

**NOMINATIONS OF ROBERT W. HOLLEYMAN II  
AND CARY DOUGLAS PUGH**

---

---

**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE  
UNITED STATES SENATE**

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

ROBERT W. HOLLEYMAN II, TO BE DEPUTY UNITED STATES TRADE  
REPRESENTATIVE, WITH THE RANK OF AMBASSADOR; AND CARY  
DOUGLAS PUGH, TO BE A JUDGE OF THE UNITED STATES TAX  
COURT

—————  
JULY 16, 2014  
—————



Printed for the use of the Committee on Finance

—————  
U.S. GOVERNMENT PUBLISHING OFFICE

93-277—PDF

WASHINGTON : 2015

—————  
For sale by the Superintendent of Documents, U.S. Government Publishing Office  
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON FINANCE

RON WYDEN, Oregon, *Chairman*

JOHN D. ROCKEFELLER IV, West Virginia	ORRIN G. HATCH, Utah
CHARLES E. SCHUMER, New York	CHUCK GRASSLEY, Iowa
DEBBIE STABENOW, Michigan	MIKE CRAPO, Idaho
MARIA CANTWELL, Washington	PAT ROBERTS, Kansas
BILL NELSON, Florida	MICHAEL B. ENZI, Wyoming
ROBERT MENENDEZ, New Jersey	JOHN CORNYN, Texas
THOMAS R. CARPER, Delaware	JOHN THUNE, South Dakota
BENJAMIN L. CARDIN, Maryland	RICHARD BURR, North Carolina
SHERROD BROWN, Ohio	JOHNNY ISAKSON, Georgia
MICHAEL F. BENNET, Colorado	ROB PORTMAN, Ohio
ROBERT P. CASEY, Jr., Pennsylvania	PATRICK J. TOOMEY, Pennsylvania
MARK R. WARNER, Virginia	

JOSHUA SHEINKMAN, *Staff Director*  
CHRIS CAMPBELL, *Republican Staff Director*

# CONTENTS

## OPENING STATEMENTS

	Page
Wyden, Hon. Ron, a U.S. Senator from Oregon, chairman, Committee on Finance .....	1
Hatch, Hon. Orrin G., a U.S. Senator from Utah .....	2

## CONGRESSIONAL WITNESS

Landrieu, Hon. Mary, a U.S. Senator from Louisiana .....	5
----------------------------------------------------------	---

## ADMINISTRATION NOMINEES

Holleyman, Robert W., II, nominated to be Deputy United States Trade Representative, with the rank of Ambassador, Executive Office of the President, Washington, DC .....	7
Pugh, Cary Douglas, nominated to be a judge of the United States Tax Court, Washington, DC .....	9

## ALPHABETICAL LISTING AND APPENDIX MATERIAL

Hatch, Hon. Orrin G.:	
Opening statement .....	2
Prepared statement .....	21
Holleyman, Robert W., II:	
Testimony .....	7
Prepared statement .....	24
Biographical information .....	26
Responses to questions from committee members .....	37
Landrieu, Hon. Mary:	
Opening statement .....	5
Prepared statement .....	49
Pugh, Cary Douglas:	
Testimony .....	9
Prepared statement .....	51
Biographical information .....	52
Wyden, Hon. Ron:	
Opening statement .....	1
Prepared statement .....	62



**NOMINATIONS OF ROBERT W. HOLLEYMAN II,  
TO BE DEPUTY U.S. TRADE  
REPRESENTATIVE, WITH THE RANK OF  
AMBASSADOR, EXECUTIVE OFFICE OF THE  
PRESIDENT; AND CARY DOUGLAS PUGH,  
TO BE A JUDGE OF THE  
UNITED STATES TAX COURT**

**WEDNESDAY, JULY 16, 2014**

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10:06 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Hatch, Crapo, and Thune.

Also present: Democratic Staff: Michael Evans, General Counsel; Kara Getz, Senior Tax Counsel; Todd Metcalf, Chief Tax Counsel; Lisa Pearlman, International Trade Counsel; Elissa Alben, International Trade Counsel; Anderson Heiman, International Competitiveness and Innovation Advisor; and Jayme White, Chief Advisor for International Competitiveness and Innovation. Republican Staff: Everett Eissenstat, Chief International Trade Counsel; Rebecca Eubank, International Trade Analyst; Nicholas Wyatt, Tax and Nominations Professional Staff Member; and Kevin Rosenbaum, Detailee.

**OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR  
FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The Finance Committee will come to order.

Today the Finance Committee is going to consider two nominees, Mr. Robert Holleyman, who is nominated to be Deputy United States Trade Representative at the Office of the U.S. Trade Representative, and Ms. Cary Pugh, nominated to be a judge for the U.S. Tax Court.

First is Robert Holleyman. If confirmed as Deputy USTR, Mr. Holleyman will be responsible for a broad portfolio of issues, including trade matters affecting U.S. service providers and intellectual property rights owners, as well as the ongoing Trans-Pacific Partnership negotiations and the broader U.S. trade relationship with Asia, including China.

It is essential that the U.S. has a Deputy USTR in place, given the critical juncture of the TPP negotiations and the many chal-

lenges that U.S. companies face in China and across the region. Mr. Holleyman has had a long career in the technology industry, from which he brings a valuable perspective on the importance of digital trade to the American economy. He has years of experience on the ground, working to expand access to markets such as India and China. Digital trade has rapidly emerged as a major source of economic growth and innovation, and it is fundamentally reorganizing how goods and services are made and traded across our borders.

As significant trade agreements take shape, it is essential that USTR provide global leadership in the development of rules that make sense for a 21st-century digital economy. I am eager to work with USTR and Mr. Holleyman, if confirmed, as they work to adopt trade agreements that address these new challenges.

Mr. Holleyman also has experience on Capitol Hill, where he worked in both the majority and minority and served as senior counsel on the Senate Commerce Committee. Understanding how to work effectively with the Congress is an essential skill in the role for which he is nominated.

Also with us today is Ms. Cary Pugh, who is nominated to be a judge on the U.S. Tax Court. The Tax Court is the judicial backbone of the Federal Tax Code. The 19 judges who make up the court have a challenging mission that requires them to travel around the Nation. While it is certainly difficult, these judges do indispensable work to ensure that taxpayers' voices are heard and that the Nation's tax laws are enforced in a fair and effective manner.

Ms. Pugh comes to this task well-prepared. She served in a variety of roles, including time at the IRS, and she is yet another alum of the Finance Committee. She has also spent time working in the private sector. This range of experiences and knowledge is going to serve her well as she adjudicates the Nation's tax cases.

I thank both of the nominees for coming before the committee this morning, and I look forward to hearing from each of you.

[The prepared statement of Chairman Wyden appears in the appendix.]

The CHAIRMAN. I will say that we are going to have a bit of a logistics challenge this morning. There is a vote at 10:15, so we will have Senator Hatch make his opening remarks. We are also very pleased to have the chair of the Energy Committee here. I have had a chance to watch her expertise in action.

So we will get as far as we can in the first few minutes. I do anticipate that we will have to come back, and it should not be long after we come back, but we appreciate your patience. It is my intention to return immediately after the vote. I know some of these votes seem to go on forever, but I will return immediately.

Senator Hatch?

**OPENING STATEMENT OF HON. ORRIN G. HATCH,  
A U.S. SENATOR FROM UTAH**

Senator HATCH. Thank you, Mr. Chairman. I just want to say these are excellent nominees. I intend to vote for them. I have known them for quite a while, to be honest with you, and they are good people. I am told that Ms. Pugh has deep roots in the Old Do-

minion. Her family has lived in the same rural community for many generations. I am told that your passion is Duke University.

Ms. PUGH. Yes, sir.

Senator HATCH. Well, I happen to like that too. I like their basketball team very much. They tell me you are also a patient and well-prepared angler, so you cannot be all bad, is all I can say. You also happen to be a great former staffer to this committee.

During your tenure on the Finance Committee Democratic tax staff, you became known as a reliable member of Senator Baucus's team and developed a reputation as a problem-solver, which is important to the committee, accomplishing quite a bit in the legislative arena in a relatively short period of time.

Your reputation only grew in your later government and private-sector experience. I think your small-town common sense is going to be very important here, but you also have excellent academic and professional credentials which should serve you well in this position on the Tax Court.

The Deputy USTR also plays an important role, particularly in formulating U.S. trade policy and advocating on behalf of America's international trade interests. I have known Mr. Holleyman a long time and have a lot of regard for him, and I intend to support him. You will be taking on a very important portfolio, including Asia, services, and intellectual property, all areas where we face significant challenges.

If anybody can make some inroads there, you ought to be able to. Turning first to Asia, China continues to be one of our most important and most challenging trading partners. China reaps great benefits from an open world trading system, but its record of adhering to the rules of that system is mixed at best. U.S. exporters and investors in China face a host of challenges when trying to compete in China's large and growing market, including the continued theft of U.S. intellectual property and trade secrets, trade-distorting subsidies, forced localization, and regulatory barriers.

Throughout Asia, our exporters face a range of barriers to their goods and services, and one way to address many of these barriers is to negotiate strong rules in the Trans-Pacific Partnership, or TPP. But here too, problems persist.

While I continue to support these negotiations, I am becoming increasingly concerned with the direction the negotiations appear to be taking. It seems that the administration may consider something far less than full tariff liberalization from Japan. This would not only result in a weak TPP agreement, but also set a very bad precedent for other negotiations, including the TTIP negotiations, the Trans-Atlantic Trade and Investment Partnership.

I am also concerned that the administration may once again short-change U.S. innovators and intellectual property rights holders by agreeing to a weak outcome for intellectual property rights protection. Let me just be clear: I will not support an agreement that does not provide for the robust protection of U.S. intellectual property rights, including terms of data protection for biologics similar to those found in the U.S. law.

As the author of Hatch-Waxman, I know how important that data protection really is, and I get tired of the politics being played around that all the time. It had better be the same. That was a

very hard set of negotiations that allowed us to reach those particular data protection figures.

Mr. Holleyman, if confirmed, intellectual property rights and innovation will also be part of your portfolio. It is essential that the Deputy USTR be a powerful advocate for strong intellectual property rights protection. I think you will be. I hope that you will be that voice, and such an advocate is badly needed at USTR right now.

But another area that would be in your portfolio is services. Trade in services is one of our country's most competitive exports. If confirmed, you must work closely with Ambassador Punke to ensure that we meet the ambitious goals of the trade and services agreement and the TTIP. I will also be counting on you, if confirmed—and I think you will be—to ensure that all services, including financial services, are included in the regulatory coherence and market access outcomes of TTIP.

Finally, I hope you will help push the administration to be a stronger, more public advocate on behalf of renewing Trade Promotion Authority, or TPA. Without it, I do not think the administration can negotiate high-standard trade agreements that will achieve the goals of Congress and that will be passed into law. The Bipartisan Trade Priorities Act that I introduced with former Senator Baucus and Chairman Camp would renew TPA and outline a set of bipartisan priorities for our trade negotiators.

Now, a lot has changed since the last time TPA was renewed in 2002. Our bill recognizes that reality and, with extensive input from multiple stakeholders, we have created a bill that addresses the challenges our job creators, workers, farmers, and ranchers are facing today. So I hope we can move on our legislation as soon as possible. We have a new chairman, and he is excellent, and I think we can do this. It is essential to ensure that the ambitious trade negotiations currently under way are successful and that we achieve the best possible outcome for the American people.

Mr. Chairman, I thank you once again for holding this hearing.

The CHAIRMAN. Thank you, Senator Hatch. I very much appreciate your statement. I also want to note that you have long focused on this absolutely critical area of protecting intellectual property, and I very much appreciate your focus here again today.

[The prepared statement of Senator Hatch appears in the appendix.]

The CHAIRMAN. Our first nominee is going to be Mr. Robert Holleyman, nominated to be Deputy United States Trade Representative. It is a tradition in this committee, Mr. Holleyman, that you introduce your family.

Mr. HOLLEYMAN. Thank you, Mr. Chairman. I would like to introduce my husband, Bill Keller, who is here in the front row and who is joined by friends who are here and family in Louisiana who are watching via the webcast.

The CHAIRMAN. Very good. It is nice to have the chair of the Energy Committee here, a long-time ally of Senator Hatch and I on a whole host of matters. She wants to make sure that the voice of Louisiana is heard again this morning.

Senator Landrieu, let us have you introduce Mr. Holleyman.



**STATEMENT OF HON. MARY LANDRIEU,  
A U.S. SENATOR FROM LOUISIANA**

Senator LANDRIEU. Thank you, Mr. Chairman. It is wonderful to see you in your new role as chair of this important committee. Thank you for your leadership for our Nation and for your support of me as I learn how to be a chair of the Energy Committee. Senator Hatch, thank you for your support of these two nominees.

I am here to present to the committee Robert Holleyman. Robert and I did not meet here on the Hill; we actually met in high school many years ago when we were both up here to represent our respective schools—his in Lake Charles, mine in New Orleans—at the Louisiana Youth Seminar. It was there that we were encouraged to pursue more leadership abilities, and so here we are as the U.S. Senator and as Ambassador from our State, or soon to be.

We shared that unique experience early in life and both of us have continued our passion to represent our State and to try to help make this country a better place.

Robert grew up in Lake Charles. He still has family and friends throughout the State. He is married to Bill Keller. Bill is a wonderful partner, and we are proud of both of them.

As many of you will understand, you can take a man out of Louisiana, but you cannot take Louisiana out of the man. I am confident that Robert—who grew up literally within earshot and across the street from the Port of Lake Charles, which is the most important trading port in our country—will bring all of that background to the position that the President has nominated him to serve. He graduated from Barbe High School, a great public school in Lake Charles, graduated from Trinity University in San Antonio, and then received his law degree from Louisiana State University.

After being admitted to the bar, he served as clerk for the late U.S. District Judge Jack Gordon in the Eastern District of New Orleans. He then, amazingly, moved to Washington to work for Senator Russell Long, former chair of this exact committee. So he is actually back where he started many years ago, and now as a proposed Trade Representative.

He worked for an extensive period of time with the Senate Commerce Committee. He is extraordinarily familiar with and steeped in the issues before the Finance Committee as they relate to trade. I believe strongly that is why President Obama has tapped him to serve in this capacity.

In addition, his career after the Hill, which was in the software industry and remains to this day in the high-tech community, is going to best serve him, I think, to represent our country in these negotiations. He is currently CEO and founder of Cloud4Growth, a cloud technology development company, and he represented the Software Alliance from 1990 to 2013.

So, Mr. Chairman, his experience as a young leader, his commitment to leadership and excellence throughout his career, his professional background, his academic degrees, and his work already deeply imbedded in work of the Finance Committee, on the Commerce Committee, and in the office of Senator Long, I think give him a very long and broad perspective of the kind of issues that Senator Hatch has raised which are so important, making sure

that America is well-represented—America as our country, but also America as small business owners—and that the average person is well-represented at those trade negotiations so that our people are not left behind.

I will conclude with, Louisiana has right now—and Mr. Holleyman is very familiar with the challenges of trying to promote fair trade with the Pacific Rim, with China, and many of the countries in the Pacific. We have had some serious issues with dumping of seafood, crawfish, and shrimp that are undermining a part of our economy that is very, very important. There have been some threats to the Jones Act, which protects our maritime shipbuilding industry, which is extremely important to Louisiana.

So believe me, I would not be supporting someone for this position if I did not think that he was capable of representing the interests of Louisiana, the Gulf Coast, shipbuilding, our seafood industry, and let me mention our movie industry. I am not California, but Louisiana has literally just surpassed California in movie production in the Nation, amazingly.

There is a big threat under way for China and some of these countries to steal this intellectual property and to undermine the domestic creative industries here in America and promoted, amazingly, through Louisiana.

So Robert is familiar with these challenges. That is why I give him full support. I know he will do a wonderful job. Robert, thank you for your leadership over these many years.

And I will submit the rest of my statement for the record, Mr. Chairman.

The CHAIRMAN. Senator Landrieu, thank you for a very thoughtful introduction. I think, Mr. Holleyman, you know that, when you are with Chairman Landrieu, you are running with the right crowd. Suffice it to say, Chairman Landrieu, I think your point with respect to trade enforcement is particularly important. After Ambassador Froman came to the committee, that was actually our first hearing on trade enforcement.

[The prepared statement of Senator Landrieu appears in the appendix.]

The CHAIRMAN. I like to think that it is already paying off, because we had the United Steelworkers and the U.S. Steel Company here, and last week we had a favorable decision with respect to Korea. So I think that what is now being shown is strong bipartisan interest around exactly the kind of issues that you have raised, and I thank you for, once again, your incisive comments.

Our next nominee is Cary Pugh, nominated to be a judge on the U.S. Tax Court. Ms. Pugh, if you could introduce your family, that would be great.

Ms. PUGH. It would be my pleasure. My parents are also watching from home in Lynchburg, VA, but I am pleased to introduce my sister Sydnor Smalera; my brother-in-law Andrew; my niece Frances, who is missing camp; my aunt Margie Pugh; and my cousin Daniel Dixon and his son Weston, who also drove up from Lynchburg to join me today.

The CHAIRMAN. Very good. Also with us today, and we are honored to have them, are five distinguished judges of the U.S. Tax Court. The Chief Judge is with us, Mr. Michael Thornton, who for

many years served as tax counsel on the Ways and Means Committee; Judge Joseph Gale, who served as an advisor and chief counsel on this committee under Chairman Moynihan; the esteemed Judge John Colvin, who, among many other things, spent many years in this room as counsel to Chairman Packwood—so we are happy to have the Oregon connections—and they were days, notably, during the Tax Reform Act of 1986; Judge Kathy Kerrigan, who served with distinction both in the House and under our former Finance Committee colleague Senator Kerry; and finally, Judge Joe Nega, who joined the Court after serving as a legislative counsel on the Joint Committee on Taxation for nearly 30 years.

So we have the distinguished judges of the U.S. Tax Court out in force this morning, and we very much appreciate your professionalism and having you with us. We thank our nominees and our guests for being here.

Just so you know, it is our usual practice that the prepared statements are automatically made part of the hearing record. We would like you to use your 5 minutes to summarize. Since we are well into the vote, I would say to our nominees, I will run over. I have my credibility on the line with Senator Hatch that this will be very brief, so I will run/sprint over to vote, and I think we can recommence in probably about 10, 12 minutes.

So with that, we will go vote, and we will return shortly for your statements.

[Whereupon, at 10:25 a.m., the hearing was recessed, reconvening at 10:45 a.m.]

The CHAIRMAN. All right. The committee will come back to order.

I very much appreciate our nominees' patience; today looks hectic even by Senate standards.

Let us start with you, Mr. Holleyman. We welcome you.

**STATEMENT OF ROBERT W. HOLLEYMAN II, NOMINATED TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC**

Mr. HOLLEYMAN. Chairman Wyden, I want to thank you, Ranking Member Hatch, and the distinguished members of this committee for the privilege to appear before you to testify as the nominee for Deputy U.S. Trade Representative. I am humbled by the confidence that President Obama and Ambassador Froman have placed in me to serve in this position.

I would like to thank Senator Mary Landrieu for her warm introduction and for her support. I have valued our friendship over many years, and fellow Louisianians are fortunate to have such a strong leader and advocate here in Washington.

I would also like to thank my husband, Bill Keller, who is with me today. His steadfast support and shared belief in public service help enable me to make the full commitments needed for the work ahead. With my friends who are also here and family who are watching, this really has enabled me to eagerly take on these challenges.

Thirty-two years ago, I moved to Washington to work for my home State Senator, Russell Long. He served as chair and ranking member of this committee for 20 years. From him I have a pro-

found appreciation for the role of this committee and of Congress in formulating trade policy.

Following his retirement, I was fortunate to serve as counsel for the Senate Commerce Committee under Chairman Fritz Hollings, and I am honored to be sitting now on this side of the witness table with the opportunity to once again serve the American people.

Throughout my time working in Congress and in the technology industry, I have witnessed the benefits of trade for American businesses and workers. I have seen directly how U.S. exports can drive growth. I have also seen how close consultation with Congress and with stakeholders can help craft better policies that benefit American businesses and support jobs here at home.

I have lived at the epicenter of the digital economy since its early days. I have worked to ensure that U.S. goods and services secure fair treatment across borders and that our innovative industries which rely on strong and balanced intellectual property protections can be given the best chance to succeed abroad. I traveled extensively to Asia, Europe, Africa, and Latin America on behalf of American innovators to promote U.S. ingenuity and break down trade barriers, helping to create and protect American jobs here at home. If confirmed, I hope to build on this work, and I look forward to joining a dedicated team at USTR that is working on one of the most ambitious trade agendas in a generation.

Together, the TPP and TTIP account for two-thirds of global GDP. Our partners in TISA, ITA, and the just-launched Environmental Goods Agreement each account for upwards of 80 percent of trade in their respective global sectors. In the WTO, the administration is working with 160 members to make the institution and the agenda more relevant to stakeholders and the world as it exists today.

I know firsthand that the United States and our workers can win in the global economy. If confirmed, I am committed to making the United States the innovation and production platform of choice and to strengthening the potential for Made in America goods, services, and agricultural products.

At the same time, we must hold our trading partners accountable by vigorously enforcing our existing trade agreements. It is critical that we take a whole-of-government approach to addressing unfair trade practices. If confirmed, I would bring to my position a strong background in global enforcement matters to support the administration's unmatched enforcement record.

I have had the honor of meeting with you, Mr. Chairman, and other members of this committee in preparing for this hearing. That has helped give me an even better understanding of the priorities in your home States and for this committee. If I am confirmed, I am committed to strengthening and maintaining that ongoing partnership with each of you and with Congress.

In conclusion, I thank the President for this opportunity and the committee for considering my nomination. I look forward to answering any questions you may have. Thank you.

The CHAIRMAN. Thank you very much, Mr. Holleyman. We will have questions momentarily.

[The prepared statement of Mr. Holleyman appears in the appendix.]

The CHAIRMAN. Ms. Pugh, welcome.

**STATEMENT OF CARY DOUGLAS PUGH, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC**

Ms. PUGH. Thank you, Mr. Chairman, Ranking Member Hatch, and members of the committee. It is a true honor to be before you today as the President's nominee to serve as a judge on the United States Tax Court. I am grateful to the President for his confidence in me and to the committee for the opportunity to appear today.

I am especially grateful for the support of the staff of this committee throughout the process, and their swift consideration. Of course, I would not be here today without the support of many others throughout my life and my career, starting with my family, but also friends and colleagues and mentors who have helped me immeasurably along the way. Some of them have joined me today, and I would like to particularly mention Russ Sullivan, who actually hired me to join the committee staff back in 1999.

I have been blessed by many opportunities in my chosen profession, including the years I worked for this committee. I treasure that experience, but none of my past work could surpass the position for which I have been nominated. My mother worked as a legal secretary before I was born, and I announced on a 3rd grade academic game show that I would be a lawyer. I chose a legal career early, or it chose me.

Tax law came later, as I grew to understand how it touches all aspects of lives and economic activities. I have learned over my legal career and in my endeavors outside work that I feel the greatest sense of accomplishment when I am able to resolve issues and disputes.

As a tax lawyer then, I have a particular affinity for a court charged specifically with resolving tax disputes between taxpayers and the government. Working for the government—as staff of this committee and then at the IRS Office of Chief Counsel—and for clients, both pro bono and paying, I have seen the key role that this court plays in shaping the tax law, and I have witnessed the importance of a forum for taxpayers to have their say before an impartial party.

This is true for individuals and corporate clients. It is also true for the IRS. The key to our system is respect for the law, for everyone—from the smallest taxpayer to the largest corporation to the government—to understand that, in the end, it is the law that matters, not who you are or how much is at stake.

It is just as important to the work of this committee and Congress to have confidence that the law will be applied fairly and impartially. If I am confirmed, that will be my guiding principle. I am grateful to the President for his confidence in nominating me and will aspire to be worthy of the position if this committee and the Senate deem me qualified.

Thank you again, Mr. Chairman, Ranking Member Hatch, and other members of this committee, for your consideration. I would be happy to answer any questions.

The CHAIRMAN. Ms. Pugh, thank you very much. I appreciate both of the statements that you all have made.

[The prepared statement of Ms. Pugh appears in the appendix.]

The CHAIRMAN. Now, it is our standard process to ask you four questions. I will ask them of both of you, and we can get through the questions expeditiously.

The first question is, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. HOLLEYMAN. No, Mr. Chairman.

Ms. PUGH. No, Mr. Chairman.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. HOLLEYMAN. No, Mr. Chairman.

Ms. PUGH. No, Mr. Chairman.

The CHAIRMAN. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if confirmed?

Mr. HOLLEYMAN. Yes, Mr. Chairman.

Ms. PUGH. Yes, Mr. Chairman.

The CHAIRMAN. Do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?

Mr. HOLLEYMAN. Yes, Mr. Chairman.

Ms. PUGH. Yes, Mr. Chairman.

The CHAIRMAN. Very good. Let's do this, because I think it will be somewhat discombobulating if we try to go back and forth between trade and the Court.

Let me start with you, if I might, Mr. Holleyman. I think you all there in the trade field know that I feel very strongly that trade policy needs an upgrade. It needs an upgrade, at least because we have seen an explosion of digital trade, digital goods, digital services, and this is a new economic driver in our country.

What we have faced is a host of new trade barriers—this is what American providers have faced as a result—and the barriers are not just, I think you might say, technical, tech industry issues. Whether you are an auto manufacturer in Detroit or a financial services provider in New Jersey, today you consider data flows absolutely key to efficiently sell your product in these increasingly competitive global markets.

Coming from the tech sector, my view has been that you have a unique perspective on how to reshape U.S. trade policy to account for these digital challenges, and I think you heard me say that one of the reasons I feel so strongly is that this is “advantage America.” This is an area where we have a cutting-edge lead.

Why don't we start by having you outline what you would do, if confirmed, to heighten awareness among the many different offices within USTR to address these issues and ensure that an integrated, comprehensive strategy is put together to deal with them?

Mr. HOLLEYMAN. Mr. Chairman, thank you for that question. I certainly know of your keen interest in this issue, and of other members of this committee. I share that keen interest. Indeed, I

share the imperative of ensuring that the U.S. trade policy be at the forefront of leading and establishing the rules of the road for digital trade.

The U.S. currently has a \$135-billion trade surplus in digitally delivered goods. That number will grow, but that number will only grow if we work now to put the right rules in place that will allow and recognize not only how this affects the technology industry, but also users of data and information that are important.

Coming out of the technology industry, I know quite well that the rules of the road in trade that the U.S. helped negotiate over the past 20 years have been essential in allowing U.S. innovators to succeed globally as they have under existing trade regimes, but those rules, while a good foundation, do not fully contemplate the type of barriers that we are now seeing to digital trade.

That makes it all the more important for this committee, Congress, and the administration to be driving a digital trade agenda. I intend to pursue that vigorously to ensure that in the next 20 years, the next 40 years, that American entrepreneurs and workers have the same opportunities to succeed as they have had in the past.

That means things like ensuring that there are cross-border data transfers, ensuring that we have provisions against forced localization, ensuring that there is not a discrimination against digital products, and ensuring that there is the legal certainty so that businesses know how to operate in this environment. I look forward to working with you and with the committee, and, if confirmed, with USTR and the whole of government, to focus on these critical issues.

The CHAIRMAN. Let's go to the question of transparency in these trade negotiations. I think you heard me say privately, but I just want it stated publicly, this is an absolute prerequisite in order to build a new bipartisan coalition for trade policy in our country. It is something I feel very strongly about.

In my State, one out of six jobs depends on international trade. The trade jobs pay better than do the non-trade jobs, because they reflect a high level of productivity. What Oregonians want to do is pretty similar to what a lot of people in this country want to do, and that is to grow things and make things here, add value to them here, and then ship them somewhere.

We are not going to be able to win support, bipartisan support, for a new coalition to get trade policy passed—not just TPP, about which you will be specifically concerned with, but trade generally—unless the American people are brought into this debate. Right now they have been in the dark. They have been in the dark, and some of these staff people who were sitting behind me have had difficulty getting access to some of the key documents that are necessary.

I want you to know, and I have told Ambassador Froman this, I have told the President this, that the American people have to be brought into this debate. This is not something that you can just send to the U.S. Congress and say, all right, you all are going to have a vote under the current laws—that is that.

The American people have to be brought into this debate, and the Congress has to be consulted about the specific terms. So my question to you is, if confirmed, what would you do to make sure

that both the Congress and the American people are brought into this discussion, this discussion about U.S. trade agreements, before, underline before, they are signed?

Mr. HOLLEYMAN. Mr. Chairman, thank you for that question. We have had an opportunity to talk about this. I have certainly paid very close attention to the keen level of interest you and other members, not only of this committee but of Congress, have on this issue. I think that certainly, in the digital era in which we live, citizens have an expectation for availability of information at all levels, including how government pursues these issues.

I commit to, if confirmed for this position, doing everything I can to work with you and with this committee as we look to ensure the greatest level of confidence and information. I commit to making this a chief priority.

The CHAIRMAN. I am not going to flog this any further. I know a nomination hearing is not the time to get into specifics, but it will be shortly, because this is a prerequisite. If we want to have a new bipartisan coalition for America's trade agenda and the ability to create high-skilled, high-wage jobs in tough global markets—I can tell you, I had town hall meetings it seems like a few days ago on Oregon's south coast, in Coos Bay and Curry County, and, as I made my way through town meetings, people would bring this issue up.

They would say, "I know you all are talking." They are not into all the details about the Ts: TPP, TPA, TTIP. They say, "We want to know what's going on. It is not acceptable to just negotiate stuff in a bunch of hearing rooms in Washington, DC and then tell us we're supposed to be for it." So today is not a day for going into further detail, but that day will come shortly, and we will need more specifics.

On the issue of China retaliation and enforcement, as you know, the committee held a hearing on trade enforcement recently and how to ensure that U.S. companies, farmers, ranchers, and workers get the benefit of the bargain from the trade rules on the books. This too goes right to the heart of what the trade debate is going to be about, because people often come up to me, and they know I have been a supporter of all the major trade agreements.

They say, "Why in the world would you be talking about a new trade agreement if you are not going to enforce the laws on the books?" So we have put a significant effort here into these issues, and you heard me say to Senator Landrieu, I think, some of our effort to beef up enforcement has already borne fruit, because we were pleased about the effort with respect to Korea.

An additional enforcement challenge that was highlighted at our recent enforcement hearing is that our companies are increasingly subject to retaliation by China and others when they stand up for their rights, using U.S. trade laws, or help the U.S. Government take enforcement action at the World Trade Organization.

Now, if you are confirmed as the deputy responsible for China trade matters, how would you, working in collaboration with the General Counsel, work to ensure that there is a strong enforcement effort in light of this growing problem? You may also know about the problem in Oregon with respect to SolarWorld, one of our leading solar manufacturers, where there are high-skill, high-wage jobs



being cyber-hacked. So this enforcement issue with respect to China and retaliation, this is priority business. How would you respond?

Mr. HOLLEYMAN. Well, Mr. Chairman, I agree that China is priority number one. I think priority number one in this is ensuring we have enforcement, and adequate enforcement, of existing agreements. I have spent, in my career, 20 years engaging on issues related to China trade, including spending a lot of time on the ground in China trying to find new ways to enforce rights that exist, to close loopholes, and to try to ensure that innovative American companies and others can succeed in that market.

So I am committed to working with this committee, if confirmed, and with the whole of the administration to focus on that priority. I think it starts with enforcement of existing agreements, it starts with forging new agreements in critical areas like protection of trade secrets and enforcement, and I think it requires being diligent in every bilateral and multilateral negotiation.

Let me say on the issue of retaliation, I have certainly seen and I share your sense that there is a growing, not only risk, but occurrence, of retaliation that many U.S. companies face when they raise issues affecting China. I think that makes it increasingly imperative that the full weight and force of the U.S. Government be placed on these issues, because many U.S. companies cannot be or are not in a position to be forward-leaning.

Finally, let me say that I think there is an opportunity to create some partnerships with like-minded trade partners in other parts of the world, as we did on the indigenous innovation in China issue, so that it is not simply the U.S. standing up on these issues but finding our allies, because ultimately fair trade—and fair trade in China—is dependent upon collective activity.

The CHAIRMAN. Let me turn now to intellectual property. As you heard Senator Hatch say, and in my view very appropriately so, this is a very significant part of our focus here. I have long been a supporter of policies like section 230. This was a law that Congressman Chris Cox and I wrote together on a bipartisan basis that many have said really was the legal foundation for the investment in social media, because, prior to that law that Congressman Cox and I wrote, you could have a website or a blog held liable for something that was posted on it.

Of course, the website owner or the blog could not have any idea where it was coming from or who was controlling it. That law ensured that the website and the blog would not be held secondarily liable. I have been told that you would not have had investment in social media without that law, because investors would not have been willing to put money into social media without having that security that they would not be held secondarily liable.

So I am very interested in these policies with respect to what is needed to encourage growth and innovation in the digital economy. I think, as we have talked about going back to those early laws that Congressman Cox and I wrote, I think this is a completely bipartisan kind of concern.

I feel strongly that our country ought to oppose proposals that would undermine the fundamental architecture and openness of the Net. As you know—we talked about it—there are some who are

concerned that your views on intellectual property do not take into account the balance required to preserve free speech and innovation and the economic dynamism of the Internet.

I think it would be helpful to just have on the record your description of your perspective here on these policy issues that would ensure that the Internet remains an open platform for speech and commerce and the engine of economic growth and job creation that has been a priority of mine—I note I am joined here by Senator Thune. He and I have teamed up on another major initiative with respect to data flows and digital goods, so why don't you give us your position on IP, if you would.

Mr. HOLLEYMAN. All right. Mr. Chairman, I think your question is absolutely the right one. I think it follows up, importantly, on a conversation that you and I had in your offices after I had been nominated for this position.

Certainly, I want to be clear in saying that, as someone coming out of the technology industry, I believe it is critically important for us to not only foster, but encourage, the growth and openness of the Internet. Indeed, the type of digital commerce, the digital trade issues that you and Senator Thune and others have worked together on, are dependent upon that platform.

I believe that, in the area of intellectual property protection, the U.S. has committed to supporting the type of provisions that exist in U.S. law that provide for a balanced protection of recognizing the link between intellectual property protection and innovation, but also the type of exceptions and limitations that exist in U.S. law ensuring that the type of social media and other commerce that you were addressing with Senator Cox in the Communications Decency Act are also carried forward as fundamental values of the U.S. I commit to working with you, working with Senator Hatch, working with the administration, to ensure that that proper balance is struck and is reflected in our trade negotiations.

The CHAIRMAN. Let me ask you one other question, and then I will turn to my friend from South Dakota. Now, our understanding is your portfolio will include Asia, services, investment, and intellectual property and innovation. So that is a pretty big portfolio. You are not going to be sitting around reading paperbacks up there at this job. Also, with negotiations over the TPP, that will certainly consume a good chunk of your time.

Why don't we just wrap up this portion, and then I am going to go to my friend from South Dakota for his questions. Give us your sense of what the big opportunities are for American firms in Asia, and then the challenges, sort of a quick overview: opportunities, challenges.

Mr. HOLLEYMAN. Sure. For Asia, I would say it really breaks down into sort of three things. One, I think we have a unique position of opportunity to try to be the leader in striking the new forward-looking trade agreements with our partners in Asia that really ensure that the kind of values and the openness and the opportunities for innovators in America exist in that region. I think it is particularly important for us to be, as we are in TPP and elsewhere, stepping up to the plate and showing that kind of future-oriented trade, including in areas like digital trade.

I think the second priority in Asia, even for the region, is always the same, back to China, which is, with China, we have to work regionally to ensure that the U.S. influence on trade policy addresses some of the practices that we have seen in China that can be most harmful to American innovators, job creators, and workers trying to gain access to that market.

So I think that is finally, at the end of the day then, the challenge for the region, which is to make sure that every tool that we have existing for enforcement, whether it is our bilateral agreements, whether it is multilateral agreements through the WTO and elsewhere, that we are using those vigorously to enforce rights, to establish the kind of conduct that is necessary, and really to be a leader going forward.

The CHAIRMAN. Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

Mr. Holleyman, as the chairman noted, these are issues that he and I have worked together on extensively. I know you have already plowed some of the ground with regard to digital trade, cross-border data flows, things that we have a great interest in. I would also like to maybe ask this question a slightly different way. There is a suggestion that has come from some other nations around the world in the wake of the NSA surveillance disclosure that countries ought to attempt to create their own national or regional Internet networks.

I am just curious about your thoughts with regard to keeping the Internet as an open platform for business, information, and education, and how a regional network that treated U.S. companies differently than other companies around the world and websites within the network, whether or not that would constitute a new form of trade barrier. So just overall give us what your thoughts are with respect to that issue, because that is something that we hear being discussed by other countries.

Mr. HOLLEYMAN. Senator Thune, I absolutely do believe that things like that can be significant barriers to trade, and not only significant barriers to trade, but they can really undermine the fundamental underpinnings of the cloud-computing model and where we are headed.

I think efforts to fight against the Balkanization of the cloud are good for users of the cloud, because really the way the cloud works is through the collective efficiencies and cost savings that come through allowing data to be exchanged and really bringing low-cost computing capacity to both citizens here and in emerging economies. That allows a level of innovation unlike anything we have been able to see, because it really breaks through the barriers to cost.

For countries that want to break up the cloud, to Balkanize the cloud, I think they are doing it for misguided reasons, one of which is, I think that some countries believe that the economic value of the cloud is around hosting physical servers in their markets.

We need to help them understand, as the U.S., that that is not the economic value of the cloud. We also need to help them understand that this is not just a U.S. interest, but indeed it is also an interest for many emerging markets where small companies and

entrepreneurs, if given the ability to use an unfettered cloud, will be able to grow and prosper.

So I think we have to lead here. I think this is part of the digital trade agenda in TPP and TISA, TTIP, and elsewhere. If confirmed for this position, I commit to working closely with you and with the chairman to make sure that this absolute imperative for the U.S. moves forward.

Senator THUNE. That would be great. Chairman Wyden and I, on the digital trade bill that we have introduced, designed it to really put additional focus and light on, as we negotiate these trade agreements, the importance of not having these types of protectionist barriers raised against American digital goods. If you look at it, there is enormous potential out there globally for American business and the opportunity for economic growth on levels that ought to make everybody interested in this issue.

It is one of the few areas in our economy where we actually run a trade surplus. Do you know what I mean? It is a net-net. It has been a very good thing for our economy, and I hope that we will be able to be very clear in these negotiations that this is an issue on which we cannot give ground. We need to make sure that we keep this platform open, and I hope that that will be a high priority for you and for your colleagues at USTR.

I want to shift gears for just a minute and talk a little bit about another issue that is of great importance to me, and that is agriculture and how these trade agreements impact American farmers, and particularly market access in Asia, which I know will be geographically under your portfolio.

I know you have people who specialize in agriculture, and that may not be your specific area of interest, but I want to know if you could assure me and other members of the committee that you will insist on a TPP outcome that results in broad-based tariff elimination and meaningful market access for our agricultural producers.

We see areas like Japan as huge market opportunities. They historically have worked very hard to limit the discussion on agricultural issues to a very narrow range, and I hope that we can make this a very broad-based attempt, at least, to do away with a lot of these tariffs and other types of barriers that they erect to our products.

Mr. HOLLEYMAN. Senator, I understand your keen interest in this. We run a trade surplus in agricultural products of about \$40 billion a year. The fastest-growing market opportunities are in Asia—existing markets and the fastest-growing.

I think we have an opportunity, and I will commit to working with my colleagues at USTR throughout the building, to ensure, whether it is through TPP or elsewhere, that we provide comprehensive and meaningful market access to agricultural markets, including Japan and elsewhere, and that we look at the type of SPS and other measures that are being used in some markets to try to block legitimate, healthy, and safe U.S. products from getting into those markets. It is an important part of the economy today. It is an important part of the economy even more going forward, and Asia is really a huge opportunity for us. I commit to working with you on that.

Senator THUNE. Well, we will look forward to continuing the dialogue on that. I mentioned Japan and also China. China is the number-one market for soybean exports, a very fast-growing market for corn. They are not approving, at least in a timely way, new biotech traits, which is something that is very troubling and could have a significant negative impact on our trade relationship.

I hope that, if confirmed, you will work with your counterparts in China to move expeditiously on the approval of agricultural biotech products that have already been approved in the U.S. for entry into the Chinese market. They have, on some of these issues, been very difficult to deal with of late. Of course, that has a lot of implications for agricultural trade, which, as you mentioned, is another area of our economy that is a real bright spot.

We globally have enormous opportunity through TTIP and TPP to really expand the reach of American agriculture and to help feed the world, but, in order to do that, we have to get these new technologies, these new biotech traits, approved in some of these countries. So we will look forward to working with you on that, and I will take your assurance that you will press on those issues and make that a priority. I will take that as reassurance that you will be very engaged on those. So, thank you. I appreciate that.

Mr. Chairman, thank you.

The CHAIRMAN. Thank you, Senator Thune.

Mr. Holleyman, let me just highlight a couple of the points that Senator Thune mentioned. First, I would just want to make clear that opening Japan's agricultural market is priority one for agriculture. In our State we do a lot of things well, but what we do best is, we grow things. You could be talking about Oregon wheat, you could be talking about our fruits, you could be talking about our vegetables. But Senator Thune is spot-on with respect to making sure that these markets in Asia are open to agricultural products.

Second, on the matter with respect to the Internet, where Senator Thune also was commenting, I would just say that to echo Senator Thune's comment, he and I wrote an op-ed article for the *Wall Street Journal*, and the heart of our op-ed was to make sure that concerns about surveillance do not become a stalking horse for digital protectionism. That was right at the heart of our article.

So you have two Senators, one a Democrat, one a Republican, saying very similar things with respect to trade that you will be dealing with.

Let me turn now, if I could, to your colleague for a few moments. First, I think it would be helpful if we could have kind of a teach-in here on what somebody does at the Tax Court. Tell us what you see your role is as a Tax Court judge.

Ms. PUGH. Thank you, Mr. Chairman. I think the role of the Tax Court judge really is to give an opportunity for taxpayers, in a prepayment forum—that is, they do not have to pay the amount that the IRS says that they owe first to get into Tax Court—to have a chance to go before a judge, to have a judge determine whether in fact they owe that money to the government or not.

It is an important forum for the smaller taxpayers. The judges travel around the country. They do sit in Washington, but they travel to all 50 States so that the taxpayers do not have to travel,

so that they can have their issues heard by someone who should be, and hopefully is, always impartial.

One of the other important features of the Tax Court is that many of the taxpayers appear without representation, so one of the challenges for the judges is to be able to elicit from the taxpayers the true facts and then make a decision based on the law as applied to the facts in the case.

The CHAIRMAN. All right. Let us also see if we can get some free advice here on one other tax matter. You probably read that we are blasting ahead full steam on tax reform. I have 9 years' worth of sweat equity into putting together bipartisan bills and have worked with colleagues on this committee and off the committee.

One of the central questions is the discussion about simplifying the code and streamlining the expenditures. I think you are aware that, since the last time there was tax reform, we have had something like 15,000 changes. It comes to around one for every working day for every year, year in and year out, since the last time there was tax reform.

So by way of asking for some free advice, what do you think might be done, recognizing that the devil is obviously in the details—and in the tax code the details number in the thousands—to cut down on the number and thereby reduce the type of controversies that come before the Tax Court?

Ms. PUGH. Yes, Mr. Chairman. I have watched with great interest and applaud the work of this committee, and the work of Congress, in laying the groundwork for fundamental tax reform. Obviously, as you said, the devil is in the details, but simplification should be the goal, along with promoting economic growth and competitiveness.

Simplification, from my time on the Hill, what I saw as the challenge, sometimes driven by budget constraints, would be a lot of the very detailed rules about who does and does not qualify. I know that there are, many times, very good policy reasons for drawing the rules as they have been drawn, but again, that is something to focus on. When you have very long and detailed provisions, that gives a greater opportunity for dispute with the IRS, and then those often end up before the Court.

I might add, another thing that I think would be very helpful in tax reform is to make sure that, as the committee works its will—and I know that you are working through hearings—that we have the mark-ups and the legislative history so that the Court then has some guidance as to what Congress was thinking at the time it wrote the legislation if the dispute ultimately comes before the Court.

The CHAIRMAN. That presumes that Congress always was actually thinking about something. Kidding aside, there has been some very good work done on these issues. Chairman Baucus in particular, I think, deserves enormous credit for the policy papers that he put out.

At that time, I was chairman of the Energy Committee, and he was very gracious and consulted with us on those, so I think your counsel to, to the extent we can, shorten provisions and bring greater clarity to them, that avoids some of the headaches that stem from the longer provisions that are subject to multiple inter-

pretations and are sort of a prescription for trouble. So, those are points well-taken.

Both of you have been very cooperative. We will have additional questions, I know, coming to both of you from committee members. With that, the Finance Committee is adjourned.

[Whereupon, at 11:25 a.m., the hearing was concluded.]





## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

---

**STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER  
U.S. SENATE COMMITTEE ON FINANCE HEARING OF JULY 16, 2014  
NOMINATIONS OF ROBERT W. HOLLEYMAN II AND CARY DOUGLAS PUGH**

WASHINGTON – Today, Finance Committee Ranking Member Orrin Hatch (R-Utah) released the following statement regarding the Senate Finance hearing on U.S. Tax Court and Deputy U.S. Trade Representative Nominations:

*Mr. Chairman, thank you for holding today's hearing. I also want to thank our two nominees.*

*I am pleased that we are considering the nominations of Cary Douglas Pugh to be a judge on the U.S. Tax Court and Robert Holleyman to be Deputy U.S. Trade Representative.*

*As we all know, the U.S. Tax Court is an important part of our tax system.*

*As I've noted before, it is the only venue for taxpayers who want to challenge an assessed tax liability before payment. It's also one of the few government positions that deals with individual taxpayers face-to-face. That being the case, it is important that we keep the court staffed with qualified judges to ensure greater accountability to taxpayers.*

*I believe we have a fine nominee before us today.*

*Ms. Pugh has deep roots in the Old Dominion. Her family have lived in the same rural community for many generations.*

*I'm told that her passion is the Duke University Blue Devils. I'm also told she is a patient and well-prepared angler.*

*And, of course, she also happens to be a former staffer of this committee.*

*During her tenure on the Finance Committee Democratic tax staff, Ms. Pugh became known as a reliable member of Senator Baucus's team.*

*She developed a reputation as a problem solver, accomplishing quite a bit in the legislative arena in a relatively short period of time.*

*Ms. Pugh's reputation only grew in her later government and private sector experience.*

*I think Ms. Pugh's small-town common sense and excellent academic and professional credentials will serve her well should be confirmed to this important position on the Tax Court, which I expect she will be.*

*The Deputy USTR also plays an important role, particularly in formulating U.S. trade policy and advocating on behalf of America's international trade interests.*

*I understand that Mr. Holleyman, if confirmed, will be taking on a very important portfolio, including Asia, services, and intellectual property; all areas where we face significant challenges.*

*Turning first to Asia, China continues to be one of our most important and most challenging trading partners. China reaps great benefits from an open world trading system, but its record of adhering to the rules of that system is mixed at best.*

*U.S. exporters and investors in China face a host of challenges when trying to compete in China's large and growing market, including the continued theft of U.S. intellectual property and trade secrets, trade distorting subsidies, forced localization, and regulatory barriers.*

*Throughout Asia, our exporters face a range of barriers to their goods and services. One way to address many of these barriers is to negotiate strong rules in the Trans-Pacific Partnership, or TPP.*

*But here too, problems persist.*

*While I continue to support these negotiations, I am becoming increasingly concerned with the direction the negotiations appear to be taking. It seems that the administration may consider settling for less than full tariff liberalization from Japan.*

*This would not only result in a weak TPP agreement but also set a very bad precedent for other negotiations, including the Transatlantic Trade and Investment Partnership, or TTIP.*

*I am also concerned that the administration may once again short change U.S. innovators and intellectual property rights holders by agreeing to a weak outcome for intellectual property rights protection. Let me be very clear, I will not support an agreement that does not provide for the robust protection of U.S. intellectual property rights, including terms of data protection for biologics similar to those found in U.S. law.*

*Mr. Holleyman, if confirmed, intellectual property rights and innovation will also be part of your portfolio. It is essential that the Deputy USTR be a powerful advocate for strong intellectual property rights protection. I hope that you will be that voice. Such an advocate is badly needed at USTR right now.*

*Another area that would be in your portfolio is services.*

*Trade in services is one of our country's most competitive exports. If confirmed, you must work closely with Ambassador Punke (PUNK) to ensure that we meet the ambitious goals of the Trade in Services Agreement, and the TTIP.*

*I will also be counting on you, if confirmed, to ensure that all services – including financial services – are included in the regulatory coherence and market access outcomes of TTIP.*

*Finally, I hope you will help push the administration to be a stronger, more public advocate on behalf of renewing Trade Promotion Authority, or TPA. Without it, I don't think*

*the administration can negotiate high-standard trade agreements that will achieve the goals of Congress and that will be passed into law.*

*The Bipartisan Trade Priorities Act that I introduced with former Senator Baucus and Chairman Camp would renew TPA and outline a set of bipartisan priorities for our trade negotiators.*

*A lot has changed since the last time TPA was renewed in 2002. Our bill recognizes that reality and, with extensive input from multiple stakeholders, we have created a bill that addresses the challenges our job creators, workers, farmers and ranchers are facing today.*

*It is my hope that we can move on our legislation as soon as possible.*

*It's essential to ensure that the ambitious trade negotiations currently underway are successful and that we achieve the best possible outcome for the American people.*

*Thank you, once again, Mr. Chairman for holding today's hearing. I look forward to hearing from both nominees.*

###

Robert Holleyman  
Nominee, Deputy U.S. Trade Representative  
Office of the United States Trade Representative  
Oral Statement  
Senate Committee on Finance  
July 16, 2014

Chairman Wyden, Ranking Member Hatch, and distinguished Members of the Senate Finance Committee, it is a great privilege to appear before you today as the nominee for Deputy U.S. Trade Representative in the Office of the United States Trade Representative. I am humbled by the confidence that President Obama and Ambassador Froman have placed in me to serve in this position.

I would like to thank Senator Landrieu for her warm introduction and support. I have valued our friendship and close working relationship over many years. Fellow Louisianians are fortunate to have such a strong leader and advocate here in Washington.

I would also like to recognize my husband, Bill Keller, who is with me today. His steadfast support and shared belief in public service help enable me to make the full commitments needed for the work ahead.

32 years ago, I moved to Washington to work for my home state Senator Russell Long, who served as Chair and Ranking Member of the Finance Committee for 20 years. From him, I gained a profound appreciation for the role of this Committee and Congress in formulating trade policy. Following his retirement, I served as Counsel for the Senate Commerce Committee under Chairman Fritz Hollings of South Carolina. I am honored to be sitting now on this side of the witness table with the opportunity to once again serve the American people.

Throughout my time working in Congress and in the private sector, I have witnessed the benefits of trade for American businesses and workers. I have seen directly how U.S. exports can drive growth from startups to manufacturers, innovators and service providers. I have also seen how close consultation with Congress and stakeholders can help craft better policies that benefit Americans in growing their businesses, supporting jobs and increasing exports.

I have lived at the epicenter of the digital economy since its early days. I worked to ensure that U.S. goods and services secure fair treatment across borders and our innovative industries, which rely on strong and balanced intellectual property rights protections, are given the best chance to succeed abroad. I traveled extensively to Asia, Europe, Africa and Latin America on behalf of American innovators to promote U.S. ingenuity and help break down barriers, helping to create and protect American jobs here at home.

If confirmed, I hope to build on this work and look forward to joining a dedicated USTR team that is working on one of the most ambitious trade agendas in a generation. Together, the Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership account for over two-thirds of global GDP. Our partners in the proposed Trade in Services Agreement (TiSA),

expansion of the Information Technology Agreement (ITA), and a just-launched Environmental Goods Agreement (EGA) each account for upwards of 80 percent of trade in their respective global sectors. In the WTO more broadly, the Administration is working with the 160 Members to make the agenda and the institution more relevant to our stakeholders and to the world as it exists today.

I know firsthand that the United States and our workers can win in the global economy. Our educated workforce, safe investment climate, culture of innovation, abundant supply of affordable and clean energy, and the market access advantages under our agreements together form a web of incentives to create jobs here and bring jobs back to the United States. If confirmed, I am committed to making the United States the innovation and production platform of choice and to strengthening the potential for Made-In-America goods, services, and agricultural products.

At the same time, we must hold our trading partners accountable by vigorously enforcing our existing trade agreements. It is critical that we take a whole-of-government approach to addressing unfair trade practices. The Obama Administration has an unmatched record on enforcement, filing eighteen cases at the WTO, nearly doubling the rate of cases filed against China. If confirmed by the Senate, I would bring to my position a strong background in global enforcement matters to support this effort.

Over the last several months I have had the honor of meeting with many of you and your staff and that has helped me better understand your priorities in your home states and for this committee. This experience has helped me reaffirm the importance of maintaining a close working relationship between Congress and the Executive Branch. If I am confirmed, I am committed to strengthening and maintaining that ongoing partnership.

Again, I thank the President for this opportunity and the Committee for considering my nomination. I am happy to answer any questions you may have.

**SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

**A. BIOGRAPHICAL INFORMATION**

1. Name: (Include any former names used.) **Robert Walker Holleyman II**
2. Position to which nominated: **Deputy U.S. Trade Representative**
3. Date of nomination: **February 27, 2014**
4. Address: (List current residence, office, and mailing addresses.)
  
5. Date and place of birth: **February 4, 1955, New Orleans Louisiana**
6. Marital status: (Include maiden name of wife or husband's name.)
  
7. Names and ages of children:
  
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)  
**Alfred M. Barbe High School, Lake Charles, LA (1971-1973); High School Diploma (1973)**  
**Trinity University, San Antonio, TX, (1974-1976) B.A. Cum Laude (1976)**  
**Paul M. Hebert Law Center, Louisiana State University, Baton Rouge, LA (1976-1979); J.D. (1979)**
9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

**PPG Industries, Laborer, Lake Charles, LA (1976)**

**Hebert, Moss & Broussard, Attorneys-at-Law, Law Clerk, Baton Rouge, LA (1977-1978)**

**Judge Jack M. Gordon, US District Judge for the Eastern District of Louisiana, Law Clerk, New Orleans, LA (1979-1981)**

**Margraves, Kennerly & Schueler, Attorneys-at-Law, Associate, Houston, TX (1982)**

**Senator Russell B. Long, U.S. Senate, Washington, D.C., Legislative Assistant (1982-1984) and Legislative Director (1985-1986)**

**U.S. Senate Committee on Commerce, Science, and Transportation, Washington, D.C., Senior Counsel (1987-1990)**

**Business Software Alliance (BSA/The Software Alliance), Washington, D.C., Managing Director (1990-1994)/President & CEO (1994-2013)**

**Cloud4Growth, LLC, Founder & CEO, Washington, DC (2013)**

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

**Member, Advisory Committee on Trade Policy and Negotiations, Washington, DC, (2010-present)**

**Member, Industry Sector Advisory Committee on Services for Trade Policy Matters (ISAC-13), U.S. Department of Commerce, Washington, DC (1997-2002)**

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

**President & CEO (formerly Managing Director), Business Software Alliance (BSA/The Software Alliance), (1990-2013)**

**Trustee, National Building Museum (2003-2012)**

**Honorary Trustee, National Building Museum (2012-present)**

**Cloud4Growth, LLC, Founder & CEO, (2013 - present)**

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

**Louisiana State Bar Association. Became member in 1979; current status: "Inactive"**

**Member, American Bar Association (1979 – current and various years since)**

**Texas State Bar Association, Became member in 1982; current status: "Active/non-practicing MCLE exemption"**

**Member, Board of Directors, Food & Friends, Washington DC (1996-2002)**

**Member, Metropolitan Club of Washington DC (1999 - present)**

**Member, National Trust for Historic Preservation (2001 – current and various years)**

**Member, Advisory Council, Stephen Decatur House Museum (2001-2009)**

**Member, Association Committee of 100, U.S. Chamber of Commerce (2006-2013)**

**Member, Board of Directors, Bryce Harlow Foundation (2009-2013)**

**Member, SITE Santa Fe (2010 - present)**

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

**None.**

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

**None.**



- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

03/25/04 Bob Goodlatte for Congress, \$500  
 04/14/04 Christopher Cox for Congress, \$1000  
 04/30/04 Tom Davis for Congress, \$1000  
 06/24/04 Chris John for Senate, \$1000  
 06/25/04 Adam Schiff for Congress, \$500  
 08/23/04 Eric Cantor for Congress, \$1000  
 03/22/05 Friends of Maria Cantwell, \$500  
 02/01/06 Business Software Alliance PAC, \$5000  
 03/08/06 Bob Goodlatte for Congress, \$500  
 03/30/07 Texans for Lamar Smith, \$1000  
 06/21/07 Friends of Mary Landrieu, \$2000  
 11/30/07 Business Software Alliance PAC, \$5000  
 12/17/07 Friends of Mary Landrieu, \$300  
 09/25/08 Tammy Baldwin for Congress, \$250  
 06/12/09 Patrick Leahy for U.S. Senator, \$250  
 06/29/10 Patrick Leahy for U.S. Senator, \$250  
 05/13/10 Texans for Lamar Smith, \$1000  
 06/30/11 Patrick Leahy for U.S. Senator \$250  
 06/14/12 Friends of Mary Landrieu, \$250  
 10/31/12 Obama Victory Fund 2012, \$2500  
 05/02/13 Patrick Leahy for U.S. Senator \$250  
 06/7/13 Udall for Us All (Tom Udall), \$1000  
 08/10/13 Udall for Us All (Tom Udall), \$250  
 10/31/09 – 01/15/11 Business Software Alliance PAC, \$6240\*  
 \* (\$208 per pay period for 30 pay periods)

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Distinguished Alumnus award, Trinity University, San Antonio, TX (2012)

Phi Alpha Delta Law Fraternity, Paul M. Hebert (LSU) Law Center chapter President (1978-1979)

Moot Court Board, Paul M. Hebert (LSU) Law Center (1978-1979)

Blue Key National Honor Fraternity, Trinity University chapter President (1975-1976)

**University Scholar, Trinity University, San Antonio, TX (1974-1975)**

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
- 7/11/10      **Op-Ed: Software piracy is a growing threat to the U.S. economy (San Jose Mercury News)**
  - 7/12/10      **Op-Ed: How to repair our economic ties with China (The Washington Post)**
  - 9/22/10      **Blog: Hope for Breach and Security Legislation**
  - 10/4/10      **Blog: The State of Cybersecurity**
  - 10/22/10     **Blog: In Cybersecurity, It's "Learn and Adapt"**
  - 2/17/11      **Joint Letter to House and Appropriations Committee Leaders: Opposition to House Amendment #261 to the FY11 Continuing Resolution**
  - 5/11/11      **Op-Ed: How Chinese companies steal a critical business advantage (The Hill)**
  - 5/23/11      **Op-Ed: Why intellectual property theft in emerging economies matters for America (Daily Caller)**
  - 5/25/11      **Blog: Piracy and Security Threats Go Hand In Hand**
  - 11/21/11     **Blog: SOPA Needs Work to Address Innovation Considerations**
  - 2/14/12      **Op-Ed: Unity or division in Europe's cloud computing market? (EurActiv)**
  - 3/15/12      **Op-Ed: Don't quarantine the cloud (European Voice)**
  - 3/20/12      **Op-Ed: The legal gulf between China and the West remains wide (San Jose Mercury News)**
  - 4/25/12      **Op-Ed: A United Technology Sector: Improving Our Nation's Cybersecurity posture while ensuring individual privacy protection (The Hill)**

- 11/2/12 **Blog: An IPR Strategy to Keep India's Innovative Economy Moving Forward**
  - 11/7/12 **Blog: Three Ways the Administration and 113<sup>th</sup> Congress Can Accelerate the Digital Economy to Achieve Election Goals**
  - 11/20/12 **Blog: Kappos Offers Fact-Driven Analysis of the Software Patent System**
  - 11/28/12 **Blog: Inflection Points for Washington and the Software Industry**
  - 1/29/13 **Blog: A New Trade Agreement for a New Era of Digital Services**
  - 2/22/13 **Blog: Clear Thinking on Software Patents**
  - 3/7/13 **Blog: The 2013 BSA Global Cloud Computing Scorecard: A Clear Path to progress**
  - 3/14/13 **Blog: TPP, ISA and the Cloud**
  - 4/25/13 **Blog: The Power of Innovative Ideas**
  - 4/30/13 **Blog: Securing the Benefits of Software Innovation and Growth**
16. **Speeches:** (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)
- 5/5/09 **"H.R. 2221, the 'Data Accountability and Protection Act' and H.R.1319, the 'Informed P2P User Act'" (U.S. House of Representatives, Energy and Commerce Subcommittee on Commerce, Trade and Consumer Protection)**
  - 12/9/09 **"Protecting Intellectual Property Rights in a Global Economy: Current Trends and Future Challenges" (U.S. House of Representatives, Oversight and Government Reform Subcommittee on Government Management, Organization and Procurement)**
  - 3/10/10 **"The Google Predicament: Transforming U.S. Cyberspace Policy to Advance Democracy, Security and Trade" (U.S. House of Representatives, Foreign Affairs Committee)**

- 6/15/10 "China: Intellectual Property Infringement, Indigenous Innovation Policies, and Frameworks for Measuring the Effects of the U.S. Economy" (U.S. International Trade Commission)
- 6/16/10 "China's Trade and Industrial Policies" (U.S. House of Representatives, Ways and Means Committee)
- 7/21/10 "The Impact of Intellectual Property on Entrepreneurship and Job Creation" (U.S. House of Representatives, Small Business Committee)
- 3/16/11 "Made in America: Increasing Jobs through Exports and Trade" (U.S. House of Representatives, Energy and Commerce Committee)
- 4/7/11 "South Korea Trade Agreement" (U.S. House of Representatives, Ways and Means Committee)
- 5/25/11 "Cybersecurity: Innovative Solutions to Challenging Problems" (U.S. House of Representatives, Judiciary Committee)
- 6/15/11 "Discussion Draft of Legislation to Require Greater Protection for Sensitive Consumer Data and Timely Notification in Case of Breach" (U.S. House of Representatives, Energy and Commerce Committee)
- 2/15/12 "Breaking Down Barriers in the Global Cloud Computing Market" (Cloud Connect)
- 2/28/12 "Doing Business from the Cloud: Towards a European Strategy for Cloud Computing" (Danish Presidency and European Commission High-Level Conference on the Digital Single Market)
- 5/6/12 "Breaking Down Barriers in the Global Cloud Computing Market" (Interop Las Vegas)
- 7/25/12 "Cloud Computing: An Overview of the Technology and the Issues facing American Innovators" (U.S. House of Representatives, Judiciary Subcommittee on Intellectual Property, Competition and the Internet)

**2/27/13 "Chopping Up the Cloud: How Patchwork Data Rules Undercut the Global Market" (RSA Conference)**

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

**With the ambitious trade agenda before us, I bring to the position of Deputy U.S. Trade Representative over twenty years of experience in working with trade policy to help create hundreds of thousands of American jobs and expand opportunities for U.S.-based companies.**

**In fighting to reduce trade barriers to America's software and high-tech industries, I have worked closely with Congress, the Office of U.S. Trade Representative and ten U.S. Trade Representatives. I know first-hand the critical difference that USTR can make to enable American workers and innovators to compete and succeed in foreign markets.**

**Through my frequent international travel, I appreciate the power of direct engagement in driving favorable outcomes with trading partners in a global context. As a lawyer, I have an experienced, analytical approach to trade law and proposals, enforcement actions and negotiations. As a former U.S. Senate counsel, I maintain a longstanding respect for the collaborative role of Congress and the Executive Branch in advancing U.S. trade policy and objectives.**

**Success in our ambitious trade objectives can expand our nation's prosperity and have long-lasting, positive benefits. I am honored to be nominated and to be considered for this position of responsibility in an area and for a mission about which I care deeply.**

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

**Yes. While I will maintain Cloud4Growth LLC as an inactive LLC during my government service, I will perform no services during that time and will have no clients.**

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

**No.**

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

**No.**

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

**Yes.**

**C. POTENTIAL CONFLICTS OF INTEREST**

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

**In connection with the nomination process, I have consulted with USTR's designated agency ethics official, who has consulted with the Office of Government Ethics, to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the USTR's designated agency ethics official and that has been provide to this Committee. I am not aware of any other potential conflicts of interest.**

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

**In connection with the nomination process, I have consulted with USTR's designated agency ethics official, who has consulted with the Office of Government Ethics, to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the USTR's designated agency ethics official and that has been provide to this Committee. I am not aware of any other potential conflicts of interest.**

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

**In my role as President and CEO of Business Software Alliance (BSA/The Software Alliance), I sought to advance legislation, regulation and judicial process that would open markets and expand trade, protect intellectual property and reduce software piracy, and foster innovation to enable growth of the software industry. BSA's work and mine were global in scope.**

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

**In connection with the nomination process, I have consulted with USTR's designated agency ethics official, who has consulted with the Office of Government Ethics, to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the USTR's designated agency ethics official and that has been provide to this Committee. I am not aware of any other potential conflicts of interest.**

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

**No.**

**D. LEGAL AND OTHER MATTERS**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

**No.**

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

**No.**

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

**No.**

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

**No.**

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

**None to my knowledge.**

**E. TESTIFYING BEFORE CONGRESS**

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

**Yes.**

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

**Yes.**



UNITED STATES SENATE  
COMMITTEE ON FINANCE  
HEARING TO CONSIDER THE NOMINATION OF  
ROBERT HOLLEYMAN AND CARY PUGH

**QUESTIONS FOR ROBERT HOLLEYMAN**

**Questions from Chairman Wyden**

**Question 1**

I have long said that our trade policy needs an upgrade to account for the explosion of digital trade as an economic driver, and the new trade barriers American providers face as a result. These barriers are not just tech industry problems: whether you are an auto manufacturer in Detroit or a financial services provider in New Jersey, today you rely on data flows to efficiently sell your product in global markets. Coming from the technology industry, you have a unique perspective on how to reshape U.S. trade policy to account for these new challenges and your portfolio at USTR will give you an opportunity to reinvigorate USTR's focus on digital trade. What would you do if confirmed to develop a comprehensive USTR strategy for addressing these problems?

**Answer**

The increase in digital trade in recent years has created enormous new opportunities for American workers cutting across all sectors of the economy – from information and communications technology to manufacturing to agriculture. Continued U.S. leadership in the technology sector, and digital trade more broadly, requires strong, forward-looking rules. The United States has a large trade surplus in digitally-delivered products and services. That number will only grow if we put the right rules in place. If confirmed, I will work to ensure that USTR continues to prioritize the broad range of issues affecting digital trade.

**Question 2**

As you know, I am a strong believer in the need for more transparency when it comes to trade policy. If confirmed, as Deputy in charge of the Trans-Pacific Partnership negotiations, you will play a big role in ensuring that Congress and the public get the information they need to give USTR the best possible advice for these critical trade negotiations. How would you ensure that we in Congress are fully apprised of the negotiations and that the public understands U.S. trade agreements before they are signed?

**Answer**

I agree wholeheartedly on the importance of robust consultations with Congress, stakeholders, and the public at large in the negotiation and implementation of trade agreements. This

consultation is important because consultations result in agreements that reflect the broadest array of interests that stand to benefit from trade. My understanding is that Members of Congress have full access to the negotiating text of the agreement and are offered regular consultations on the status of the negotiations. I understand USTR also regularly consults with the public – including through public notice and comment, stakeholder fora, briefings around negotiating rounds, and release of detailed negotiating objectives and summaries of the negotiations. If confirmed, I will fully support these practices and work with you, the Committee, and your colleagues in Congress to keep you, stakeholders and the public informed about our trade negotiations and to ensure that our negotiators are obtaining the best possible deal for American workers, businesses, farmers, and ranchers.

**Question 3**

If confirmed, will you work to ensure that USTR releases the text of the Trans-Pacific Partnership agreement to the public before it is signed on behalf of the United States?

**Answer**

If confirmed, I will work with Ambassador Froman and on a bipartisan, bicameral basis with Congress to determine the appropriate timetable for release.

**Question 4**

I was pleased that, following my request of Ambassador Froman at the May 1 Senate Finance Committee hearing, USTR published a summary of its TPP negotiating objectives. If confirmed, will you work to ensure that USTR updates its description of those negotiating objectives as the negotiation progresses?

**Answer**

USTR has provided summaries of TPP negotiating objectives on several occasions, most recently last month. If confirmed, I will work with my colleagues at USTR to ensure summaries of the TPP negotiating objectives are up to date.

**Question 5**

Last month, the Senate Finance Committee held a hearing on trade enforcement, and how to ensure that U.S. companies, farmers, ranchers and workers get the benefit of the bargain from the trade rules on the books. One enforcement challenge highlighted at that hearing is that our companies are increasingly subject to retaliation by China and others when they stand up for their rights using U.S. trade laws or help the U.S. government take enforcement action at the World Trade Organization. If confirmed as the Deputy responsible for China trade matters, how will you, in collaboration with USTR's General Counsel, work to ensure the United States remains strong on enforcement in the face of this growing problem?

**Answer**

If confirmed, strong enforcement of existing agreements will be a top priority for me, including finding new ways to enforce rights that exist, trying to close loopholes, and trying to ensure that American companies can succeed in foreign markets. It is important to ensure that our trading partners, including China, do not threaten retaliation when U.S. companies raise concern on those countries' practices. If confirmed, I will work with likeminded trading partners to address the problem of retaliation and promote an open and fair rules-based international trading system.

**Question 6**

To deliver new jobs and opportunity for U.S. farmers and ranchers, including Oregon wheat and dairy producers, it is critical that any Trans-Pacific Partnership agreement provide comprehensive market opening for U.S. agriculture products, addressing both tariffs and non-tariff barriers, such as sanitary and phytosanitary measures. With respect to agriculture, will you commit if confirmed to seek a market access agreement with Japan and the rest of the TPP participants that is at least as ambitious as our agreement with Korea?

**Answer**

The goal of every trade negotiation is to create new, meaningful market access through the elimination of tariffs and barriers for U.S. food and agricultural exports, including wheat and dairy. Addressing unwarranted sanitary and phytosanitary barriers would also provide important benefits to America's farmers, ranchers, and rural communities. I believe that the Korea agreement made important gains in this regard. If confirmed, I will work with Congress and our stakeholders to build on that precedent.

**Question 7**

As you know, I have always been a strong supporter of policies such as Section 230 and DMCA limitations on intermediary liability that have created space for growth and innovation in the digital economy, and the balance in U.S. intellectual property law that preserves free speech, innovation, and economic dynamism on the Internet. And I have strongly opposed proposals such as PIPA/SOPA that would have endorsed Internet censorship and harmed the technological infrastructure of the Internet. Can you please describe your perspective on the policy approach required to ensure that the Internet remains an equal opportunity platform for speech and organization and an engine of economic growth and job creation?

**Answer**

Internet-enabled services that depend on consumer input have underscored the critical value of new platforms for digital trade, such as social media. For these platforms to prosper, it is important for the U.S. to vigorously defend an open Internet based on the values of free expression, privacy, security and innovation. Trade rules will also play a critical role in supporting the growth of such platforms, in areas such as those relating to cross-border data flows.

With respect to copyright, if I am confirmed, I will continue USTR's work with Congress and stakeholders to develop and negotiate strong and balanced intellectual property proposals that reflect the approach in existing U.S. law, like the Digital Millennium Copyright Act. As Ambassador Froman has made clear: "Our touchstone in TPP is our strong and balanced domestic legal framework." I share and affirm that position, and will advance it if confirmed.

#### **Questions from Ranking Member Hatch**

##### **Question 1**

Mr. Holleyman, the TPP must be first and foremost about expanding trade opportunities for U.S. businesses and workers. I am concerned that some in the Administration may view TPP more as a geopolitical agreement than a trade agreement. TPP should only be concluded with those partners willing and able to meet the high ambitions of the agreement, including tariff elimination. President Obama's lackluster approach to renewing Trade Promotion Authority, along with recent comments that he hoped to complete negotiations during his trip to Asia in November give me further pause about whether this Administration will do what it takes to get a good agreement.

Do you agree with me that substance needs to drive the timeline for completing the TPP negotiations?

##### **Answer**

I agree that the substance of the TPP negotiations should drive the timeline. TPP was launched as a high-standard, comprehensive agreement, and if confirmed, I will work to bring home an agreement that does just that. TPP has the potential to create economic opportunities for American workers and businesses across many industries as well as strategic importance in establishing rules of the road and elevating standards across the Asia-Pacific region.

##### **Question 2**

Mr. Holleyman, I believe the administration needs to do more to ensure U.S. holders of intellectual property rights are protected overseas. One country in particular where I believe the Administration needs to do more is India. India continues to pursue policies that undermine U.S. holders of intellectual property rights. I understand the Administration is waiting to see if it can make progress with the new government, and I'm hopeful that they do. But, as I recently wrote to Ambassador Froman, I believe there must be consequences if India does not quickly change its ways.

Can you tell me how you plan to address the many problems U.S. rights holders have been having in India?

**Answer**

I share your concerns regarding India's environment for the protection and enforcement of intellectual property rights. In this year's Special 301 Report, USTR laid out these concerns in detail and made clear it is resolved to give special focus in the coming year to engaging actively on these issues, including through an Out-of-Cycle Review of India this fall. This will allow the Administration to assess progress in India's engagement on intellectual property rights protection and enforcement. If confirmed, I will make it a priority to engage with the new Government of India on these issues and continue close consultation with Congress, as well as relevant stakeholders, on ways to address the serious challenges in this country.

**Question 3**

Counterfeiting and piracy over the Internet is one of the most significant trade barriers that U.S. companies face overseas. The U.S. International Trade Commission (ITC) estimated that in 2009 intellectual property infringement from China alone cost the U.S. economy \$48 billion, with much of those losses due to online counterfeiting and piracy.

Do you believe that our trade agreement should reflect the same high standard of protection for intellectual property rights that's found in U.S. law, including with respect to combatting internet counterfeiting and piracy?

**Answer**

I share your concern about the economic impact of online piracy and counterfeiting. I support the Administration's goals in the TPP to achieve strong and balanced standards of IP protection and enforcement in the Asia-Pacific region – in a manner consistent with U.S. law – that foster high regional standards, promote innovation, and support economic growth and the creation and retention of U.S. jobs. If confirmed, I will also continue USTR's efforts to address counterfeiting and piracy issues in China through established bilateral dialogues, including the U.S.-China Joint Commission on Commerce and Trade (JCCT) and the Strategic and Economic Dialogue (S&ED).

**Question from Senator Stabenow****Question**

As you know, March 2014 marked the second anniversary of the entry into force of the U.S.-Korea Free Trade Agreement (FTA). During the last two years, many tariffs were eliminated and trade barriers were removed, resulting in new opportunities for U.S. manufacturers and producers. However, I continue to hear from stakeholders in a variety of industries who indicate that more work is needed to fully implement this agreement to ensure existing non-tariff trade barriers are removed and new barriers are not implemented. In no industry are these barriers more prevalent than in the auto industry, where U.S. manufacturers continue to face challenges in gaining meaningful access to the Korean auto market.

Mr. Holleyman, will you commit to working with me to address these unfair trade barriers? As Deputy USTR, what will you do to ensure that Korea fully implements and complies with its commitments in the U.S.-Korea FTA? How do these unresolved issues shape or influence negotiations on future trade agreements, particularly the Trans-Pacific Partnership?

**Answer**

If confirmed, I will work vigorously and closely with Congress, as well as relevant stakeholders, to ensure that the U.S.-Korea Free Trade Agreement continues to be implemented. One important aspect of USTR's work is monitoring, which ensures our trading partners live up to their obligations and that they do not erect new non-tariff trade barriers to our exports. This includes using all mechanisms and tools available to resolve issues of concern, including in the motor vehicle sector. I also look forward to pursuing a trade agenda that tackles new, emerging issues that are critical to ensuring that U.S. exports enjoy unimpeded access to markets around the world.

**Questions from Senator Menendez**

**Question 1, Currency Manipulation**

Last year I joined 60 other Senators in a letter to Ambassador Froman and Secretary Lew asking the Administration to pursue enforceable disciplines on currency manipulation in trade agreements. A number of studies estimate large U.S. job losses due to currency manipulation by many of our major trading partners, so we in Congress are looking for a robust action plan from the Administration.

- When will USTR answer the Senate letter?
- Do you agree that the U.S. should seek enforceable disciplines on currency manipulation in trade agreements?
- What is the Administration's strategy to convince other countries not to manipulate their currencies to gain unfair advantage, and how you intend to use our leverage in trade negotiations and our other trade policy tools to encourage the worst perpetrators to adopt market-based exchange rates?

**Answer**

The Treasury Department has the lead on currency and has placed a top priority on currency issues. It is my understanding that Treasury has consistently underscored the importance of market-determined exchange rates and avoiding persistent exchange rate misalignment in promoting more balanced global trade in multilateral fora, including in the G-20, G-7, and International Monetary Fund, as well as in bilateral discussions. I understand the importance of ensuring that congressional letters are responded to in a timely fashion. If confirmed, I would work closely with Treasury to give careful consideration on the most effective way to address this important issue.

**Question 2. Western Hemisphere: Impact of TPP on CAFTA-DR trade partners**

Several of our current free trade partners in Central America have raised concerns that if the final TPP deal includes concessions requested by Vietnam regarding rules of origin and short supply lists for textile & apparel, it will result in severe job losses and potentially hollow out the textile and apparel industry in the Western Hemisphere.

- Does USTR support a more expansive short supply list under TPP than what was agreed to in the FTAs with CAFTA?
- If so, what is the rationale for offering better terms to Vietnam's apparel industry than we offer to our neighbors in Central America, where we have important national and economic security considerations?

**Answer**

I am aware of the importance of the textile and apparel sector to our FTA partners in Central America, as well as to our domestic industry, which provides much of the yarn and textile inputs utilized for these products. My understanding is that USTR has worked closely with our domestic industry in crafting the TPP short supply list so as to take full account of their concerns and sensitivities, including with respect to the Central American apparel industry. If confirmed, I am committed to working with Congress and stakeholders to ensure these concerns will continue to be considered seriously as the United States seeks to craft a final deal on textiles and apparel.

**Question 3. Trans-Pacific Partnership - Labor Rights and Apparel – Vietnam, Malaysia, and Brunei**

You may be aware that I have some concerns about the inclusion of Vietnam in the TPP, given its record on labor rights; I have similar concerns regarding Malaysia and Brunei. I fully understand the strategic importance of TPP – when I was in Asia last year I spoke in Japan, Taiwan, Korea and China about the importance of the region moving forward on TPP.

- Has USTR obtained commitments from these countries that they will implement appropriate labor protections prior to obtaining any benefits under TPP?
- The Government of Brunei's announcement several months ago that it would adopt Sharia law provoked an outcry from international human rights groups. Brunei's implementation of Sharia law would seem antithetical to the 21st century labor principles the Administration is pursuing through the TPP. What is USTR's latest assessment on how Brunei's implementation of Sharia law will affect the labor standards in TPP? How does USTR intend to address this going forward?

**Answer**

I am committed to ensuring that the TPP agreement include strong, enforceable protections for workers. I understand that USTR has been actively engaged with Vietnam, Malaysia, and Brunei to ensure that their laws and practices are consistent with the international standards that the United States is pursuing as part of the TPP labor obligations. If confirmed, I will continue

to work with the individual countries to identify needed reforms and ensure they are implemented within an appropriate timeline.

I understand that Brunei's implementation of its new penal code is an important issue for you and many Members of Congress. If confirmed, I will work with my colleagues at the State Department to make clear that protecting human rights is a core U.S. value and that we expect Brunei to abide by its international human rights commitments.

**Question 4. Counterfeit goods**

I have recently heard from businesses in my state about how counterfeit Chinese goods increasingly threaten U.S. apparel, manufacturing, and high-tech companies. They also tell me that many of these counterfeit goods circumvent U.S. Customs laws by coming into the U.S. in small packages marked as "gifts." These practices combine trademark infringement, unfair competition, and Customs fraud. Meanwhile, I hear regular complaints that China's government imposes significant market access constraints on American internet-related businesses.

- If confirmed, what is your strategy to address these issues?

**Answer**

I share your concerns about Chinese production and export of counterfeit goods, as well as the market access barriers China imposes on U.S. internet-related businesses. If confirmed, I will strongly support a continuation of USTR's work to specifically identify and resolve these problems through established bilateral dialogues, particularly through the U.S.-China Joint Commission on Commerce and Trade (JCCT) process, but also in the U.S.-China Strategic and Economic Dialogue (S&ED) and through our Innovation Dialogue with China as well.

Regarding market access restrictions on Internet-related services in China, I certainly share your concerns. China's Internet regulatory regime is restrictive and non-transparent and impacts a broad range of commercial services activities conducted via the Internet. I can assure you that, if confirmed, I will strongly support continued engagement with China on these issues.

**Question 5. Intellectual Property**

I have raised with USTR several times my interest in ensuring adequate data protection for biologics in the Trans-Pacific Partnership. This is a top priority for me, but I understand other TPP countries are pushing back against U.S. proposals for 12 years of protection, as guaranteed in U.S. law. I want you to know that I appreciate USTR's commitment in recent months to find a creative solution to this data protection issue.

- What is the status of your discussions on the IP chapter, and this issue in particular, and what is your strategy for gaining greater support from other TPP partner countries?

**Answer**

Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind. The biologic drug sector also is one in which U.S. companies are leading global



innovators and competitors. If confirmed, I will work to continue to make clear to our TPP partners that promoting innovation and ensuring access to medicines, including biologics, are top priorities for the United States, including Congress and the Administration; and I will work with the TPP countries to ensure a strong outcome on this issue.

#### **Questions from Senator Portman**

##### **Question 1**

The Trade in Services Agreement holds the great promise for establishing the rules for services trade globally and ultimately could be the template for multilateral rules on services. Can you please identify what in your view are the top priorities for negotiating a successful TiSA?

##### **Answer**

I believe the Trade in Services Agreement (TiSA) should establish a level playing field for U.S. service suppliers and encourage the adoption of state-of-the-art trade rules in areas like telecommunications, competitive delivery services, and transparency. At the same time, it is imperative that we also address data flow restrictions, local server requirements, and other local content policies that can disrupt services trade and place U.S. companies at a disadvantage. If confirmed, I look forward to working with TiSA participants, who represent 75 percent of the world's \$44 trillion services market, to conclude a successful agreement that creates new opportunities for America's service providers.

##### **Question 2**

It is essential that the international trading rules ensure the free flow of data across borders. With respect to the commitments on cross border data flows that the U.S. is negotiating in TPP, it has been reported that some countries are seeking exceptions to U.S. proposed negotiation language that are broader than what is within the well-accepted standards under Article XIV of the WTO General Agreement on Trade in Services (GATS). As you move toward concluding the TPP negotiations, are you committed to preserving these well accepted standards and working to seek even further commitments from TiSA participants?

##### **Answer**

A meaningful 21st century free trade agreement must include rules that will facilitate cross-border data flows, given that a significant percentage of trade depends on such flows. If confirmed, I am committed to achieving an enforceable discipline on data flows and will seek additional commitments as appropriate.

**Question 3**

In response to the Administration charging five Chinese army officers with hacking into private-sector American companies for commercial advantage, in the first cyber-espionage case of its kind, an article reported that China's state-owned enterprises would refuse to work with US firms. What is your approach for finding the balance between limiting commercial espionage and protecting US companies from retaliation?

**Answer**

Collecting and providing intelligence to companies to give them a competitive advantage – whether done through cyber operations or traditional espionage – is wrong. If confirmed, I will advocate vigorously for the interests of U.S. companies doing business in China, including by challenging commercial espionage and by protecting U.S. businesses from potential retaliation.

**Question from Senator Enzi****Question**

The Treasury Department has noted that one of the outcomes of the sixth meeting of the Economic Track of the U.S.-China Strategic and Economic Dialogue (S&ED), held July 9-10, 2014, in Beijing, China, was that China has committed “to improve its Value Added Tax rebate system, including actively studying international best practices, and to deepen communication with the United States on this matter, including regarding its impact on trade.”

The U.S. soda ash industry, which is based in the Green River, Wyoming, has long been concerned about China's manipulation of its VAT system to promote exports by its soda ash industry at the expense of U.S. exports. China's producers pay little attention to market conditions and instead are being driven by artificial incentives, including the VAT rebate. China should be held to its commitment to confer with the United States on its VAT program, specifically its impact on trade. As Deputy USTR, will you commit to ensuring that the trade implications of China's VAT manipulation are addressed in various bilateral economic forums with China, including the S&ED and the Joint Commission on Commerce and Trade (JCCT)?

**Answer**

I share your concerns and believe China needs to move to a trade-neutral VAT system. China is the only country in the world that does not apply its VAT system in a trade-neutral manner and its current use of variable VAT export rebates creates serious and unnecessary trade frictions in important manufacturing sectors. The U.S. soda ash industry is one that has been adversely affected by various Chinese government policies that promote both excess production capacity and exports. If confirmed, I will press China for progress on this important issue in our bilateral dialogues with China.

**Questions from Senator Brown****Question 1**

State-owned enterprises have become increasingly significant in the global economy and represent one of the biggest challenges facing the international trading system today. I am particularly concerned about Chinese state-owned enterprises competing with U.S. businesses and forcing American workers and producers to compete on an unlevel playing field. Exports from Chinese SOEs have had severe consequences for U.S. businesses, such as the U.S. steel sector. I am also concerned about the possibility of Chinese SOEs investing in the U.S. --outside of the reach of our trade remedy laws -- and not operating according to commercial considerations. If confirmed, will you commit to developing through an interagency process a comprehensive U.S. policy on foreign state-owned enterprises?

**Answer**

Unfair competition from State-owned enterprises, including those from China, present serious new challenges to the international trading system. It is important that the United States pursue a multi-faceted, government-wide strategy to address these challenges, with critical support coming from USTR and the Departments of Commerce, Treasury, and State. We must use our trade remedy laws to fight against unfairly subsidized imports in our markets; seek to create market access opportunities in China through our bilateral and multilateral negotiations; and utilize dialogues such as the S&ED, JCCT, and other fora to press China to address U.S. concerns. If confirmed, I will utilize all of the government's expertise to press for a level playing field for American workers and businesses. I also believe we can establish new disciplines in trade agreements to address unfair competition from SOEs. And if confirmed, I will give careful attention to new and creative ways to address this challenge.

**Question 2**

As you know, I have urged USTR, along with a majority of my colleagues in both chambers of Congress, to include meaningful, enforceable currency disciplines in the Trans-Pacific Partnership. To date USTR has not raised this issue with our TPP negotiating partners. I have pushed for the inclusion of currency provisions in our trade agreements because currency manipulation has had enormous economic consequences for American workers and companies and our economy overall. Do you agree the undervaluation of foreign exchange rate of our trading partners, particularly China, has had negative economic effects for U.S. businesses and workers? Will you commit to raising currency manipulation in the TPP negotiations if confirmed?

**Answer**

The Treasury Department has the lead on currency and has placed a top priority on currency issues. It is my understanding that Treasury has consistently underscored the importance of market-determined exchange rates and avoiding persistent exchange rate misalignment in promoting more balanced global trade in multilateral fora, including in the G-20, G-7, and

International Monetary Fund, as well as in bilateral discussions. If confirmed, I would work closely with Treasury to give careful consideration on the most effective way to address this important issue.

**Question 3**

USTR has issued an annual report on China's WTO compliance since China's accession in 2001. In each annual report, USTR has concluded that China has not fully complied with its WTO obligations. China has also made commitments in the yearly Strategic and Economic Dialogue discussion that have gone unfulfilled. Given China's poor record of compliance with its existing trade obligations, why should we expect them to comply with the obligations of a Bilateral Investment Treaty?

**Answer**

A successful U.S.-China Bilateral Investment Treaty (BIT) would expand the framework of international rules under which China can be held accountable. The U.S.-China BIT can also provide the United States and U.S. investors with improved and expanded investment-related rights and protections, as well as tools to address compliance problems in China. If confirmed, I will push for a high-standard U.S.-China BIT that will level the playing field for U.S. workers, business, farmers, ranchers, and innovators while monitoring to ensure China lives up to its obligations under the Treaty.

**SENATOR MARY LANDRIEU  
ROBERT HOLLEYMAN INTRODUCTION  
Nominee for Deputy U.S. Trade Representative  
U.S. Senate Committee on Finance  
July 16, 2014**

I first met Robert Holleyman II in high school when we represented our respective schools – mine in New Orleans and his in Lake Charles – as delegates at the first Louisiana Youth Seminar (LYS) in Natchitoches, Louisiana. We shared the unique LYS experience early in our lives and I can speak personally to the significant impact it has had on our lives.

Robert grew up in Lake Charles and still has family and friends throughout the state of Louisiana and considers it home. He is married to Bill Heller. As many of you will understand, you can take the man out of Louisiana but not Louisiana out of the man, and Robert will represent the hardworking families of America and the businesses, big and small, that are the backbone of our economy.

He graduated from Barbe High School, an excellent public school in Lake Charles. Mr. Holleyman graduated from Trinity University in San Antonio and received a law degree from Louisiana State University. After being admitted to the Louisiana Bar, he then served for two years as a law clerk for the late US District Judge Jack M. Gordon, in the US District Court for the Eastern District of Louisiana in New Orleans. He moved to Washington in 1982 to work for legendary U.S. Senator Russell B. Long as first Legislative Assistant, then was promoted to Legislative Director and served with Senator Long through his retirement in early 1987 when he left to work as counsel for the Senate Commerce Committee. In 1990 he concluded his career on the Hill and began a career in the software industry in the early stages of the PC revolution and has been part of the high tech community ever since.

Robert W. Holleyman II is currently the CEO and Founder of Cloud4Growth, a cloud technology development company. Prior to founding Cloud4Growth in 2013, Mr. Holleyman was the President and CEO of “BSA | The Software Alliance” from 1990 to 2013.

Robert’s experience on Capitol Hill and his background in opening software industry markets in countries around the globe were critical in his preparation for this moment of opportunity.

International trade became a fascination and part of his DNA growing up in his hometown of Lake Charles, which is also home to one of America’s most critical ports, the Port of Lake Charles. Robert lived within eyeshot of the international commerce which went up and down the Calcasieu River to the Gulf of Mexico and out to global markets. His fascination began early with those massive ships and their cargo and would spur a career which now launches with his nomination by the President to be Deputy U.S. Trade Representative.

I know Robert will be resolute in preventing any actions that would diminish the power of the Jones Act and will fairly promote U.S. interests. The European Union – in the “Transatlantic

Trade and Investment Partnership (TTIP)" negotiations – and the Norwegians – in the Services ("TISA") negotiations – are making requests to weaken the Jones Act. Thank you for your commitments to the Jones Act. The Jones Act is critical for US national security – to afford a domestic shipbuilding base, trained mariners, and available US flag-ships – and is the only means to effectively countervail international subsidies in the maritime sector.

Robert will be a terrific asset in opening up markets and will play an integral role in crafting trade agreements which level the playing field and provide critical jobs that are the lifeblood of our country.

**OPENING STATEMENT OF CARY DOUGLAS PUGH  
NOMINEE FOR JUDGE, UNITED STATES TAX COURT  
U.S. SENATE COMMITTEE ON FINANCE  
July 16, 2014**

Chairman Wyden, Ranking Member Hatch, and members of the Committee, it is a true honor to be before you today as the President's nominee to serve as a judge on the United States Tax Court. I am grateful to the President for his confidence in me and to the Committee for the opportunity to appear today. I am especially grateful for the support of the staff of this Committee throughout this process, and for their swift consideration.

Of course I would not be here without the support of many others throughout my life and my career starting with my parents, who cannot be here today but are watching on their computer in Lynchburg; my sister, brother-in-law, and niece, who had to skip camp to be here; and a cloud of witnesses – friends and colleagues and mentors who have helped me immeasurably along the way. I have been blessed by many opportunities in my chosen profession, including the years I worked for this Committee. I treasure that experience. But none of my past work could surpass the position for which I have been nominated.

My mother worked as a legal secretary before I was born. And I announced on a third grade academic game show I would be a lawyer. I chose a legal career early, or it chose me. Tax law came later as I grew to understand how it touches all aspects of lives and economic activities. I have learned over my legal career and in my endeavors outside work that I feel the greatest sense of accomplishment when I am able to resolve issues and disputes. As a tax lawyer, then, I have a particular affinity for a court charged specifically with resolving tax disputes between taxpayers and the government. Working for the government (as staff of this Committee and then at the IRS Office of Chief Counsel), and for clients, both pro bono and paying, I have seen the key role this court plays in shaping the tax law. And, I have witnessed the importance of a forum for taxpayers to have their say before an impartial party. This is true for individuals, and corporate clients; it also is true for the IRS.

The key to our system is respect for the law: for everyone – from the smallest taxpayer to the largest corporation to the government – to understand that in the end it is the law that matters not who you are or how much is at stake. It is just as important to the work of this Committee and Congress to have confidence that the law will be applied fairly and impartially. If I am confirmed that will be my guiding principle. I am grateful to the President for his confidence in nominating me and will aspire to be worthy of the position if this Committee and the Senate deem me qualified.

Thank you again, Mr. Chairman, Ranking Member Hatch, and other Members of this Committee for your consideration.

I would be happy to answer any questions.

**SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

**A. BIOGRAPHICAL INFORMATION**

1. **Name: (Include any former names used.)**  
Cary Douglas Pugh
2. **Position to which nominated:**  
Judge, United States Tax Court
3. **Date of nomination:**  
June 9, 2014
4. **Address: (List current residence, office, and mailing addresses.)**
  
5. **Date and place of birth:**  
DOB: 08/18/1966  
POB: Lynchburg, VA
6. **Marital status: (Include maiden name of wife or husband's name.)**
  
7. **Names and ages of children:**



8. **Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)**

SEVEN HILLS SCHOOL, LYNCHBURG, VA,  
09/1976-6/1984  
HIGH SCHOOL DIPLOMA 6/1984

DUKE UNIVERSITY  
8/1984-5/1987  
BA 5/1987

STANFORD UNIVERSITY  
9/1987 TO 6/1988  
MA 6/1988

UNIVERSITY OF VIRGINIA SCHOOL OF LAW  
8/1991 TO 5/1994  
JD 5/1994

9. **Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)**

6/05 – present. Counsel, Skadden, Arps, Slate, Meagher & Flom, LLP, Washington D.C.

8/06 – 12/07. Adjunct Professor, Georgetown University Law Center, LLM Program, Washington, D.C.

3/02 – 5/05. Special Counsel to the Chief Counsel, U.S. Department of Treasury, Internal Revenue Service, Washington, D.C.

12/99 - 3/02. Tax Counsel, Senate Finance Committee, Washington, D.C. (Chairman Max Baucus (D-MT) (2001-2002) and then-Ranking Member Daniel Patrick Moynihan (D-NY) (1999-2001)).

10/95 - 12/99. Associate, Vinson & Elkins, L.L.P., Washington, D.C.

9/94 – 8/95. Judicial Clerk, The Honorable Jackson L. Kiser, Chief United States District Court Judge, Western District of Virginia, Danville, Va.

5/93 – 7/93. Summer Associate, Vinson & Elkins, L.L.P., Washington, D.C.

5/92 – 8/92; 7/93 – 8/93. Summer Associate, Hunton & Williams, Richmond, Va.

8/89 – 8/91. Paralegal, Hunton & Williams, Richmond, Va.

10/88 – 7/89. Lead Sales Clerk, Microdisc, Stanford Bookstore, Stanford, Ca.

10. **Government experience:** (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None.

11. **Business relationships:** (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None.

12. **Memberships:** (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Organization	Start/End Dates	Office
International Federation of Fly Fishers	August 2005 (est.) – Present	Member, certified casting instructor
Trout Unlimited	January 1996 (est.) – Present	Member
Coastal Conservation Association	February 2006 (est.) – Present	Member
Old Presbyterian Meeting House	October 1995 – Present June 2011 – May 2014 June 2013 – May 2014; June 2007 – May 2010 June 2007 – May 2010; June 2000 – May 2003	Member Trustee Clerk of Session  Elder
National Capital Presbytery Committee on Preparation for Ministry	January 2011 (est.) – Present	Member
D.C. Bar Association, Tax Section	1996 (est.) – Present	Member
American Bar Association, Tax Section	1996 (est.) – Present Aug. 2014 – July 2017	Member; Council Director
American College of Tax Council	Elected 2012	Fellow
Tax Coalition	2000 – Present	Member
Duke Alumni Association	1987 (est.) – Present	Member
Stanford Alumni Association	1995 (est.) – Present	Member
University of Virginia Alumni Association	1995 (est.) – Present	Member

## 13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Date	Recipient	Amount (\$)
10/15/2010	Friends of Blanche Lincoln	500
7/16/2008	Friends of Mark Warner	500
12/18/2007	Tim Johnson for South Dakota Inc.	1,000
10/19/2007	Friends of Max Baucus	1,000

## 14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

National Merit Scholarship, awarded Spring 1984 for 1984-1985 academic year

National Elks Foundation Scholarship, awarded Spring 1984 for 1984-1985 academic year

Phi Eta Sigma Honor Society, awarded May 1985

Foreign Language and Area Studies Fellowship for Graduate Study, awarded Spring 1987 for 1987-1988 academic year

Order of the Coif, awarded October 30, 1994

John Nolan Fellow of the Tax Section of the American Bar Association, awarded January 19, 2001

Chief Counsel's Award, awarded July 29, 2003

15. **Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)**

Pugh, Cary Douglas. "*United States v. Roxworthy*: What Does It Mean to Taxpayers." *Tax Executive Institute*. September-October (2006): 378-381.

Fred Brenner, Jr., E. Daniel Leghtman, Bryan Mayster, and Cary Pugh. "Session 11: The Changing Landscape on Penalties," 85 *Taxes* 147 (2007).

16. **Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)**

None.

17. **Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)**

My legal career has been spent in tax law, tax administration, and tax policy equipping me with the necessary background to understand and evaluate issues raised in litigation and make judgments regarding the correct application of the law to the facts. In addition, I have broad experience with litigation, from acting as a law clerk and serving on trial teams to working in government. This experience has given me a special appreciation for the importance and role of the U.S. Tax Court in our system of tax administration, including the importance of the opportunity to present facts and legal disputes to an impartial judge, with particular background in tax law, and to receive a fair hearing on disputes between taxpayers and the government over tax obligations.

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. **Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.**

Yes. Upon confirmation, I will resign from Skadden Arps. In addition, I will consult with the appropriate ethics officials in the Administrative Office of U.S. Courts regarding my continued participation in other membership associations with which I am affiliated.

2. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.**

No.

3. **Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.**

No.

4. **If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.**

Yes.

**C. POTENTIAL CONFLICTS OF INTEREST**

- 1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Administrative Office of the U.S. Courts (AOUSC) to prepare and file a financial disclosure report in compliance with the Ethics in Government Act of 1978. The AOUSC Committee on Financial Disclosure has confirmed that my report, which has been provided to the Committee, is in compliance with applicable laws and regulations.

I am not aware of any potential conflicts of interest. Should any matter arise that involved an actual or potential conflict of interest, I would handle it by careful and diligent application of the Code of Conduct for United States Judges as well as other relevant canons and statutory provisions and I will consult with the appropriate ethics officials in the AOUSC, as appropriate.

- 2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Administrative Office of the U.S. Courts (AOUSC) to prepare and file a financial disclosure report in compliance with the Ethics in Government Act of 1978. The AOUSC Committee on Financial Disclosure has confirmed that my report, which has been provided to the Committee, is in compliance with applicable laws and regulations.

I am not aware of any potential conflicts of interest. Should any matter arise that involved an actual or potential conflict of interest, I would handle it by careful and diligent application of the Code of Conduct for United States Judges as well as other relevant canons and statutory provisions and I will consult with the appropriate ethics officials in the AOUSC, as appropriate.

- 3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.**

I have registered as a lobbyist for the following clients to advise them and House and Senate staff on issues pertaining to pending legislation or proposals to be considered by the tax writing committees. My registrations were terminated as of not later than December 31, 2011. If a legislative issue that I was involved in as a lobbyist is the subject of litigation, I will identify the fact to the appropriate ethics official.

Client	Years
Fidelity Charitable Gift Fund	2005-2006
FMR Corp	2005-2006
Oil Shale Exploration	2006-2008
ABN AMBRO	2006
Clean Energy	2006-2007
Tenant-In Common Association	2006-2007
Fortress	2007
MeadWestvaco Corp	2007-2008
Safety Clean	2007-2011
Oaktree Capital Management	2007-2011
Mars Inc	2008-2009
American Council of Life Insurers	2008
Vulcan Energy	2010

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

If confirmed, I will carefully review any potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances and I will consult with the appropriate ethics officials in the AOUSC, as appropriate.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

**D. LEGAL AND OTHER MATTERS**

- 1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.**

No.

- 2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.**

No.

- 3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.**

No.

- 4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.**

No.

- 5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.**

None to my knowledge.



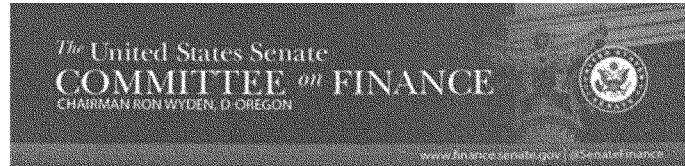
**E. TESTIFYING BEFORE CONGRESS**

- 1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?**

Yes.

- 2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?**

Yes.



**Wyden Statement on the Nominations of Robert Holleyman and Cary Pugh**  
*As Prepared for Delivery*

Today the Finance Committee will consider two nominees – Robert Holleyman, who is nominated to be Deputy United States Trade Representative at the Office of the U.S. Trade Representative; and Cary Pugh, nominated to be a judge for the U.S. Tax Court.

First is Robert Holleyman. If confirmed as Deputy USTR, Mr. Holleyman will be responsible for a broad portfolio of issues, including trade issues affecting U.S. service providers and intellectual property rights owners, as well as the ongoing Trans-Pacific Partnership negotiations and the broader U.S. trade relationship with Asia, including China. It is essential that the U.S. has a Deputy USTR in place given the critical juncture of the TPP negotiations and the many challenges that U.S. companies face in China and across the region.

Mr. Holleyman has had a long career in the technology industry, from which he brings a valuable perspective on the importance of digital trade to the American economy. And he has years of experience on the ground working to expand access to markets such as India and China.

Digital trade has rapidly emerged as a major source of economic growth and innovation, and it is fundamentally reorganizing how goods and services are made and traded across borders. As significant trade agreements are taking shape, it is essential that USTR provide global leadership in the development of rules that make sense for a 21st century digital economy. I am eager to work with USTR, and Mr. Holleyman, if confirmed, as they work to adapt trade agreements to these new challenges.

Mr. Holleyman also has experience on Capitol Hill, where he has worked in both the majority and the minority and served as senior counsel on the Senate Commerce Committee. Understanding how to work effectively with Congress is an essential skill in the role for which he is nominated.

Also with us today is Cary Pugh, who is nominated to be a judge on the U.S. Tax Court. The Tax Court serves as the judicial backbone of the federal tax code. The 19 judges who make up the court have a challenging mission that requires them to travel all around the country. While it may be difficult, these judges do indispensable work to ensure that taxpayers' voices are heard and the nation's tax laws are enforced in a fair and effective manner.

Ms. Pugh comes to this task well-prepared. She has served in a variety of roles, including time at the IRS and right here on the Finance Committee staff. She has also spent time working in the private sector. Such a range of experiences and knowledge will serve her well as she adjudicates the nation's tax cases. I thank both of the nominees for coming before the committee this morning, and I look forward to hearing from each of you.

###

