is 4.4 percent while the duty on the imported component parts is 4.9 percent. This obviously creates an "inverted tariff" where the duties on the material inputs are higher than the duties on the finished product. Unfortunately, this tariff policy penalizes US companies and US workers and rewards those that outsource these jobs to other countries. The current tariff system is broken, discouraging domestic manufacturing and putting US golf companies that wish to continue their US operations at a competitive disadvantage in the global marketplace. As the financial impact for adjusting the tariff is minimal, and the message this inverted tariff is sending to US business is unjustifiable, as a matter of sound public policy and sound trade policy, we need to fix this inverted tariff.**

**Can I count on you and your office to work with us to be sure that we fix this broken system?**

**Answer:** I will look into this tariff inversion problem and work with your staff.

**Question 6:**

**It is critical the United States aggressively enforce our trade agreements around the world to ensure that American companies and workers compete on a level playing field, and this sometimes requires the U.S. to take its trading partners to dispute settlement in the WTO. Last year, the United States, Japan and Taiwan filed a case against the European Union (EU) for violating its obligations under the Information Technology Agreement (ITA).**

**During your time at USTR, will you actively pursue WTO dispute-settlement and other enforcement mechanisms to protect our trading interests in the global marketplace? Do you plan to aggressively pursue resolution of the ITA case mentioned above?**

**Answer:** The answer to both questions is yes. Just last week, USTR filed its initial brief in the ITA case and we are committed to litigating that case vigorously and successfully.

## Questions from Senator Lincoln

**Mr. Kirk, I was pleased by the comments you made in your statement that this Administration would work to ensure the strong enforcement of our trade laws and work closely with Congress on trade issues. I believe there is a lot we can do to help even the playing field for American companies competing in a global economy.**

**I should note that Arkansas is a state that has benefited from trade, and I hope we continue to seek out new markets for our businesses. However, many of our businesses and producers have been hamstrung in the global economy by countries that flout world trade laws.**

**With that, I would like to bring up a few trade issues that are particularly important to Arkansas.**

### Question 1:

**China is a country that I and many members of Congress have concerns about in particular. There are a number of outstanding trade issues with China that touch on many parts of our economy.**

**As many world leaders have stated, a proliferation of protectionist policies could only further weaken a shaky global economy. While China has made progress in liberalizing its economy and opening its borders there are a number of issues that raise concerns and affect my state directly.**

**One issue in particular concerns China's export restrictions that come in the form of export quotas, export licensing and bidding requirements, minimum export prices, and export duties, among others.**

**They are targeted at raw materials many of which are key ingredients for many U.S. downstream producers, affecting a number of U.S. industries, including steel, chemicals, ceramics, semiconductor chips, refrigerants, and aircraft among others. This is China's industrial policy at its worse. China's export restrictions appear to directly violate several WTO rules**



**Mr. Kirk, we understand that for some time now, USTR has been looking seriously into concerns regarding China's export restrictions on raw materials. I want you to know that this is a very important issue to me and to a lot of American companies. I strongly support USTR's continuous efforts to bring these and other problematic Chinese industrial policies in line with China's obligations in the WTO. Can you provide me assurance that you will make this a priority for USTR?**

**Answer:** China's export restrictions on raw materials continue to generate serious concerns for us, as do other Chinese industrial policies. I can assure you that one of my top priorities will be to ensure that we aggressively defend our WTO rights and benefits vis-à-vis China and our other trading partners. We will use bilateral engagement, as well as the full range of WTO tools in our efforts.

**Question 2:**

**Our agriculture producers fight to compete in global markets that are significantly distorted by government intervention. The global playing field is often tilted against them by trade laws that block our ag exports to the rest of the world. At a time of falling prices and high input costs, our farmers need an advocate at USTR.**

**As you may know, Arkansas is the biggest producer of rice in the country. Rice, in particular, is one of the most protected commodities in the world. In spite of this fact, U.S. rice farmers are constantly told that their long time economic health lies in exports.**

**U.S. rice producers suffer from a U.S. trade policy that focuses to a fault on negotiating new trade agreements while paying lip service to making sure countries live up to their import commitments.**

**In key international markets, negotiated access for U.S. rice is being denied while U.S. rice imports continue to grow, and the farm safety net renewed just last year in the Farm Bill is under attack.**

**Two markets on opposite sides of the globe and vital to the U.S. rice industry illustrate USTR's challenge.**

**The EU has long been an important market for rice growers. However, the large volume of sales there virtually disappeared in 2006 with the accidental introduction of a genetically engineered trait into U.S. long grain rice, better known as Liberty Link 601 rice.**

**Southern rice farmers have nearly cleaned up this problem. However, despite the rice industry's successful efforts to remove the LL 601 trait, the EU continues to keep in place "Emergency Measures" requiring origin testing of all long grain rice shipped to the EU.**

**The EU also refuses to compensate completely the United States for withdrawing a WTO trade concession in 2004 called the Margin of Preference or the MOP. If the MOP were in place today, EU import duties on U.S. brown rice would be zero.**

**Instead, our exporters face exorbitant duties of between 30 euros and 65 euros per ton. It is critical to our producers and exporters that USTR defends the U.S.'s WTO rights and negotiates a new fixed and low EU import duty.**

**I would also like to briefly raise a market access issue with Taiwan. Taiwan has flat out refused to import U.S. rice, in clear violation of its WTO commitments. Industry representatives and U.S. officials have repeatedly met with Taiwan officials to seek resolution but to no end.**

**At a time when many are preaching exports, exports, exports to U.S. agriculture producers, it is simply unacceptable that U.S. trade authorities continue to allow Taiwan to ignore its international obligations.**

**Mr. Kirk, can I have your commitment that if confirmed, you will work immediately with USTR staff to address both of these issues at the highest political level necessary to bring about resolution? Rice farmers need your commitment that as USTR you will place compliance in current agreements before concessions to reach new deals.**

**Answer:** I understand the importance of the rice issues with Taiwan and the European Union. If confirmed, I will be monitoring these issues carefully and will ask USTR staff to continue to work closely with US industry and with this committee toward a successful resolution of these problems.

**Question 3:**

**Mr. Kirk, I have heard concerns that Japan Post Insurance is going to try to get approval to sell products that directly compete with U.S. insurers--despite the fact that they (Japan Post Insurance) have significant government-provided advantages that our insurers don't get.**

**Would that violate the WTO 'national treatment' commitments Japan has made? What are the implications for US-Japan trade relations if JPI were approved to compete with US insurers?**

**Will you and your agency press hard on this with Japan? If so, what form will that take?**

**Answer:** USTR has been closely following developments in Japan and has raised the United States' serious concerns on this issue with Japanese officials. We are prepared to continue to press Japan in all appropriate fora to provide fair treatment to U.S. insurance companies.

**Question 4:**

**Mr. Kirk, USTR has a fairly small office of General Counsel. We are pleased to learn that Tim Reif, formerly Chief Counsel to the Ways and Means Trade Subcommittee and a former Associate General Counsel at USTR, has become the new General Counsel at USTR.**

**However, the General Counsel's office at USTR has a broad range of oversight. It is both responsible for defending the United States in cases brought by other countries against us at the WTO, and for preparing cases for the United States to take to the WTO, which require significant resources.**

**This is a large task and I question if this office has adequate resources?**

**Answer:** We will meet our mission with the resources Congress gives us. It would certainly help us do our job better if we had more funding for enforcement, travel, infrastructure, and personnel. I appreciate your advice and assistance on seeking the appropriate level of resources in the future.

## Questions from Senator Wyden

### Question 1:

**The recent debates over free trade agreements show that more and more Americans don't see any benefit in trade agreements at best or at worst see trade agreements as a threat to their well-being. It appears that those who have the most to gain from free trade agreements have done the least to convince the public of their usefulness. My suggestion is for companies to give their workers a trade bonus, in order to show workers that trade agreements produce real benefits for them, not just for front office executives. If a trade agreement means a company is going to benefit from a 10% cut in tariffs on its exports, why not take some of this savings and pass it along to employees in their check? What do you think can be done to give workers more of a share in the benefits of trade agreements and, in particular, do you support the idea of companies voluntarily providing a trade bonus for workers and is that something you would encourage?**

**Answer:** I agree that we need both to expand the benefits workers receive from trade and ensure that those benefits are better explained. I understand that some companies are experimenting with the use of a "trade bonus." I think that USTR and Commerce should work together to highlight innovative experiments to promote exports, just as we encourage best practices in many other areas of commerce. I don't know enough to assess this practice in particular, but I look forward to working with you on the best way to achieve this learning about promising best practices.

### Question2:

**Countries all over the world are scrambling over themselves to establish new trade barriers. What's your strategy for knocking those barriers down without resorting to protectionist measures?**

**Answer:** We are working with the G-20, the WTO, and our bilateral trading partners to ensure that we are all fighting pressures to raise any new barriers to trade. We will continue to work in cooperative, multilateral and inclusive manner to guard against protectionist efforts.

**Question 3:**

**I applaud USTR's December 2008 announcement it had requested WTO dispute settlement consultations with the People's Republic of China about China's "Famous Brands" programs, in which it subsidizes exports, clearly counter to China's WTO commitments. I've heard from constituents in our high technology industry about a host of unfair trade practices and am very glad USTR is pursuing this case. I would note that USTR reached a settlement on a previous case involving China's improper subsidies for a number of industries, including its hardwood/plywood export industry. What will you do to see that the continuing problem of China illegally subsidizing its exports is corrected?**

**Answer:** Enforcing our rights under the WTO is one of my top priorities. We will continue to pursue the current case on China's "Famous Brands" programs vigorously, and in the future we will not hesitate to use all appropriate tools available to address China's improper use of subsidies.

**Question 4:**

**The U.S and Mexico signed an agreement in 2003 that would allow U.S. potatoes into Mexico's market. U.S. products would be limited to a 26 km border region for the first year, and then would be given greater, and then full access to the market. Instead, Mexico has kept U.S. potatoes to just the border region, in clear violation of our agreement. The U.S. has opened its markets wide to Mexican avocados, yet Mexico has not lived up to its commitments. What will you do to hold Mexico to its 2003 commitments to open its whole market to U.S. potatoes?**

**Answer:** I am always concerned when a trading partner does not follow through on its agreements with the United States and believe that enforcement of such commitments is very important. If confirmed, I look forward to working with you, as well as with Secretary Vilsack to engage early with Mexico and address this important issue for our potato industry.

**Question 5:**

**Oregon is a big exporter of agricultural products and I want to voice my support for USTR to hammer out a high-quality conclusion to the Doha round that gives the United States increased market access overseas for our agricultural exports. How do you see your role in achieving a high quality multilateral agreement that gives the United States fair access to foreign markets for our agricultural and other exports?**

**Answer:** If confirmed, I will take the lead in those negotiations and insuring that Doha is a high-quality agreement that creates wealth at home and abroad. Agriculture is a key industry and creating export opportunities for our growers is a high priority.

**Question 6:**

**Illegal logging, besides being a threat to the environment and the rule of law, is another way that foreign exporters can cut their costs. I expect legislation I introduced and that passed as part of the Farm Bill to amend the Lacey Act to combat illegal logging, which federal agencies are implementing, will help greatly in this regard. But we need to keep the pressure up on all fronts, and trade agreements can be another tool. I was pleased to see illegal logging provisions included in the Peru Free Trade Agreement and I think this is a good model going forward. With the Peru Free Trade Agreement's important provisions on illegal logging in place - how will you ensure that those provisions are enforced? How do you envision those provisions working in reality?**

**Answer:** I understand that USTR's Office of Environment and Natural Resources and Office of the General Counsel are working closely with outside stakeholders and Congress as USTR continues to engage the Peruvian government in enforcing the historic logging provisions in the Peru FTA. Peru has already taken unprecedented steps to reform its forest sector governance, including significant revisions to its laws and regulations. In practice, effective implementation and enforcement will require specific resources, including for USG monitoring and technical assistance in Peru.

**Question 7:**

**Do you see these provisions as something we can add to future agreements going forward?**

**Answer:** We would welcome a discussion with you on that question, particularly as we move forward with other countries that have similar circumstances.

**Question 8:**

**Some environmental, civil society and indigenous groups contend that Peru is enacting legislative changes to implement the agreement that could actually weaken environmental protections. They charge there has been a lack of transparency in how Peru's government is making these statutory changes. What role can the Administration and Congress play to ensure that our trade agreements are implemented by our partners with transparency?**

**Answer:** We are working with those groups, the Peruvian government, and Congress. We also welcome your leadership and efforts and share your goals.

**Question 9:**

**What steps will you take to ensure that the labor and environmental standards included in the agreement are enforced and that such provisions are incorporated into new agreements going forward?**

**Answer:** We will coordinate closely with the Department of Labor and the State Department as well as outside experts and stakeholders to measure and encourage compliance through all the tools at our disposal.

**Question 10:**

**What does the Office of the USTR intend to do to assure that Buy America provisions in the stimulus bill and other federal and state programs adhere to international obligations?**

**Answer:** The legislation is clear that it must and we will work to ensure that our regulatory guidance reflects that intent.

## Questions from Senator Schumer

### Question 1:

(i) I know that China currency manipulation is within the purview of the Treasury Department, but I have two questions related to this issue that I would like to ask.

First, does the slowing economy in China and the recession in the United States make this a better time to address these trade issues with China, or a time where we should tread more carefully? In other words, does the economic slowdown make it *easier* to make progress, because you can lay the groundwork for reforms that will have a greater impact once the economy rebounds, or does it make it *harder* because the economic downturn magnifies any concessions a country might make on trade?

**Answer:** I will work with my colleagues in the Cabinet to ensure that we make progress on this critical issue while remaining sensitive to the current financial situation.

(ii) Second, on issues that are in your area of jurisdiction, what are the three of four *specific* cases or issues related to China that USTR is pursuing, or is expected to pursue?

**Answer:** The complexity of our trade relationship and the importance of access to the China market for so many U.S. industries make it important to be active on many fronts. USTR has been pursuing high priority issues in a number of areas, including, among others, the areas of intellectual property rights, industrial policies (including government subsidies and an array of other distortive policies), agriculture market access and services market access. In addition to continuing this engagement, I will continue to pursue enforcement of our rights under the WTO, not only through vigorous prosecution of our pending WTO cases against China but also in any other situations where WTO action would be appropriate. I will also ask my staff at USTR to scrutinize China's recently announced stimulus policies in order to ensure that they are consistent with China's international trade obligations.



**Question 2:**

**You may be aware that the Government of China has challenged in the World Trade Organization the use by the United States of its countervailing duty law to address the issue of Chinese government subsidies to companies that export to the United States. I believe that this challenge is misplaced particularly in light of the fact that China specifically agreed in its WTO accession protocol that its trading partners would be able to apply countervailing duties when warranted, and in accordance with WTO rules.**

**I would appreciate it if you could detail for me what you will do as U.S. Trade Representative to defend the United States in these WTO challenges and how you will ensure that the U.S. maintains its ability to apply the countervailing duty law to countries like China, which provided billions of dollars in subsidies to help favored industries.**

**Answer:** I am committed to defending vigorously this challenge by China, including by working effectively with the Department of Commerce here at home and with other governments that share our interests to present the very strongest case to the panel and make clear the importance not just to the United States but to the WTO system of maintaining the ability to address China's subsidies.

**Question 3:**

**I would like your views on an intellectual property rights (IPR) matter of great importance to the publishing industry in my home state of New York.**

**The Chinese People's Liberation Army (PLA) medical library allegedly has been making copyrighted U.S. medical and scientific journal articles available for online re-sale by a private Chinese firm, Beijing Kangjian Shixun Technology Company. On December 1, 2008, I wrote to the Chinese Ambassador—with my colleagues from New Jersey, Senators Lautenberg and Menendez—asking that the matter be investigated to ensure that China holds its companies to the same rigorous IPR standards as U.S.-based firms. Regrettably, I have not received a reply from the Ambassador.**

**The publishers impacted by these alleged IPR violations directly and indirectly employ over 50,000 workers in the United States. Thirteen publishers maintain extensive operations in New York, providing over 2,500 jobs. I am concerned that Kangjian Shixun's activity in China may be putting these jobs at risk. Can you assure the Committee that, if confirmed, you will thoroughly investigate the alleged theft of U.S. copyrighted materials by the Chinese military and its private-sector allies in China, and if copyright violations are confirmed, bring them quickly to an end?**

**Answer:** I understand that USTR officials have been working to address this specific issue and they have been raising the issue with Chinese officials. USTR is presently consulting with the U.S. industry about appropriate next steps. If I am confirmed, I will ensure that we use all appropriate avenues in our efforts to resolve this issue.

**Question 4:**

**Coming from a state that borders one of our most significant trading partners, I keep a close eye on our trading relationship with Canada. The Canadian dairy market is a very important export market to the dairy industry in my state. Because of this, some of the recent moves by Canada to make the continued sales and growth of U.S. dairy products to Canada more difficult have greatly concerned me. What is your view of Canada's recent efforts to revise its dairy product standards and impose WTO safeguard levels that include imports under Canada's Import for Re-Export Program? Will you commit to working with me to address these issues and the full range of the trading relationship between the U.S. and Canada?**

**Answer:** I am always concerned when a trading partner takes action or maintains policies which reduce U.S. access to its market. If confirmed, I look forward to working with you to address these and other U.S.-Canadian bilateral issues.

**Question 5:**

**Several foreign countries – Cambodia being a recent example – have requested that the United States refuse entry of art objects and antiquities from those foreign countries that do not have an export permit. Do you agree that the United States should agree to these restrictions for foreign countries that as a matter of policy never issue any such permits?**

**Answer:** Several agencies work to address issues arising out of the importation and exportation of art objects, antiquities, and other cultural property. In some cases there are import restrictions arising out of international agreements and treaties. Under some of the agreements an export permit is required. I will work with other government agencies on appropriate approaches to this issue.

**Question 6:**

**Small businesses export \$263 billion in goods and services each year, accounting for 29 percent of all U.S. exporting. That percentage is slightly less than it was 10 years ago, indicating that exporting among small firms is increasing more slowly than among big businesses. I have a few questions regarding the Administration's trade agenda as it pertains to small business.**

**(i) There are nearly 240,000 small businesses involved in exporting. I would like to know *specifically* what you plan to do to help support small business that is different from what the previous Administration was doing.**

**Answer:** I cannot speak to the work the previous Administration did in relation to trade and small businesses. It was a priority for me as Mayor of Dallas and it will be a priority for me as USTR if I am confirmed. I will task a senior official to ensure that we are working on it and we will work in close coordination with Commerce and SBA on the issue.

**(ii) Looking at forthcoming trade agreements, would you be willing to give special consideration to small businesses by lowering their trade barriers, or reducing their transaction costs, in order to help facilitate more small business exporting?**

**Answer:** I will make sure those questions are asked and will fight to expand the benefits of trade to include more small and medium sized businesses, including through trade facilitation efforts to address opaque customs procedures that particularly affect small and medium sized exporters.

**(iii) In light of the fact that 97 percent of all exporters are small businesses, would you commit to having an Assistant U.S. Trade Representative that is focused exclusively on small business issues? If not, why not?**

**Answer:** I will strongly consider it. If that is the best way to ensure that we can expand small business exports and we have adequate resources, then I will do it. We will also explore other ways to reach that goal.

## Questions from Senator Stabenow

### Question 1:

**The small business manufacturers in our state are on the front lines of globalization and trade. When a country provides export subsidies or unfairly taxes imports small businesses are often forced to shut their doors before they can reach out to USTR. In many instances, they are unsure of even how to navigate USTR.**

**What do you think USTR can do to become more transparent and helpful to small businesses?**

**Answer:** As a former Mayor, I know well the importance of small businesses and their success to our communities and workers. I will work with Commerce and the SBA to ensure that we are breaking down barriers to entry into the global market for small businesses and equipping them with the assistance necessary to be competitive.

### Question 2:

**China has resisted efforts combat piracy and counterfeit manufacturing in their country. When my staff and I meet with Chinese officials, they say they are working on the problem, but we have failed to see any real world results.**

**What role could USTR have to raise the profile of this issue and get substantive results from China?**

**Answer:** I am aware that several members of Congress have proposed legislation to give the CBP greater authority and ability to intercept counterfeit goods. We will continue to work with China for them to do more inside their borders as well.

**Question 3:**

**There is consensus from small businesses, large businesses, and economists that China's currency is undervalued. This undervaluation has caused many small business parts suppliers in my state to go out of business and left workers without a job.**

**Do you believe China artificially keeps its currency undervalued in order to keep their exports competitive?**

**Answer:** I appreciate the concerns that you have raised about China's currency practices. The Treasury Department is responsible for issues pertaining to other countries' currency practices and will make its determination concerning China's currency in its semi-annual report to Congress on international economic and exchange rate policies. If confirmed, I will work closely with the other senior officials in the Administration to develop a comprehensive and integrated policy to address the full range of China's trade policies that impact the United States. As part of this comprehensive effort, of course, we will need to review China's actions for consistency with its WTO obligations. I will aggressively pursue WTO action whenever that approach will be the most effective and appropriate means to address U.S. concerns.

**Question 4:**

**(i) In 2004 and 2006, a Section 301 petition was filed with the support of numerous members of congress alleging that the Chinese government had engaged in widespread and systematic repression of fundamental worker rights. Not only is this an unconscionable violation of Chinese workers' human rights, it also constitutes an unfair trade practice. By artificially suppressing the wages of Chinese workers, the government distorts the price of Chinese-made exports, costing American businesses profits and lost markets and costing American workers jobs. The Bush Administration twice rejected the AFL-CIO petition, without disputing its factual basis and without stating any substantive reasons.**

**As USTR, would you look favorably on an updated petition, if it were submitted to you?**

**Answer:** China's labor practices are a matter of serious concern and we will work with the Department of Labor and the Department of State to examine the issue.

**(ii) China's exchange-rate policy has contributed significantly to our bilateral trade deficit, which increased from \$84 billion in 2001 to \$266 billion in 2008. Economists across the political spectrum agree that China is manipulating its currency, providing an effective export subsidy of at least 30%. This currency imbalance has imposed a tremendous cost on American workers and producers. Furthermore, currency manipulation is not only an issue between the US and China, but is global.**

**Although currency issues have generally been considered the domain of the Treasury Department, they clearly have an enormous impact on trade flows. Do you agree that the misalignment/manipulation of currency is a critical economic problem?**

**If so, what steps would you advise to address it? Do you see any role for USTR in addressing currency manipulation?**

**For example, should USTR use Section 301 to urge a revaluation of the Yuan, as several petitioners – including several members of Congress – have repeatedly urged?**

**Answer:** Again, I appreciate the concerns that you have raised about China's currency practices. The Treasury Department is responsible for issues pertaining to other countries' currency practices and will make its determination concerning China's currency in its semi-annual report to Congress on international economic and exchange rate policies. If confirmed, I will work closely with the other senior officials in the Administration to develop a comprehensive and integrated policy to address the full range of China's trade policies that impact the United States. As part of this comprehensive effort, of course, we will need to review China's actions for consistency with its WTO obligations. I will aggressively pursue WTO action whenever that approach will be the most effective and appropriate means to address U.S. concerns.

**(iii) We have a bilateral trade deficit with China of \$266 billion – more than 60 percent of our non-oil goods deficit.**

**How do you propose that we begin to narrow that deficit?**

**Answer:** The President has expressed concern with the trade deficit with China. The overall trade balance of the United States reflects important macroeconomic factors, such as relative rates of economic growth, fiscal and monetary policies, patterns of saving and investment, domestic price levels and exchange rates. If confirmed, I will work closely with other agencies to ensure that our trade policies contribute powerfully to the President' national economic agenda for the renewal of growth that benefits the national and global well being.

**Question 5:**

**As you are aware, The U.S. Constitution gives the Congress authority to regulate international commerce, but Congress has periodically granted some of that authority back to the executive branch through trade negotiating or fast track authority. However, under the previous administration, many of Congress's concerns on a range of issues were ignored during trade negotiations. As an example, there is an Agriculture Negotiator, but no similar representation exists for manufacturing. Recommendations made during the so-called mock mark-up hearings were similarly dismissed – even when they were unanimous and bipartisan, as was the case with the Oman FTA.**

**What would you do as USTR to improve and deepen consultation with Congress throughout the negotiation process?**

**Answer:** I view Congressional outreach and coordination as critical to the success of our trade policy and to its sustainability. We will respect the process and go beyond the letter of the law to ensure consultation is frequent and inclusive.

**Question 6:**

**(i) In the President's Trade Policy Agenda, released March 2, 2009, it states that the Administration plans to move on the Panama FTA "relatively quickly."**

**Can you tell us more specifically what the Administration's proposed timeline is for introducing this agreement? Does the Administration intend to consult with Congress on any outstanding issues before sending up the implementing legislation?**

**Answer:** I am going to enter my office and ask the staff to present to me what they and our counterparts at the Department of Labor think is necessary for Panama to do before we can comfortably send the agreement to Congress for ratification. Initial conversations with experts indicate that while that list exists, it is not long. I cannot say whether or not you should expect a bill before Easter. We need to present a list to the Panamanians and assess their willingness to address the issues promptly. I can say that nothing we ask should require a change to the text of the agreement. We will consult with Congress throughout.

**(ii) On May 10, 2007, the House leadership and the White House announced negotiated amendments to the trade agreement template. These changes included improvements on labor, environment, procurement and intellectual property. However, many organizations still believe that these chapters could be improved further, and that other chapters, such as investment, services and trade remedies, for example, need further, more substantial amendments.**

**Will USTR seek to address any of these outstanding concerns in this agreement, or does USTR intend to submit the Panama FTA "as is" for a vote?**

**Answer:** The Administration supports the May 10 agreement and will work to ensure that Panamanian law accords with the requirements under that agreement. Going forward we will work with the organizations you cite on their remaining concerns.

**(iii) Has the Panamanian government addressed any of the concerns expressed by the International Labor Organization (ILO) and/or Panamanian unions regarding its labor laws?**

**Answer:** That is part of what we must answer before sending the agreement to Congress for approval and I have tasked staff to brief me on that question upon my arrival.



**Question 7:**

**(i) Today, the U.S. auto industry is on life support. Critics of the US-Korea FTA, including President Obama, argue that the agreement is unbalanced, as it on the one hand eliminates all barriers to Korean auto exports and reduces tariffs on light trucks, while leaving in place discriminatory non-tariff barriers to U.S. auto exports. Critics have also pointed to other problematic provisions, including new, ambiguous language in the investment chapter, a weakening of available trade remedies and an annex which contemplates the potential of goods made in an industrial complex in North Korea falling under the agreement. In November 2008, we also saw the unlawful arrest of several prominent trade union leaders.**

**What is your strategy with respect to the Korea FTA? Do you plan to renegotiate the auto provisions? If so, how?**

**Answer:** We are well aware of the concerns with the auto provisions and will work with you to address them. Successful completion of the U.S.-Korea FTA holds the promise of expanding opportunities for American workers, farmers and businesses. Korea is an important friend and ally of the United States and its market is the seventh largest U.S. export market in the world. We are committed to working with U.S. stakeholders and our Korean counterparts to address the issues relating to the U.S.-Korea FTA and to ensure that the agreement fulfills its promise.

**(ii) Do you think that any other provisions of the agreement should be put back on the negotiating table? If so, please specify.**

**Answer:** I am not closed to the idea that there are other issues that may need to be addressed but I am generally supportive of the Korea FTA.

**(iii) Over the last 8 years USTR did not allow manufacturing to have a seat at the table during the negotiation of the Korea FTA.**

**What steps could USTR have taken to ensure that the voice of a major industry, such as the auto industry, was heard during the negotiation of this agreement and what steps could they take to ensure manufacturing interests are heard in future trade agreements?**

**Answer:** I plan to expand public participation in advising U.S. negotiators. For example, improved websites and more public consultations outside the established advisory groups are important methods for doing so.

**Question 8:**

**Since the middle of 2000, the United States has lost over 4.3 million manufacturing jobs, an amount equal to 25 percent of all manufacturing jobs in this country. This situation has obviously been exacerbated by the current economic crisis, but was a major trend and problem even when the economy was growing and our markets were strong. I believe that this decline in manufacturing in America is a threat to our economy, our security and the future of our children. Manufacturing is not only critical to our capacity to produce the things needed for a diversified and healthy economy, but has always been the conveyor belt to a decent standard of living for the middle class in this country.**

**Do you agree that the decline in manufacturing is a major threat to our country? What are your thoughts on how we can address this growing problem? Given that violation of trading norms by countries like China, Japan, and others has been a substantial cause of this decline, how do you plan to ensure that U.S. manufacturers can compete on a level playing field in an increasingly global market?**

**Answer:** I am committed to policies that work for American manufacturers and workers. It will take a coordinated effort by the Administration, including but not limited to trade policy, to reinvigorate our manufacturing sector.

**Question 9:**

**Last year was the fourth consecutive year in which the U.S. trade deficit in goods exceeded \$700 billion. That is an enormous sum. Indeed, many observers believe that the large imbalance between the United States and its trading partners played a role in bringing about the current economic crisis. The trade deficit has been in large part caused and exacerbated by the unfair tactics of our trading partners – tactics that include government subsidies, closed home markets, currency manipulation, and cartels designed to limit competition.**

**Do you believe that trade deficits matter? What are your plans to address the persistent imbalance we see reflected in the U.S. trade deficit? Are you committed to stronger and more effective enforcement of our laws against unfair trade to address the root causes of this imbalance?**

**Answer:** Trade deficits do matter. But more important than the deficit itself are the causes. We need to press for greater access to markets overseas and enforcement of our rights under our international agreements.

**Question 10:**

**I share the concern of many of my colleagues in the Senate about the effort of a number of our trading partners – including the most persistent violators of rules-based trade – to weaken U.S. trade laws (including anti-dumping and anti-subsidy laws) as part of the Doha Round negotiations. I believe we need a very different approach in dealing with these negotiations in general – and that we must be crystal clear that any weakening of unfair trade disciplines is off the table.**

**Can you assure me that you will agree to nothing in the Doha Round that would weaken our trade laws? What is your strategy for dealing with the effort of foreign countries to weaken our laws?**

**Answer:** I am committed to the vigorous and effective enforcement of our trade remedy laws. As I stated at my confirmation hearing, we are currently reviewing what is on the table on the Doha round. We will work with you and Congress to ensure that we make progress in the WTO Rules negotiations in a way that protects U.S. producers from unfair trade practices and ensures increased market opportunities for our exporters.

**Question 11:**

**(i) As you are aware, the escalating murder of trade unionists, and the slow progress on the prosecution of those ultimately responsible, is one, but by no means the only, problem with the US-Colombia FTA. As a result of the violence, as well as poor labor laws and the failure of the government to enforce its laws, workers in Colombia are unable to exercise their basic labor rights.**

**What will you do to urge the Colombian government to address the problem of violence against trade unionists and to enact meaningful labor law reform?**

**Answer:** We will work with the Department of Labor, Department of State, and Congress to assess the exact labor law reform or other changes necessary to bring Colombia into compliance with the commitment to allow for the effective exercise of the right to organize free from fear.

**(ii) What benchmarks do you see as useful in judging whether the Colombian government has made adequate progress toward ending the climate of terror and violence for workers seeking to exercise their rights?**

**Answer:** We will work with Congress and other agencies to identify those benchmarks.

**Question 12:**

**(i) The Bush Administration implemented the Peru FTA despite objections from the Committee on Ways and Means and several labor and environmental organizations, which argued that Peru had not yet passed the labor and environmental laws and regulations necessary to comply with the terms of the FTA.**

**Will you raise these outstanding concerns with the Peruvian government?**

**Answer:** We will work with Congress and raise any outstanding concerns with the Peruvian government and work toward resolution.

**(ii) What process(es) will you put into place to ensure that such concerns, from congress or civil society, are duly considered and acted upon long before the USTR determines whether an FTA should enter into force?**

**Answer:** We will exercise much more intensive communication and coordination with Congress in the evaluation of compliance with FTA commitments prior to allowing them to go into force.

**Question 13:**

**In the past few years, the US has negotiated several bilateral and regional US FTAs, most with economically insignificant countries – such as the countries of Central America, as well as the Middle East/African countries such as Oman, Bahrain and Morocco.**

**Do you think that the US should pursue more bilateral FTAs, or focus on multilateral negotiations? Or can/should we do both at the same time? Or do you support sectoral agreements?**

**What would be your criteria for picking countries with which to negotiate an FTA?**

**What would be the overall strategy informing bilateral trade negotiations under your watch?**

**Answer:** Before choosing a specific strategy for new agreements, I want to take the time to assess our options and discuss them with Congressional leaders. We will pursue agreements that make sense for America.

**Question 14:**

**(i) Although our trade agreements, going back to NAFTA, include labor rights protections, they have never been adequately enforced. Well over 30 NAFTA labor cases were filed but have resulted in nothing more than hearings and seminars. A complaint under the US-Jordan agreement, noting the denial of labor rights to migrant workers was ignored. Further, petitions under the trade preference programs are routinely rejected despite substantial evidence that a country is not meeting the labor conditions set out in the various trade preference programs.**

**What actions will you take to ensure that the labor protections in our trade agreements and trade preference programs are fully enforced?**

**Answer:** I will task the agency to work much more closely with the Department of Labor and the Department of State to monitor and enforce compliance.

**(ii) What changes, if any, would you make to strengthen the labor provisions of current unilateral preference programs and trade agreements?**

**Answer:** I am open to discussion and deliberation on what changes and improvements are necessary and look forward to working with you and interested stakeholders in the NGO and labor communities on this matter.

**Question 15:**

**At the Doha Ministerial Conference in November 2001, trade Ministers pledged to place development issues at the heart of the WTO's work. However, developing countries have been disillusioned by the lack of progress on key issues over the past several years.**

**Do you believe that the negotiations to date have been on track to promote global development? How would you ensure that future negotiations both promote needed global development and at the same time create new opportunities for U.S. workers and farmers?**

**Answer:** Much of the current deadlock in the Doha negotiations can be traced to the continuing question of whether key emerging markets such as China, Brazil, and India will make new market-opening commitments. Securing a Doha result that brings meaningful market access contributions by key advanced developing countries is imperative for our farmers, manufacturers, and service suppliers – and is critical to providing new economic opportunities that will also ensure a strong development outcome. Other developing countries have made that clear. I will work closely with Congress and all stakeholders to take the steps needed that will move the Doha negotiations on to a path leading to a balanced and ambitious outcome.

**Question 16:**

**Although there are non-binding commitments, there is currently no enforceable labor rights clause in the WTO agreements, and there continues to be resistance by some countries to the introduction of a labor clause.**

**Do you think enforceable labor rights should be included at the WTO and, if so, how would you go about putting labor rights on the agenda – given the strong objections of some WTO members?**

**Answer:** We intend to undertake a comprehensive review of our trade policy, including how to address concerns about labor rights protections, and will work with Congress to develop a bipartisan strategy.

**Question 17:**

**The Doha Declaration pledged that no reciprocal market access commitments would be sought from developing countries – including emerging markets like China, Russia, India, and Brazil. At the same time, the U.S. Congress instructed the USTR not to agree to any increased market access to the U.S. if reciprocal access were NOT included.**

**Can you reconcile these conflicting positions?**

**Answer:** I do not see them as conflicting positions. The Doha Declaration sets out a full array of parameters for conducting tariff negotiations on non-agricultural products, including a reference to a longstanding GATT Article (Article XXVII *bis* of GATT 1994) as part of underscoring how members take into account the special needs and interests of developing and least developed countries -- including through less than full reciprocity in tariff reduction commitments. That provision is distinct from something that would involve assessing and comparing levels of market access that may be the outcome of a particular negotiation.

**Question 18:**

**Given the current global financial crisis, do you think it is important to reexamine the financial services provisions in FTAs and plurilateral agreements to determine whether they constrain our ability to respond to the crisis through, for example, more prudent financial regulation?**

**Answer:** The GATS and FTAs include the ability for a Member to take prudential measures and adjust its monetary policy to ensure the soundness and integrity of its financial system. Therefore, we have no reason to believe that U.S. government actions taken to date in response to the financial crisis are inconsistent with any of our trade commitments. But we are always open to discussion on ways to improve our existing trade policies and strategy and welcome your specific suggestions.

**Question 19:**

**Given President Obama’s successful visit to Canada, and his recognition of Canada as one of our closest friends and allies and largest trading partners, how can we ensure that the Softwood Lumber Agreement is managed in such a way as to protect U.S. interests while avoiding unnecessary friction with our neighbors? I understand that there have been some complaints from the U.S. industry, but I also understand that, under the SLA, the Canadian share of the U.S. market has dropped from 34 percent to 29 percent, its lowest level in decades. The recent decision by the London Court of International Arbitration on the recent Softwood Lumber Agreement showed that trade agreements can include successful enforcement mechanisms. It is, however, critical that the decision by the arbitral panel is fully implemented in a timely manner by Canada.**

**What would you take as USTR to ensure Canada is fully complying with the arbitration decision? Further, the list of SLA compliance issues is growing almost weekly, threatening the longevity of this agreement. Will you work proactively to improve SLA compliance?**

**Answer:** Yes.

**Question 20:**

**In 2001, the United States signed the Doha Declaration on the TRIPS Agreement and Public Health along with all the members of the World Trade Organization (WTO). The Doha Declaration emphasizes the importance of public health considerations in implementing the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), “affirm[ing] that the [TRIPS] agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all.”**

**Do you think the U.S. is following the TRIPS agreement, which includes allowing countries to issue compulsory licenses on grounds determined by member states?**

**Answer:** This is an important question that I know you and many members of the public health community care about deeply. I will investigate the question and follow up with you and your staff.

**Question 21:**

**As the most cutting edge and effective medicine is developed, the new drugs are often too expensive for patients in developing countries. In 2008, the United States and other member countries of the World Health Organization unanimously adopted a Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property (WHA 61.21) in order to address the interconnected innovation and access challenges that face developing countries. The strategy commits WHO and member countries, including the United States, to explore some commonsense measures aimed at spurring the development of medicines and other products that will meet priority health needs of people in developing countries, and making those products available on an affordable basis.**

**Do you support exploring and implementing new global norms for promoting medical research and development that seek to provide a sustainable basis for a needs-driven essential health agenda, such as those ideas outlined in the WHO global strategy and plan of action?**

**Answer:** I want to work with you and the public health community as well as industry to reach a consensus on how to promote global health and global commerce. I take the need for life saving medicines in the developing world very seriously and look forward to working with you on the challenge.

**Question 22:**

**As you know, the economic stimulus package included Buy America provisions. Some of our trading partners have complained loudly about these provisions. But the WTO Director-General, Pascal Lamy, has stated that he believes the Buy America provisions are consistent with our obligations to our trading partners.**

**There has been concern about the Buy America provision from some of our biggest trading partners including China, Russia, Brazil, and India, yet they have not signed the WTO Government Procurement Agreement.**

**Do they have an obligation to allow U.S. companies to bid on their government projects, and do we have an obligation to give these countries access to our government projects?**

**Answer:** China, Russia, Brazil and India maintain “buy national” policies that significantly restrict participation by U.S. firms in their procurement. The United States does not have obligations to allow any country to participate in our government procurement unless that country has agreed to allow U.S. suppliers fair and reciprocal access to their procurement.



**Question 23:**

**It seems that, for many years now, any time anyone calls for the vigorous enforcement of our trade laws, they are accused of being “protectionist.”**

**Would you agree that we need to jettison that term once and for all, so that everyone understands that enforcement of our trade laws, and of our rights under international agreements, is not “protectionist”?**

**Answer:** I agree that enforcement of our trade laws and our rights under international agreements is not protectionism. The availability and appropriate use of trade remedies to address unfair trade practices play a critical role in maintaining support for free trade.

## Questions from Senator Cantwell

### Question 1:

**What will you do to resolve differences over access for U.S. autos and beef, so that we can move ahead with the U.S. – Korea Free Trade Agreement? I understand you will be setting benchmarks for progress on the U.S. – South Korea Free Trade Agreement. Could you tell me more about your plans?**

**Answer:** Successful completion of the U.S.-Korea FTA holds the promise of expanding opportunities for American workers, farmers and businesses. Korea is an important friend and ally of the United States and its market is the seventh largest U.S. export market in the world. We are committed to working with U.S. stakeholders and our Korean counterparts to address the issues relating to the U.S.-Korea FTA and to ensure that the agreement fulfills its promise. We recognize that not implementing a good Korea agreement comes with opportunity costs. We will work with you and others to make the benchmarks we set for Korea transparent and objective.

### Question 2:

**What priorities will you have for trade policies involving Japan - one of the largest export markets for my state?**

**Answer:** Achieving greater access to the Japanese market - our fourth largest goods export market - will be a priority. I plan to work with Japan closely to create new opportunities for U.S. goods and services, including through our regulatory reform work. I also plan to address bilateral irritants in such areas as beef and insurance.

### Question 3:

**Given the urgency of the problems in Afghanistan and Pakistan, I am very disappointed the former USTR did not make my Reconstruction Opportunity Zone (ROZ) bill a higher priority. Will you make it a priority?**

**Answer:** We recognize the importance of economic development in defeating extremist elements in both Pakistan and Afghanistan. In coordination with other agencies, we are reviewing on a priority basis our options for fostering economic development in these countries. My goal is to identify a common approach as soon as possible and work with you on this important matter. I appreciate your efforts and leadership.

**Question 4:**

**Do you believe that promotion of global economic development should be at the core of U.S. trade policy? Is the completion of the Doha Round a component of that policy? As USTR, what would you do at the multilateral, bilateral and unilateral levels to ensure U.S. trade policy promotes economic growth and poverty reduction in developing countries?**

**Answer:** Promoting growth at home and global economic development overseas are key goals of U.S. trade policy. The completion of the Doha Round can and should be a component of that policy. I also remain committed to working with you and the Committee to strengthen US trade preference programs and to take other steps to promote economic growth and poverty reduction in developing countries. I also look forward to working with you and my counterparts at State, MCC and USAID to ensure that the necessary trade-related development assistance is provided to our developing country partners to help them to participate in global markets and implement trade obligations effectively.

**Question 5:**

**Would you support extending duty-free, quota-free access to the U.S. market to all products from Least Developed Countries?**

**Answer:** As you may know, Least Developed Countries (LDCs) are already eligible for duty-free access on 83 percent of tariff lines in the U.S. tariff schedule. LDCs covered by AGOA and CBI are eligible for duty-free access on up to 91 percent of the tariff lines in the U.S. tariff schedule. At the last WTO ministerial meeting in Hong Kong in 2005, the United States made a political commitment to provide expanded duty-free, quota-free market access (DFQF) for products from LDCs to 97 percent of tariff lines. Ministers agreed that WTO Members would implement the initiative coincident with the implementation of the results of the negotiations under the DDA. We will evaluate how we might best implement this commitment.

**Question 6:**

**What priorities do you have for trade policies that will promote renewable energy and a cleaner global environment? Progress in any talks with China could lead to a broader agreement to eliminate tariffs within the Asia Pacific Economic Cooperation (APEC) organization by the 2011 APEC summit. Would you consider engaging China on working to eliminate tariffs on clean energy and environmental goods and services?**

**Answer:** We will work with the State Department and other agencies to press countries such as India and China to take strong action through a new global climate change agreement. It will be critical that any U.S. climate change legislation address concerns with carbon leakage and competitiveness, yet do so in a way that does not generate serious trade tensions and that is consistent with our international obligations. We look forward to discussing these issues with you as legislation is drafted. As to a specific effort to eliminate tariffs on clean energy and environmental goods and services, I would like to explore the idea with you further and coordinate with my colleagues in the Administration.

**Question 7:**

**If you are confirmed as the nation's next USTR, will you keep the Boeing Airbus WTO cases at the top of your priority list and seek to have decisions reached this year?**

**Answer:** Yes

**Question 8:**

**Will your office closely monitor European Union (EU) anti-dumping investigations launched against U.S. biodiesel exports? Will you take action at the World Trade Organization (WTO) if the EU acts inconsistently with its WTO obligations?**

**Answer:** If confirmed, I will closely monitor this issue going forward and will take appropriate steps to protect our rights if the investigation raises concerns under WTO rules.

**Question 9:**

**As you may know, consumer electronics is one of the fastest growing industries in the United States. In fact, high technology products are one of America's largest export sectors totaling some \$220 billion. Do you believe that a sectoral agreement on electronics can and should be pursued outside of the context of the Doha Round, should the Doha Round continue to stall?**

**Answer:** We should not exclude any options in improving cross-border market access for the vital high technology and electronics sectors.

**Question 10:**

**Over the years, USTR has made significant achievements despite its limited resources. I hope you agree that those resources must be wisely allocated to areas where they can do the most for our economy. If so, would you consider reviewing the role of the Special Textile Negotiator and revising the mission of that office so that some of its resources are reallocated to enhance USTR's efforts in areas such as services, where international negotiations have languished, and enforcing our existing rights under international agreements?**

**Answer:** USTR's offices of industries, services and IPR focus critical attention on service and other key sectors of our economy. If I am confirmed, I will set clear goals, establish discipline, and further focus the agency to ensure that these vital issues receive priority attention. USTR's office of textiles and apparel will continue to play an important role in that sector as well. There are exceptional professionals in place and I will work with the structure to ensure that it serves our mission. I welcome any specific suggestions you might have.

## Questions from Senator Bill Nelson

### Question 1:

**In Florida we have a fairly serious problem with contaminated drywall, imported mostly from China, that causes corrosion in wiring, creating potential fire hazards, and health problems in some individuals. It is my understanding that some companies have already contacted USTR to seek some form of redress on this issue.**

**How will your offices seek to respond not only to the issue of contaminated drywall, but also to the larger problem of trade enforcement and consumer product safety with regard to China?**

**More broadly, how will USTR work with other U.S. agencies – e.g., the Department of Commerce, Customs and Border Protection, Consumer Product Safety Commission, and the Environmental Protection Agency – to balance trade facilitation with environmental concerns and consumer product safety in dealing with imports from China and elsewhere?**

**Answer:** I understand that USTR is one of several federal agencies that have been briefed on this issue related to Chinese drywall imports. Since USTR is not a regulatory agency, we are not engaged in assessing the technical situation or the proper regulatory response to this specific situation. However, there is no doubt that our government has the right and responsibility to protect the public from unsafe products. If confirmed, you can be sure I will work closely with the Department of Commerce, the CPSC, the EPA, and CPB, so that we can effectively protect the public from unsafe imports from all of our trading partners, including China, consistent with international trade rules.

### Question 2:

**The 2006 Hemispheric Opportunity through Partnership Encouragement Act (HOPE) and the 2008 HOPE II are aimed at revitalizing Haiti's textile industry and spurring economic growth.**

**What more can we do on the trade front to assist the Haitian people take advantage of duty free access through HOPE II and other preference programs? What customs and port training or other technical assistance could the U.S. Government provide?**

**Answer:** We will work with CBP and other agencies to ensure that the Government of Haiti and the Haitian private sector are prepared to take advantage of all the benefits under HOPE II.

**Question 3:**

**We need to think creatively about ways to promote economic trade in the Middle East to achieve our national goals. The U.S.-Israel Free Trade Agreement will mark its 25<sup>th</sup> Anniversary in 2010. Other initiatives have shown promise, including the Qualifying Industrial Zones (QIZ), established in 1996 to support the peace process. These QIZs, industrial parks located in Jordan, manufacture jointly-produced Israeli-Jordanian goods for duty free export to the U.S. duty.**

**What are your views on Israel's request for Qualifying Industrial Zone (QIZ) designation for additional areas for new satellite factories in Jordan and allowing "cumulation of rules of origin"? In your view, how has Jordan improved its overall labor administration and compliance?**

**Answer:** It is critical to promote commerce in this region and we will evaluate Jordan and Israel's request with that in mind. In response to labor issues that arose several years ago, the Government of Jordan responded swiftly to attempt to address these problems. We will work with the Department of Labor to continue to monitor carefully the situation and evaluate Jordan's progress.

**I would urge you to review the U.S.-Israel Free Trade Agreement and the QIZ Initiative to determine new ways to cooperate more fully with Israel and Jordan and grow our economic relationship with both countries, as well as with the broader Middle East.**

## **Questions from Senator Menendez**

### **Question 1:**

**In your view, what role should the promotion of global economic development play in formulating U.S. trade policy?**

**Answer:** Promoting growth at home and global economic development overseas are key goals of U.S. trade policy.

### **Question 2:**

**(i) What do you consider to be the shortcomings of our trade preference programs?**

**Answer:** U.S. trade preference programs have helped to promote new opportunities for poor and developing countries for more than 35 years, and have also provided important opportunities for American exporters and the United States. I look forward to working with you and Congress in the next year or so to consider the best ways to strengthen our family of preference programs.

**(ii) How can our trade preference programs be improved and expanded to make them more effective in promoting development?**

**Answer:** As I mentioned, Congress and the Administration are just at the beginning of what promises to be a rich and enlightening public dialogue about improving and expanding our trade preference programs so that they meet more effectively their goals,

### **Question 3:**

**What are your views on the effect of extending duty-free, quota-free access to the U.S. market to all products produced in the Least Developed Countries (i.e., those with low per person incomes and total national incomes of less than \$100 billion.)**

**Answer:** We will evaluate what effect extending duty-free, quota-free (DFQF) treatment to all products produced in LDCs could have on the U.S. market, and look forward to hearing your thoughts on this issue as well. I understand that, in 2007, USTR requested that the United States International Trade Commission (USITC) perform an investigation of the probable economic effects on U.S. producers and consumers associated with implementation of the Hong Kong decision to provide duty-free, quota-free (DFQF) access to products from LDCs. Also in 2007, I'm told USTR requested public comments on issues related to implementation of DFQF in a Federal Register notice and nearly 80 responses were received.



**Question 4:**

**(i) Defense, diplomacy, and development are considered the three pillars of our foreign policy. How do you think we might use U.S. trade policy to reinforce our development programs?**

**Answer:** As noted above, promoting growth at home and global economic development overseas are key goals of U.S. trade policy. The completion of the Doha Round can and should be a component of that policy. I also remain committed to working with you and the Committee to strengthen US trade preference programs and to take other steps to promote economic growth and poverty reduction in developing countries.

**(ii) If confirmed, what steps would you take to improve coordination between USTR, USAID, the State Department, and other agencies on policies that affect economic development?**

**Answer:** I would want to sit down with my counterparts, Secretary Clinton, the USAID Administrator, MCC CEO and others to assess the best ways to collaborate more effectively and to ensure that the necessary trade-related development assistance is provided to our developing country partners to help them to participate in global markets and implement trade obligations effectively.

**(iii) In your view, should U.S. trade policy be part of a coordinated strategy to promote global development?**

**Answer:** Yes. Promoting growth at home and global economic development overseas are key goals of U.S. trade policy. The completion of the Doha Round can and should be a component of that policy. I also remain committed to working with you and the Committee to strengthen US trade preference programs and to take other steps to promote economic growth and poverty reduction in developing countries. I also look forward to working with you and my counterparts at State, MCC and USAID to ensure that the necessary trade-related development assistance is provided to our developing country partners to help them to participate in global markets and implement trade obligations effectively.

**Question 5:**

**If confirmed, what priority would you place on getting the Doha negotiations back on track?**

**What would you consider to be a successful conclusion to the Doha Development Agenda?**

**Answer:** The Doha negotiations are, obviously, the largest ongoing trade negotiation. Assessing the appropriate next steps is a top priority. A successful outcome is one that opened significant new market opportunities for American workers, farmers and businesses, without the United States having to make the lion's share of the concessions to get a package.

**Question 6:**

**(i) What is your view on pursuing new bilateral and regional trade agreements with developing countries?**

**Answer:** If I am confirmed, I will be leading an intensive review of policy options for new trade agreements, including agreements with bilateral and regional groups of developing countries.

**(ii) In pursuing such agreements, what criteria we use in choosing trading partners?**

**Answer:** That will be decided in the review. Some points – such as pursuing the largest possible new opportunities for American exporters, establishing high standards for market openness and transparency—will be fundamental.

**(iii) In your view, should such agreements reflect the differing levels of development and other disparities between the U.S. and its trading partners?**

**Answer:** The answer depends on the level of development of the country in question, and the specific provisions in play. As I have previously explained, LDC status is critical to issues such as striking the right balance between protecting pharmaceutical patents and ensuring access to essential medicines.

**(iv) Does the May 2007 agreement between Congress and the Bush administration regarding trade agreements provide a useful starting point or template for future bilateral trade negotiations?**

**Answer:** Yes.

**Question 7:**

**(i) What changes, if any, do you feel are needed in the trade agreement with Colombia that was negotiated by the Bush administration?**

**Answer:** The President has indicated that he expects to see more to address ongoing violence against labor leaders and others in Colombia.

**(ii) Is there a risk that a FTA with Colombia will exacerbate rural poverty in that country? How can that risk be alleviated?**

**Answer.** The Colombia FTA contains long phase out periods for sensitive agricultural products and other mechanisms that should enable local populations to adjust more gradually over time, rather than immediately and all at once. The Colombia FTA should also be an additional tool the Government of Colombia will be able to use to fight poverty and strengthen equality throughout Colombia. The increased economic activity that will result from the FTA will create additional jobs and opportunities in the formal sector, and will positively influence Colombia's efforts to reduce poverty. Moreover, the Colombia FTA includes a Trade Capacity Building Committee that will coordinate assistance programs in Colombia to promote economic growth, reduce poverty, and adjust to liberalized trade.

**Question 8:**

**(i) To date, do you feel that Peru has complied with commitments it made under its trade agreement with the U.S., particularly with regard to labor rights and environmental protection?**

**Answer:** This is an issue that I will need to examine more carefully if I am confirmed. For now, I know that there have been some issues with Peru's implementation, but also some important successes. Were I to be confirmed, I would be committed to using all the resources of my office to implement this remarkable set of agreements.

**(ii) What steps can be taken to ensure that Peru makes any needed reforms, and modifies its practices to comply with the letter and the spirit of the labor and environmental provisions in the FTA?**

**Question 9:**

**If confirmed, do you anticipate making changes to the trade advisory committee structure in USTR?**

**What criteria do you believe should be considered in forming trade advisory committees?**

**Answer.** As I indicated, I have no preconceptions on this or other decisive issues. However, I will say that I want to do everything possible to de-mystify USTR and breath life into initiatives to provide greater access to the public and to those who may not have had as fulsome contact in recent years.

**Question 10:**

**As U.S. Trade Representative, will you enforce vigorously the terms of the WTO Accession Agreement, specifically with respect to export taxes on raw materials imposed by China?**

**If China does not eliminate imposing these taxes in a manner inconsistent with the accession agreement, what actions would you consider taking?**

**Answer:** China imposes export quotas, export duties and other export restrictions on a number of raw materials, which continue to generate serious concerns for us. I can assure you that one of my top priorities will be to ensure that we aggressively defend our WTO rights and benefits vis-à-vis China and our other trading partners. We will use bilateral engagement, as well as the full range of WTO tools in our efforts.

**Question 11:**

**For more than three years, the Chinese People's Liberation Army (PLA) medical library has been improperly making copyrighted U.S. medical and scientific journal articles available for online re-sale by a private Chinese company. Last December I wrote a letter to the Chinese ambassador calling his attention to the actions of this firm, Kangjian Shixun Science and Technology, Ltd., and asking that this infringement be stopped. However, nothing has happened, and pirated copies of U.S. scientific and medical journal articles made available by the PLA are still available on the company's website. As a result of this piracy, U.S. publishers are losing tens of millions of dollars, and jobs at these companies have been placed at risk.**

**If confirmed, what actions will you take to bring an end to the rampant theft of U.S. copyrighted materials by the Chinese military and its private-sector allies?**

**Answer:** I understand that USTR officials have been working to address this specific issue and they have been raising the issue with Chinese officials. USTR is currently consulting with the U.S. industry about appropriate next steps. If I am confirmed, I will ensure that we use all appropriate avenues in our efforts to resolve this issue.

**Question 12:**

**The new beef hormone ban retaliation list, imposed by the Bush administration, must remain in place for at least six months. As USTR, will you review the economic effects of the current list, or do you expect to keep the list in its present form?**

**Answer:** We will always keep the domestic economic effects of this or any import retaliation list under review. The purpose of the new beef hormone retaliation list is to encourage a resolution of the beef hormones dispute that will provide a fair result for the U.S. beef industry. USTR officials are currently engaged in discussions with the EU that could result in at least an interim solution to the dispute. I support these efforts, and will take whatever steps are necessary to achieve a prompt resolution of this dispute

## Questions from Senator Carper

### Question 1:

**Last year, the U.S. Government collected nearly \$2 billion in duties on footwear imports. These tariffs were enacted in the 1930s and have not been adjusted even though today's domestic industry only produces specialty and certain types of high-end footwear.**

**Footwear tariffs are particularly regressive because they are highest on the cheapest shoes – usually between 48% and 67%. But expensive leather or luxury footwear is taxed at a far lower rate – in the 10% range.**

**Should we eliminate or reduce these footwear duties to help lower- and middle-income American families buy a basic necessity?**

**Answer:** The most appropriate venue for considering reduction or elimination of footwear tariffs remains the Doha Development Agenda round of multilateral negotiations.

### Question 2:

**We recently expanded Trade Adjustment Assistance to include displaced service workers because the service industry has become such an important and growing part of our economy.**

**(i) As you appoint experts to address various aspect of the U.S. economy in trade agreements, how do you plan to address the increased role of services? Would you consider creating a Special Negotiator for services?**

**Answer:** We have a strong and active Assistant USTR for Services but would consider any and all ideas you may have for improving our ability to help grow this vital sector of our economy.

**(ii) Would you consider reviewing the role of the Special Textile Negotiator and revising the mission of that office so that some of its resources are reallocated to enhance USTR's efforts in areas such as services?**

**Answer:** We would welcome your ideas on ways to ensure adequate and appropriate levels of support within USTR for the trade interests of our services industries.

### **Question 3:**

**The U.S. government has consistently relied on the WTO dispute resolution process to insure that trading partners are not able to exclude U.S. goods and services from export growth markets. While the U.S. uses successes at the WTO to press our trading partners to open their markets, during the Bush Administration it has consistently refused to accept the WTO decision on zeroing in annual reviews. The U.S. has now lost four WTO Appellate Body decisions – all found the U.S. practice of zeroing in Antidumping Reviews as inconsistent with the Antidumping Agreement. Several other Dispute Settlement cases on the issue are at various stages of review.**

**(i) Does the Obama Administration intend to maintain the practice of zeroing in light of the four WTO Appellate finding that the practice is inconsistent with the Antidumping Agreement?**

**Answer:** We will work to fully capture the cost of dumping practices and are in the process of reviewing the zeroing decisions and their implications for our producers.

**(ii) If so, what are the personnel requirements and the budget cost to the U.S. government of continuing to litigate these claims? And how might this impact our ability to get our trading partners to respect the finality of a dispute when the determination is not in their favor?**

**Answer:** The USTR is committed to defending any challenges to American law.

### **Question 4:**

**I would like your views on a matter of importance to one of my constituents, and with larger implications for renewable energy programs in the United States.**

**In a countervailing duties case brought against exports of certain sodium metal produced by Dupont, the European Union is currently investigating whether hydroelectric power provided by a state power authority to entities in the Niagara Falls region of New York is an improper government subsidy.**

**Should the EU impose punitive duties against U.S. exports based on the cost of hydroelectric power, a general precedent could be established against any Federal or sub-Federal program that provides clean, renewable electricity at affordable prices to energy-intensive industries. Companies like Dupont that employ thousands of Americans would be faced with highly punitive duties on their U.S.-made exports.**

**How will you direct the staff of the Office of the U.S. Trade Representative to mount an active and vigorous defense against the EU's challenge in this case?**

**Answer:** I am committed to monitoring this case through to its conclusion and will take action if the EU does not live up to its WTO obligations.

**Question 5:**

**The retrospective system of administering U.S. trade remedy laws (antidumping and countervailing duty laws) is inherently unpredictable because parties cannot know in advance whether products they import may later be subject to antidumping/countervailing duties or at what level. The United States is the only country that employs a retrospective system for collecting antidumping/countervailing duties whereby final duty bills are not calculated until after a review is completed, which can be a year or more after the product was imported.**

**A prospective normal value system, such as those used by all our major trading partners, would eliminate the uncertainty while strengthening the application of U.S. trade remedy laws by allowing stronger duty collection rates and proactively resolving WTO challenges to U.S. trade policy such as zeroing and Customs and Border Protection's (CBP's) requirement for bonds on shrimp imports.**

**Would you consider a switch to a prospective system of U.S. trade remedy duty collections?**

**Answer:** The current statutory framework provides for a retrospective system. Along with my colleagues at the Department of Commerce and Customs and Border Protection, I would be happy to work with the Congress to consider the appropriate approach to these issues.

**Question 6:**

**Japan is one of our largest trading partners and an ally of the U.S. in many ways. What it does in its trading relationship with us is carefully watched by the rest of the region, most notably by China and South Korea.**

**Recently, there have been reports that the government-owned postal insurance entity, which is in the early stages of becoming a private company, is trying to get approval to sell many products that U.S. companies sell--without first complying with all the regulatory rules and restrictions that apply to private companies. It is my understanding that this situation is moving forward rather quickly.**

**What is your plan of action with regard to dealing with it?**

**Answer:** USTR has been closely following developments in Japan and has raised the United States' serious concerns on this issue with Japanese officials. We are prepared to continue to press Japan in all appropriate fora to provide fair treatment to U.S. insurance companies.



## Questions from Senator Hatch

### Question 1:

**IP protection is critical to the preservation of many U.S. industries, especially those cutting-edge industries where the U.S. maintains a competitive advantage. However, in many international forums, such as the WTO and WHO, strong IP protections are increasingly represented as a hindrance to – rather than an essential element of - economic growth and prosperity. Too often, nations are touting measures such as compulsory licensing as the norm, rather than the exception. How will the USTR, under your leadership, ensure that international IP protections remain strong for American companies operating abroad?**

**Answer:** I agree that ensuring strong IP protection must be one of our top priorities. Thanks to American innovation and creativity, IP-intensive industries are ones in which the United States enjoys a strong comparative advantage. In a time of economic challenges, we need those industries to continue to create jobs and excellent opportunities for economic growth, and improve the lives of Americans through the products they generate. IP-intensive industries in turn need commitments from our trading partners to strong and effective protections for U.S. intellectual property rights, and we will work with our trading partners to secure those commitments. As part of our renewed commitment to enforcement of our trade rules, I will ensure that USTR enforces trade rules concerning intellectual property rights. If confirmed, I also look forward to working with you and with other agencies of the U.S. Government to ensure constructive U.S. participation when issues that impact IP and innovation trade policy arise in international fora.

**Question 2:**

**Intellectual property protections are paramount. In the face of economic hardships, steep job-losses and a downturn in U.S. manufacturing, it has become critical to the US economy that we protect our innovative ideas and the industries and workers that rely on them. Strong intellectual property protections at home and overseas, and making sure that our trading partners do not inappropriately make off with U.S. innovation, are essential to this task.**

**USTR has an excellent track record of ensuring robust intellectual property protections for U.S. companies abroad, opening markets for innovative U.S. industries, and making sure that our trading partners satisfy the highest international standards.**

**As USTR, can you assure us you will make it a priority to see to it that this good and essential work is built upon at the WTO and other international fora, as well as in bilateral and regional FTA negotiations?**

**Answer:** Yes, I can assure you that, if confirmed, I will use all appropriate tools and work in all appropriate fora to seek commitments from our trading partners to strong and effective protections for U.S. intellectual property rights. I can also assure you that our commitment to enforcement of our trade rules will extend to enforcement of trade rules concerning intellectual property rights.

**Question 3:**

**Compulsory licenses must not be abused. Recently, countries such as Brazil and Thailand have issued a series of compulsory licenses (CLs) on a range of patented medicines developed by U.S. companies, largely to support local industry or address short-term budget objectives. CLs have also been threatened in areas other than medicines, including medical devices and patented environmental technologies. By issuing these licenses and making these threats, our trading partners are inappropriately turning what was intended to be a very limited exception to intellectual property rights protections under the TRIPS Agreement into a standard business decision. While WTO rules on CLs must be supported, just as with expropriations of tangible property, countries should not take this step lightly, and the U.S. Government must send a strong message against the inappropriate expropriation of U.S. property through compulsory licenses or other means.**

**USTR has a longstanding position, which has received strong bipartisan support on Capitol Hill, that compulsory licensing should be a rare exception to our trading partners' commitments to respect U.S. intellectual property rights.**

**Can we count on you to continue your predecessors' strong advocacy on this important issue?**

**Answer:** I agree that the issuance of compulsory licenses can raise legitimate concerns in some circumstances. I also recognize the importance of protecting public health and ensuring access to life-saving medicines in developing countries. If I am confirmed, USTR will carefully monitor the use of compulsory licensing by our trading partners, and will work with Congress to address legitimate concerns while also working with Congress to support and respect the Doha Declaration on the TRIPS Agreement and Public Health, which recognizes the right of WTO members to grant compulsory licenses in accordance with WTO rules.

**Question 4:**

**Access barriers must be eradicated. The U.S.-based biopharmaceutical industry faces numerous non-tariff barriers to entry in almost every market in which it operates. These can range from unreasonable regulatory delays to a failure to reward innovation to a lack of transparency in government decision-making... all having the same effect: delaying or preventing the ability of imported, innovative medicines to reach local patients and putting an increased burden on the US to foot the world's pharmaceutical bill.**

**While USTR has continuously improved the provisions in agreements relating to these types of issues, such adverse government practices remain widespread and compliance with any provision in place has been poor. Aggressive action needs to be taken to ensure that U.S.-based biopharmaceutical products have as fair and equitable access to foreign markets as foreign products have to ours. Failure to improve access to foreign markets means fewer jobs in the U.S. and fewer new life-saving medicines.**

**Can we count on you to enforce agreements relating to these types of issues?**

**Answer:** Yes, if I am confirmed I can assure you that our commitment to enforcement of our trade rules will extend to enforcement of trade rules that impact market access for all sorts of products and services, including the products of America's innovative pharmaceutical and biotechnology industries. Discrimination against innovative medicines from the United States in violation of trade rules does not serve the interests of public health, and should not be tolerated.

**Question 5:**

**I am very concerned that if the Administration and Congress do not act quickly, we will lose a very important opportunity for our business, our farmers and our workers. Specifically, I am thinking of the U.S.-Colombia Trade Promotion Agreement. As you probably have heard, Canada and Colombia have signed a similar agreement last year. It appears that that agreement will go into force this year. If the U.S.-Colombia does not get approved and enter into force before the Canadian agreement, we will effectively cede that market to Canadian manufacturers, farmers and service providers at the expense of all of us here in the United States.**

**What will you do, if confirmed as USTR, to make sure that American workers do not lose ground in this very important market?**

**Answer:** We will review the agreement and work with all interested parties to ensure that the issues the President raised during the campaign are addressed in Colombia in a manner that allows us to move forward with the agreement. We will work with you on this effort and recognize that reaching conclusion will achieve improved access for our producers to that market.

**Equally vital is the need to support our strongest ally in the region, who is fighting not only an internal civil war, but also illegal narcotics trafficking and regimes very unfriendly to the United States. The United States' failure to approve the Colombia FTA – which was originally signed over two years ago in November 2006 – is sending a very negative signal to an ally that is facing its own elections in about a year. What will you do, if confirmed, to ensure that our relations with Colombia continue to be strong?**

**Answer:** The President has made clear that Colombia is a friend and ally and we will work with them in that spirit.

**Question 6:**

**Intellectual property and innovation are major contributors to U.S. economic growth, employment and success in the global economy. The protection of intellectual-property rights is, therefore, a vital component of U.S. trade and investment policy that is necessary to support continued U.S. competitiveness worldwide.**

**How will you, if confirmed, improve the protection of intellectual property?**

**Answer:** Ensuring strong IP protection will be one of our top priorities. Thanks to American innovation and creativity, IP-intensive industries are ones in which the United States enjoys a strong comparative advantage. In a time of economic challenges, we need those industries to continue to create excellent jobs and excellent opportunities for economic growth, and improve the lives of Americans through the products they generate. IP-intensive industries in turn need commitments from our trading partners to strong and effective protections for U.S. intellectual property rights, and we will work with our trading partners to secure those commitments. As part of our commitment to the enforcement of our trade rules, we will enforce trade rules concerning intellectual property rights. I also look forward to working with you and with other agencies of the U.S. Government to ensure constructive U.S. participation when issues that impact IP and innovation trade policy arise in international fora.

**In 2007, an agreement was reached by some in Congress and the former Administration that weakened previously agreed to strong IP standards for one of our most innovative industries. Can you assure me that you will support the strongest possible IP protections for all U.S. industries?**

**Answer:** Ensuring strong IP protection for all U.S. industries will be one of our top priorities. In pursuing that priority, we must also recognize the importance of protecting public health and ensuring access to life-saving medicines in developing countries. The IP language in the May 10, 2007 agreement reflected a bipartisan effort to strike a new balance on these issues. As we consider the way forward, I am open to consulting with Congress and listening to any ideas that you may have.

**Question 7:**

**Fundamental to the U.S. legal system is the right of individuals to protect themselves against arbitrary, discriminatory and expropriatory government actions. From the Due Process, Equal Protection and Takings Clauses of the U.S. Constitution to the Administrative Procedure Act to a host of other federal and state laws, the U.S. legal system guarantees Americans and foreigners the right to protect themselves against fundamentally unfair government action. The same protections form a critical piece of bilateral investment treaties and a number of trade agreements – promoting broader U.S. national interests in the rule of law and the protection of individuals. Can you assure me that you will seek such strong protections in overseas markets?**

**Answer:** Yes. Protection against denials of due process, discriminatory treatment of foreign investors, and expropriatory government actions is essential to allow U.S. investors to compete on a level playing field in foreign markets and to ensure that they are treated according to the rule of law. U.S. investors have invested billions of dollars overseas. This is good for U.S. firms, for U.S. workers, and for the U.S. economy, but the system only works well if investors have these protections. That is why we will work hard to achieve strong protections for our investors overseas.

**Question 8:**

**U.S. exports accounted for approximately 2/3 of U.S. growth in 2008 and should represent an important part of America’s strategy to promote economic recovery at home and abroad. Countries around the world already maintain significant barriers to the entry of U.S. goods and services and some are looking at imposing new barriers, particularly given the current economic crisis.**

**Do you agree in general that if the United States raises barriers in our own market, other countries are more likely to raise barriers against our products?**

**Answer:** Yes.

**And how will you proceed to eliminate barriers in foreign markets against U.S. goods and services, barriers that are for the most part not already covered by existing trade and investment agreements?**

**Answer:** We will work through the WTO and with trading partners abroad to identify and eliminate non-tariff barriers to trade that often present unnecessary and unfair obstacles to markets for our goods and services. We also welcome any ideas that you may have.

**Question 9:**

**As you are aware, last year the previous administration engaged several of my Democratic colleagues to negotiate a compromise which was dubbed the “May 10<sup>th</sup> Agreement.” It is no secret that I was opposed to that compromise because of the changes that it called for in the Labor, Environmental, and Intellectual Property chapters of already negotiated trade**

agreements. When I raised my objections to officials in the previous administration, I was given assurances that these concessions would lead to the passage of the – then four – outstanding trade agreements. Well, as we all now know – these concessions only lead to the passage of one of the four agreements – that of Peru.

I now am hearing troubling talk that the Obama Administration is looking to reopen the May 10<sup>th</sup> deal in an attempt to win additional labor and environmental concessions. I have even heard some Democrats refer to the May 10<sup>th</sup> deal as a “floor” from which to begin negotiations and not a “ceiling” as it was portrayed to me. Mayor Kirk, can you please give me your personal assurance this afternoon that you will not seek to reopen the May 10<sup>th</sup> Agreement?

**Answer:** The May 10<sup>th</sup> Agreement established a strong foundation for bipartisan progress on trade. We will not seek to build on that foundation without bipartisan support. But trade policy has evolved over the last twenty years and we expect it to continue evolving and will work with Congress to ensure a diversity of views is heard on the subject.

**Question 10:**

World Trade Organization (WTO) rules on trade remedies (e.g., antidumping, countervailing duty, and safeguard rules) allow injured U.S. companies to seek relief from dumped or subsidized imports. At the same time, U.S. importing companies are negatively impacted by these actions--sometimes irreparably--yet these companies do not have a meaningful voice in trade remedy proceedings. Meanwhile, U.S. exporters are facing the increasing and abusive use of trade remedies in overseas markets. History has shown us that as tariff barriers are reduced through international agreements, new barriers under the guise of trade remedies are erected, thereby harming U.S. exporters. How will you ensure that international trade remedy rules, and their application in the United States and abroad, is balanced and does not undermine legitimate commerce?

**Answer:** This Administration supports the enforcement of rules that protect producers from unfair competition. We do not support arbitrary rules aimed at undermining legitimate commerce. We will work with you to identify and eliminate such rules when and where they arise.

**Question 11:**

U.S. importers need predictability in the marketplace to be able to make informed business decisions. The retrospective system of administering U.S. trade remedy laws (antidumping (AD) and countervailing duty (CVD) laws) is inherently unpredictable because parties cannot know advance whether products they import may later be subject to AD/CVD duties or at what level. The United States is the only country that employs a retrospective system for collecting AD/CVD duties whereby final duty bills are not calculated until after a review is completed, which can be a year or more after the product was imported. For

**importers, this uncertainty in the supply chain is one of the most detrimental aspects of U.S. trade remedy law. A prospective normal value system, such as those used by all our major trading partners, would eliminate the uncertainty while strengthening the application of U.S. trade remedy laws by allowing stronger duty collection rates and proactively resolving WTO challenges to U.S. trade policy such as zeroing and Customs and Border Protection's (CBP's) requirement for bonds on shrimp imports. Would the USTR advocate and support a switch to a prospective system of U.S. trade remedy duty collections?**

**Answer:** The current statutory framework provides for a retrospective system. Along with my colleagues at the Department of Commerce and Customs and Border Protection, I would be happy to work with the Congress to consider the appropriate approach to these issues.



## Questions from Senator Snowe

### Question 1:

**Representing the people of a state that has lost many of its historic manufacturing industries, I believe that shifting the focus of U.S. trade policy to job preservation is absolutely essential to the survival of the U.S. manufacturing sector. Between 1994—the year NAFTA came into effect— and the beginning of the current economic downturn, America lost over 4.5 million jobs. Over 26,000 of these manufacturing jobs were lost in Maine—a state with a relatively small population where such losses have a devastating impact, particularly on small towns. The economic crisis which began last year has further decimated U.S. manufacturers, which shed over 600,000 jobs in 2008, and 219,000 more just last month. Tragically, these lost jobs have been some of the best paying work in the country. The average manufacturing worker earns a weekly wage of \$725, 20% higher than the national average.**

**It is no coincidence that this withering of our country’s once-unparalleled manufacturing base took place during a period of record trade liberalization and increases in imports from large, often poorly regulated low-cost producers like China and India. Import competition from—and in some cases, off-shoring of entire production lines to— countries with low wages, poor labor standards and lax environmental laws has undoubtedly played a large role in the decline of American manufacturing, and has deservedly generated considerable resistance among many former and current manufacturing workers to further trade liberalization.**

**Given that the President’s Trade Policy Agenda released last week did not mention the manufacturing sector even once, should America’s manufacturing workers be expecting more of the same from this Administration in terms of their jobs being sacrificed on the negotiating table?**

**Answer:** The Administration has made clear that its trade policy will advance and defend the import interests of American manufacturers and their workers --- both by redeveloping our manufacturing base and making manufacturing opportunities for export real. These are two of the core goals for our economic and trade policy. The Trade Policy Agenda makes clear that American trade remedy laws have to be vigorously enforced to ensure fair trade for U.S. manufacturers and their workers at home, while also pressing vigorously for new export markets by challenging discriminatory practices, industrial policies, and nontariff barriers overseas. This Administration is committed to taking these actions and all others that are feasible and effective to provide real results for American manufacturing, not just rhetoric.

**Question 2:**

**While China’s currency has appreciated nearly 19% since Beijing removed it from its peg to the dollar in July 2005, manufacturers and workers in trade-sensitive industries—such as paper production in Maine—feel that the Yuan may still be undervalued by as much as 20%, making Chinese imports artificially cheaper vis-à-vis competing U.S. goods.**

**Yet under the previous administration, the Treasury Department’s inability to classify China’s intervention in the valuation of its currency as “manipulation” frustrated me and many of my colleagues who would like to see greater pressure put on China to allow its currency to appreciate more rapidly, according to market forces.**

**Needless to say, I was therefore pleased when, in response to question I and others on this committee posed to him on the record in connection with his confirmation hearing, Treasury Secretary Tim Geithner stated that, “President Obama - backed by the conclusions of a broad range of economists – believes that China is manipulating its currency” and that “President Obama has pledged as President to use aggressively all the diplomatic avenues open to him to seek change in China’s currency practices.”**

**Do you believe, like the President, that China is manipulating its currency, and would you as USTR be comfortable—should the President deem that circumstances warrant it--bringing a formal dispute resolution case against China or any other currency manipulator in the World Trade Organization?**

**Answer:** I appreciate the concerns that you have raised about China’s currency practices. The Treasury Department is responsible for issues pertaining to other countries’ currency practices and will make its determination concerning China’s currency in its semi-annual report to Congress on international economic and exchange rate policies. If confirmed, I will work closely with the other senior officials in the Administration to develop a comprehensive and integrated policy to address the full range of China’s trade policies that impact the United States. As part of this comprehensive effort, of course, we will need to review China’s actions for consistency with its WTO obligations. I will aggressively pursue WTO action whenever that approach will be the most effective and appropriate means to address U.S. concerns.

**In July 2007 the Finance Committee—with my support—favorably reported the “Currency Exchange Rate Oversight Reform Act of 2007”, which would direct the Secretary of the Treasury to identify countries with “fundamentally misaligned” currencies (i.e., currencies that do not correspond to market conditions, whether or not due to deliberate foreign government manipulation), and impose gradually increasing restrictions on financial cooperation with such countries over the course of a year, possibly culminating in the U.S. bringing a formal dispute resolution case against an offending country in the World Trade Organization.**

**Are these legislative changes that you would recommend that the President sign into law? Would you like to see different or additional authorities granted to the Office of the U.S. Trade Representative to deal with currency manipulation?**

**Answer:** If confirmed, I will work closely with the other senior officials in the Administration and consult with Congress so that we can ensure that the Administration has all the tools needed to address our trade policy priorities, including with China.

**Question 3:**

**About 150 of our trading partners impose value-added tax (VAT)—i.e. taxes assessed at every level of production process—on goods sold domestically. These countries often rebate the value of any VAT on exported products, resulting in the good being cheaper to an overseas—and often American—buyer. This is, in effect, an export subsidy. Yet, World Trade Organization rules purport to exclude VAT rebates from the definition of a subsidy, meaning the U.S. cannot effectively challenge VAT rebates as an unfair trade subsidy.**

**To add insult to injury, these foreign countries impose their VAT on the U.S. products shipped to their market for sale, essentially constituting a tax on imports. Again, WTO rules ostensibly allow for this practice, on the basis that a country has the right to ensure that equal taxes are ultimately applied on all goods sold within its borders. U.S. labor groups estimate the cumulative cost to the U.S. economy at \$290 billion for manufactured goods and \$85 billion in service trades—about half of our yearly global trade deficit.**

**As the Doha Round struggles to regain its footing after multiple failed attempts at making progress, how would you address the need to reform these WTO rules to allow non-VAT countries such as the United States to prevent VAT schemes from being used as a trade barrier?**

**Answer:** This issue has been a priority negotiating goal directed by Congress since 2002. The Administration intends actively to pursue that goal.

**Question 4:**

**Over 97% of U.S. exporting manufacturers are small businesses, yet USTR has no official dedicated to looking out for the needs of this sector. This is especially troubling given that small businesses do not have the resources of larger corporations to detect and take legal or lobbying steps against trade violations by foreign parties which harm their sales, such as counterfeiting in China. I was therefore pleased to see as part of the President’s Trade Policy Agenda released by USTR last week the statement that “trade and commercial policies should help small and medium-sized firms become more integrated as effective competitors in the global marketplace.”**

**In previous Congresses, I have sought to address this need by proposing the creation of an Assistant USTR for Small Business. This political-appointed official would be equivalent in rank to an Assistant Secretary, and have primary responsibility for representing the interests of small businesses at the WTO and in bilateral trade negotiations. The official would also be the point-of-contact for small businesses which are seeking enforcement of U.S. trade rights that are being violated by foreign countries.**

**Would you support the creation of an Assistant USTR for Small Business? If what other ways would you suggest prioritizing the trade concerns of small and medium-sized businesses?**

**Answer:** Working with and getting results for small businesses was a priority for me as Mayor of Dallas and it will be a priority for me as USTR if I am confirmed. I will task a senior official to ensure that we are working on it and we will work in close coordination with Commerce and SBA on the issue. With respect to the creation of an Assistant USTR for Small Business, if that is the best way to ensure that we can expand small business exports and we have adequate resources, then I will do it. We will also explore other ways to reach that goal

**Question 5:**

**As you know, the previous administration announced in September the intention of the United States to enter into trade negotiations with Singapore, Chile, New Zealand, and Brunei Darussalam under the framework of the “Trans-Pacific Partnership FTA.”**

**I am very concerned about the impact that a trade deal with New Zealand that included dairy products would have on the dairy industry in my state. One company—formerly the state-run dairy trading monopoly—still controls over 90% of the milk produced in New Zealand. As a result, it is able to dominate not only that country’s dairy market, but also approximately one-third of the global dairy trade.**

**This near-monopoly situation, coupled with the relatively small market New Zealand constitutes for U.S. dairy producers, means that the dairy trade relationship between our two countries is already strikingly one-sided. In 2008 New Zealand exported \$704 million worth of dairy products to the U.S. while we shipped them only \$8.6 million to them. An FTA that dropped tariffs on what is already a flood of low-priced dairy products would only further exacerbate this unbalanced relationship, leading to the displacement of domestically produced dairy products and—ultimately—jobs losses in rural areas that can not bear further setbacks in the current economic environment.**

**As USTR, how will you work to address the concerns of the U.S. dairy industry with respect to the treatment of New Zealand’s dairy products in a Trans-Pacific FTA?**

**Answer:** I understand the concerns of the U.S. dairy industry regarding New Zealand, and thank you for bringing them to my attention. If confirmed, I will work with my staff, the Congress, and stakeholders including the dairy industry as we develop and execute a strong strategy to engage with Asia.

**Question 6:**

**Last month, I led nine of my Senate colleagues, including several members of this committee, in sending a letter to the President urging him to raise the issue of Canada's numerous violations of the Softwood Lumber Agreement with Prime Minister Harper during his trip to Ottawa, because ensuring Canadian compliance with the pact is essential to Maine's mills, four of which have shut down indefinitely in the last year, resulting in the loss of nearly 200 jobs in my home state. And approximately 20 more mills in Maine have no choice but to significantly cut back hours, deepening the recession in communities that can ill afford such setbacks. These mills—which are already struggling with the lowest demand for softwood lumber in decades— must simultaneously deal with a deliberate effort by Canadian provinces to circumvent the agreement with new subsidies and reduced stumpage fees.**

**Thankfully, a certain degree of credibility was restored to the Agreement two weeks ago, when London Court of International Arbitration (LCIA) ordered Canada to impose an additional \$68 million in export taxes on lumber from certain provinces which breached quota obligations under the pact in 2007. I firmly believe that the agreement's ability to survive the current market downturn will rest wholly on Canada's willingness to swiftly implement the additional export taxes ordered by the panel and cease its further violations of the SLA.**

**As USTR will you ensure that Canada fully complies with the arbitration decision by implementing the ordered remedial export taxes?**

**Answer:** If confirmed, I will work to ensure that Canada cures its breach of the Softwood Lumber Agreement.

**Question 7:**

**As USTR notes in its 2008 National Trade Estimate Report on Foreign Trade Barriers, Canada's strict personal customs duty exemption limits discourage shopping visits to the United States by Canadian border residents. Under these rules, Canada allows its residents no personal exemption from customs duties on goods purchased during trips abroad lasting less than 24 hours. For trips between 24 and 48 hours, Canadians are exempt from their government's duties and taxes on only the first C\$50 of purchases. In contrast, the United States allows its residents to bring \$200 of merchandise into the country duty free upon returning from a trip abroad lasting less than 48 hours.**

**Moreover, these rules are inconsistent with Canada's obligations to the United States under NAFTA, because they are designed to give Canadian retail and distribution service providers an advantage over their U.S. counterparts just across the border. Despite this inconsistency with NAFTA and frequent requests by U.S. lawmakers and trade officials, Canada has for years refused to change these rules.**

**That is why my friend and colleague Senator Cantwell and I introduced a bill in the last Congress that would direct USTR to initiate an official investigation of Canada's personal duty exemption scheme as an unfair trade practice. This legislation would not be necessary if USTR were willing to initiate Canada's scheme of its own accord.**

**As USTR, would you be willing to investigate Canada's customs duty exemption scheme as a possible unfair trade practice?**

**Answer:** I would like to work with you and others who are interested to address this bilateral matter.

**Question 8:**

**The manufacture of non-rubber footwear, which was once a great American industry that provided employment in many factories throughout New England, has virtually disappeared due to the attraction of low wages in Asia. Many rubber footwear plants have been able to resist this migration largely because of the level of tariffs on categories of rubber footwear still made in the United States. Today, the industry employs nearly 1,000 people in Maine.**

**The threat to domestic rubber footwear production by import competition has been such that previous administrations ensured that none of the Kennedy, Tokyo and Uruguay Rounds of multilateral trade negotiations resulted in any cuts in the duties of the industry's core products. The concentration of footwear manufacturing in China since that country's accession to the World Trade Organization (WTO) leaves no uncertainty about what abandoning this long-standing policy in the Doha or future rounds would mean for U.S. footwear manufacturers: domestic production and jobs would be seriously threatened by import competition from Chinese producers, who would be the only beneficiaries of the dramatic reduction in duties. These losses would be all the more likely and devastating in the current economic climate, potentially prolonging and deepening the downturn.**

**As USTR, will you make accommodations for trade-sensitive U.S. industries that are critically important to state and local economies by seeking to exclude them from duty reductions in future WTO and Free Trade Agreement negotiations?**

**Answer:** We intend to listen to all interested parties as we reassess the United States approach to the Doha negotiations.



**Question 9:**

**The often negative impact of trade liberalization on particular states and communities has highlighted concerns in those states with the lack of opportunities for local governments and groups to provide input in the trade policy formulation process. I firmly believe that a major part of the review process you spoke of in your testimony should focus on increasing consultation with state- and local-level trade policy organizations, such as the diligent state legislators, business and community leaders of the Citizen Trade Policy Commission in Maine.**

**As USTR, how would you improve your office's interaction with state and local governments and trade policy groups to better address their concerns with U.S. trade policy?**

**Answer:** USTR needs to do a much more proactive job of reaching out to governors, State Attorneys General, local officials and others to solicit their input early and often.

**Question 10:**

**USTR's 2009 Trade Policy Agenda released last week notes that the United States is working with Japan to strengthen our bilateral investment relationship and improve the climate for direct foreign investment. However, I am concerned that one ongoing dispute with Japan may be overlooked that calls the current status of this relationship into question.**

**The Japanese Government sponsored and enacted a retaliatory law that nullifies a valid U.S. federal court judgment obtained by Goss International, a U.S. company that produces printing presses and employs many Maine citizens. Goss won the lawsuit against a Japanese competitor that was found to have violated U.S. law by dumping printing presses in the U.S. market with the express intent of destroying the U.S. industry. In a separate investigation, the Japanese defendant was also found by the Commerce Department to have evaded dumping duties by using a secret rebate, false invoices, and withholding of documents requested by Commerce.**

**The retaliatory Japanese law allows the Japanese company that violated U.S. laws to recover the full amount of the judgment from Goss or its Japanese facility. Japan enacted this law unilaterally in violation of WTO rules, and possibly in violation of the Friendship Commerce and Navigation ("FCN") treaty that guarantees non-discriminatory treatment for U.S. investors in Japan.**

**As USTR, would you work with the State Department to resolve this matter and protect a U.S. company which lawfully sought relief from illegal dumping?**

**Answer:** USTR is monitoring these problems closely, and is working with the State Department and other interested agencies to urge the Government of Japan to provide fair treatment to Goss and its Japanese investment.

## Questions from Senator Bunning

### Question 1:

**At the same time that OPEC has wielded more power on the international community, year after year, because of the growing demand for oil, I have introduced legislation to develop coal-to-liquid technology to decrease our dependence on foreign oil and provide our military with domestic fuel. Being that oil, the world's most important traded commodity, does not have any formula rules to prevent collusion by oil-producing states, do you believe pro-market mechanisms, such as increasing the supply of oil as my legislation does, are more productive at tackling America's energy policy than endless trade litigation that might spark international retaliation?**

**Answer:** We will work with Congress and colleagues at the Department of Energy to ensure that our energy policy proposals are compatible with our international trade commitments.

### Question 2:

**In wake of the President's cap and trade proposal in his budget, I am very concerned about the price that all Americans will pay for utilities and everyday consumption by this arbitrary tax. The coal industry, which powers 50 percent of our nation's electricity, is set to pass these tax rates on to every American family. With large coal producers, such as India and China, showing no sign of developing their own cap and trade system, would you support efforts to place sanctions or raise tariffs on nations that do not limit their carbon emissions?**

**Answer:** We will work with the State Department and other agencies to press countries such as India and China to take strong action through a new global climate change agreement. It will be critical that any U.S. climate change legislation address concerns with carbon leakage and competitiveness, yet do so in a way that does not generate serious trade tensions and that is consistent with our international obligations. We look forward to discussing these issues with you as legislation is drafted.

### Question 3:

**According to certain energy and agriculture experts, the inflationary realities that are seen in food and energy arenas have partly to do with a well intentioned biofuel mandate and import tariff that have inadvertently put our agricultural community in an unfavorable position: determining whether an acre of land is more profitable as food or fuel. Should you become the USTR, what will you do to address this "food or fuel dilemma" when formulating trade policy? And do you support the development of energy sources that do not compete with food production as long as inflationary concerns exist in our futures markets?**

**Answer:** If confirmed, as USTR I will press for fair and open access to overseas markets for U.S. agricultural products – food, biofuels, and others. In addition, I will work with the Congress and others in the Administration to implement U.S. laws regarding energy and to realize the President’s goals on developing next generation biofuels.

**Question 4:**

**One of the most feared pieces of legislation before Congress is the ironically named “Employee Free Choice Act” which denies a secret ballot election for workers and allows a government arbiter to set a two year contract if an agreement is not met between a union and an operator. Businesses in my state, such as Toyota, have said that this legislation will force them to leave the U.S. in search of a pro-business environment. Should you become the USTR, will your first priority be formulating trade policies that advance free trade and attract foreign investors rather than promoting the agenda of a few special interests?**

**Answer:** The Administration will pursue a pro-growth, pro-trade, pro-worker agenda that is in the public interest.

**Question 5:**

**Pending trade agreements the United States has signed with Colombia, Panama, and South Korea have become a central point for political counterattack against free trade policies. Unwarranted assaults by some of my colleagues on the other side of the aisle that such agreements would result in unfair trade have left these pending agreements unknown. Should you become the United States Trade Representative, would you work to drop or renegotiate these free trade agreements, or work to gain congressional support for their ratification?**

**Answer:** We intend to move forward with the pending agreements as soon as the issues the President has articulated are addressed.

**Question 6:**

**Do you agree with statements that were made by President Obama on the campaign trail that the rules of trade in NAFTA and other trade agreements should be revisited?**

**Answer:** The President already has spoken to President Calderon and Prime Minister Harper about the opportunity to “improve” the NAFTA, and make it more relevant to the situation that the three countries face over sixteen years after the original agreement was signed. That’s in the interest of all three partners.

**Question 7:**

**I have introduced and supported measures to address the U.S. trade deficit with China – such as the Fair Currency Act and the China Currency Manipulation Act. Do you believe**

**this trade deficit to be a problem? If so, what do you believe to be major causes and what will you do to address them should you become the USTR?**

**Answer:** The President has expressed concern with our trade deficit with China. The overall trade balance of the United States reflects important macroeconomic factors, such as relative rates of economic growth, fiscal and monetary policies, patterns of saving and investment, domestic price levels and exchange rates. If confirmed, I will work closely with other agencies to ensure that our trade policies contribute powerfully to the President' national economic agenda for the renewal of growth that benefits the national and global well being.

**Question 8:**

**Earlier this year, Secretary Geithner stated that he believes China manipulates its currency and hurts the U.S. economy. Do you agree with Secretary Geithner?**

**Answer:** I appreciate the concerns that you have raised about China's currency practices. The Treasury Department is responsible for issues pertaining to other countries' currency practices and will make its determination concerning China's currency in its semi-annual report to Congress on international economic and exchange rate policies. If confirmed, I will work closely with the other senior officials in the Administration to develop a comprehensive and integrated policy to address the full range of China's trade policies that impact the United States. As part of this comprehensive effort, of course, we will need to review China's actions for consistency with its WTO obligations. I will aggressively pursue WTO action whenever that approach will be the most effective and appropriate means to address U.S. concerns.

**Question 9:**

**USTR's enforcement efforts in the WTO have not always produced trade relief. In the *Bananas* case, USTR has won one victory after another, but the EC has paid no attention to those rulings and is still out of compliance. As basic enforcement principles are at stake in the *Bananas* case, will you help give this case the effort needed to turn the legal wins into lasting market relief for U.S. interests?**

**Answer:** We remain committed to pressing the EU to liberalize, consistent with its WTO obligations, its banana import regime.

## Question from Senator Crapo

### Question 1:

**I appreciate the Administration highlighting in the 2009 Trade Agenda the importance of trade to the U.S. economy and the important contribution of exports to the U.S. Gross Domestic Product (GDP). Aside from the need to follow through on the commitments made to the countries that invested considerably to negotiate with the U.S. on the pending FTAs, the FTAs provide the mechanism to advance market growth for U.S. producers through broader export opportunities and contribute to our economy. The Administration's 2009 Trade Agenda suggests that the Administration will establish "benchmarks for progress on the Colombia and South Korean FTAs." Could you please explain what those benchmarks are, or may be?**

**Answer:** Benchmarks represent the steps necessary to address the concerns that have been raised with respect to each agreement. We will work with Congress to establish benchmarks for both countries and we will discuss them with both countries.

### Question 2:

**As a result of the trade commitments already made in the WTO and in FTA's, especially NAFTA's complete opening of the U.S. market to Mexican sugar in 2008, the U.S. sugar market is already over-supplied. Additional import commitments would put further pressure on this market and, given the new Farm Bill, require the U.S. government to convert the excess sugar into ethanol. Given this situation, are you prepared to tell our negotiating partners that no further concessions on market access for sugar can be made?**

**Answer:** I fully understand the level of sensitivity associated with sugar, and if confirmed, I will work closely with USDA, U.S. stakeholders, and with you in implementing international trade commitments related to this commodity.

### Question 3:

**The recently released Trade Agenda recognizes that what is now on the table in the WTO Doha negotiations is unbalanced and must be corrected. Some Members of Congress and the private sector share this view, especially in the area of agriculture, where stringent constraints on U.S. domestic farm supports are being demanded without equitable market access. Are you prepared to make clear to our trading partners that major changes are needed in the texts now being considered? How will you change the dynamic of these negotiations?**

**Answer:** The Administration has made clear in the President's Trade Agenda that an adjustment needs to be made to the current course of negotiations in order for them to reach a successful conclusion. We have also made clear that we are willing to work in good faith toward a resolution. We will work with Congress to assess our alternatives for changing the dynamics of the negotiations.

**Question 4:**

**I appreciate the work the Administration put into achieving the recent successful softwood lumber arbitration decision. It is essential that the U.S. – Canada Softwood Lumber Agreement (SLA) is adhered to and properly enforced. This outcome is an important step in that direction. It is now essential that Canada implement the ordered remedy. Are you committed to standing firm on Canada fully complying with the arbitration by implementing the ordered remedy?**

**Answer:** If confirmed, I will work to ensure that Canada cures its breach of the Softwood Lumber Agreement.

**Question 5:**

**I appreciate your commitment to strong enforcement of the rules. A trade agreement is only strong if both countries stick to it, and I am concerned by the many compliance issues affecting the success of the U.S. – Canada Softwood Lumber Agreement. Will you take actions to ensure compliance with the SLA? Will you develop a plan to improve compliance with the softwood lumber agreement and share it with members of this Committee?**

**Answer:** Yes.

**Question 6:**

**The Administration’s 2009 Trade Agenda states that the Administration will only seek trade promotion authority with “proper constraints on that authority.” Could you please explain what, in your view, those constraints are or should be? Also, do you think such restraints might best be self-imposed by the President?**

**Answer:** As indicated in the President’s Trade Agenda, the Administration expects it will need this authority at some point and will work with Congress to develop the appropriate legislation.

**Question 7:**

**The United States Court of Appeals for the Federal Circuit recently issued its decision in *SKF USA, Inc. v. United States*, CAFC Nos. 2008-1005, -1006, -1007, and -1008, which upheld the constitutionality of the Continued Dumping And Subsidy Offset Act of 2000 (CDSOA). This decision, which was issued on February 19, 2009, frees up for distribution approximately \$350 million in antidumping and countervailing duties which were being withheld by Customs due to a lower court decision that has now been reversed. Distributing these funds now would make a big difference to U. S. manufacturers who have been hurt by unfair trade, including some in my state. Will the Administration go forward and distribute these funds now, helping these manufacturers during this difficult economic time?**

**Answer:** Administration of the CDSOA is the purview principally of CBP and the Department of Commerce. I will work with them to ensure swift implementation of the SKF decision.

**Question 8:**

**The United States has previously proposed in the Doha Round that the WTO be modified to authorize a provision like the Continuing Dumping and Subsidy Act of 2000 (CDSOA), which provides that duties collected in unfair trade cases will be paid over to the companies hurt by unfair trade. As you know, a WTO Dispute Settlement Panel and the WTO Appellate Body previously found that this provision was violative of the WTO. Will the United States continue and intensify its effort to modify the WTO in the Doha negotiations to authorize a provision like the CDSOA?**

**Answer:** The appropriate venue for considering the operation of the rules negotiations remains the Doha Development Agenda. Those negotiations are under review and I will include this issue in the overall review.

**Question 9:**

**The Government of China has started a WTO Dispute Settlement case against the United States claiming that applying the United States countervailing duty law and antidumping law against China is a violation of the WTO. The case claims that U. S. law on its face ("as such") violates the WTO, and that the U. S. law "as applied" has also violated the WTO. What steps will you take to make sure we put forward the best defense possible to these claims by the Government of China, and ultimately win this case at the WTO?**

**Answer:** USTR will vigorously defend the United States in this dispute, and will continue to work with other agencies and private sector stakeholders on this effort. Countervailing duties are an important, WTO-consistent tool, and I will ensure that



USTR provides a vigorous defense of the U.S. ability to use its countervailing duty law to address Chinese government subsidization.

**Question 10:**

**One of the restrictions regarding U.S. exports to Cuba that concerns me is the prohibition on Cuban buyers making payment direct to the seller's bank in the United States. Currently, these transactions must be routed through a third country bank, needlessly adding cost and delay to the transaction. Particularly in the case of cash payments, it does not make sense for a portion of this business to be sent to French or Canadian banks. It does not seem like the best way to facilitate these exports. Please share your views on whether direct payment for the purpose of transacting cash basis sales – which are already legal - to Cuba would be good trade policy.**

**Answer:** I look forward to working with you and other members of the Administration as we develop our trade policy with Cuba.

## Questions from Senator Roberts

**Chairman Baucus and Senator Grassley, I thank you for holding this hearing today. We need our lead trade negotiator in place as soon as possible.**

**Mr. Kirk – Thank you for your participation in today’s hearing. I also appreciate our chance to visit personally during your courtesy call when we discussed the importance of trade liberalization and market access for Kansas manufacturers and Ag producers.**

**As former Mayor of Dallas, you know better than most of the important role of international trade. Your support for passage of past trade agreements provides a good glimpse of your position on trade. As you work to implement the current administration’s trade agenda, I am hopeful that we can find more areas of common ground.**

**As the Chairman said, I am strongly concerned about the anti-trade sentiment that seems to be hovering over Congress and the public policy area. It has become far too easy to blame our current woes on international trade, when in fact, U.S. exports have long supported economic growth. If we move in that direction we run the risk of isolating ourselves from the global marketplace. I stand ready to work with you to renew public support for the benefits of trade and to enhance our ability to compete and thrive in a global economy, whether it is market expansion or market preservation.**

**Just as concerning, however, are actions at the domestic level that may appear to be protectionist could, in turn, cause other countries to act in kind. Unfortunately, we’ve already seen cases like the EU biotech moratorium case where countries have blocked our corn exports with non-tariff trade barriers under the guise of science. I am hopeful that as you engage with your colleagues representing our trading partners, that you encourage resistance to policies that impede trade flows.**

**As a Senator from a state that exports half of the wheat acres harvested and one-third of all planted acres, preserving and increasing access to foreign markets is critical for Kansas farmers and ranchers. In addition to being the largest wheat producing state, Kansas is also the largest beef processing state in the country. Cattle outnumber Kansans more than 2-1. Given that population, I’m attuned to the problems that we’ve had reopening our foreign beef markets in the post-BSE era. Despite being designated as a “controlled risk” country by the World Organization for Animal Health (OIE) and the proof that our interlocking food safety system works, countries are still balking at fully reopening their markets to our products.**

### Question 1:

**In accordance with the “controlled risk” designation determined by the OIE guidelines, all products from all ages of cattle are safe to consume, assuming that the specified risk materials (SRM's) are removed. The beef industry represents \$6.3 billion to the Kansas economy. Full access to foreign markets is critical. China remains closed. Japan has limited imports to boneless products from animals 20 months and under. And other previous markets are either limited or still closed. What are you going to do to help reopen foreign markets to U.S. beef consistent with OIE guidelines.**

**Answer:** This Administration is committed to ensuring strong enforcement of existing trade rules. I understand the importance of exports to the U.S. beef sector, and if confirmed, I can assure you that I will work closely with Secretary Vilsack and representatives of other regulatory agencies to engage with Japan and China as well as other trading partners to normalize our trade in beef in these important markets.

**Question 2:**

**Equally as critical as new market access is the protection of our existing international markets. A continued and growing problem for the US beef industry is non-tariff trade barriers that are often implemented under the guise of animal disease or food safety concerns. What is your position on the challenges of these non-tariff trade barriers and what actions will you take as USTR to hold our international partners to trade based on sound science and guidelines such as those developed by the World Organization for Animal Health (OIE)?**

**Answer:** If confirmed, I will be committed to ensuring trading partners meet international trade obligations, including those of the WTO SPS Agreement. And, where they should fail to do so, I will aggressively utilize, in cooperation with Administration and Congressional colleagues, all available tools in the WTO and other mechanisms.

**Question 3:**

**Three U.S. trade agreements have been negotiated and await Congressional action: Colombia, Panama, and South Korea. Combined, they will give U.S. exporters enhanced access to markets of more than \$1 trillion and 100 million consumers. (Department of Commerce press release 9-29-08). It is well past time to act on these agreements for not only economic reasons, which is reason enough, but for geo-political reasons, particularly with Colombia. The Colombia FTA is a win-win. Right now, nearly all of Colombia's exports enter our market duty-free, under current preference programs. What the trade agreement will do is to balance the playing field for U.S. producers and exporters. However, the Colombia FTA is important from a national security perspective, too, with the growing anti-American sentiment and political instability that we're seeing in South America.**

**In this economic downturn, how can we afford to ignore opportunities to open market access to our exporters and producers through the pending FTA's?**

**Where is the Obama Administration on the Colombia, Panama, and South Korean FTA's? Will he send them up for Congressional action and if so, when?**

**Answer:** We will work responsibly and expeditiously to address the concerns with the pending agreements that the President has expressed. And I look forward to working with you in a bipartisan spirit to reach consensus on what is fair and necessary to ask of our trading partners in order to ensure that real market access is achieved with adherence to the labor and environmental commitments made in the text of the agreements.

**Question 4:**

**In May 2007, an agreement was forged in regard to the demands for additional labor and environmental provisions in trade agreements. Unfortunately, the agreement failed to move the Colombia FTA and others forward as was the deal.**

**Do you anticipate any changes or additions beyond the May 10<sup>th</sup> Compromise, and if so, what specifically?**

**Answer:** We have seen the text of trade agreements evolve over the last twenty years and expect it will continue to evolve. In the case of labor language, text has gone from silence on labor rights to side agreements to inclusion of the five basic internationally agreed rights in the core of the text. The May 10th Agreement established a strong foundation for bipartisan progress on trade and we will not seek to build on that foundation without bipartisan support. We will work with Congress to ensure a diversity of views is heard on the subject.

**Question 5:**

**For years I have been alarmed about the subsidies provided by Europe to Airbus and I was pleased with the decision to challenge it in the World Trade Organization. This issue came to a head again last year when the Department of Defense awarded the Air Force tanker contract to a consortium of Northrop Grumman and EADS, Airbus' parent. Now, the GAO found that the competition was not fairly and evenhandedly judged by the procurement office. But I was equally outraged that the platform proposed by the EADS team was the A-330, which is one of the most heavily subsidized planes in history-more than \$6 billion. I just wanted to give you a sense of the real-world implications of this case and hope that you will commit to make its resolution a key priority of yours during your tenure at USTR. Do you have any comments?**

**Answer:** I recognize that this is an important case to you and other members of this committee and I will make it a priority.

**Question 6:**

**I understand and support the goals of the Doha Development Agenda. However, I'm concerned that the current Ag modality packaged tabled before our negotiators gives more in terms of domestic support for our farmers and ranchers than what we are securing in market access. What assurances can you provide to Ag producers that they will not be forced to shoulder an unfair burden in the context of any Doha agreement?**

**Answer:** If confirmed, I will work to ensure that any Doha Agreement is a strong, market-opening agreement for agriculture as well as industrial goods and services. However, it will be necessary to correct the imbalance in the current negotiations in which the value of what the United States would be expected to give is well-known and easily calculable, whereas the broad flexibilities available to others leaves unclear the value of new opportunities for our farmers, ranchers, and businesses.

**Question 7:**

**We've hear a lot about how trade agreements are bad for the U.S. economy and workers, particularly in regard to NAFTA. However, both Canada and Mexico represent our largest export markets, in that order. For Kansas, our exports in 2007 to Canada were \$2.4 billion and just under \$1 billion to Mexico. These are pretty important markets for Kansas exporters.**

**What changes do you expect in regard to NAFTA and do you intend to work with all members of this committee on any proposed changes?**

**What does "renegotiation" mean exactly?**

**Answer:** I can say three things now: First, We fully understand how important the Mexican and Canadian markets are to our producers, and in particular to our agricultural interests. Second, the President already has spoken to President Calderon and Prime Minister Harper about the opportunity to "improve" the NAFTA, and make it more relevant to the situation that the three countries face over sixteen years after the original agreement was signed. That's in the interest of all three partners. And third, we will work closely with the Committee as we move forward in this collaborative effort to make our trade work for the benefit of the millions of people within the NAFTA region

**Question 8:**

**The United States, Argentina, and Canada filed a case in the World Trade Organization (WTO) against the European Union in 2003 over its five-year moratorium on approving agricultural biotech products. In 2006, the WTO panel ruled in favor of the U.S. and found the moratorium as well as the EU member-state bans of previously approved products to be illegal. By not allowing its approval system to operate, the EU was found to have imposed "undue delays on biotech approvals, resulting in extensive delays and preventing the marketing of many crops grown in the United States." After the reasonable period of time to comply with the ruling lapsed, and with industry consensus, USTR continued to meet with their European counterparts regarding the case and conducted dialogue regarding the US' position on EU progress regarding approvals. In January 2009, the prior Administration declined to move forward with the case. It is my understanding that any progress at this time in the EU seems to be based on process, not outcome. In fact, the number of unapproved traits in the pipeline has increased since the U.S. won this case. How does this Administration intend to address non-tariff trade barriers like this moratorium that prevent the export of our agricultural products such as corn and corn gluten feed?**

**Answer:** We are developing additional expertise and directing resources at addressing non-tariff barriers to trade like this one. I will work with you to ensure that non-tariff barriers are identified and remedied.

## Questions from Senator Ensign

### Question 1:

**I recognize that public support for open trade has eroded, and I would like to work with you to find a path forward to rebuild that support. What precise steps with active opponents of trade do you plan to take to rebuild public support for trade?**

**Answer:** We will engage the recent proponents and opponents of trade policy and work to find a middle ground. I will conduct extensive outreach and use technology to reach new audiences. And I will work with you and others on ensuring the benefits of trade reach deeper into our entrepreneurial, worker, and consumer base.

### Question 2:

**What is your view about passing the Colombia, Panama, and South Korea free trade agreements? The President's Trade Policy Agenda states that the Administration plans to establish benchmarks before consideration of the FTAs with Colombia and South Korea. What are these benchmarks? Will they be set in consultation with both parties in Congress and with the relevant officials in Colombia and South Korea?**

**Answer:** The benchmarks we will establish will represent the steps necessary to address the concerns that have been raised with respect to the Colombia and Korea agreements. We will work with Congress to establish those benchmarks and will discuss them with the respective governments.

### Question 3:

**For over two years it has been said that there is a need by the Colombian government to take some vague and indefinite further action with regard to labor law enforcement, but Colombia needs precise and definite expectations laid out. What exactly will this Administration require of Colombia?**

**Answer:** As indicated in response to question 2 above, we will work with the Congress to establish the appropriate benchmarks.

### Question 4:

**Do you think that the labor and environment provisions of the U.S.-Korea FTA are appropriate?**

**Answer:** The U.S.-Korea FTA incorporates the May 10<sup>th</sup> Agreement, which established a strong foundation for bipartisan progress on trade.

### Question 5:

**How will you seek to open foreign markets to U.S. exports of goods and services? Will this be hampered if the U.S. does not live up to its own obligations? Have you heard from any of our trading partners about specific measures that they claim violate our trade obligations? If so, what is your response and what action do you propose to take?**

**Answer:** We will work to come to resolution on pending agreements as well as pursue new opportunities to increase exports. We will also enforce our rights in order to maximize our export opportunities. We often hear from trading partners about concerns that they have with actions we take and we work with them to attempt to address their concerns. This Administration believes in rules based trade and we will comply with our agreements.

**Question 6:**

**Stopping protectionist measures at home is one of the key roles of USTR. There are many in this country and in Congress, however, who would not care about opening a trade war with the rest of the world. How will you deal with protectionist measures that come out of Congress?**

**Answer:** We will work to understand and respect the diversity of views on trade. We do not believe anyone wants a trade war and will work with the Congress to act in the best interest of the American people.

**Question 7:**

**Will you commit to rely upon, and abide by, the dispute settlement mechanisms in our trade agreements before taking retaliatory actions against our trading partners for alleged trade agreement violations? Do you agree that the U.S. expects other countries similarly to use formal dispute settlement mechanisms before they take retaliatory actions against us?**

**Answer:** Yes.



**Question 8:**

**In the President’s budget is a proposal to raise revenue by creating a “cap and trade” mechanism. We have no details on the specific mechanism, but some proposals in the past involve a border adjustment mechanism that would tax imports. Will you commit to oppose any such “cap and trade” measure that violates our trade agreement obligations? If such a measure is adopted and we are found to be in violation of our trade agreement obligations in a subsequent dispute, will you support reversing the measure to bring the U.S. back into compliance?**

**Answer:** It is clear that certain sectors, particularly energy-intensive ones, are likely to raise concerns with respect to competitiveness or carbon leakage issues associated with a U.S. cap-and-trade system. A variety of approaches may be available to address such concerns, and, if confirmed, I will work closely with the Congress to ensure that any such approach is both effective for U.S. manufacturers and exporters and compatible with our international trade obligations.

**Question 9:**

**Recently, a “Buy America” provision was added to the Stimulus bill. The original provision violated our WTO obligations, and then Congressional leaders added the following, “This section shall be applied in a manner consistent with U.S. obligations under international agreements.” I expect we will see this type of language in the future to cover protectionist legislation. How will you interpret that sentence when it directly contradicts the rest of the provision? Do you commit to advise relevant agencies to follow our trade obligations? Do you think we can meet our trade obligations by simply adding this contradictory sentence to legislation even when the legislation rampantly hikes tariffs, creates import bans, and imposes new protectionist measures?**

**Answer:** It does not contradict the rest of the provision. The language reinforces our commitment to our international obligations and it encourages others to participate in those agreements.

**Question 10:**

**I very much appreciate your comment in your hearing that the U.S. has to play by the rules as well. Unfortunately, the U.S. is currently not in compliance with a number of WTO obligations. Specifically, we lost cases in the WTO related to Section 211 (Cuba trademarks), Irish music, hot-rolled steel, customs bonding, and zeroing, to name a few. What steps will you take to bring the U.S. into compliance with these cases?**

**Answer:** I appreciate your interest to address these matters.

**Question 11:**

**As stated in the President’s Trade Policy Agenda, the Administration will seek to “correct**

**the imbalance” in the current Doha Round of World Trade Organization negotiations. How do you plan to go about achieving a rebalancing of the negotiations?**

**Answer:** The Administration has made clear to our trading partners that there needs to be an adjustment to the course of the negotiations. We intend to work with Congress, private stakeholders, and other agencies in the Administration to develop a strategy to address the problem in the current negotiations.

**Question 12:**

**Last year, negotiations were launched for a Bilateral Investment Treaty (BIT) with China. A BIT would create new investment opportunities for U.S. companies to export to China. Do you plan to continue the important BIT negotiations to create new opportunities for U.S. exports of goods and services, such as retail services?**

**Answer:** We are reviewing the pending BIT with China and technical negotiations are ongoing.

**Question 13:**

**Under current trade rules and U.S. law, importers of products often do not have standing to address allegations raised in trade remedy cases. In the interest of having a balanced and fully transparent process related to trade remedy cases, do you agree that importing interests should be able to participate in trade remedy cases?**

**Answer:** The trade remedy laws are designed to address unfair trade practices that harm domestic producers. Any fundamental change to the parties that may participate in an antidumping proceeding would need to be carefully considered and require legislation.

**Question 14:**

**I agree with the statement in the President’s Trade Agenda that trade policy “needs a keener appreciation of the consequences” on all stakeholders. I believe this sentiment should also apply to trade remedy laws because downstream industries can be severely impacted by trade remedy actions (e.g., the auto industry relies on steel imports, and retailers rely on consumer product imports). In trade remedy decisions involving USTR, do you commit to consider the impact of remedies on all U.S. industries, including those that rely on imports to stay competitive?**

**Answer:** The trade remedy laws are designed to address unfair trade practices that harm domestic producers. Any fundamental change to the parties that may participate in an antidumping proceeding would need to be carefully considered and require legislation.

**Question 15:**

**Footwear tariffs are particularly regressive because many inexpensive shoes have higher tariffs than expensive shoes. At a time when consumers are facing economic uncertainty and increasing cost pressures, would you as United State Trade Representative support eliminating or significantly lowering these footwear duties to help lower- and middle-income American families buy a basic necessity? This would help both poor countries that produce footwear as well as lower income families in the U.S. who pay this tariff.**

**Answer:** The most appropriate venue for considering reduction or elimination of footwear tariffs remains the Doha Development Agenda round of multilateral negotiations.

**Question 16:**

**One policy proposal related to trade preference programs is to modify our programs to provide clear incentives and timetables for trading partners to open their markets to U.S. goods, thereby creating opportunities for U.S. exporters and providing foreign consumers and businesses with high quality U.S. goods and services at competitive prices. Will you work with Congress to create options to modify preferences to create sustainable two-way trade that benefits United States importers and exporters, as well as our trading partners?**

**Answer:** I am aware that both this Committee and the Ways and Means Committee have introduced or are likely to introduce proposals to reform GSP and other trade preference programs. I look forward to working with all interested parties to ensure that our preference programs are achieving their goals in the most effective manner possible.

**Question 17:**

**The United States lost a case at the WTO related to the Continued Dumping and Subsidies Offset Act (CDSOA, also known as the “Byrd Amendment”). The law was appropriately**

**repealed. There are some industries that seek to reenact CDSOA, despite overwhelming evidence against the program. The law was clearly inconsistent with our WTO obligations, and for that reason I have continued to oppose reinstating the law. Will the Administration oppose efforts to reinstate the law?**

**Answer:** If confirmed, I will work with the Department of Commerce and other agencies to develop an Administration position on legislation including this proposal.

**Question 18:**

**In the bipartisan committee report, there is a statement as follows, “In 2005, [Mayor Kirk] differed from his general pattern by deducting 4 honoraria totaling \$7,500 as charitable donations that he had not included in income.” Can you please elaborate on the circumstances surrounding those 4 instances given that you differed from the otherwise consistent pattern of not reporting the income not taking a deduction?**

**Answer:** In my review of my contributions to Austin College, I realized that I had incorrectly deducted the four contributions in question as a result of having received letters from the College acknowledging the donations. We brought this to the attention of SFC staff and agreed to take the appropriate corrective action.

## Questions from Senator Enzi

### Question 1:

**The President's trade agenda makes mention to building labor provisions into existing trade agreements. As the Ranking Member of the Health, Education, Labor, and Pensions Committee any effort to make substantive changes to our domestic labor policies through trade agreements concerns me. Could you please clarify the President's intentions of inserting labor standards into existing trade agreements?**

**Answer:** We will not alter domestic labor law through trade agreements; U.S. labor laws must be written and set in our Congress.

### Question 2:

**Did you originally count the \$5,000 as a charitable deduction?**

**Answer:** Yes. This \$5,000 honorarium was contributed to Dillard University - a traditionally African-American college in New Orleans that suffered severe damage in Hurricane Katrina - in 2006. As described in my previous submissions to the Committee, however, I did not receive a Form 1099 reflecting that honorarium and so did not include that amount as taxable income in 2006. This was an error made in the preparation of my tax returns. I want to assure the Committee that I believe proper payment of all taxes is an important matter. Because I take this matter so seriously, my returns were prepared by a professional accountant. However, I take full responsibility for the honest and unintentional mistakes that were made in the preparation of my tax returns.

### Question 3:

**You paid \$2,188 but now will have to pay an additional \$9,975. Was that from 1099 forms that had been ignored?**

**Answer:** No. Following the review by the Senate Finance Committee staff, my wife and I filed amendments to our joint federal income tax returns for the years 2005, 2006 and 2007, which resulted in a total additional tax payment of \$7,785 for the three years. (A detailed explanation of the source of the additional \$7,785 in federal income tax payments is given in response to Question No. 3).

### Question 4:

**Was that all [the additional \$7,785] from money contributed for charitable purposes?**

**Answer:** No. A portion of that amount (approximately \$3,000) is attributable to the adjustment in treatment of honoraria payments that were contributed to Austin College, as described in detail in my submission to the Committee on February 6, 2009. The

balance of the additional tax is attributable to adjustments made in deductions taken for business-related entertainment expenses for the tax years 2005 through 2007 and in charitable deductions taken in tax year 2006, as well as a voluntary adjustment in the percentage of accounting and tax preparation fees that were deducted as unreimbursed partnership expenses in those same years. The details of these additional adjustments are provided in my submission to the Committee of February 28, 2009.

**Question 5:**

**When the college assigned honoraria to you, did the money flow through, or were the checks first written to you?**

**Answer:** The honoraria were paid by professional organizations, publications and private corporations and were directed to a scholarship program that I agreed to fund at Austin College. While some of these payments may have been sent to me before 2004, beginning in that year I endeavored to have all honoraria paid directly to Austin College and I believe that directive was followed and checks were issued directly to the college or the scholarship fund.

## Questions from Senator Cornyn

### Question 1:

I am concerned by growing protectionist sentiment in Washington. Regardless of any justification offered, protectionism ultimately penalizes the U.S. consumer and workforce. Consumers must unknowingly absorb the costs of tariff increases and regulatory burdens that are raised to penalize foreign competition.

For example, the “Buy American” provision in recently enacted economic recovery legislation was meant as an innocuous show of support to hardworking Americans, but it quickly provoked the ire of our trading partners just three months after President Bush convened the G-20 leaders in Washington to galvanize around a strategy of minimizing protectionism. President Obama was forced to step in and personally calm the protectionist rhetoric. Despite his efforts, I am concerned that ultimately our workforce will pay the price if our trading partners choose to retaliate with protectionist measures of their own.

Another example of misguided protectionism is the recently passed Country of Origin Labeling regime for meat and other food products. Origin labels are an increasingly popular non-tariff trade barrier in many corners of the world. However, these labels serve no definitive health or safety function. The cost for the increased government regulation necessary to implement this clever marketing scheme will be charged to U.S. consumers at meat counters and grocery stores nationwide. The governments of Mexico and Canada have protested mandatory labeling, and I understand that USTR staff recently held consultations with Mexican officials about this issue.

The latest example of protectionism is directed at the U.S.–Mexico border—a region near and dear to my heart and our state of Texas. The omnibus spending bill shuttling through Congress this week will very likely halt the Cross-Border Demonstration Project being conducted by the Depart of Transportation. This project is vital. The status quo trucking regime is suffocating cross-border commerce simply because of the volume of empty truck and trailer crossings each day.

Despite successful results at the northern border and Department of Transportation data clearly indicating that Mexico-domiciled trucks enrolled in the demonstration program are as safe as our own, this program will be delayed again. The 15-year delay of this program is unacceptable. This is protectionism, and Congress is endangering the U.S. economy by provoking retaliation from the government of Mexico.

Mayor Kirk, I would like a commitment from you that you will continue to be a calming voice against protectionism in Washington. Once confirmed, I would also like an update on the recent consultations regarding the Country of Origin Labeling program. And I ask for a commitment from you to work with Congress and the Obama Administration to finally implement the Cross-border Demonstration Project we agreed to establish 15 years ago.

**Answer:** I look forward to working with you to address each of these challenges. On Country of Origin Labeling issues, USTR is working closely with the Department of Agriculture and is available to you or your staff for a briefing upon request. On the cross-border trucking project, the administration is aware of the concerns that were raised in Congress about the program, and we are reviewing the policy. We will work with you and other leaders in Congress to find a solution that satisfies those concerns – while upholding our trade commitments.

**Question 2:**

**I was pleased to see that President Obama’s recently released Trade Policy Agenda includes a commitment to increasing transparency and promoting broader participation in the debate. In your testimony, you re-iterated the commitment to using technology and the USTR website as an outreach tool. I firmly believe that democracy depends upon a fully informed citizenry, and open government is the cornerstone of any free society.**

**For these reasons, I was troubled to learn that certain facts and data regarding the Colombia agreement were recently removed from the USTR website. Specifically, one item removed was the helpful “Colombia Tariff Ticker” which tracks the time and estimated duties paid on U.S. exports since the agreement was signed. Also newly missing are state-by-state export impact statements pertaining to the Colombia agreement. This data is important to trade advocates and the U.S. workforce.**

**Once confirmed, I would like an update to ensure that important information, including state-by-state impacts, regarding the Colombia agreement and other agreements are made available to the American public on your agency’s website.**

**Answer:** Improving the transparency and availability of information to stakeholders is an important priority, including state-by-state information on exports and information on existing and pending trade agreements. We are actively reviewing the content of the website to ensure that information and data on the Administration's trade initiatives is available to promote informed public debate.



**Question 3:**

**I am concerned about a regulatory burden recently proposed by the government of China pertaining to cotton imports. China is the largest cotton consumer in the world, and the United States is their largest supplier of cotton, much of it grown in Texas. Cotton growers and merchants are concerned that China's recently proposed cotton import inspection regime may be inconsistent with the WTO Agreement on Technical Barriers to Trade. When China joined the WTO it agreed to treat imported products no less favorably than domestic products.**

**Once confirmed, I would like an update on actions your office is taking to ensure that China is meeting its WTO obligations in this instance.**

**Answer:** We will monitor this situation closely, work with the Department of Agriculture, and make that update available to you and your staff.

**Question 4:**

**I am concerned about foreign regulatory burdens that are unfairly impeding rice imports into Europe. The U.S. rice industry exports over half of its crop to foreign markets, and until recently Europe was a lucrative market for rice grown in Texas and the southern states. In the last 3 years, E.U. regulations have curtailed U.S. brown rice sales by approximately 85%. I am aware that USTR staff are working towards removing barriers to this market.**

**Once confirmed, I would like an update on any progress made to date, and your commitment to see that quick resolution is made to reopen this important market.**

**Answer:** If confirmed, I will be monitoring these issues carefully and will ensure that you and the Committee are provided timely updates on this issue. I also will ask USTR staff to continue to work closely with U.S. industry and with this Committee toward a successful resolution of these problems.