

**UNITED STATES SENATE
COMMITTEE ON FINANCE
HEARING ON THE 2010 TRADE AGENDA
MARCH 3, 2010**

RESPONSES TO QUESTIONS FOR AMBASSADOR RON KIRK

Questions from Chairman Baucus

Question 1

In a World Trade Organization (WTO) dispute initiated by Brazil, the Appellate Body has ruled that certain U.S. agricultural programs that support U.S. cotton farmers are inconsistent with the United States' WTO obligations. The WTO has authorized Brazil to impose retaliation, not only against U.S. goods but also against U.S. services and intellectual property rights. **What specific action has USTR taken to try to reach a negotiated settlement with Brazil and avoid retaliation? What else is the Administration doing to minimize any adverse impact on U.S. jobs and U.S. exports that could arise from this dispute?**

A. U.S. Government officials, including USTR, have had several meetings with their Brazilian counterparts since the Arbitrators issued their awards in the WTO *Cotton* dispute on August 31, 2009. We are committed to using every available opportunity to work with the Brazilian Government to identify the potential for a negotiated solution that would avoid the imposition of Brazilian countermeasures on U.S. trade. Throughout this process, we have consulted extensively with U.S. private sector stakeholders, and with Members of Congress and Congressional staff concerned about this matter, keeping in mind the statutory nature of the programs at issue in the WTO *Cotton* dispute. We are disappointed that Brazil decided to move forward with an announcement of plans on countermeasures.

Question 2

The Office of Management and Budget is currently reviewing a U.S. Department of Agriculture (USDA) proposed rule to implement a new catfish inspection program, as required by the 2008 farm bill. It has been reported that the proposed rule would modify the definition of catfish in 2002 farm bill to include pangasius, a similar but taxonomically distinct fish that the United States imports from Vietnam. Pangasius, like other seafood, is currently regulated by the Food and Drug Administration (FDA). It is my understanding that FDA's competence to regulate pangasius has not been questioned. If the responsibility to regulate pangasius were shifted from FDA to USDA, however, it would effectively prohibit pangasius imports from Vietnam and other foreign suppliers for several years.

Do WTO rules require the United States, and other WTO members, to base their sanitary and phytosanitary measures on scientific evidence and a risk assessment? Are you aware of any reason related to food safety for shifting regulatory responsibility of pangasius from

FDA to USDA? If the United States were to impose a rule that restricted imports and was not supported by a food safety concern, would such a rule raise questions about WTO consistency?

A. As you know, USDA is charged with developing the rules for this new inspection regime. USTR, along with a number of other agencies, have been carefully reviewing the draft proposed rule as part of the OMB-led review process. This review process has not been completed as of yet. We continue to review the draft proposed rule closely to ensure that it meets requirements laid out by Congress while meeting our international trade obligations.

Question 3

In 2007, the United States and Korea entered into a free trade agreement (FTA) that would be the most commercially significant FTA since the North American Free Trade Agreement. Korea currently only accepts U.S. beef from cattle under 30 months of age, despite the World Animal Health Organization (OIE) guidelines indicating that U.S. beef from cattle of all ages and all cuts can be safely traded. In 2008, Korea agreed to accept beef from cattle over 30 months of age but massive protests in Korea prevented the over-30 months agreement from being implemented. I have long supported the U.S. – Korea FTA. But I cannot support moving forward with the agreement until Korea fully opens its market to U.S. beef, consistent with OIE standards. **Can I count on you to continue pressing for full opening of Korea’s beef market so that we can move the FTA forward? What is your plan for getting Korea to comply with its commitments on beef?**

A. Korea reopened its market for imports of U.S. beef in June 2008 and the protocol has been working well, providing important market access for U.S. beef and beef products. In 2009, U.S. exports of beef and beef products to Korea reached 55,540 metric tons, valued at \$216 million, making Korea our fourth largest beef export market. In addition, sales of higher-value chilled beef have been rising, indicative of growing confidence among importers (since chilled beef is perishable and requires a quick turnaround). Industry groups have pointed to the increased gains approval of the FTA would bring in terms of tariff reduction. In our efforts to address outstanding concerns with the FTA, the Administration, in cooperation with Congress and industry groups, will continue to work with Korea to normalize trade in beef and beef products.

Question 4

In November 2009, the United States announced that it would participate in the Trans-Pacific Partnership (TPP) FTA negotiations. Once concluded, the TPP will strengthen America’s economic and strategic relationship with key Asia-Pacific countries across varying levels of development, including Vietnam, New Zealand, Australia, and Singapore. And the negotiations hold the potential of drawing other significant Asian countries, such as Thailand and Malaysia, into the fold. In 2008 alone, the United States exported over \$930 billion in goods and services

to the Asia-Pacific region. And the International Monetary Fund anticipates that the Asia-Pacific economies will grow faster than the world average through at least 2014.

What is your strategy for ensuring a successful outcome for the TPP negotiations? What concrete steps will you take to include other key countries in the TPP negotiations?

A. We are working in partnership with Congress and U.S. stakeholders to develop U.S. negotiating objectives, with a focus on creating and retaining jobs in the United States. In working with the other TPP countries, we are approaching the negotiation as a unique opportunity to develop a 21st century agreement that will address new issues and take advantage of efficiencies that a regional agreement can provide.

Regarding inclusion of other key countries in the TPP, our goal is to expand the agreement in successive tranches so it can serve as a platform for Asia-Pacific economic integration. We are meeting regularly with countries that have expressed a potential interest in joining the TPP. The TPP countries also will provide briefings on the TPP to APEC members at Trade Ministerials and Senior officials meetings, and meet individually with countries that are interested in discussing the initiative further. Any U.S. decision on the participation of additional countries in TPP will be made in close consultation with Congress and U.S. stakeholders.

Question 5

The President's FY11 budget request would effectively freeze spending for USTR at FY10 levels, even though the President has set a goal of doubling U.S. exports over the next five years. By contrast, the President's budget includes substantial increases for other economic agencies to carry out export promotion programs. For example, the Department of Commerce would receive an additional \$87 million and the Department of Agriculture would receive an additional \$54 million. Given the important role that USTR plays in promoting exports, I want to be sure your agency has adequate funding to do the job. **Could you please describe how resource constraints affect your work at USTR?**

A. American families are being forced to tighten their belts at this time of economic difficulty, and USTR is being asked to do the same – a duty we understand and accept as appropriate since every taxpayer dollar counts. However, just as families have to make choices about which priorities they will fulfill, budget constraints will require USTR to make choices – in some cases, tough choices – about which priorities can receive a full allocation of resources and which may have to receive fewer than are optimal. We are already seeking every efficiency and identifying cost-effective ways to achieve our mission.

Question 6

The President has set a goal of doubling U.S. exports within the next five years. I support this goal, but it is ambitious. We need to make sure that we are doing everything possible to increase exports, and we must monitor our progress along the way. As I mentioned during the hearing on March 3, I request that USTR report to the Finance Committee every six months on the progress

that is being made toward meeting the President's goal. USTR can present this information in whatever format you determine would be most helpful, but I expect it would include 1) aggregate export totals; 2) exports by sector; 3) exports by destination; and 4) rate of growth or decline.

Will USTR commit to providing this information to the Committee on a biannual basis?

A. We will provide the biannual report as requested. We will work with other federal agencies to develop the information. We will develop an outline of what we hope to provide and will work with your staff in the coming weeks to ensure that it meets the Committee's needs.

Question 7

In recent months, the U.S. – China economic relationship has grown increasingly tense. China's currency and indigenous innovation policies, and its lack of effective protection and enforcement of intellectual property rights (IPR), are a few of the issues with which I am concerned. And as China's economic position continues to strengthen, it is clear we must come up with new strategies to deal with the "new China."

How do you propose revising the U.S. – China economic relationship? What concrete steps are you taking to address these issues, particularly indigenous innovation and IPR protection and enforcement?

A. The United States' relationship with China deepened and matured in many ways in 2009. We inaugurated the Strategic and Economic Dialogue, and breathed new life into the Joint Commission on Commerce and Trade (JCCT). In Hangzhou alone, we signed nine agreements with real impact for the United States, and have made progress on everything from wind turbines to market access for agriculture. Much was made of the Chinese tires decision, and other trade spats. But I've always said that disputes are the hallmark of a mature trading relationship, and precisely why we want to work together in a rules-based trading system.

There's much more that we can do with China, and we will. President Obama was very clear that we need to work together to rebalance our trade relationships with China and with much of the world, in terms of America consuming less, and other countries buying more. We'll work on that in 2010.

I am deeply concerned about recent policies announced by the Chinese government to give preferences to products with domestically developed intellectual property in China's government procurement market. These are just the latest set of industrial policy initiatives designed to support domestic companies, at the expense of foreign companies, especially in high-technology and software sectors.

My staff is actively consulting with stakeholders, and with the Congress, and the EU and other countries on the impact of these policies. The Administration is vigorously pressing the Chinese Government to address our concerns and I have raised the issue of China's discriminatory "indigenous innovation" policies personally with Chinese officials. USTR, working closely with

other U.S. government agencies, continues to raise these issues with officials from all the relevant Chinese government agencies at every appropriate opportunity, including the JCCT, our primary forum with China to address bilateral trade issues, as well as at a broader, strategic level at the Strategic and Economic Dialogue.

Question 8

I am a strong supporter of the U.S. Bilateral Investment Treaty (BIT) program, through which the United States negotiates rules to protect U.S. foreign investments; encourages the adoption of transparent, market-based investment policies; and provides an international arbitral forum for the settlement of investment disputes. In 2009, the Obama Administration announced a comprehensive review of the Model U.S. BIT to ensure it is consistent with U.S. national and economic interests. I believe the Model BIT must include strong protections for U.S. investors, as well as strong protections for core labor and environmental standards.

What steps is USTR taking to ensure that the core commercial standards in the Model BIT are preserved, including the Minimum Standard of Treatment? What steps is USTR taking to ensure that the revised Model BIT adequately protects core labor and environmental standards? Do you commit to consulting closely with Congress and all interested stakeholders as you complete the Model BIT review?

A. We understand fully that the 2004 U.S. model BIT text represents a carefully calibrated compromise among all key domestic stakeholders and agree that improvements in transparency will benefit all 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, have consulted extensively with all interested stakeholders through a variety of mechanisms, including our advisory committees, a *Federal Register* notice inviting public comments, and a public meeting where stakeholders shared their views. We continue 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 9

On September 30, 2009, the Obama Administration issued guidance that would remove registered lobbyists from Industry Trade Advisory Committees (ITACs), which provide technical and other guidance on the formulation of U.S. trade policy. Pursuant to this guidance, registered lobbyists that represent U.S. small- and medium-sized businesses (SMEs), non-governmental organizations, labor unions, and other key stakeholders would be prohibited from participating in the ITACs. I am concerned that, as a result of the administration's guidance, the ITACs will not adequately represent the views of these key stakeholders.

What steps is USTR taking to ensure that the views of U.S. SMEs, labor and environmental groups, and other key stakeholders will be adequately represented on the ITACs?

A. The goals of this White House guidance was “. . . to reduce the disproportionate impact on government decision makers at the expense of broader voices from the public at large.” Although the new policy has resulted in the loss of lobbyists who were longstanding members of the committees, we are implementing it in a way that will not reduce the committees’ effectiveness. Trade associations and other stakeholders whose interests and expertise are important to consider in trade policy will still be allowed to have representatives on the committees, but those representatives may not be registered lobbyists.

To ensure we receive expert advice from other sectors and stakeholders that should be represented, we are conducting outreach to find new voices and expand our circle of advisors. These efforts have been successful in bringing in new voices and perspectives to our advisory committees. In short, our committees remain an effective tool to provide a wide range of expert advice to the Government.

Question 10

TAA has been a priority for many years. Last year, I worked to pass the Trade and Globalization Adjustment Assistance Act of 2009. This legislation represented the biggest expansion of the TAA program since it was created in 1962. These expansions, however, expire after December 31, 2010. Without a long-term extension, many will lose the expanded benefits. This cannot, and must not, happen. **Will you commit to working with your colleagues in the Administration to ensure these expanded benefits continue for America’s workers, firms, ranchers, farmers and communities? Besides TAA, what more can Congress do to limit the impact of dislocations and to support new jobs for workers in transition?**

A. The Obama Administration is a strong supporter of Trade Adjustment Assistance programs, and the expanded TAA benefits signed into law by President Obama in February 2009 have been critical American manufacturing and services workers, as well as to American farmers, ranchers, and communities. I am committed to working with my colleagues throughout the Administration – and with Members of Congress – to make sure these programs do not lapse in December 2010.

In addition to TAA, this Administration has been working with Congress to find ways to limit the impact of dislocations and to support new jobs, and we will continue to do so. For example, in the American Recovery and Reinvestment Act alone, we helped create more than 317,900 summer youth job opportunities, invested \$500 million in training and research for emerging “green jobs” and another \$220 million to help workers pursue careers in health care and other high growth industry sectors, and created over 18,000 new community service employment opportunities for seniors.

Question 11

Ambassador Kirk, during your visit to Montana in August 2009 you were able to see first-hand just how important the lumber industry is to Montana's economy. And in these difficult economic times, it is essential that we ensure America's lumber producers are able to compete on a level playing field. You must strongly enforce the 2006 U.S. – Canada Softwood Lumber Agreement (SLA), and I appreciate the steps you have taken to enforce the agreement thus far. But I remain concerned that Canada – and British Columbia in particular – is taking steps to circumvent its obligations under the SLA. These violations harm Montana's forestry industry, workers, and communities, and must be stopped.

Ambassador Kirk, do you commit working closely with me to ensure that the SLA works for Montana's forestry industry and workers? What steps will you take to continue monitoring and enforcing the SLA?

A. Enforcement of the Softwood Lumber Agreement (SLA) with Canada has been a high priority for the Administration. To ensure full enforcement the Administration has launched two dispute settlement cases under the agreement and as a result of a decision in the first case exercised our right to impose customs duties when Canada failed to remedy its breach. A decision on the second arbitration is expected later this year.

USTR also is carefully reviewing British Columbia's administered price system. We have requested substantial information from Canada on this issue and met most recently with Canadian and British Columbian officials on March 5. We are reviewing available information and consulting with stakeholders, and would be pleased to update you as our analysis proceeds.

USTR also continues to monitor implementation of the SLA across Canada to ensure the agreement continues to be an effective means of ensuring a level playing field for softwood lumber trade.

Questions from Senator Grassley

Question 1: Bilateral trade agreement with Colombia.

Last week, Colombia's constitutional court voted down a referendum that would have allowed Colombia's President Uribe to seek a third term in office. President Uribe said he would respect the Court's decision. These events demonstrate Colombia's strengthened democracy. They disprove the claims of those who say Colombia's judiciary lacks independence. And, they illustrate once again the dramatic difference between Colombia and certain other countries in the region.

The United States needs to encourage such democratic governance. We need to demonstrate that we stand by our friends. Although you may be tired of hearing me say this, I'll say it again: One of the most important things we could do to demonstrate our support for Colombia would be to implement our stalled trade agreement. **Do you agree?**

A. As the President stated in his State of the Union message, he wants to strengthen our relationship with Colombia. He has directed me to work to resolve the outstanding issues with Colombia. This will help ensure that there is adequate support in the United States and the U.S. Congress for the agreement to be approved. The President has consistently said that he supports the Colombia FTA provided adequate steps are being taken to ensure that workers' fundamental labor rights are protected in law and practice.

Question 2: Trade Relations with China.

I'm growing increasingly concerned about the mercantilist trade policies of the Chinese government. China's discriminatory policies on "indigenous innovation" are one example. Rampant software piracy—including by Chinese government agencies—is another. And, of course, China continues to manipulate its currency exchange rate.

It's evident that the Chinese government has decided, as a matter of policy, to intervene in the marketplace to advantage Chinese companies and disadvantage their foreign competitors. I worry about the repercussions for American businesses and their workers. **What are your views on this issue?**

A. We are very concerned about the issues you have raised with respect to China's discriminatory industrial policies -- particularly the recent announcements of new preferences for products with domestically developed intellectual property in China's government procurement market, as well as with the continuing deficiencies in China's enforcement of intellectual property rights. These are just the latest set of industrial policy initiatives designed to support domestic companies at the expense of foreign companies, especially in high-technology and software sectors.

My staff is actively consulting with stakeholders, Congress, the EU, and other countries on the impact of these policies. The Administration is vigorously pressing the Chinese Government to address our concerns and I have raised the issue of China's discriminatory "indigenous innovation" policies personally with Chinese officials. USTR, working closely with other U.S. government agencies, continues to raise these issues with officials from all the relevant Chinese government agencies at every appropriate opportunity, including the Joint Commission on Commerce and Trade (JCCT), our primary forum with China to address bilateral trade issues, as well as at a broader, strategic level at the Strategic and Economic Dialogue.

Speaking more broadly on enforcement, as noted by the President, USTR continues to aggressively enforce our trade agreements to ensure an open and rules-based trading system. This includes defending U.S. WTO rights and holding our trading partners, including China, to their WTO obligations. In 2009 alone, we won two WTO cases against China related to insufficient protection of copyrighted works and WTO-inconsistent restrictions on the importation and distribution of audiovisual products, as well as one related to discriminatory treatment of imported auto parts. We also successfully settled a case on WTO-inconsistent export subsidies, and are currently pursuing another dispute related to what we believe to be WTO-inconsistent export restraints. Through these enforcement actions, we are leveling the playing field for U.S. stakeholders, and ensuring that China adheres to the commitments it made when it joined the WTO.

With respect to your question about China's currency, as the President stated in his March 11th speech at the Export-Import Bank's Annual Conference, "China moving to a more market-oriented exchange rate will make an essential contribution" to a global rebalancing effort. The Treasury Department, which is responsible for exchange rate matters, noted in 2009, that China's currency remains undervalued.

The Administration will continue to work with China both in the G-20 and the bilateral Strategic and Economic Dialogue to pursue policies that permit greater flexibility of the exchange rate. Through these efforts, combined with the work we are doing in the JCCT, USTR is working with the Treasury Department and other agencies to implement a comprehensive China policy that will address the full range of China's trade and economic policies that impact the United States, and that will lead to a more fair, sustainable and balanced trade and economic relationship.

Question 3: Preference Program Reform.

Chairman Baucus and I are engaged in an effort to reform our trade preference programs, focusing primarily on the Generalized System of Preferences. We are aiming to make the program more effective and to find ways to spread the program's benefits more widely.

(i) One of the issues that I am focusing on is whether it makes sense to continue granting duty-free benefits to advanced developing countries that are not playing a constructive role in the Doha negotiations. **What is your view of this issue?**

A. We are in agreement that the advanced developing countries need to do more in the Round, and make market access contributions commensurate with their position in the global economy. To achieve such an outcome, we are currently working with these advanced developing countries through sustained, direct bilateral negotiations. Hard work will be needed by the key players aimed at closing the remaining gaps in agriculture, NAMA, and services. Removing duty-free benefits would affect U.S. importers as well as exporters in these countries.

(ii) During your confirmation hearing last year, I asked if we should expect more in terms of reciprocity from advanced developing countries. You replied that “[t]here may be areas or sectors where an advanced developing country is fully competitive and reciprocity in treatment may be required.”

Can you provide further detail to your response?

A. It may be that some sectors, particularly in advanced developing countries, are internationally competitive, and therefore no longer need the benefits of preferential treatment, while other sectors are not. In the current version of GSP, products in a particular country that are competitive, that exceed a certain level or share of trade, can be graduated through the competitive need limit provision. The EU, for example, also looks at product competitiveness in countries by sector and has provisions to graduate competitive sectors from its GSP program. This is something that probably deserves further review and analysis. We look forward to working with the Committee as it considers possible changes to U.S. preference programs.

(iii) Separately, the President’s trade policy agenda supports reforms “to better focus benefits on the poorest countries.” When I asked you about this issue during your confirmation hearing last year, you said USTR staff had “ideas” on this topic.

Can you please summarize those ideas for us?

A. Building on the answer to the previous question, one way to focus benefits on the poorest countries is to ensure that preferences within the program are directed to those developing countries and sectors that would not be able to compete in world markets absent a preference. Of course, this is a very complicated question and one that deserves further review and analysis. We would be happy to work with the Committee in this regard.

Question 4: Prescription drug reimportation and intellectual property rights.

The President’s trade policy agenda states that the Administration will address intellectual property protection “in a manner compatible with basic principles of the public welfare.” One way to guard the public welfare is to allow Americans to buy safe, low-cost prescription drugs from Canada. It makes no sense to me that Americans are subsidizing Canadians. I see this as a free trade issue.

Why does the Administration oppose congressional efforts to allow Americans to lower their prescription drug costs in this way?

A. The U.S. Department of Health and Human Services and its components, including the Food and Drug Administration, are the lead agencies on the health policy aspects of prescription drug re-importation. I am happy to convey your views to Secretary Sebelius. I understand that President Obama supports prescription drug re-importation in principle as long as it can be done in a safe way.

Question 5: European Union restrictions on biotechnology products.

Notwithstanding several recent approvals, the European Union continues to significantly restrict imports of U.S. biotech commodities. The backlog of unapproved biotechnology events now stands at 61 products.

What action is the Administration taking to see that the European Union lifts its scientifically unwarranted restrictions on imports of U.S. agricultural biotech products?

A. Although the EU has recently issued a few approvals, including three corn approvals and a planting approval for a biotech potato, which is the first planting approval in 13 years, dozens of products remain backed up in the EU approval system and individual EU member States have adopted new bans of products approved at the EU level. As a result, we are far from achieving our goal of normalizing trade in biotech products. We are currently working closely with stakeholders and the new EU Commission to evaluate the best course of action for addressing this problem.

Question 6: European Union restrictions on biodiesel.

The European Commission is applying antidumping and countervailing duties to imports of U.S. biodiesel. I'm concerned about the impact the duties are having on biodiesel producers and soybean farmers in Iowa.

Is your office reviewing the EU's actions and considering whether to take a case to the World Trade Organization?

A. We regret the decision of the EU to impose definitive duties on imports of biodiesel from the United States. We continue to monitor and evaluate the EU's imposition of these duties under WTO rules and will consider what steps are appropriate to address any concerns we identify.

Question 7: China's restrictions on imports of U.S. pork and beef.

China currently bans imports of U.S. pork based on alleged concerns about the H1N1 virus. Yet the World Health Organization has stated that this disease is not transmitted through pork consumption. Even if China were to lift this import prohibition, China would still significantly restrict imports of U.S. pork due to spurious and non-scientific concerns about ractopamine, a veterinary drug. China has set a zero tolerance for this chemical, which is commonly used in U.S. pork production, but China has not even conducted a risk analysis for it.

And, China remains completely closed to imports of U.S. beef due to alleged concerns about BSE. But the World Organization for Animal Health has stated that U.S. beef can be traded safely.

Given that millions of Americans, and others around the world, consume U.S. pork and beef every day, the safety of these products cannot really be in doubt.

What is the Administration doing to see that China lifts its non-science based restrictions to imports of U.S. pork and beef?

A. China is the one of the remaining countries to ban U.S. pork products due to H1N1 concerns. In October 2009, Ambassador Kirk, Secretary Vilsack, and Commerce Secretary Gary Locke participated in a meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) in Hangzhou, China, where China agreed to remove its H1N1 ban on pork products. Following that meeting, the United States pressed China to implement that commitment. On March 19, 2010, USTR and USDA both announced that the United States and China had reached agreement to reopen the Chinese market to U.S. pork and pork products. Pork trade was expected to resume immediately once both sides finalized the necessary export documentation.

Given the importance of the Chinese market to U.S. agricultural interests, it is critical that we continue to press China to open its market to all U.S. agricultural products, which are safe and wholesome, including beef.

Question 8: Taiwan's restrictions on imports of U.S. beef and pork.

Unfortunately, I can raise similar concerns with respect to Taiwan. **What steps is the Administration taking to see that Taiwan removes its unwarranted restrictions on U.S. beef and pork imports?**

A. The United States negotiated in good faith a bilateral protocol with Taiwan that is consistent with science and the guidelines laid out by the World Organization for Animal Health and Taiwan's own risk assessment that found that all U.S. beef and beef products are safe. Taiwan has now taken action that violates that carefully negotiated protocol. We are deeply disappointed with this decision and are reviewing Taiwan's actions very carefully and will utilize all appropriate tools in order to resolve this issue. We are currently in the process of undertaking a detailed legal analysis of Taiwan's actions since November. As we assess our options for achieving full implementation of the bilateral protocol with Taiwan, in the short term, U.S. beef

exporters are beginning to receive some additional market access in Taiwan, particularly for bone-in beef.

On pork, USTR staff continues to work closely with the U.S. pork industry, USDA and other government agencies to secure full market access for U.S. pork and pork products in Taiwan. Currently, Taiwan blocks U.S. pork exports due to a ban on ractopamine, a commonly used veterinary drug in the United States. USTR has raised the ractopamine issue with Taiwan on multiple occasions during meetings at the WTO. In addition, USTR staff has traveled to Taiwan to raise this issue with the relevant senior government authorities.

USTR staff is also working hard to seek adoption of an international standard for ractopamine at the Codex Commission, an international body that sets standards for food safety. USTR is working very closely with industry, other government agencies and trading partners to toward having this standard will be adopted at the July 2010 CODEX Commission meeting.

Question 9: Japan's restrictions on gelatin imports.

Gelatin producers in Iowa are being harmed by Japan's ban on imports of U.S.-produced gelatin for human consumption. Japan contends that U.S. gelatin poses risks for BSE. But the World Organization for Animal Health states that gelatin can be traded safely.

Will you make it a priority to see that Japan reopens its market to imports of U.S.-produced gelatin for human consumption?

A. Reopening the Japan market to imports of U.S.-produced gelatin for human consumption in accord with international science based guidelines is a priority for the Obama Administration. My staff, working closely with FDA and USDA technical experts, has raised the issue and will continue to engage with Japan's Ministry of Health, Labor and Welfare until we are able to successfully reopen the market. Japan has been reluctant to engage with us on this specific issue outside of the larger U.S.-Japan beef discussion. Nevertheless, we will continue to press them on this important issue in accord with international guidelines at technical talks between our respective authorities this spring and again through our bilateral trade talks.

Question 10: Japan's privatization of its postal service.

I'm concerned about Japan's backsliding on the privatization of Japan Post. I understand the Japanese government recently issued a draft plan for reforming Japan Post, and that it plans to introduce legislation on the issue this month. I also understand that Japan Post's foreign competitors believe the plan contains measures that are inconsistent with Japan's international obligations in this sector.

What is your agency doing to ensure a level playing field for U.S. service suppliers that compete with Japan Post?

A. We are using every opportunity to raise our long-standing level playing field concerns. We have let Japan know that it is up to Japan to decide whether to privatize Japan Post or restructure it in some other way. However, regardless of what Japan decides to do, it should comply with its WTO obligations and should ensure that any reforms create a level playing field for the private suppliers of insurance, banking, and express delivery services that compete with Japan Post. We have raised these concerns at every level, such as when Ambassador Marantis did when he was in Tokyo in early February. My staff and I will continue to raise them at every appropriate opportunity and will continue to consider all options to address concerns regarding the lack of a level playing field.

Question 11: USTR's relationship with Customs and Border Protection (CBP).

What is the current state of USTR's relationship with the U.S. Customs and Border Protection agency? Have you taken steps to improve the working relationship between the two agencies? What more can we do to improve cooperation between USTR and CBP?

A. For the past several months USTR and Customs and Border Protection have been meeting regularly to ensure that issues of mutual interest are discussed and coordinated.

Question 12: Doha Round trade negotiations and agriculture.

Although it has been over eight years since the Doha Round trade negotiations were launched, I remain hopeful that an agreement can be reached. I understand that talks are continuing in Geneva.

Do you see any indication that the climate surrounding these negotiations has improved, or might improve?

A. A year ago, the Doha negotiations were headed down the same path that had led to failure for eight years. Since then, US leadership and creativity have charted a new path away from deadlock. We have placed the focus on sustained, direct bilateral US negotiations with China, Brazil, and India in an effort to win new market opportunities for US manufacturers, farmers, and service providers.

Since the fall, we have had useful bilateral sessions with Brazil, China, and India where we have articulated, both in broad strokes and in product-specific detail, that the market access currently on the table falls short, in each of the core negotiating areas of agriculture, NAMA and services. Continued hard work by the key players aimed at closing the remaining gaps is still needed, and we are continuing our sustained bilateral engagement.

In particular, is it your opinion that our trading partners might finally be coming to understand that the United States will not agree to a deal that does not provide meaningful improvements in market access for U.S. agricultural exports?

A. We have made clear to our trading partners that the Doha Round requires additional work to provide our producers with not only greater certainty regarding the new market access already on the table, but also that the negotiations make certain that our key partners – particularly advanced developing countries such as China and Brazil – are making market access contributions commensurate with their role in the global economy. As noted in the answer above, we are seeing engagement from these key partners, but to achieve a successful Doha outcome, it is imperative that we continue sustained, direct bilateral negotiations in order to achieve the momentum needed to move the overall multilateral negotiations forward.

Question 13: Trans-Pacific Partnership trade negotiations.

I support the negotiation of a Trans-Pacific Partnership trade agreement. The United States should be committed to trade liberalization and integration in the Pacific Rim. But, some U.S. agricultural groups are concerned that certain countries might view this as an opportunity to renegotiate the terms of their bilateral trade agreements with the United States. **How do you respond to that concern?**

A. This regional negotiation will give us the opportunity to build upon agreements already in place and to advance broader regional economic integration. The TPP would preserve benefits, rights and obligations the United States already has in those existing FTAs or in some areas seek to improve U.S. benefits obtained in pre-existing FTAs.

Question 14: Israeli tariffs on Asian carp.

Israel recently imposed high tariffs on imports of U.S.-harvested Asian carp. Asian carp is used in the production of gefilte fish. These high tariffs have led to layoffs in Iowa. I understand that the Administration is in communication with Israeli officials on this issue. **What has been the outcome of these communications to date, and what are the prospects of Israel lifting this tariff?**

A. USTR, in consultation with the U.S. Embassy in Tel Aviv, has been working with the Israeli government to resolve this issue. On March 4, the Ministry of Industry, Trade and Labor (MOITAL) made the decision to explore what concessions could be made. We understand that the Israeli government is considering internally an offer which may enable some U.S. carp to enter duty-free.

The 2004 U.S.-Israel Agreement on Trade in Agriculture Products (ATAP), which was negotiated separately from our bilateral free-trade agreement, did not provide for the removal of tariffs on carp and certain other agricultural products. MOITAL has told us that it had not been enforcing the existing duty on carp due to a technical mistake. Israeli domestic fisheries brought this oversight to the attention of Israeli government officials last fall, prompting its enforcement for the first time this year. We continue to explore a negotiated enhancement of the ATAP and, in doing so, will examine prospects for improved tariff treatment of carp.

Question 15: Differential export taxes.

The use of differential export taxes by some of our trading partners places downward pressures on prices of certain processed agricultural products in the world market. For example, by taxing soybean oil exports at a lower rate than raw soybean exports, Argentina creates an artificial incentive for the crushing of soybeans in Argentina and the export of soybean oil from that country. I encourage the Administration to press for the elimination of differential export taxes in the Doha Round negotiations. **What is the position of the Administration on this issue?**

A. We recognize the importance of this issue to our vegetable oil stakeholders. We are disappointed that the December 2008 draft agricultural text for the Doha negotiations does not provide disciplines on differential export taxes for agricultural products. I look forward to working with you on this important issue.

Question 16: Indian barriers to agricultural trade.

India maintains numerous barriers to imports of U.S. agricultural products, including those from Iowa. For example, India's high tariffs prevent U.S. corn from being exported to that country in any significant volume, and India in effect prohibits imports of most agricultural biotech commodities, such as biotech corn. As another example, U.S. dairy exporters confront high tariffs and non-science based health standards in the Indian market. **Is the Administration working actively to see that India removes its barriers to imports of U.S. agricultural products?**

A. In collaboration with the Department of Agriculture, we have addressed these issues under the U.S.-India Trade Policy Forum and at the WTO, and we will continue to engage at a technical level with India to try to overcome these barriers. The International Trade Commission's report on India's agricultural market access realities highlighted a number of tariff and non-tariff barriers that U.S. exporters face and that were already part of our bilateral agriculture dialogue.

Questions from Senator Cantwell

Question 1

Last fall, the World Trade Organization (WTO) panel issued its interim decision in the U.S. case against European subsidies to Airbus. According to press reports, that interim decision contained a decisive victory for the United States and I want to thank USTR for its hard work. This case is being watched by other countries, such as China, Russia, Canada and Brazil, who aspire to enter the large commercial aircraft market.

Could you also provide an update on the U.S. case at the WTO against European subsidies to Airbus? When will the final decision be issued?

A: As you know, the confidential interim report of the WTO panel considering that dispute was given to the United States and the EU last September. The two parties submitted comments on the interim report, and we understand that the confidential final report will be given to us very soon. Following translation into French and Spanish, the other WTO official languages, that report will be released publicly, although we do not know at this time the estimated date of that public release.

Question 2

It is very important for the United States to be consistent in its trade, national security, and foreign policies. U.S. government policies and actions should not be at cross purposes or contradictory. In my opinion, it is essential for the Department of Defense to consult with USTR, the Department of Commerce, and the U.S. intelligence community to ensure its procurement practices involving foreign companies are consistent with other U.S. policy goals.

To what extent were you consulted by DoD during the development of the air refueling tanker Request for Proposal (RFP)?

A. During the drafting of the recent RFP, DoD sought USTR's assistance in understanding the WTO generally, its handling of the aircraft dispute, and the procedures for issuing and appealing panel reports. We provided responses to all inquiries made by DoD. We also discussed the non-confidential U.S. filings in the disputes to give DoD an understanding of the issues presented before the WTO.

Question 3

I was very disappointed that there was no mention of Afghanistan and Pakistan in the President's 2010 trade agenda. As you know, I have been working very hard to move forward legislation to give the President authority to designate Reconstruction Opportunity Zones (ROZs) throughout Afghanistan and in the border regions and earthquake-affected areas of Pakistan.

We will not be able to stabilize Afghanistan and Pakistan by the use of force alone. It will take robust regional diplomacy and economic development provided in part by increased trade. Trade has been a transformative force around the world lifting people out of poverty and providing greater economic opportunity.

What is administration's policy with regard to increased trade as part of a U.S. strategy for undercutting militancy in Afghanistan and Pakistan?

A. The Administration and Congress share the same goals – to support economic development in border regions of Pakistan and Afghanistan to combat religious extremism. As part of our efforts for this region, we worked very closely with you and other members of Congress to on ROZ legislation. We are disappointed that ROZs have not proceeded. I am currently assessing possible alternative ideas that will help us move toward our goals. We would welcome your thoughts on this issue.

Question 4

As you know, Washington State enjoys an important trading relationship with China and I believe that we can and should strengthen our commercial relationship in key areas. It seems to me that cooperation is getting harder to achieve and our economic relationship appears to be moving in the wrong direction. These developments are of great concern to me and my constituents.

China appears to be regressing in protection of intellectual property, particularly for business software where the piracy rates are not declining and the value of losses to companies is on the increase. This situation is very concerning given the important strides we thought had been made in the past few years. China's new indigenous innovation strategy is also cutting U.S. companies out of business opportunities.

Where do IPR protection and the indigenous innovation issue fit in the range of issues that you and your Cabinet colleagues are addressing with China?

A. We are very concerned about the issues you have raised with respect to China's discriminatory industrial policies -- particularly the recent announcements of new preferences for products with domestically developed intellectual property in China's government procurement market, as well as with the continuing deficiencies in China's enforcement of intellectual property rights. These are just the latest set of industrial policy initiatives designed to support domestic companies at the expense of foreign companies, especially in high-technology and software sectors.

My staff is actively consulting with stakeholders, and with the Congress, and the EU and other countries on the impact of these policies. The Administration is pressing the Chinese Government hard to address our concerns and I have raised the issue of China's discriminatory "indigenous innovation" policies personally with Chinese officials. USTR, working closely with other U.S. government agencies, continues to raise these issues with officials from all the relevant Chinese government agencies at every appropriate opportunity, including the Joint

Commission on Commerce and Trade (JCCT), our primary forum with China to address bilateral trade issues, as well as at a broader, strategic level at the Strategic and Economic Dialogue.

Question 5

The U.S. – Korea Free Trade agreement is the most commercially significant pending trade agreement. U.S. bilateral trade with Korea in 2008 was in excess of \$80 billion. South Korea is Washington state's 4th largest export market. The administration understands that we need to seize the export opportunities now, before the South Korea- European Union (EU) free trade agreement, concluded in October 2009, gives European exporters an edge.

It would be a great loss to U.S. exporters if European competitors were able to get their free trade agreement with Korea ratified first and lock up important long-term contracts and shelf space. In fact, a U.S. Chamber of Commerce study has found that 350,000 U.S. jobs will be lost if the European Union Free Trade Agreement with South Korea continues to move ahead while the United States continues to delay its own agreement.

How do you propose to resolve outstanding differences on this agreement this year?

A. The U.S.-Korea FTA holds the potential to provide significant economic and strategic benefits for the United States. In his economic speeches recently and during the State of the Union, the President has repeatedly stated that he wants to deepen our trade relationships with our trading partners including Korea and that the United States cannot remain on the sidelines while our trading partners conclude trade deals among themselves. That said, there are concerns, particularly with respect to autos and beef that need to be addressed before the FTA can be moved forward. The President has asked USTR to work with Congress and other American stakeholders, as well as with Korea, to find a way to address these outstanding issues. That is what we are now doing. We will move the FTA forward at the appropriate time, after the substantive issues have been addressed.

Question 6

One of my trade priorities is passage of the Affordable Footwear Act (AFA - S. 730), which I introduced with Senator Ensign. It would give relief to U.S. consumers that end up having to pay for the 67.5% in tariffs (taxes) on imported shoes.

The stiff competition in the U.S. footwear market will help guarantee that the duty-savings will be passed on to American consumers. Middle and low income families may stand to benefit the most as many children's shoes are covered by the bill.

Will the administration support the AFA to reduce import taxes on footwear not produced in the US?

A. We believe that broad tariff elimination of the type contemplated in the AFA is most effectively done in the context of the Doha Round negotiations, where we could receive reciprocal, meaningful market access from our trading partners in return.

Question 7

The U.S. Chamber of Commerce estimates that the trade dispute sparked by the U.S. decision to end the pilot program for Mexican trucks operating in the United States has caused U.S. exports to decline by \$2.6 billion, while costing 25,000 American jobs.

For Washington state, the increased tariffs have impacted exports of processed potatoes, cherries, pears and other agricultural products. Costs to Washington state are estimated at over \$40 million per year.

What are the administration's plans to end this dispute and to help U.S. producers to recover lost markets in Mexico?

A. Resolving this dispute and ending Mexico's retaliation is a priority for me and for this Administration. U.S. exporters have been losing jobs and market share in Mexico because of a Congressional decision to end the prior pilot program. Now that Congress has removed the spending prohibition, we do have an opportunity to consider options for a new program. I met with Secretary LaHood in recent weeks, and travelled twice to Mexico so far this year. I've discussed the issue with my counterpart, Economy Minister Gerardo Ruiz Mateos, and met with President Calderon as well. It is clear to all of us that neither country benefits from the current stalemate.

We will consult with the Congress and work with the government of Mexico to develop a new program consistent with U.S. standards and our international obligations. We would like to work with you and others to find the right way forward on this issue.

Question 8

In the 2010 trade agenda, the administration states that "good trade policy can accelerate the success of sound energy and environmental initiatives and can complement sustainable growth." I share that perspective and believe trade must play an important role in moving us to a sustainable, clean energy future. Currently, many countries around the world maintain high tariffs and trade barriers on clean energy and environmental goods and services.

What steps will USTR take to move this important initiative forward in multilateral, regional and bilateral talks?

A. At the December WTO Ministerial meeting, I committed to work with like-minded Member nations to explore approaches to fast-track the elimination of tariffs on goods directly relevant to addressing climate change. This will affect the energy sector and producers of solar panels, stoves and wind and hydraulic turbines.

I agree that “green jobs” created through this agreement could spur economic growth; create jobs—particularly the right kind of manufacturing jobs of the future. I look forward to closely consulting with you on this agreement as we move forward in the DDA negotiations.

Question 9

I believe it is in U.S. interests to support Russia’s bid to join the World Trade Organization (WTO). Russia has made some great progress in a number of areas, including reducing the rate of software piracy. I want to acknowledge USTR’s hard work to complete negotiations with Russia, which have become more complicated given Russia’s decision to enter into a Customs Union with Belarus and Kazakhstan, countries that are also in the process of joining the WTO.

How does the creation of the Customs Union impact the results achieved to date, including in areas such as IPR protection, the bilateral agreement on encryption, and services commitments?

A: We continue to support Russia’s individual accession to the WTO. Russia recently indicated interest in resuming work on WTO accession on that basis, and we have been working with them towards that end. The ongoing multilateral accession negotiations in Geneva have become complicated because the overall Russian trade regime changed on January 1, 2010 with the implementation of its customs union and common external tariff with Kazakhstan and Belarus. Russia will need to inform WTO Members about those changes, and ensure that the new regime is consistent with WTO rules. Starting from the foundation of our previous agreements with Russia in this negotiation, including those on IPR protection, encryption, and services, USTR will continue to work to ensure that U.S. interests and concerns are fully addressed as Russia’s accession process moves forward. The pace of progress, however, in the WTO accession will continue to depend on the steps Russia takes to advance those negotiations.

Question 10

Negotiating the Trans-Pacific Partnership (TPP) should give an opportunity to focus on the role of trade agreements in dealing with pressing issues related to privacy and security and the sharing of data across borders. Cloud computing offers users—including governments and enterprises—the opportunity to pay only for the computing they use rather than maintaining all their computing needs and resources themselves. Cloud computing also allows users to scale their IT capacity up or down almost instantaneously as circumstances dictate.

The TPP may offer an opportunity to engage on possible approaches to a number of these issues creatively, either as part of the overall TPP, or within a subset of likeminded TPP members. Internationally, the lack of universally agreed upon rules governing law enforcement access to data in different jurisdictions subjects cloud service providers to divergent and at times conflicting rules.

As the U.S. government begins to consider possible approaches in this area it will be important to ensure that the commercial aspects of the frameworks are taken into account as discussions move forward to reconcile these different rules and promote greater clarity and consistency in data protection and access laws.

What is the administration doing to ensure that you build on the U.S.-Korea Free Trade Agreement's ground breaking provisions in terms of regulatory due process and e/commerce, and what work you are doing interagency on these issues as well as to prepare for the debate that arises from work on the cloud?

A. One of our goals for the TPP is to seek to ensure that this agreement helps provide a meaningful trade framework for innovative services and technologies where the US excels, particularly those provided over broadband networks. The ability of companies to offer "cloud" based services on a cross-border basis is a prime example of services that we think should be addressed in such an agreement. We will build on our accomplishments and experiences in previous FTAs to continue to improve the trade framework our companies can rely on to ensure their growth and provide a supportive environment for this region and others.

Question 11

A number of my constituents have expressed concern about the unintended consequences of administration policies preventing individuals from serving on the Industry Trade Advisory Committees (ITACs) if they are also registered under the Lobbying Disclosure Act (LDA). Some organizations that were previously represented on the ITACs, and which provided valuable and detailed input to the Administration and Congress on specific trade negotiations, will no longer be able to serve on the Committees.

What steps is the Administration taking to make sure these organizations can continue to participate in the formulation of U.S. trade policies?

Another troublesome outcome is that organizations may have to choose whether they discuss trade issues with Congress or the administration, but not both (since discussing trade policies with Congress may trigger and LDA registration disqualifying an individual to serve on an ITAC).

What steps is the Administration going to take to ensure that this situation does not develop?

A. The goals of this White House guidance was “. . . to reduce the disproportionate impact on government decision makers at the expense of broader voices from the public at large.” Although the new policy has resulted in the loss of lobbyist who were longstanding members of the committees, we are implementing it in a way that will not reduce the committees' effectiveness. Trade associations and other stakeholders whose interests and expertise are important to consider in trade policy will still be allowed to have representatives on the committees, but those representatives may not be registered lobbyists.

To ensure we receive expert advice from other sectors and stakeholders that should be represented, we are conducting outreach to find new voices and expand our circle of advisors. These efforts have been successful in bringing in new voices and perspectives to our advisory committees. In short, our committees remain an effective tool to provide a wide range of expert advice to the Government.

Questions from Senator Cornyn

Question 1

Ambassador Kirk, your help is needed in resolving the cross-border trucking dispute. Sixteen years ago the US made a commitment to parity for truck shipments from both Canada and Mexico, yet this issue has still not been resolved. The Department of Transportation has performed several pilot projects which have clearly demonstrated the ability of trucks to pass inspection and safely travel our roads. I acknowledge that there are special interests on all sides of this issue, but at its core it is NAFTA agreement and we are out of compliance. Ambassador Kirk, you have rightly earned a positive reputation for bringing stakeholders together to resolve tough issues.

Please explain how you will work with stakeholders involved to resolve this issue once and for all?

A. Resolving this dispute and ending Mexico's retaliation is a priority for me and for this Administration. U.S. exporters have been losing jobs and market share in Mexico because of a Congressional decision to end the prior pilot program. Now that Congress has removed the spending prohibition, we do have an opportunity to consider options for a new program. I met with Secretary LaHood in recent weeks, and travelled twice to Mexico so far this year. I've discussed the issue with my counterpart, Economy Minister Gerardo Ruiz Mateos, and met with President Calderon as well. It is clear to all of us that neither country benefits from the current stalemate.

We will consult with the Congress and work with the government of Mexico to develop a new program consistent with U.S. standards and our international obligations. We would like to work with you and others to find the right way forward on this issue.

Question 2

I would like to draw your attention to unfair treatment of a Texas investor by the Government of Argentina. For the past eight years, Azurix—a water services company headquartered in Houston—has been engaged in international litigation with the government of Argentina. Last year, a World Bank arbitration panel affirmed its own prior ruling in favor of Azurix, yet Argentina refuses to meet its obligation.

I am aware that Azurix has discussed this matter with your staff and has requested a review of Argentina's performance with respect to the Generalized System of Preferences. I am encouraged by your office's engagement thus far, and I would appreciate an update on this matter.

Will you please direct your staff to provide a written update to my office?

A: Under U.S. law, a country is ineligible for preferential treatment under the GSP program if it fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens or corporations owned by U.S. citizens. USTR has been in close contact with Azurix, the petitioner, and has raised this case with the Government of Argentina as well. We continue to review the petition and Azurix's claims, while we are gathering additional information. My staff would be happy to meet with your staff to provide an update on this matter.

Question 3

As you know, a lack of readily available credit is hampering U.S. exports, particularly by small and medium sized manufacturers. I understand you and your staff are aware that US textile exports have been particularly hurt by the recent bankruptcy of a large firm that facilitated Western Hemisphere export financing. I am supportive of your efforts to work with officials at the Export-Import Bank in developing novel approaches for export financing to this important region. A strong manufacturing presence in the Western Hemisphere is of key strategic importance because it ensures a nearby market for US fabric exports.

Do you envision the need for a legislative solution to resolve this export financing issue at this time?

A. We do appreciate the industry's need for access to credit to finance exports of textile products, and we have been working closely with the Export-import Bank on a model for credit financing that could meet their's and the industry's needs. At this point, we do not believe that a legislative solution will be necessary.

We are also pleased that CIT, the firm you have mentioned, has emerged from bankruptcy, and the factoring business which facilitates export financing in the Western Hemisphere, including for textile companies, is fully functional.

Questions from Senator Kyl

Question 1

It is important for the U.S. to gain access to the markets of fast-growing developing nations abroad. Exports are currently the fastest growing part of our economy, increasing \$89.6 billion in the last three months of 2009 – up 18.1 percent compared to the prior quarter. If that pace continues, net exports should add half a percentage point to overall economic growth.

In Arizona alone, manufacturing accounts for more than 8 percent of the state's economy, and of the manufactured products produced, nearly 80 percent were exported. Expanding free trade would provide American firms with new opportunities to grow.

Congress has yet to approve pending trade agreements with Colombia, Panama, or South Korea. Colombian goods already enter the U.S. duty free, but U.S. manufactured goods entering that country face tariffs ranging from eight percent to as high as 15 percent. If enacted, the Colombia Free Trade Agreement would lift tariffs immediately on over 80 percent of U.S. consumer and industrial goods, and all goods would be duty free in 10 years.

Have exports contributed or subtracted to economic growth over the course of this recession? Rather than passing a third economic stimulus bill in as many years wouldn't it make more sense to work to open up foreign markets for our goods and services in places like Colombia?

A. While exports dropped sharply during the recession, their recent rapid growth has been playing a lead role in economic recovery. The overall U.S. economy expanded at annual rate of 4.1% in the second half of last year. Export expansion alone accounted for 2.1 percentage points, or more than half the economy's overall growth in the second half of last year. The Administration is clearly focused on removing impediments to the expansion of U.S. exports and the economic benefits that result.

As the President said, to create jobs here at home we must strengthen our relationships with key trading partners. Approval and implementation of the pending FTAs is a priority for this Administration. We will resolve outstanding issues and push for the passage of trade agreements with South Korea, Panama, and Colombia. As the President said, other countries have been able to align the interests of workers, businesses, and government around trade agreements that open new markets and create new jobs. We must do the same.

Questions from Senator Lincoln

Question 1

As we try to find new markets for our exports we don't have to search further than 90 miles from our shores. I am referring of course to Cuba, which for the past 50 years has been largely closed to our exports. But while other countries place barriers on our products for a variety of largely protectionist reasons, this is a barrier of our own making.

No country is better situated to take advantage of the consumer demand in Cuba than the U.S., and no sector can enter that market more quickly and seamlessly than our agricultural sector. For example, my home state of Arkansas is the largest rice producer in the U.S. Cuba is an exceptionally large consumer of rice. Yet instead of taking advantage of the Mississippi River and the Gulf of Mexico to transport billions of dollars worth of U.S. products to Cuba, the Cubans are buying a significant share of their imports from China, Thailand and Vietnam.

I was disappointed to not see Cuba referenced in the President's trade agenda as a potential prospect for U.S. exports. While still far from a desirable political climate, that country seems to be more amenable to opening up their relations with the United States, and maintaining our sanctions in their current form won't suddenly achieve what they failed to obtain in the past 50 years. It's time for us to find ways to help our exports get into Cuba and I hope that the bill I co-sponsored with Chairman Baucus last year to remove some of those restrictions will pass sooner rather than later.

Ambassador Kirk, can you articulate this administration's position as to why our agricultural exports should not be allowed unrestricted access to Cuba and why attempting to restore those exports is not a priority within this trade agenda?

A. The Trade Sanctions Reform and Export Enhancement Act (the "TSRA"), passed by Congress in 2000, liberalized certain exceptions from U.S. sanctions legislation for agricultural commodities to be exported to Cuba. TSRA allows for the issuance of one-year export licenses for the selling of agricultural commodities, as defined in the section 102 of the Agricultural Trade Act of 1978, to Cuba. The Department of Commerce's Bureau of Industry and Security issues licenses to U.S. agricultural companies in accordance with TSRA. Since passage of TSRA, U.S. agricultural exports to Cuba have grown from essentially zero, to top \$685 million in 2008. While exports dipped in 2009 as part of the broader global economic slump, the cumulative value of sales of agricultural products to Cuba from 2002 through 2009 exceeded \$3 billion. With Cuba now ranking as the 31st largest market for U.S. agricultural exports, the Administration recognizes the untapped potential that Cuba's market holds for America's farmers and ranchers, and remains committed to supporting the sale of U.S. agricultural goods to feed the Cuban people – consistent with existing laws and regulations.

Question 2

I would like to raise another issue which is of particular concern in my state, but should frankly concern American consumers in general, as it raises an important food safety issue. Catfish is the mainstay of a large industry in my home state. Arkansas is in fact the third largest producer of catfish in the nation.

The legislative language in the 2008 Farm Bill leaves no ambiguity in its intent that all catfish – domestic and imported – meet the highest USDA standards. I feel strongly about ensuring the health and safety of American consumers and I'm sure you do to.

I'm concerned about reports of pressure being applied by importers hoping to remain under FDA jurisdiction, which effectively places these fish under far more relaxed inspection, exposing consumers of the fish to products that are known to originate from high risk points of origin.

I would like for you to please clarify why your office has opposed – during the rulemaking interagency process for this Congressional mandate – the transfer of all catfish to the jurisdiction of USDA, which would become the inspector of all catfish imports? If trade concerns are at play, please expand on those, and explain how they might interact with these serious health concerns?

A. As you know, USDA is charged with developing the rules for this new inspection regime. USTR, along with a number of other agencies, have been carefully reviewing the draft proposed rule as part of the OMB-led review process. This review process has not been completed as of yet. We continue to review the draft proposed rule closely to ensure that it meets requirements laid out by Congress while meeting our international trade obligations.

Question 3

Of the three pending FTAs none contains greater potential for revenue and job creation than the agreement with South Korea. This is a country with significant purchasing power and a proven track record of importing U.S. goods.

For example, the Koreans have imported 750 million dollars worth of U.S. beef before that number was substantially reduced following the mad cow disease scare. Today, our producers are struggling to get back into that market and desperately need a free trade agreement to facilitate their exports, especially since those health concerns had been more than adequately addressed.

Voices within the industry have expressed their concern that were this agreement not be put into effect soon, our producers would be cornered out of that market, especially after the Australians sign their own FTA with Korea, placing us at a substantial price disadvantage for years to come.

I would like to hear your assessment as to why this agreement should not be promoted and adopted as soon as possible and before we lose this large market to our competitors.

A. The U.S.-Korea FTA holds the potential to provide significant economic and strategic benefits for the United States. In his economic speeches recently and during the State of the Union, the President has repeatedly stated that he wants to deepen our trade relationships with our trading partners including Korea and that the United States cannot remain on the sidelines while our trading partners conclude trade deals among themselves. That said, there are concerns, particularly with respect to autos and beef that need to be addressed before the FTA can be moved forward. The President has asked USTR to work with Congress and other American stakeholders, as well as with Korea, to find a way to address these outstanding issues. That is what we are now doing. We will move the FTA forward at the appropriate time, after the substantive issues have been addressed.

Question 4

I would like to raise an issue that affects a very large industry in this country, and that is China's ban on U.S. pork products. In 2008 the U.S. exported 340 million dollars worth of pork into China, and that number was projected to rise much further were it not for the H1N1 virus scare.

Unfortunately, China seized this "opportunity" and closed its market to all U.S. imports of pork. In addition, even after China pledged to reopen its market last year, its ports remain closed to our goods, while the EU and Canada succeeded in resolving their own issues with the Chinese, which are similar to ours.

I don't have to tell you about the potential value of unimpeded exports of pork to China. I also don't have to tell you that in today's competitive environment, neither the Chinese nor our foreign competitors are going to wait for us to sort our affairs and take full advantage of that market. We need to do whatever we can to get back in there.

Ambassador Kirk, what efforts are being made by the U.S. to ensure that the Chinese live up to their pledge to reopen their markets to our pork products, and can you assure me that your office is doing its utmost to work through this problem before our foreign rivals take over that market?

A. China is the one of the remaining countries to ban U.S. pork products due to H1N1 concerns. In October 2009, Ambassador Kirk, Secretary Vilsack, and Commerce Secretary Gary Locke participated in a meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) in Hangzhou, China, where China agreed to remove its H1N1 ban on pork products. Following that meeting, the United States pressed China to implement that commitment. On March 19, 2010, USTR and USDA both announced that the United States and China had reached agreement to reopen the Chinese market to U.S. pork and pork products. Pork trade was expected to resume immediately once both sides finalized the necessary export documentation.

Questions from Senator Roberts

Question 1

How is USTR addressing the Taiwan situation in regard to the Legislative Yuan's move to pass a bill blocking U.S. beef?

A. Taiwan has now taken action that violates that carefully negotiated protocol. We are deeply disappointed with this decision and are reviewing Taiwan's actions very carefully and will utilize all appropriate tools in order to resolve this issue. As we assess our options for achieving full implementation of the bilateral protocol with Taiwan, in the short term, U.S. beef exporters are beginning to receive some additional market access in Taiwan, particularly for bone-in beef.

Question 2

In the case of Korea, they've implemented about half of the agreement to resume U.S. beef trade. **When does the next step to resume full beef trade consistent with international scientific guidelines begin?**

A. Korea reopened its market for imports of U.S. beef in June 2008 and the protocol has been working well, providing important market access for U.S. beef and beef products. In 2009, U.S. exports of beef and beef products to Korea reached 55,540 metric tons, valued at \$216 million, making Korea our fourth largest beef export market. In addition, sales of higher-value chilled beef have been rising, indicative of growing confidence among importers (since chilled beef is perishable and requires a quick turnaround). Industry groups have pointed to the increased gains approval of the FTA would bring in terms of tariff reduction. In our efforts to address outstanding concerns with the FTA, the Administration, in cooperation with Congress and industry groups, will continue to work with Korea to normalize trade in beef and beef products.

Question 3

The May 10th agreement, which included additional environmental and labor provisions in negotiated trade agreements, has so far yielded minimal results far short of the other agreements like Colombia, Panama, and Korea which were supposed to be included in the deal.

Do you see changes beyond the May 10th Agreement in regard to labor and environmental proposals?

A. Ensuring respect for labor rights and environmental protection are key aspects of a "21st century" agreement. The TPP offers an important opportunity to enhance respect for such rights and protections and we would work closely with Congress to ensure that labor and environment

commitments are addressed in a manner that would receive bipartisan support, as did the May 10th Agreement.

Question 4

Benchmarks seem to be the key word in regard to the pending trade agreements. USTR has already gathered stakeholder input from the request for comments in the Federal Register. The next logical step is to review the comments and come up with a strategy to move forward

How much longer do you expect the reviewing of comments to take? What do you mean by benchmarks? Does it mean legislative solutions, meetings with appropriate stakeholders, or memorandum of understanding? What, specifically, are the remaining benchmarks for each of the pending trade agreements?

A. The Administration continues to believe that implementation of the pending free trade agreements with Panama, Colombia and Korea can bring significant economic and strategic benefits to the United States, and approval of the agreements is a priority for the Administration. However, concerns have been raised with respect to each of the pending agreements, which we are seeking to address. As you note, we conducted extensive consultations with Congress, stakeholders, and the public on the pending agreements, including publishing a notice in the *Federal Register* on Colombia and Korea in which we solicited input from the public in order to more precisely identify issues. We have reviewed the comments we received in response to the Federal Register and we will continue to engage with the Governments of Panama, Colombia, and Korea as we further refine our analysis of these issues. The substance will drive the timing of this process as well as the nature of the solutions we identify.

Question 5

What should a small business in Kansas expect to get from the National Export Initiative? What is the role of USTR in this multi cabinet effort?

A. The National Export Initiative (NEI) lays out the Administration's strategy to address three areas critical to increasing American exports: 1) improved access to credit; 2) expanded trade advocacy; and 3) expanded market access through new trade agreements and robust enforcement of U.S. rights under trade agreements. USTR's primary role under the NEI is our focus on tearing down trade barriers and opening up new opportunities for American businesses of all sizes.

Engagement, outreach and education of small and medium-sized enterprises (SME's) will be critical to our effort. Ninety-seven percent of all firms in the United States are SMEs, yet less than 1 percent of SMEs actually export.

The NEI calls for a strong focus on the support and empowerment of SME's, and it is critical that these companies have full access to the opportunities provided by foreign markets. Experience has shown us that education and financing are two key areas of particular concern to

SME's, and we anticipate that the export promotion team's SME strategy will have a strong focus on these two areas, among others.

As a USTR priority, I launched a small business initiative last fall, and took a series of actions, including designating a new Assistant USTR for Small Business, requesting the International Trade Commission to investigate and prepare a series of reports on SMEs and trade, hosting a large SME conference in January, expanding our business outreach, and increasing small business representation on our industry advisory committees.

Question 6

I understand that Canada and the EU have negotiated deals with China regarding its H1N1 ban and are both back in the China pork market. China is our largest pork consuming market in the world and it is critical that our pork exports get back into that market. **What is the status of our negotiations?**

A. China is the one of the remaining countries to ban U.S. pork products due to H1N1 concerns. In October 2009, Ambassador Kirk, Secretary Vilsack, and Commerce Secretary Gary Locke participated in a meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) in Hangzhou, China, where China agreed to remove its H1N1 ban on pork products. Following that meeting, the United States pressed China to implement that commitment. On March 19, 2010, USTR and USDA both announced that the United States and China had reached agreement to reopen the Chinese market to U.S. pork and pork products. Pork trade was expected to resume immediately once both sides finalized the necessary export documentation.

Questions from Senator Snowe

Question 1

I have championed the post of Assistant United States Trade Representative for Small Business for the better part of a decade because frankly we have done little to give small businesses the tools to succeed abroad, so I am truly pleased to see that you have expanded Assistant USTR Jim Sanford's role to fill this position. Implementation of an Assistant USTR for small business is only the beginning. **Specifically, I am interested in how you plan to direct your staff to work for small business in the trade arena and advocate for those who wish to export despite the obstacles involved? What pro-trade relationship do you envision sharing with Small Business Administration (SBA) Administrator Karen Mills? Will you seek recommendations from the SBA prior to the start of trade negotiations to ensure the consideration of small business concerns?**

A. Expanding the number of small businesses that export is a priority for me, and I am proud to say that USTR has been a leader in this area. Last October, I launched a USTR initiative to re-examine our trade policy and enforcement efforts to ensure that we are being responsive to the challenges and priorities of small business. In consultation with Chairman Baucus, Senator Landrieu and you, Senator Snowe, I designated an AUSTR to help coordinate small business interests within the agency. I have also requested the International Trade Commission to investigate and prepare a series of reports on small- and medium-sized enterprises (SMEs) and trade to guide our activities, hosted an SME conference in January, expanded our business outreach, and increased small business representation on our industry advisory committees. In our Trans-Pacific Partnership negotiations, for the first time we will designate a point person for SME issues. These activities all support the Administration's broader efforts under the National Export Initiative.

I am committed to working closely with the Small Business Administration and other agencies. For example, my staff works with SBA through the Trade Promotion Coordinating Committee that will help implement the National Export Initiative. We are exploring ways to leverage SBA resources and expertise and to further enhance our collaboration. We want to benefit from SBA input into trade policy development and implementation. In January USTR invited SBA to become a member of our formal interagency trade policy process – the Trade Policy Staff Committee (TPSC) and the Trade Policy Review Group (TPRG). SBA has accepted this invitation – which will enhance our ability to ensure small business interests are better considered in our policy activities.

Question 2

To succeed in the President's goal of doubling exports to support 2 million American jobs, we must give greater assurances to U.S. manufacturing workers and businesses that trade

agreements will be consistently and vigorously enforced, and that U.S. businesses will have access to overseas markets on terms that are clear and predictable. You have now served as USTR for nearly a year. **Do you believe changes are necessary to restructure USTR's role in enforcing U.S. trade rights and ensuring this is a top priority in a trade policy aimed at maximizing American jobs? Are you confident that USTR has the time, resources, and will to adequately direct the enforcement of U.S. trade rights? What percentage of USTR resources are spent on enforcement vs. negotiating new agreements?**

A I am confident that USTR is prepared and properly structured to shape, negotiate and enforce our nation's trade policy. USTR devotes a substantial proportion of its resources to monitoring and enforcement as an integral part of its mission to open markets throughout the world, creating new opportunities and higher living standards for families, farmers, manufacturers, workers, consumers, and businesses. Enforcement responsibilities rest not only in USTR's General Counsel's Office but also with the USTR policy offices, who devote considerable time to monitoring and ensuring compliance with the trade agreements that we have concluded.

Regarding our priorities given our resources, American families are being forced to tighten their belts at this time of economic difficulty, and USTR is being asked to do the same – a duty we understand and accept as appropriate since every taxpayer dollar counts. However, just as families have to make choices about which priorities they will fulfill, budget constraints will require USTR to make choices – in some cases, tough choices – about which priorities can receive a full allocation of resources and which may have to receive fewer than are optimal. We are already seeking every efficiency and identifying cost-effective ways to achieve our mission.

Question 3

According to the Maine Department of Labor, over 30,000 manufacturing jobs have been lost in my home state—a state with a relatively small population where such losses have a devastating impact, particularly on small towns. Tragically, these lost jobs have been some of the best paying work in the country. The Administration must ensure that U.S. manufactured goods have a level playing field by aggressively defending and enforcing our antidumping and countervailing duty laws. **Can you assure the Committee that you will not allow these vital laws to be further weakened in the WTO Doha Round negotiations?**

A. We are committed to working with you, our colleagues at the Commerce Department and Congress to ensure that the United States retains strong and effective trade remedy laws.

Question 4

A key element of the U.S.-Canada Softwood Lumber Trade Agreement is Canada's commitment to forego expanding the level of subsidies it provides to its lumber industry and I appreciate USTR's efforts with respect to this issue. I am deeply concerned, however, that significant violations of this trade agreement appear to continue unabated. British Columbia, a province that represents over half of all shipments into the United States from Canada, continues to provide significant new subsidies to prop up its industry in violation of the softwood lumber trade agreement. This is continuing to cause serious harm to manufacturers in the state of Maine and around the country, and has brought about U.S. job losses in communities that can least afford any loss of economic activity. I understand that your staff is looking closely at the British Columbia timber pricing issues. **Is additional USTR enforcement action imminent to ensure that Canada lives up to its commitments under the agreement?**

A. Enforcement of the Softwood Lumber Agreement (SLA) with Canada has been a high priority for the Administration. To ensure full enforcement the Administration has launched two dispute settlement cases under the agreement and as a result of a decision in the first case exercised our right to impose customs duties when Canada failed to remedy its breach. A decision on the second arbitration is expected later this year.

USTR also is carefully reviewing British Columbia's administered price system. We have requested substantial information from Canada on this issue and met most recently with Canadian and British Columbian officials on March 5. We are reviewing available information and consulting with stakeholders, and would be pleased to update you as our analysis proceeds.

USTR also continues to monitor implementation of the SLA across Canada to ensure the agreement continues to be an effective means of ensuring a level playing field for softwood lumber trade.

Question 5

I am greatly concerned that if we expand access to our dairy market to New Zealand under the TPP, this will result in substantial losses for Maine's dairy producers and a likely overall negative impact on Maine's agricultural sector from the agreement. New Zealand's near-monopoly situation, coupled with the relatively small market New Zealand represents for U.S. dairy producers, means that the dairy trade relationship between our two countries is already strikingly one-sided. **As you begin negotiations on the TPP, 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, and the treatment of U.S. dairy products in New Zealand?**

A. We fully understand the concerns of U.S. dairy interest regarding the TPP and will work in close consultation with them and Congress to address their sensitivities and priorities.

Question 6

Canada's schedule of personal exemptions from customs duties and taxes for returning Canadian residents has the effect of limiting sales by Maine businesses to Canadians who live just across the border. Under this schedule, 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 2007, USTR noted that this discourages shopping visits to the United States by Canadian border residents. It is therefore a major concern for Maine and other U.S. border-area businesses, which rely on cross-border commerce for their livelihoods. **What steps will USTR take to investigate Canada's customs duty exemption scheme as a possible unfair trade practice? What is the cost of this imbalance on businesses in the U.S.? Would USTR be willing to engage Canada on this matter at the next NAFTA ministerial meeting?**

A. USTR has raised the issue of personal duty exemptions with Canadian officials on a number of occasions. Most recently, I raised it with my counterpart, Canadian Minister for International Trade Peter Van Loan earlier this year. USTR will continue to point out to Canada the disparities in the treatment we each provide for returning residents.

Canada has made some moves to correct this imbalance. In 2007, Canada raised its exemption for travelers who return to Canada after 48 hours from C\$200 to C\$400. However, Canada still provides no exemption for day-trip tourists.

Administration of personal duty exemptions is at the discretion of each government and not covered by our trade agreements. I understand that for many goods, most of the charges returning Canadians face are federal and provincial taxes and charges which are also outside the scope of our trade agreements.

Nevertheless, I do want to continue to work with you and other border State members to find ways that we can encourage Canada to provide a personal duty exemption for its day-trip visitors to the United States.

Question 7

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. A few rubber footwear plants have been able to resist overseas 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 concentration of footwear manufacturing in China since that country's accession to the World Trade Organization leaves little 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 offshore producers, who would be the only beneficiaries of a dramatic reduction in duties. **As you consider upcoming trade agreements, 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?**

A. We understand the concerns of our rubber footwear manufacturers and keep these concerns in mind as we negotiate trade agreements. Through consultations with the rubber footwear industry, we have worked in our Free Trade Agreements to treat their tariff lines as among our most sensitive industrial products by placing them in staging baskets with longer periods for implementation.

In the Doha Round, the U.S. position on industrial tariffs is a comprehensive one that reflects the Administration's belief that open markets will generate greater economic growth, job creation, and consumer benefits in the United States and world-wide. While the emphasis at this stage of the Doha Round negotiations is on ensuring broad new market access from key advanced developing countries for U.S. exports, which reflects our exporters' interest in an ambitious outcome, we also anticipate using traditional tools such as staging of tariff reductions to address our sensitivities at a later point in the negotiation.

I am deeply troubled and profoundly disappointed that Customs has refused to reconsider an order it issued two years ago which allows athletic shoes with thin or sprayed-on layers of fabric that rub off after a few steps into the country at the lower textile footwear duty rate.

As the President's top advisor on U.S. trade laws, please provide a detailed status update on this outrageous example of tariff-shopping, including but not limited to a specific timeline for action and the date by which a solution that reflects the reality of the situation will be announced.

A. At the request of the Administration, the U.S. International Trade Commission (ITC) is in the processes of initiating a "section 1205" investigation that would allow the Customs and Border Protection agency to modify its treatment of certain fabric-bottom footwear while preserving the tariff treatment applied to current imports. I understand that the ITC will be initiating and scheduling this investigation shortly and will likely complete its investigation within the next few months. The President would then take the ITC's recommendations, ensure that they do not run counter to our national economic interests, and submit a report to the House Ways and Means and Senate Finance Committees for 60 legislative days. After the 60-day period, the President may approve the modifications.

Questions from Senator Stabenow

Question 1

Even if we do focus on making things here, we won't be able to sell abroad if non-tariff barriers continue to block our products. I understand that for our manufacturers Non-Agricultural Market Access in the WTO Doha Round is a major stumbling block.

How will the US approach negotiations with the advanced developing nations, like Brazil, China and India to get them to see that they need to make additional market openings in Doha before the US can sign off?

A. A year ago, the Doha negotiations were headed down the same path that had led to failure for eight years. Since then, US leadership and creativity have charted a new path away from deadlock. We have placed the focus on sustained, direct bilateral US negotiations with China, Brazil, and India in an effort to win new market opportunities for US manufacturers, farmers, and service providers.

We have made clear to our trading partners that the Doha Round requires additional work to provide our producers with not only greater certainty regarding the new market access already on the table, but also that the negotiations make certain that our key partners – particularly advanced developing countries – are making market access contributions commensurate with their role in the global economy. Since the fall, we have had some useful bilateral sessions with Brazil, China, and India where we have articulated, both in broad strokes and in product-specific detail, that the market access currently on the table from them falls short in each of the core negotiating areas of agriculture, NAMA, and services. Continued hard work by the key players aimed at closing the remaining gaps is still needed, and we are continuing our sustained bilateral engagement.

Question 2

Despite our playing by the rules, our trading partners consistently ignore their obligations. As you know, Mr. Ambassador, Mexico has put duties on a number of our agricultural and industrial products after we shut down the pilot Mexican trucking program over serious safety concerns. On your recent trip to Mexico City, it was reported that the trucking issue will be resolved this year.

Can you tell me what steps are being taken by the Administration to resolve this issue?

A. Resolving this dispute and ending Mexico's retaliation is a priority for me and for this Administration. U.S. exporters have been losing jobs and market share in Mexico because of a Congressional decision to end the prior pilot program. Now that Congress has removed the spending prohibition, we do have an opportunity to consider options for a new program. I met with Secretary LaHood in recent weeks, and travelled twice to Mexico so far this year. I've discussed the issue with my counterpart, Economy Minister Gerardo Ruiz Mateos, and met

with President Calderon as well. It is clear to all of us that neither country benefits from the current stalemate.

We will consult with the Congress and work with the government of Mexico to develop a new program consistent with U.S. standards and our international obligations. We would like to work with you and others to find the right way forward on this issue.

Question 3

Any new trade agreement has to get a number of things right – we can't ignore getting increased market access for all our products, we can't avoid demanding that our environmental standards are met, and, with our high unemployment rates we certainly can't ignore fundamental labor standards.

Can you tell me how USTR plans on including stronger labor provisions in any new bilateral investment treaty and trade agreements?

A. Ensuring respect for labor rights and environmental protection are key aspects of “21st” century agreements, whether they deal with trade or investment. With respect to new trade agreements, the TPP offers an important opportunity to enhance respect for such rights and protections and we will work closely with Congress to ensure that labor and environment commitments are addressed in a manner that would receive bipartisan support, as did the May 10th Agreement.

Similarly, as part of our BIT review, we are working to ensure that strong labor and environmental provisions will be part of our new bilateral investment treaties, along with strong core protections for U.S. investors.

Questions from Senator Wyden

Question 1

An important issue for Oregon's potato industry is the failure of the Mexican government to fulfill the requirements of a 2003 bilateral trade agreement that was to provide access for U.S. fresh potatoes. Mexico's failure to honor their agreement is resulting in a lost opportunity for an export market that could easily reach \$150 million a year. This failure is costing American jobs

Can you provide me your assurance that resolving the issue of Mexico's unwillingness to meet the requirements of the 2003 Fresh Potato Market Access agreement is a priority of the USTR? Can you please provide me with some details about what the USTR has done to resolve this issue, and what it intends to do moving forward?

A. Ensuring market access for all U.S. agricultural products will continue to be a USTR priority. With respect to potatoes, the United States has submitted substantial technical data to the relevant Mexican authorities and Mexico recently conducted the required risk assessment. The United States will analyze the results of the risk assessment and continue to work with Mexico to provide access to exports of U.S. potatoes.

Question 2

Some have suggested that the WTO General Agreement on Trade in Services contains rules that can limit the types of financial service regulations we can apply here in the United States. Furthermore, it has been argued that the current WTO rules prohibit regulatory bans and policies that restrict unfettered capital flow, which could make it more difficult to limit the size of financial firms and the types of services and products they provide.

What is the USTR's view about these arguments?

Is the USTR considering proposing any changes to WTO rules to ensure that the U.S. is not limited in any way to impose reforms to manner in which financial services are regulated, including stricter prudential standards?

A. The WTO and all of our free trade agreements provide flexibility for governments to regulate and to develop new regulations. These agreements also expressly allow the Parties to take "prudential" measures to ensure the stability of the financial system and to protect depositors; and explicitly preserve the ability of a central bank or monetary authority to adopt measures pursuant to monetary and related credit policies or exchange rate policies.

Because U.S. regulatory discretion is already protected by WTO rules, we do not see a need to propose any changes.

Question 3

As you know, the government of China has recently implemented a scheme that, for purposes of government procurement, discriminates against intellectual property designed or manufactured in the United States.

What has the Obama Administration done to convince China to reverse this policy, and what will the Administration do moving forward?

Does this practice violate any commitments that China has made to the U.S. or to the WTO? What recourse is available to the U.S.?

A. We are very concerned about the issues you have raised with respect to China's discriminatory industrial policies -- particularly the recent announcements of new preferences for products with domestically developed intellectual property in China's government procurement market, as well as with the continuing deficiencies in China's enforcement of intellectual property rights. These are just the latest set of industrial policy initiatives designed to support domestic companies at the expense of foreign companies, especially in high-technology and software sectors.

My staff is actively consulting with stakeholders, Congress, the EU, and other countries on the impact of these policies. The Administration is vigorously pressing the Chinese Government to address our concerns and I have raised the issue of China's discriminatory "indigenous innovation" policies personally with Chinese officials. USTR, working closely with other U.S. government agencies, continues to raise these issues with officials from all the relevant Chinese government agencies at every appropriate opportunity, including the Joint Commission on Commerce and Trade (JCCT), our primary forum with China to address bilateral trade issues, as well as at a broader, strategic level at the Strategic and Economic Dialogue (S&ED).

We have also made clear to China that these "indigenous innovation" policies call into question China's commitments at the JCCT and S&ED to accelerate its accession to the WTO Government Procurement Agreement (GPA). Discrimination in favor of "indigenous innovation" products and against foreign products would be inconsistent with meaningful GPA coverage. Moreover, these policies are also inconsistent with China's JCCT and S&ED commitments to treat products produced in China by foreign-invested enterprises the same as those produced by Chinese-owned enterprises for purposes of government procurement.

Speaking more broadly on enforcement, as noted by the President, USTR continues to aggressively enforce our trade agreements to ensure an open and rules-based trading system. This includes defending U.S. WTO rights and holding our trading partners, including China, to their WTO obligations. In 2009 alone, we won two WTO cases against China related to insufficient protection of copyrighted works and WTO-inconsistent restrictions on the importation and distribution of audiovisual products, as well as one related to discriminatory treatment of imported auto parts. We also successfully settled a case on WTO-inconsistent export subsidies, and are currently pursuing another dispute related to what we believe to be WTO-inconsistent export restraints. Through these enforcement actions, we are leveling the

playing field for U.S. stakeholders, and ensuring that China adheres to the commitments it made when it joined the WTO.

Question 4

Conservation of marine resources is a pressing environmental concern. Fisheries subsidies have resulted in massive fleet overcapacity, leading to overfishing and rapid depletion of fish stocks. This is a jobs issue, too. Our domestic fishing industry should not be expected to compete against overseas subsidies and unregulated and illegal fishing. The Trans-Pacific Partnership Agreement presents a unique opportunity to address ocean conservation and unfair fishing practices among key Pacific nations.

Will you support inclusion of an explicit chapter or annex on ocean conservation in the TPP, and if not, how will you address this critical issue?

A. We share your interest in the opportunities a Trans-Pacific Partnership Agreement could present to make progress on a wide range of trade-related marine conservation issues. We are reviewing stakeholder comments on this issue and are prepared to explore a range of possible options, such as an annex, as you suggest. As we proceed, we look forward to working closely with you and interested stakeholders.

Questions from Senator Crapo

Question 1

Last year, you acted decisively to compel Canada to adhere to the terms of the softwood lumber trade agreement when Canada failed to implement a decision by an independent arbitral panel with respect to quota over shipments. I applaud your effort to take those enforcement steps.

The American lumber and forestry industries are critical elements of the U.S. manufacturing base and in particular in my home state of Idaho. I am deeply troubled by the fact that Canada continues to fail to uphold its end of the bargain under this trade agreement.

The most important violations, in terms of economic impact, are those occurring in British Columbia. The province is both engaging in direct additional subsidization of its industry while at the same time arbitrarily reducing the price for the timber it furnishes to its producers. These are serious issues which go to the very core and purpose of the agreement -- which is to allow our domestic producers and workers to compete on fair terms with their Canadian counterparts and our landowners to get a fair price for their timber harvests.

Please elaborate on what additional measures you will implement to ensure that Canada lives up to its obligations and fully complies with all aspects of the softwood lumber agreement?

Can you share with us the steps USTR is taking in preparation for the expiration of the current agreement, both with respect to responses to potential new Canadian violations, as well as an extension and/or renegotiation of the current agreement?

A. Enforcement of the Softwood Lumber Agreement (SLA) with Canada has been a high priority for the Administration. To ensure full enforcement the Administration has launched two dispute settlement cases under the agreement and as a result of a decision in the first case exercised our right to impose customs duties when Canada failed to remedy its breach. A decision on the second arbitration is expected later this year.

USTR also is carefully reviewing British Columbia's administered price system. We have requested substantial information from Canada on this issue and met most recently with Canadian and British Columbian officials on March 5. We are reviewing available information and consulting with stakeholders, and would be pleased to update you as our analysis proceeds.

USTR also continues to monitor implementation of the SLA across Canada to ensure the agreement continues to be an effective means of ensuring a level playing field for softwood lumber trade.

Effective implementation of the SLA also is important as we consider whether to extend or renegotiate the agreement. USTR would be pleased to meet with you and your staff as the end of the seven-year minimum duration of the SLA approaches in October 2013.

Question 2

I am sure you are aware that there is concern that our beef exports to Vietnam will get caught up in a trade war with the United States regarding a new U.S. Department of Agriculture catfish inspection program. Additionally, a major Idaho seafood processor that is interested in creating new jobs by expanding its current product lines to include Vietnamese seafood is stuck on the sidelines due to the potential for this catfish trade dispute.

Why would we challenge Vietnam on a product that constitutes two percent of its GDP without a scientific basis at the same time we are trying to expand Asian markets for U.S. products? Can you explain what I should tell my constituents about why a catfish regulation in Washington, DC could prevent them from creating jobs to process Vietnamese fish or growing their business by exporting more beef to Asia?

A. As you know, USDA is charged with developing the rules for this new inspection regime. USTR, along with a number of other agencies, have been carefully reviewing the draft proposed rule as part of the OMB-led review process. This review process has not been completed as of yet. We continue to review the draft proposed rule closely to ensure that it meets requirements laid out by Congress while meeting our international trade obligations.

Question 3

It is good to hear President Obama's emphasis on exports and support for doubling exports in the next five years in both the State of the Union speech and the President's 2010 Trade Policy Agenda. This goal is mutual, as I joined Senator Ron Wyden (D-Oregon) and other members of this Committee in leading a letter sent to President Obama in January urging both haste and focus on developing a strategy to expand U.S. exports and highlighting the worthy goal of doubling the firms exporting and reducing by half our trade deficit by 2015. I understand that through the National Export Initiative proposed by the President, the Administration is seeking additional funding for a number of export promotion programs. **Can you please explain how this proposed increase in funding will result in additional exports and U.S. jobs?**

A. The President's National Export Initiative (NEI) seeks to double U.S. exports over the next five years and support two million new jobs. The President created the Export Promotion Cabinet to ensure that export promotion is a top-level priority of all relevant cabinet agencies, and that export promotion activities are supported by a wide array of government programs. Specifically, the additional resources sought for the NEI will help U.S. firms expand sales of their goods and services abroad by substantially expanding funds available for export financing, providing new export promotion resources to U.S. businesses seeking to export, elevating government advocacy on behalf of U.S. exporters, and ensuring a level playing field for U.S. exporters in global markets through the reduction of trade barriers and robust enforcement of our agreements.

The NEI and these additional resources will elevate our efforts to connect U.S. businesses, including small- and medium-sized businesses, with the 95 percent of the world's consumers who reside outside our borders. These expanded export promotion efforts will lead to greater economic activity in the United States and help support new jobs for Americans.

Question 4

I strongly agree that expanding market opportunities for U.S. goods and services around the world must be part of the effort to improve our nation's economy, and advancing the pending free trade agreements with Colombia, Panama and South Korea must be part of this effort. During his recent State of the Union speech, it was great to hear President Obama emphasize that we will strengthen our trade relations in Asia and with key partners like South Korea, Panama, and Colombia. However, I noticed that the President's 2010 Trade Policy Agenda provides very little detail on the advancement of the pending free trade agreements. In fact, the trade agenda indicates that "if" the outstanding issues with the agreements can be successfully resolved, then you will work with Congress on a timeframe.

Farm families need more export opportunities. More than 50 percent of Idaho wheat depends on export markets, and Colombia is the U.S. wheat industry's largest South American market, with a market share of nearly 70 percent. U.S. growers are understandably worried that they are going to lose as much as 40 percent of this essential market share to Canada, threatening U.S. jobs, if Canada approves an FTA with Colombia ahead of the U.S. I understand Canada is on track to do this. Wheat is just one example. It is frustrating to have to tell U.S. farm families that after years of waiting for more market access through the agreements, this is the best timing information that can be provided. **Can you please respond to this concern?**

A. One of the main reasons the Administration attaches a high priority to advancing the Colombia, Panama and South Korea free trade agreements is their clear potential to provide economic opportunities to U.S. workers, farmers, and ranchers. This is why we are working hard to resolve the outstanding issues that have impeded the consideration of the agreements by Congress. I cannot make firm predictions as to a time frame because the substance is driving the timing, but we are mindful of your concern that U.S. exporters not be left at a competitive disadvantage.

Questions from Senator Hatch

Question 1

Mr. Ambassador, I thought it was very interesting to compare the President's 2010 Trade Policy Agenda to a recent export strategy proffered by one of our nation's leading experts on trade, C. Fred Bergsten of the highly-respected Peterson Institute for International Economics. In an Op-Ed to the Washington Post on February 3rd, Dr. Bergsten stated "an effective US export strategy must focus on four variables: the exchange rate of the dollar, trade agreements, our own export controls and tax policy." Yet, the introductory chapter to the Administration's Trade Policy Agenda only briefly discusses the Korea, Colombia and Panama free trade agreements and does not even mention the issue of China's manipulation of its currency. **How can this be? Are not Dr. Bergsten's statements accurate that the implementation of the Korean and Colombian FTAs will save about 300,000 US jobs and our exporters will have better access to the Panamanian market? Why then does the Administration's Trade Policy Agenda not advocate the prompt passage of these free trade agreements? What actions will the Administration take this year to enact these FTAs?**

A. As the President said, to create jobs here at home we must strengthen our relationships with key trading partners. The Administration continues to believe that implementation of the pending free trade agreements with Panama, Colombia, and South Korea can bring significant economic and strategic benefits to the United States, and approval of the agreements is a priority for the Administration. However, concerns have been raised with respect to each of the pending agreements, which we are seeking to address in an effort to move them forward at the appropriate time. We have conducted extensive consultations with Congress, stakeholders, and the public on the pending agreements, including publishing a notice in the *Federal Register* on the Colombia and South Korea agreements in which we solicited input from the public in order to more precisely identify issues. We will continue to consult closely with Congress and U.S. stakeholders, as well as engage with the Governments of Panama, Colombia, and South Korea as we further refine our analysis of these issues. As the President said, other countries, whether China or Germany or Brazil, have been able to align the interests of workers, businesses, and government around trade agreements that open new markets and create new jobs. We must do the same.

Question 2

Mr. Ambassador, Dr. Bergsten's comments regarding China's currency manipulation are echoed by another leading trade expert, Professor Peter Morici, who is the former Chief Economist at the United States Trade Commission. Dr. Bergsten estimates that if Asian countries quit artificially undervaluing their currencies the US trade deficit will be reduced by \$100 billion and create at least 700,000 new jobs. Dr. Morici also argues that unless the issue of China's currency manipulation is directly addressed "the U.S. recovery will just not accomplish the growth necessary to bring down unemployment." Therefore, you can imagine my surprise not to find a single word in the Agenda's introductory chapter regarding how the Administration intends to deal with the artificial undervaluation of China's currency. **So, how does Administration intend to deal with China's manipulation of its currency which provides that country's businesses at least a 25 percent artificial price advantage over American companies?**

A. With respect to your question about China's currency, as the President stated in his March 11th speech at the Export-Import Bank's Annual Conference, "China moving to a more market-oriented exchange rate will make an essential contribution" to a global rebalancing effort. The Treasury Department, which is responsible for exchange rate matters, noted in 2009, that China's currency remains undervalued.

The Administration will continue to work with China both in the G-20 and the bilateral Strategic and Economic Dialogue to pursue policies that permit greater flexibility of the exchange rate. Through these efforts, combined with the work we are doing in the Joint Commission on Commerce and Trade, USTR is working with the Treasury Department and other agencies to implement a comprehensive China policy that will address the full range of China's trade and economic policies that impact the United States, and that will lead to a more fair, sustainable and balanced trade and economic relationship.

Question 3

Mr. Ambassador, As you know, the Chinese government since the mid-1990s has been pursuing indigenous innovation policies to bolster the development of their own industry and technology. While we all recognize the desire and right of governments to promote innovation in their own domestic industry – as we do here in the United States – China has taken a series of actions, including several in the last few months, that will restrict in a highly discriminatory and unfair manner U.S. and other foreign participation in key market segments and/or force transfer of intellectual property. China's November Circular 618, for example, will create a list of products invented and produced wholly in China that will receive government procurement preferences at the Central level and influence sub-Central procurements as well. In December, China issued a catalogue of industrial products that will receive tax and financing incentives to create domestic products in China as well as other preferences with the stated aim of substituting imports for domestic products. The sum total of these and other measures, combined with longstanding problems in the China market, particularly the lack of protection for intellectual property, will increasingly shut out our most competitive U.S. companies and products from that market and make meeting the President's export target increasingly difficult.

I know that you and the Administration are well aware of these policies and recent actions. My question is how high a priority are you making it to help move China away from these highly restrictive and damaging policies? There are a lot of issues that are important in the U.S.-China economic relationship. But I want to emphasize to you that this one demands immediate attention and action by you and your colleagues at the Department of State, Treasury and Commerce.

While I have been pleased to see that U.S. exports to China are continuing to increase, I am also very concerned to see the implementation of new barriers to U.S. exports and market participation that require the attention of you and the other top economic members of the President's cabinet. One of the most worrisome is China's increasing use of indigenous innovation policies that are and will increasingly restrict market access in China for U.S. goods and technology to China's market. **Most recently in January, China issued draft government**

procurement rules that give preferences to indigenous innovation products – a designation that will exclude from China’s large public sector virtually all U.S. and other foreign participants. What is USTR doing to address this highly serious issue?

A. We are very concerned about the issues you have raised with respect to China’s discriminatory industrial policies -- particularly the recent announcements of new preferences for products with domestically developed intellectual property in China’s government procurement market, as well as with the continuing deficiencies in China’s enforcement of intellectual property rights. These are just the latest set of industrial policy initiatives designed to support domestic companies at the expense of foreign companies, especially in high-technology and software sectors.

My staff is actively consulting with stakeholders, Congress, the EU, and other countries on the impact of these policies. The Administration is vigorously pressing the Chinese Government to address our concerns and I have raised the issue of China’s discriminatory “indigenous innovation” policies personally with Chinese officials. USTR, working closely with other U.S. government agencies, continues to raise these issues with officials from all the relevant Chinese government agencies at every appropriate opportunity, including the Joint Commission on Commerce and Trade (JCCT), our primary forum with China to address bilateral trade issues, as well as at a broader, strategic level at the Strategic and Economic Dialogue (S&ED).

We have also made clear to China that these “indigenous innovation” policies call into question China’s commitments at the JCCT and S&ED to accelerate its accession to the WTO Government Procurement Agreement (GPA). Discrimination in favor of “indigenous innovation” products and against foreign products would be inconsistent with meaningful GPA coverage. Moreover, these policies are also inconsistent with China’s JCCT and S&ED commitments to treat products produced in China by foreign-invested enterprises the same as those produced by Chinese-owned enterprises for purposes of government procurement.

Speaking more broadly on enforcement, as noted by the President, USTR continues to aggressively enforce our trade agreements to ensure an open and rules-based trading system. This includes defending U.S. WTO rights and holding our trading partners, including China, to their WTO obligations. In 2009 alone, we won two WTO cases against China related to insufficient protection of copyrighted works and WTO-inconsistent restrictions on the importation and distribution of audiovisual products, as well as one related to discriminatory treatment of imported auto parts. We also successfully settled a case on WTO-inconsistent export subsidies, and are currently pursuing another dispute related to what we believe to be WTO-inconsistent export restraints. Through these enforcement actions, we are leveling the playing field for U.S. stakeholders, and ensuring that China adheres to the commitments it made when it joined the WTO.

Question 4

Mr. Ambassador, the Administration has been reviewing the template for the U.S. Bilateral Investment Treaty – so-called BIT – program over the last year. As you know, BITs are a very

important tool for the United States to ensure fair and non-discriminatory treatment for its investors overseas. And these investors are the main drivers of U.S. exports. Unfortunately, our competitors in Germany, the United Kingdom, Korea and elsewhere already have many more BITs in place, oftentimes with stronger provisions and in key emerging markets like China and India. As a result, their companies benefit from these strong provisions, while ours do not.

Can you tell me when the current BIT review will be finished so that the United States can get back to the table to continue negotiations with China, India and others?

A. We recognize the importance of moving forward with the BIT review and continuing to negotiate agreements. The Administration has received extensive comments from a wide range of stakeholders regarding many important issues in the model BIT, and we want to ensure that we have a full opportunity to carefully consider all such input before completing the review. Since the beginning of the BIT review, the Administration has continued to hold technical-level discussions with all of our existing negotiating partners, and we will continue these discussions as our internal deliberation process on the model BIT moves forward. In addition, we will continue to explore the possibility of future BIT negotiations with other key countries, such as Russia, Indonesia, and certain African countries.

(ii) In addition, our position in our negotiations with China should not be weaker than the standard the German government has already negotiated with China. Can you assure me that any revisions will not weaken the BIT?

A. We recognize that providing high-standard protections for our investors is the primary reason for negotiating BITs. These protections ensure that our investors can compete on a level playing field and that they are treated according to the rule of law in key foreign markets. We are working to fully maintain the model BIT's core investment protections – as well as exploring how these can be enhanced to account for evolving challenges encountered by U.S. investors abroad – while maintaining the current model's carefully calibrated compromise among many competing viewpoints.

(iii) Finally, can you assure me that the new Model will not be overloaded with new provisions that are simply not negotiable with countries like China and India, such as the labor and environment provisions from the May 10th deal.

A. This Administration is committed to seeking strengthened labor and environmental protections around the world, including through international economic agreements. We are actively exploring how provisions in the model BIT could be augmented to enhance these protections, but in a manner that allows us to negotiate high-standard BITs with China, India, and other key countries.

Question 5

Mr. Ambassador, I hope that you can discuss how the Administration will use the Trans Pacific Partnership to accomplish its stated export goals, as well as to help protect American innovation and intellectual property.

Specifically, the Administration has recently announced two separate initiatives: a National Export Initiative, which aims to double American exports over the next five years; and the Trans-Pacific Partnership, which aims to further liberalize trade between the United States and Singapore, Chile, New Zealand, Brunei, Australia, Peru, and Vietnam.

How will the United States use TPP to ensure intellectual property protection and export opportunities for innovative U.S. pharmaceutical manufacturing, which supports 3.2 million American jobs? We already have strong free trade agreements with Singapore, Chile, and Australia. Will the Administration seek to bring the IP standards in other TPP countries (Peru, Brunei, Peru, New Zealand) to the level of protection in those agreements?

Besides eliminating tariffs, one of the greatest benefits in those talks will be harmonization and integration among all those markets and a more flexible rule of origin for sourcing products, such as a regional value rule for apparel. **Would you consider more flexible rules of origin for all products? When do you expect those talks to conclude?**

A. The United States has held initial discussions with its TPP counterparts on intellectual property and among the issues we discussed was the need to develop a high-standard in the agreement that promotes and incentivizes innovation. We are discussing the best way for the chapter to do so in the context of a 21st-century trade agreement. We will continue to consult further on this with Congress and stakeholders following the first round.

Regarding rules of origin, U.S. negotiators agreed on the need to use the agreement to try to facilitate trade and are developing initial proposals for ways to do so, which will be considered in future negotiating rounds. We will consult further with Congress and stakeholders as we consider general approaches and specific proposals on this issue. We have no timeline for when these talks will conclude.

Question 6

Mr. Ambassador, one of the Administration's messages on trade policy is that more "enforcement" is needed to show the American public that trade can work for them. For example, President Obama imposed hefty tariffs on imports of tires from China. For the increasing number of industries that incorporate imports into their successful business models, enforcement can mean only added costs and uncertainty, and a process that often does not even consider importer interests. Would you be willing to change the process for trade enforcement cases to allow retailer and importer interests to be considered in trade enforcement cases?

A: There are various procedures under current law through which the Executive Branch solicits and receives views from interested parties, including importers and retailers, in connection with trade remedy or trade enforcement proceedings. For example, in Section 301 investigations, USTR invites and reviews comments from the public— including from retailers and importers — on trade enforcement measures to vindicate U.S. rights. When we are considering how to advise the President in connection with Section 421 remedy proceedings, such as the Chinese tires proceeding you mention in your question, we solicit views from

importers, exporters, retailers, and other interested parties, and hold a public hearing on request. In the Chinese tires proceeding, importers and retailers, among others, submitted comments in writing and presented their views at our public hearing.

Question 7

Mr. Ambassador, trade preference programs help America's poorest trading partners to develop and create jobs. Retailers rely on trade preference programs to source their goods and provide a wide variety of low-cost goods for American families. Yet sometimes these programs are complex and exclude the exact products that poor countries can produce, such as apparel and certain agricultural products. Will USTR support expanding and harmonizing the preference programs to make them simpler to use and more beneficial to developing countries as well as American families?

A. We agree that GSP and other trade preference programs help spur development through trade and important opportunities for U.S. small and medium-sized businesses. Congress has started a review of these programs. The optimal design and functioning of these preference programs is a critical component of both U.S. trade policy and U.S. development policy, and we look forward to working with you in your review.

Question 8

Mr. Ambassador, the Administration's National Export Initiative talks about jobs created by increased exports. Importing industries also provide high quality, well paying professional jobs. How will the Administration's trade policy also recognize the importance of imports in creating jobs and increasing the quality of life for American middle-class families?

A. Given the still large U.S. trade deficit, and the importance of U.S. and global rebalancing to sustained recovery and job growth in the United States, focus on export expansion is particularly appropriate at the present time. American trade policy, however, is broadly aimed at the elimination of trade barriers and the expansion of trade, in recognition of benefits that Americans can derive from both exports and imports.

Question from Senator Schumer

Question 1

Ambassador Kirk, the U.S. government has enacted a range of incentive programs to support renewable energy development and production within the United States – including incentives such as production tax credits (PTCs) through the Department of Treasury and loan guarantees through the stimulus program administered by the Department of Energy. Those programs are open to foreign-owned companies seeking to build renewable energy projects in the U.S., and companies based outside the U.S. have been very large beneficiaries of those incentives. We've heard a number of stories about European and Asian countries denying U.S. companies access to their markets, despite a recent report documenting billions of taxpayer-funded renewable energy tax incentives under the stimulus program going to companies in those very countries. What is the USTR doing to make sure that other countries markets are as open to our products as our country is to theirs?

A. Green technology is a priority sector for President Obama, and we are committed to achieving a level playing field for U.S. manufacturers of renewable energy technologies. As part of this effort to expand market access for U.S. firms in these important sectors, USTR continues its leadership role in negotiating for the removal of tariff and non-tariff barriers to environmental goods and services, including solar and wind technologies, in the WTO Doha negotiations. With respect to China, we are seeking China's commitment to allow U.S. companies to participate on a fair and non-discriminatory basis in China's large government procurement market. This is an important priority for U.S. renewable energy companies. Accordingly, we have been pressing China to advance its negotiations to become a Party to the WTO Government Procurement Agreement (WTO GPA) because once it joins the GPA, its ability to maintain "buy Chinese" policies will be restricted. China committed to join the GPA when it became a WTO Member, but it only began GPA negotiations at the end of 2007. In the meantime, China committed in the Strategic and Economic Dialogue (S&ED) in July 2009, as well as the Joint Commission on Commerce and Trade (JCCT) in October 2009 to treat, under its Government Procurement Law, products produced in China by foreign invested enterprises the same as products produced in China by Chinese enterprises. We will look to build on this progress both in bilateral fora and at meetings of the WTO Government Procurement Committee.

In addition, we have been engaging bilaterally with China on government procurement – and more broadly - through a variety of mechanisms, including the S&ED, as well as the JCCT. At the October 2009 JCCT meeting, we succeeded in obtaining China's commitment to eliminate its local content restrictions for wind energy projects, which will level the playing field for U.S. wind energy companies doing business in China. We also plan to use the newly negotiated U.S.-China Memorandum of Understanding to Enhance Cooperation on Climate Change, Energy and the Environment to discuss market access barriers to renewable and clean energy technologies.