

1 OPEN EXECUTIVE SESSION TO CONSIDER H.R. 5430, THE
2 UNITED STATES-MEXICO-CANADA AGREEMENT IMPLEMENTATION
3 ACT

4 TUESDAY, JANUARY 7, 2020

5 U.S. Senate,
6 Committee on Finance,
7 Washington, DC.

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9 The hearing was convened, pursuant to notice, at
10 9:30 a.m., in Room SD-215, Dirksen Senate Office
11 Building, Hon. Chuck Grassley (chairman of the
12 committee) presiding.

13 Present: Senators Roberts, Thune, Cassidy,
14 Lankford, Daines, Young, Portman, Crapo, Enzi, Cornyn,
15 Toomey, Scott, Sasse, Wyden, Stabenow, Cantwell,
16 Menendez, Carper, Brown, Bennet, Casey, Warner,
17 Whitehouse, Hassan, and Cortez Masto.

18 Also present: Republican staff: Kolan Davis, Staff
19 Director; Nasim Fussell, Chief International Trade
20 Counsel; Rory Heslington, International Trade Policy
21 Advisor; Grace Kim, Detailee; Mayur Patel, International
22 Trade Counsel; and Jeffrey Wrase, Deputy Staff Director
23 and Chief Economist. Democratic staff: Michael Evans,
24 Deputy Staff Director and Chief Counsel; Sally Laing,
25 Senior International Trade Counsel; Virginia Lenahan,

1 International Trade Counsel; Greta Peisch, Senior
2 International Trade Counsel; Joshua Sheinkman, Staff
3 Director; and Jayme White, Chief Advisor for
4 International Competitiveness and Innovation.
5 Non-designated staff: Jewel Harper, Deputy Clerk;
6 Joshua LeVasseur, Chief Clerk and Historian; and Athena
7 Schritz, Hearing Clerk.
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1 OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
2 FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. I would like to call the committee to
5 order. We are meeting today to consider H.R. 5430, the
6 United States-Mexico-Canada Agreement Implementation
7 Act.

8 And Senator Sasse is not here, but he is a new
9 member of the committee, so I would like to welcome
10 Senator Sasse to the committee. He is joining the
11 committee on one of the most important pieces of
12 legislation we can do this year, and I am glad to have
13 Senator Sasse as a new member of the committee.

14 On December 13th, 2019, the Senate received, or the
15 House of Representatives received the bill to implement
16 the USMCA Agreement. Under Fast Track Rules, the
17 committee cannot amend the bill. We will vote today
18 only on whether to report the bill.

19 Before we vote, Senators who wish to make statements
20 may do so. In the interest of time, I ask that the
21 statements be limited to three minutes. And I know that
22 my staff has had a discussion with everybody's staff
23 about that. I hope that that will be satisfactory to
24 the members. We do have a vote scheduled at 12:15, so
25 I think it is important that we get this done this

1 morning. I think we can.

2 After statements, I am going to introduce staff and
3 administration officials here to provide an overview of
4 the bill and answer any questions, and we will then vote
5 on the bill.

6 President Trump promised to deliver a strong,
7 updated trade agreement with Canada and Mexico that
8 would reflect the realities of the 21st century. He
9 made this an issue in his campaign, so I suppose this
10 has been an issue that has been around now for more than
11 three years.

12 He promised that it would command broad support, and
13 I think President Trump has delivered. The House of
14 Representatives voted overwhelmingly and in a bipartisan
15 way for support of the USMCA bill. Now the Senate must
16 act.

17 I am confident that this bill is going to make it to
18 the President's desk, and I would like to express a few
19 reasons why I think that way.

20 USMCA will bring much-needed certainty and real
21 benefits to America's farmers, workers, and businesses.
22 Farmers are getting better and more reliable market
23 access, which farmers badly need. Workers will see
24 thousands of new jobs, particularly in high-wage
25 manufacturing industries. Businesses will have an

1 agreement that reflects the realities of modern
2 commerce, including for the \$1.3 trillion U.S. digital
3 economy.

4 USMCA corrects the enforcement flaws that very much
5 plagued NAFTA and ensures that the parties will be held
6 accountable to their commitments.

7 The USMCA has the support of hundreds of
8 organizations representing a wide range of the economy:
9 agriculture groups, business groups, and labor groups.
10 I would like to enter into the record a non-exhaustive
11 list of representatives of this support, and I will do
12 that without objection.

13 [The list appears at the end of the transcript.]

14 The road that we traveled to arrive at this meeting
15 today tested my patience at times. As an example,
16 taking three or four months to get the President to
17 remove steel and aluminum tariffs. I do not know how
18 many White House meetings I attended where that was an
19 issue, and I kind of got tired of hearing the words "I
20 like tariffs."

21 And there are some aspects of this bill that I do
22 not particularly like. But as I reflect on how we got
23 here I am proud of the hard work of many individuals
24 that made it possible to achieve a strong agreement and
25 a bill that could garner broad support. And I would put

1 at the top of that list the hard work that Ambassador
2 Lighthizer put into it.

3 The bill before us today has something in it for
4 everyone, and it is not often that we can say that about
5 an implementing bill.

6 I ask my colleagues to vote with me to favorably
7 report the bill, because I would like to get this to the
8 President's desk.

9 Senator Wyden?

1 OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM
2 OREGON

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4 Senator Wyden. Thank you very much, Mr. Chairman,
5 and Happy New Year to all and I look forward to working
6 with all our colleagues. I have been trying to touch
7 base with Senator Sasse and I look forward to having him
8 here.

9 This morning the Finance Committee kicks off 2020
10 with the new NAFTA. The last few years have delivered
11 one trade gut punch after another to America's
12 exporters, particularly our farmers and our
13 manufacturers.

14 It began when then-presidential candidate Trump
15 talked about pulling the United States out of NAFTA, and
16 that set the tone that has been followed by the
17 administration, driving away a number of our traditional
18 economic allies. Three years of chaos -- trade chaos --
19 has hurt investment in America and caused farm
20 bankruptcies to surge. Many foreign markets are more
21 closed off to American exports today than they were on
22 the day that the President took office.

23 The Finance Committee now has an opportunity to
24 provide a real measure of certainty and predictability
25 to Americans who want to grow things here, who want to

1 make things here, add value to them here, and ship those
2 products around the world. That is what is on offer
3 this morning. The new NAFTA makes two key changes to
4 our approach to trade that I am going to address
5 briefly.

6 First, on the enforcement issue. Year after year,
7 decade after decade, presidents and lawmakers of both
8 political parties have paid lip service to the
9 importance of enforcing trade laws. But all along, what
10 this country did on enforcement was just too weak. It
11 did not have any teeth. And it was too slow to protect
12 American jobs from trade cheats. In my view, workers
13 saw through all this lip service a long time ago.

14 When the Trump administration sent up the first
15 version of the new NAFTA agreement, it sure just looked
16 like more of the status quo. It did not cut it. The
17 language that they offered on enforcement basically did
18 not enforce anything. It was just pretty much business
19 as usual.

20 So I, as ranking Democrat on this side, reached out
21 to our colleague from Ohio, Senator Brown, who has been
22 a crusader for tough labor law enforcement as long as
23 anybody in public life. We said we were going to fix
24 it. And Senator Brown and I reached out to many of
25 you, and many of us on this side contributed to the

1 enforcement package.

2 We talked to many on the other side, and Senator
3 Brown and I developed a proposal that is all about
4 putting more power directly in the hands of American
5 workers and American businesses so they can fight back
6 when they are getting ripped off by trade cheats. And
7 it responds to what we actually heard in our
8 communities.

9 It is a whole lot faster than what we had before.
10 It is a whole lot stronger than what we had before. And
11 what Senator Brown and I came up with is about putting
12 trade enforcement boots on the ground and helping to
13 identify when factories in Mexico violate labor rules.
14 Then our country can penalize the violators and protect
15 the American jobs they tried to undercut.

16 The enforcement process will take a fraction of the
17 time it has in the past. No more forcing American
18 businesses and workers to wait around for what seems
19 like eons while trade cheats rip them off.

20 So after Senator Brown and I did that, we took our
21 proposal over to our colleagues in the House and we made
22 it clear we wanted to work with them. We wanted input
23 support. And after we did that, we went to the Trump
24 administration and said: If you want our support on the
25 new NAFTA, you have got to build on the tough trade

1 enforcement proposal that we have been suggesting. We
2 said, this is a prerequisite, that tough trade law
3 enforcement is a prerequisite to getting NAFTA done
4 right.

5 So when you combine this all-in approach on
6 enforcement with new commitments on labor rights and
7 environment, you also shut down the corporate race to
8 the bottom on cheap wages and lax standards. It is
9 about raising everybody else to our standards, and
10 taking action when they fall short.

11 So I especially want to thank Senator Brown -- I am
12 sure we will hear from him -- for his leadership. And
13 let me make clear that, while he and I have our names on
14 this enforcement package, I can look right down the row,
15 literally, to Senator Carper, Senator Bennet, every one
16 of these colleagues contributed to this package. And I
17 know a number of Republicans have an interest in these
18 issues, as well.

19 I want to wrap up with some comments with respect to
20 something nobody talked about when the first NAFTA came
21 up. And that is technology and digital trade. Digital
22 trade was not a part of the original NAFTA because it
23 basically did not exist when NAFTA was first negotiated.

24 Everybody in this room carries a smartphone that
25 would have met the definition of a supercomputer back in

1 the early 1990s. But when it comes to rules regarding
2 digital trade and tech, our trade laws have remained
3 stuck in the mindset of decades ago. That is a problem
4 today because the Internet is now the shipping lane of
5 the 21st Century.

6 Obviously technology and digital trade are right at
7 the center of our modern economy. They account for
8 millions of good-paying jobs in our country. And most
9 important, technology is woven into just about every
10 major American industry. It is woven into autos. It is
11 woven into manufacturing, health care, farming. You can
12 go one after another. When you talk about fighting for
13 new rules on digital trade, you are talking about
14 creating and protecting red, white, and blue jobs in a
15 whole host of important, good-paying industries.

16 The new NAFTA will fight back against trade cheats
17 who want to eat the seedcorn of this technological
18 treasure trove, this innovation we have seen in tech.
19 It will do more to protect our intellectual property and
20 protect American companies from being shaken down for
21 their data.

22 By including established law, colleagues, it will
23 help guarantee that small technology entrepreneurs have
24 a shot at building successful companies in a field now
25 dominated by a small number of goliaths.

1 On agriculture, new NAFTA helps us send more of our
2 dairy to Canada. More of our wine is going to make it
3 to shelves in stores abroad. It ends harmful
4 discrimination against wheat grown here.

5 So these are all significant areas of improvement.
6 In my home state, one out of four jobs revolves around
7 trade. The trade jobs often pay better than do the
8 non-trade jobs, and almost all of them are small- and
9 medium-sized.

10 I want to wrap up with just two very quick points,
11 Mr. Chairman.

12 First, I think we all ought to thank Ambassador Bob
13 Lighthizer, who I call the hardest working man in the
14 trade agreement business. He has talked with a lot of
15 us on multiple occasions. He is a straight-shooter.
16 You cannot ask for more than that. And, colleagues, I
17 guess that is what you get when you have an alum of the
18 Senate Finance Committee, the former staff director.

19 I also want to -- I see Senator Sasse. We have been
20 trying to call you, and welcome you. We are glad you
21 are here. And I am going to close with just one last
22 point.

23 The legislation may be -- this bill we are taking up
24 today -- may be the most significant economic issue the
25 Senate addresses in 2020. Obviously the Senate will

1 also be holding an impeachment trial in the days ahead.
2 Both of these are extraordinarily important matters that
3 deserve to be addressed by the Senate with utmost
4 seriousness.

5 The new NAFTA Agreement must not be used as a
6 convenient excuse to shut down any other business before
7 the Senate.

8 Mr. Chairman, it has been a pleasure to work with
9 you. We have got a lot to do in 2020. I am looking
10 forward to going ahead on our bipartisan health care
11 efforts, for example. So we have got a lot to do in
12 2020, and I thank you for arranging this morning.

13 The Chairman. Thank you very much for your
14 cooperation. This is the order of the first four or
15 five that I have on the list here: Mr. Crapo, and then
16 Senator Menendez, Senator Roberts, Senator Carper. So
17 now, Senator Crapo for three minutes.

1 OPENING STATEMENT OF HON. MIKE CRAPO, A U.S. SENATOR
2 FROM IDAHO

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4 Senator Crapo. Thank you, Mr. Chairman. I too
5 welcome Senator Sasse to the committee. And I want to
6 thank you, Mr. Chairman, and Senator Wyden, for your
7 hard work on this. I also agree with both of your
8 supportive comments, and I want to thank Ambassador
9 Lighthizer and President Trump for helping us get to
10 this place, as well.

11 That we are voting today on the US-Mexico-Canada
12 Agreement is welcome news. I have long maintained that
13 the original North America Free Trade Agreement, NAFTA,
14 needed to be renegotiated.

15 I had concerns with NAFTA because many goods and
16 services originating in the United States received
17 unfair treatment among our trading partners. It also
18 did not provide sufficient market access, nor did it
19 address pricing structures and restrictive trade
20 practices in the dairy industry.

21 President Trump and U.S. Trade Representative Robert
22 Lighthizer's forceful negotiations on behalf of
23 America's farmers and workers fulfills one of the
24 President's core campaign promises. Many Americans will
25 see the benefits of this updated trade deal with two of

1 our country's three largest trading partners.

2 The Agreement is projected to raise U.S. real GDP by
3 over \$66 billion, and create nearly 176,000 jobs. It
4 will expand market access for U.S. farmers with new
5 export opportunities for dairy, poultry, and egg
6 producers.

7 It addresses long-standing non-tariff barriers that
8 restricted U.S. producers' ability to export wheat and
9 wine to Canada. By requiring the use of scientific
10 standards, it will prevent food safety and animal or
11 plant measures from being used as protectionist trade
12 restrictions.

13 It eliminates Canada's Class 6 and 7 milk ingredient
14 price programs that hindered U.S. exports to
15 third-country markets.

16 These changes are predicted to increase U.S. dairy
17 exports to Canada by \$227 million, and Mexico by \$50.6
18 million. Total annual U.S. agriculture and food exports
19 are expected to increase by \$2.2 billion.

20 These are just a few of the benefits that American
21 business in rural communities stand to gain. Beyond the
22 many improvements in the agricultural sector, USMCA will
23 be the first U.S. free trade agreement with a digital
24 trade chapter, creating a foundation to help spur the
25 development of trade and investment in digital products

1 and services. To that end, it will establish
2 information sharing tools to help more than 120,000
3 American small- and medium-sized businesses that export
4 goods and services to Canada and Mexico take advantage
5 of the USMCA.

6 I applaud the President's decision to renegotiate
7 this pact, and commend the efforts of Ambassador
8 Lighthizer to get this deal done.

9 Thank you, Mr. Chairman.

10 The Chairman. Senator Menendez, for three minutes.

1 OPENING STATEMENT OF HON. ROBERT MENENDEZ, A U.S.
2 SENATOR FROM NEW JERSEY

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4 Senator Menendez. Thank you, Mr. Chairman.

5 Back when I served in the House of Representatives,
6 I took a strong stand against NAFTA. I did so because
7 NAFTA lacked strong, enforceable rules to protect
8 workers and ensure that American families actually
9 benefit from trade. I feared NAFTA would only intensify
10 out-sourcing of manufacturing jobs and contribute to
11 stagnant wages for the American middle class. And,
12 unfortunately, I was right.

13 So I was concerned that USMCA would repeat these
14 same mistakes. But now, thanks to the work of
15 Congressional Democrats, the USMCA includes upgraded
16 rules to protect workers across the Continent. And
17 because of these improvements, I will support this
18 Agreement.

19 However, this negotiation was not only a chance to
20 right NAFTA's wrongs, it was an opportunity to lay the
21 foundation for future growth in America's most
22 competitive industries. Unfortunately, we did not fully
23 seize that opportunity.

24 I am disappointed that USMCA lacks strong
25 intellectual property protections that promote

1 innovative jobs in New Jersey and across the country.
2 Future trade agreements must do more to encourage,
3 protect, and reward American innovation.

4 And finally, we have to be clear-eyed about the
5 oversight that lies ahead of us to make our trade policy
6 work for American families. This implementing bill gives
7 the USTR tremendous leeway to choose whether to enforce
8 certain labor violations. It gives the USTR the power
9 to grant or deny individual automotive companies
10 additional time to comply with the complex rules of
11 origin.

12 And these are serious concerns. Even beyond USMCA,
13 we have seen the administration's trade policies sow
14 confusion in other areas -- a threat to put tariffs on
15 Mexico over immigration; unclear criteria for our
16 constituents seeking tariff exclusions; and a China deal
17 that may or may not put an end to the intellectual
18 property theft, cyber espionage, and government
19 subsidies that have damaged America's economy for over a
20 decade.

21 We can debate whether these were the right policy
22 choices, but we should all be able to agree that the
23 USTR must be transparent with the American people about
24 the choices they make.

25 So in order to do that, I plan to introduce a bill

1 to establish an Inspector General for the USTR. Nearly
2 every other cabinet-level agency has a statutory
3 inspector general to increase transparency, make
4 government more accountable, and crack down on waste,
5 fraud, and abuse. It is time USTR had one, as well. And
6 I look forward to working with members of the committee
7 and you, Mr. Chairman, given your deep history on these
8 issues, to bring a new era of accountability to our
9 trade policy to the benefit of American workers and
10 their families.

11 The Chairman. Thank you. Senator Roberts?

1 OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR
2 FROM KANSAS

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4 Senator Roberts. Thank you, Mr. Chairman, for your
5 leadership, for your strong advocacy of the United
6 States-Canada Trade Agreement, USMCA, which also stands
7 for the United States Marine Corps Always.

8 I also want to recognize the efforts of Ambassador
9 Lighthizer. They have worked overtime to get this done,
10 and the whole team at the USTR. Crafting a final
11 product that could gain the support of so many
12 stakeholders is no easy task, especially in today's
13 climate politically. I would just like to say on behalf
14 of the farmers, ranchers, growers, in Kansas and all
15 over the country, they have made one thing very crystal
16 clear over the past year: Pass USMCA now. Times are
17 challenging right now in farm country. They have been
18 ever since 2014. We continue to be at a very rough
19 patch.

20 Now we passed a farm bill a little more than a year
21 ago to provide farmers and ranchers with the certainty
22 and predictability they need to be successful producers.
23 But as important as the farm bill is, I have heard from
24 folks around the country and it is clear they need
25 reliable markets both domestically and abroad, and for

1 this reason I will be supporting the passage of USMCA.

2 I want to say something about the original NAFTA
3 agreement. Back in 2018, the two countries accounted
4 for approximately 30 percent of the value of total U.S.
5 agriculture exports. The value of U.S. agriculture
6 exports to Canada in 2018 was over \$20.8 billion, an
7 increase of 276 percent since NAFTA was signed into law.

8 For exports to Mexico, the value of U.S. agriculture
9 has gone 316 percent, from \$4,6 billion in 1994 to
10 \$219.1 billion in 2018. It seems to me that is pretty
11 good for a Trade Act that has been described as the
12 worst trade bill ever written. I have noticed that
13 because I helped write the bill, along with Kika de la
14 Garza, the beloved chairman of the House Ag Committee at
15 that time. And, according to the U.S. International
16 Trade Commission, the ITC, this is going to provide even
17 more growth potential for America's future.

18 Now what I have been hearing from Kansans is what we
19 need to is get this trade bill done, simply put,
20 A-S-A-P. Get it done.

21 If we are not leading the charge and setting the
22 rules, other countries will, and they are. LBJ once
23 said, "Sometimes you just have to hunker down like a
24 jackass in a hailstorm." That is just about the way our
25 farmers have been doing for the last four years. I do

1 not think we have to do that. I also do think it is
2 good advice. There is a lot of trade cactus out there,
3 trade tariff cactus. I just do not think it is a good
4 idea that we try to sit on every damn one of them.

5 Thank you, Mr. Chairman. I look forward to final
6 passage of the United States-Mexico-Canada Trade
7 Agreement, USMCA.

8 The Chairman. Thank you, Senator Roberts. Now,
9 Senator Carper for three minutes.

1 OPENING STATEMENT OF HON. THOMAS R. CARPER, A U.S.
2 SENATOR FROM DELAWARE

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4 Senator Carper. Thanks, Mr. Chairman. Colleagues,
5 I am reminded today of, as we celebrate John Thune's
6 59th birthday, of an occasion that occurred in the White
7 House. I was chairman of the National Governors
8 Association and we had all the Nation's governors
9 gathered with President Clinton and his cabinet and Vice
10 President Gore, and one of the things we talked about
11 then was NAFTA, and why was he interested in pursuing
12 NAFTA.

13 What he said, he talked about World War II, the end
14 of World War II. The rest of the world was on its back,
15 and we were the 800-pound gorilla in the room. We
16 allowed other nations to put up trade barriers to keep
17 our goods out, goods and services out, and we allowed
18 them to continue to sell to us, mostly without
19 impediment. And he said the reason why we need NAFTA
20 and other trade agreements is not to allow other
21 countries to sell their stuff to us, but to make sure
22 that our businesses have the opportunity to sell to
23 them. And he put NAFTA in that context.

24 Was it everything we hoped it would be? No. I
25 like to say, if it is not perfect, make it better. It

1 was not perfect, and we need to make it better.

2 When our friend, Robert Lighthizer, was nominated to
3 be the Trade Rep, he came to see all of us as he was
4 going through the nominating process, and I suggested to
5 him that he reach out to Michael Froman, Trade Rep
6 during the Obama administration. I said Michael had
7 been involved in negotiating something called "Trans-
8 Pacific Partnership." They had already negotiated
9 pieces of that trade agreement with Canada and Mexico,
10 12 nations in all, 40 percent of the world's trade.

11 And I said to Mr. Lighthizer, I said, before you go
12 reinventing the wheel, find out what was negotiated in
13 the last administration. I urged him to put Michael
14 Froman on his speed dial as he went forward. And to his
15 credit, they have communicated a lot in the last couple
16 of years. I think it has been good for these
17 negotiations.

18 I wish we had not walked away. I wish the last
19 administration -- or rather this administration -- had
20 not pulled us out of TPP. I think that -- the idea that
21 we were leading a 12-nation group for trading, we were
22 the leader, 40 percent of the world's trade, China on
23 the outside looking in. And why we walked away from
24 that agreement, I am not sure, but we did. And now we
25 have USMCA before us.

1 And is it better than NAFTA? You bet it is. And
2 we want to commend those who worked hard to make it
3 better, especially I want to commend the Trade Rep, our
4 Trade Rep who does work hard. I commend a number of our
5 colleagues, Sherrod and our ranking member Ron Wyden,
6 and others, Democrats and Republicans who worked hard.

7 I want to thank especially -- Ben Cardin is not here
8 yet. Sheldon is not here yet. But they worked with me
9 and others on the environmental provisions to make sure
10 that they were enforceable, not just words on a piece of
11 paper, but they are enforceable.

12 I understand that the House, with whom we worked on
13 a number of these provision, the House passed this bill
14 by 385 to 41, bipartisan support. I think this measure
15 deserves that same kind of bipartisan support here.
16 Thank you.

17 The Chairman. Thank you, Senator Carper. Now,
18 Senator Cornyn, for three minutes.

1 OPENING STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR
2 FROM TEXAS

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4 Senator Cornyn. Thank you, Mr. Chairman. This
5 hearing has been a long time in the making, and I am
6 glad we are finally getting around to the USMCA. I want
7 to commend the President and the U.S. Trade
8 Representative for their hard work and determination in
9 achieving this goal, despite consistent political
10 headwinds.

11 I also want to thank Chairman Grassley and his staff
12 for considering an issue important to my state, and the
13 committee report involving a product called "Sotol." I
14 believe that the provisions in the Agreement, absent
15 some clarification in the committee report, would
16 contravene Congressional intent that prohibits deception
17 of consumers with respect to distilled spirits products,
18 that we will look forward to working with the chairman
19 and the House on that pork language.

20 As a Texan, I have long understood and appreciated
21 the close economic relationship with our neighbors to
22 the north and to the south. The U.S. Chamber of
23 Commerce estimates that NAFTA supports about 13 million
24 jobs in the United States.

25 In 2018, Texas exported more than \$137 billion in

1 goods and services to Canada and Mexico. This trade
2 supports an estimated 950,000 jobs in Texas, and has
3 helped make our State's economy the 10th largest in the
4 world, not just in the country but in the world.

5 Much of this is made possible because of NAFTA,
6 which as we know took effect over a quarter of a century
7 ago, and a lot has happened since that time. As
8 beneficial as NAFTA has been in creating positive
9 changes, we can all agree it is time for an update, and
10 that is precisely what the USMCA will do.

11 It brings NAFTA into the 21st Century. It will
12 provide economic certainty, reduce tariffs, and greater
13 opportunity for all sectors including our farmers,
14 ranchers, and producers, manufacturers, and goods and
15 services. It will provide needed infrastructure along
16 the border, as well.

17 I worked closely with Ambassador Lighthizer and the
18 administration to secure funding for the North American
19 Development Bank, which I am glad was included in the
20 Agreement. This will provide \$215 million to strengthen
21 infrastructure and improve quality of life in our border
22 communities, as well as those of our neighbors.

23 Mr. Chairman, while I am sympathetic to a number of
24 the issues that I believe our friend, the Senator from
25 Pennsylvania will raise here, I do believe that this is

1 a good Agreement. It is not a perfect agreement and, on
2 net, I think it deserves my support. Thank you, very
3 much.

4 The Chairman. Thank you, Senator Cornyn. Now,
5 Senator Brown for three minutes.

1 OPENING STATEMENT OF HON. SHERROD BROWN, A U.S. SENATOR
2 FROM OHIO

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4 Senator Brown. Thank you, Mr. Chairman.

5 As many members of this committee know, I voted "no"
6 25 years ago on NAFTA, and have voted against every
7 trade agreement since because every trade agreement has
8 been written by corporations to maximize corporate
9 profits, and to reward corporate executives, always at
10 the expense of workers, always at the expense of the
11 middle class.

12 We have seen the consequences: a shrinking middle
13 class, an economy that works for corporations, but for
14 fewer and fewer workers, especially in the industrial
15 Midwest. President Trump's initial draft of this
16 Agreement was just more of the same, another
17 pro-corporate trade deal written by special interests.
18 But Ranking Member Wyden and I fought for changes
19 alongside Speaker Pelosi and labor leaders that make
20 real and important steps toward putting workers at the
21 center of our trade policy.

22 We know why corporations move jobs overseas. They
23 can pay lower wages. They can exploit workers. The
24 only way to stop that race to the bottom is by raising
25 labor standards in every country we trade with.

1 That is why Ranking Member Wyden and I authored a
2 completely new way of holding corporations accountable,
3 our Brown-Wyden Protection Provision. For the first
4 time ever, a worker in Mexico can report through an
5 anonymous hotline that her employer is violating her
6 right to form a union, and within months we can take
7 action against the company.

8 Brown-Wyden is the first improvement to enforcing
9 the labor standards in our trade agreement since we have
10 been negotiating trade agreements. And when Mexican
11 workers have the power to form real unions, and to
12 negotiate for higher wages, it helps American workers.

13 Right now, Mexican workers can be paid as little as
14 \$6.50 a day -- not an hour -- a day. And we have been
15 asking American workers to compete with that.

16 We have already heard some critics say Brown-Wyden
17 will force Mexican wages to rise. To that, I plead
18 guilty. That is the entire point, to take away the
19 incentive for American companies to shut down production
20 in Mansfield, and Cleveland, and Dayton, and move those
21 jobs to Mexico.

22 I want to especially again thank chairman Wyden,
23 without him endorsing this proposal and pushing it
24 aggressively in the face of an administration that
25 simply did not want to write strong labor standards, and

1 Senator Wyden and I and Speaker Pelosi and the labor
2 movement made the President and Mr. Lighthizer
3 understand there was no agreement unless workers were at
4 the center of the Agreement.

5 I would also like to thank Nora Todd on my staff for
6 her unrelenting work for years, often thinking we were
7 in the wilderness, but coming forward and making this
8 happen. We must be straight with American workers. One
9 deal the Democrats fixed is not going to bring back auto
10 plants like the President promises.

11 I have real concerns that the auto rules-of-origin
12 are much weaker than the administration says. I ask the
13 chairman and the ranking member to commit to working
14 with me to ensure companies actually comply with these
15 rules, and to strengthen them if we need to. And we
16 still have more work to do to make our trade agreements
17 more pro-worker. I am voting yes for the first time on
18 a trade agreement because, by including Brown-Wyden
19 Democrats have made this Agreement, Democrats and the
20 labor movement, much more pro-worker and set an
21 important precedent that Brown-Wyden must be included in
22 every single future trade agreement.

23 Thank you, Mr. Chairman.

24 The Chairman. Senator Brown, thank you. Now,
25 Senator Bennet.

1 OPENING STATEMENT OF HON. MICHAEL F. BENNET, A U.S.
2 SENATOR FROM COLORADO

3

4 Senator Bennet. Thank you, Chairman Grassley and
5 Ranking Member Wyden, for holding this markup, and for
6 your leadership on this matter.

7 Trade with Canada and Mexico is vital for our
8 country's economy, and certainly for Colorado's economy,
9 from businesses on the front range to farmers and
10 ranchers on the west slope, and the eastern plains.
11 Last year alone we exported \$2.7 billion in goods and
12 services to Canada and Mexico.

13 While NAFTA helped establish the trading
14 partnerships, I have long said that we should modernize
15 NAFTA as our economy develops. While President Trump's
16 initial effort fell short, the work that Senator Brown
17 and Senator Wyden did filled the gap ensuring more
18 resources and more tools to hold our trading partners
19 accountable on labor and on the environment.

20 I am thankful for the work on both sides of the
21 aisle to get us to this point, and I support USMCA
22 because it not only maintains key export markets for
23 Colorado, it brings North American trade into the 21st
24 Century.

25 At the same time, we have to be honest. Passing the

1 USMCA will not ease the enormous pain and uncertainty
2 from the administration's feckless trade policy over the
3 last three years. Every day the President's
4 unpredictable behavior cast a shadow of uncertainty over
5 consumers, small businesses, and agricultural producers.

6 This year alone, Mr. Chairman, there is an increase
7 of farm bankruptcies by 23 percent. Farm incomes have
8 fallen, and what they are exporting overseas has dropped
9 like a stone. Every day, farmers and rancher are left
10 to wonder if the President's next tweet will collapse
11 the value of crops they have already planted.

12 And unlike this administration, they know that
13 future growth will come from new fast-growing overseas
14 markets. Instead of securing those markets, the
15 President is ceding them to foreign competitors, while
16 forcing hard-working Americans to bear the costs of his
17 tariffs and trade war.

18 So while I am grateful that Congress is taking swift
19 action to pass USMCA, today's vote is not enough. We
20 must do more to grow export opportunities and lift up
21 standards around the world. And this administration
22 must act responsibly for the sake of American workers,
23 farmers, ranchers, and businesses.

24 Thank you, Mr. Chairman.

25 The Chairman. Thank you. And now it looks to me

1 like we have Thune, Portman, and then Warner.

1 OPENING STATEMENT OF HON. JOHN THUNE, A U.S. SENATOR
2 FROM SOUTH DAKOTA

3

4 Senator Thune. Thank you, Mr. Chairman.

5 This markup has been a long time coming for the
6 farmers and ranchers in my home State of South Dakota
7 and around the country who are struggling. Today we
8 have an opportunity to move forward on a trade deal, the
9 United States-Mexico-Canada Agreement, that would
10 hopefully bring them some relief.

11 Thanks to low commodity prices and livestock prices,
12 natural disasters and protracted trade disputes, farmers
13 and ranchers in my State of South Dakota and around the
14 country have had a tough few years. When I talk to
15 farmers and ranchers at home in South Dakota, they
16 continue to emphasize that the most important thing that
17 Washington can do to boost our agricultural economy is
18 to take action on trade agreements to expand markets.

19 Farmers and ranchers need access to new and expanded
20 markets for their products, and they need certainty
21 about what international markets are going to look like
22 in the future. USMCA will help meet those needs. It
23 will preserve and expand farmers' access to two critical
24 export markets, and it will give farmers certainty about
25 what those markets will look like long term.

1 I am particularly pleased with the improvements the
2 Agreement makes for U.S. dairy products. South Dakota
3 has experienced a major dairy expansion over the past
4 few years, and this Agreement will benefit U.S. dairy
5 producers by substantially expanding market access in
6 Canada where U.S. dairy sales have been restricted.

7 The U.S. International Trade Commission estimates
8 that the Agreement will boost U.S. dairy exports by more
9 than \$277 million. The Agreement will also expand
10 market access for U.S. poultry and egg producers, and
11 will make it easier for U.S. producers to export wheat
12 to Canada. And of course the benefits for the
13 agriculture industry are just one part of this
14 Agreement.

15 Virtually every sector of our economy will benefit
16 from the United States-Mexico-Canada Agreement for
17 manufacturing, the digital services, to the automotive
18 industry. And it should come as no surprise then that
19 the USMCA will create 176,000 jobs and increase wages
20 for workers.

21 Now this is not to say that I do not think the
22 administration could and should have gone further in
23 certain areas. For example, as a consistent supporter
24 of country-of-origin labeling I wish the administration
25 had been able to find a solution to restore COOL, add

1 value to our domestic ag products, and to eliminate the
2 risk of future trade sanctions. But we cannot let the
3 perfect become the enemy of the good. There are
4 thousands of farmers and ranchers in my state, and
5 around the country, who are waiting for the relief this
6 Agreement will bring. It is past time to pass this
7 trade deal. I will be voting yes on USMCA, and I would
8 encourage my colleagues on this committee and in the
9 United States Senate to do the same. Thank you, Mr.
10 Chairman.

11 The Chairman. Thank you, Senator Thune. Now,
12 Senator Portman.

1 OPENING STATEMENT OF HON. ROB PORTMAN, A U.S. SENATOR
2 FROM OHIO

3
4 Senator Portman. Mr. Chairman, thank you. And I
5 want to particularly commend the team at USTR for
6 negotiating this. Bob Lighthizer is not with us this
7 morning because he is working on the next agreement, but
8 it is great to have some of the staff here. I want to
9 particularly point out John Milley, who is a
10 professional staffer with whom I had the opportunity and
11 the privilege to work when I was at USTR, and he was the
12 chief staff negotiator. This has been over two years of
13 hard work. Frankly, it sat up in the House for over a
14 year. It is exciting that we are finally here, and we
15 are going to get this done because it is good for Ohio
16 and it is good for America.

17 It also is important to me that there was a strong
18 vote in the House, because it shows that trade can be
19 bipartisan and that we do have a consensus in this
20 country that we want to export more. We want to do more
21 trading because trading is good for our country.

22 I support USMCA because I believe it is a pro-trade
23 Agreement. It opens new markets. That was talked about
24 earlier. John Thune just talked about the benefits for
25 agriculture. That is certainly true. But also in other

1 ways. It reduces trade uncertainty with the first ever
2 digital trade chapter for NAFTA. It is really important
3 because this is increasingly part of trade, particularly
4 in Ohio. We have got a lot of Internet companies that
5 are going to be benefitted by this.

6 It also eases the Customs burden for small sellers
7 by raising the protectionist de minimis caps in Canada
8 and Mexico. We should be able to do even more, so this
9 is great success. And again, congratulations on what I
10 know was some tough negotiating there. It helps a lot
11 of our small businesses in Ohio.

12 I have already mentioned the Internet Economy Rules
13 that avoid the kind of digital protectionisms that
14 otherwise could happen. But also this
15 level-the-playing-field issue that was talked about
16 earlier. My colleague from Ohio and others have talked
17 about this.

18 The rules of origin is really important to Ohio. We
19 are the number two auto state in the country. Auto
20 manufacturing has become increasingly high tech, and
21 these rules-of-origin for cars are important because
22 they have begun to leak as parts have come in from China
23 and, frankly, other countries that have been free riders
24 on the NAFTA preference. So I think that is
25 appropriate.

1 I do not know why it is considered to be
2 inappropriate to say, look, if you have an agreement
3 with the United States we will give you this preference.
4 If you do not have an agreement, you cannot free-ride on
5 our agreement by coming in. And frankly what it is
6 going to do is encourage other countries to have trade
7 agreements with us. So I think it is a good thing for
8 expanding trade.

9 The rules-of-origin also require that 70 percent of
10 the steel in vehicles made in North America -- are made
11 in North America. That is the first time ever, as well.
12 And I think that is also important. And this is all in
13 USMCA, but not in NAFTA.

14 The NAFTA labor and environmental standards have
15 been talked about. They were promises on paper but not
16 enforceable under NAFTA. Now they are enforceable. It
17 updates the standards, as well, which has not been
18 talked about as much, and that is important, just to
19 bring a 25-year-old agreement up to speed. We had to
20 do that.

21 So, look, is it perfect? No. No agreement is
22 perfect. But this is a big improvement. And a vote for
23 NAFTA is a vote for these improvements. A vote against
24 it of course is a vote for the status quo.

25 I am pleased that Sharon and Gary Finis, who are in

1 Columbus, Ohio, who have contacted me are now going to
2 be able to, in their budding eBay business, to be able
3 to have more access to Canada and Mexico, our biggest
4 trading partners in Ohio by far.

5 I am pleased that Frank Burkett, who has contacted
6 me, who is a dairy farmer whose farm I visited in Canal
7 Fulton, Ohio, is going to be able to sell more to Canada
8 and get his prices up.

9 I am pleased that our auto workers around the state
10 are going to have a more level playing field. This is
11 all critical, and why I think it is so important that we
12 do move forward with this Agreement today.

13 So again, congratulations, Mr. Chairman. I look
14 forward to saying yes today and to getting this onto the
15 Senate floor as soon as possible.

16 The Chairman. Now, Senator Warner for three
17 minutes.

1 OPENING STATEMENT OF HON. MARK R. WARNER, A U.S. SENATOR
2 FROM VIRGINIA

3

4 Senator Warner. Thank you, Mr. Chairman.

5 As we all know, strong trading relationships improve
6 our Nation's economy. I am optimistic that this trade
7 agreement will help American farmers, sports
8 manufacturers, retailers, and workers.

9 As others have pointed out, this deal addresses
10 issues like digital trade that NAFTA could not fully
11 anticipate, and decreases market barriers to
12 agricultural products that have been huge points of
13 concerns for Virginia farmers.

14 I want to add to my colleagues' congratulations to
15 Ranking Member Wyden and my friend Senator Brown, and
16 our House colleagues, because now this Agreement finally
17 includes strong labor protections to ensure that
18 companies in our partner nations are held accountable,
19 and that American workers can compete on a level playing
20 field.

21 Overall, I am hopeful this Agreement will provide
22 the consistency and stability that the business
23 community needs. At the same time, I worry that the
24 process that led us to this point may result in reduced
25 U.S. credibility and trust from our allies and closest

1 trading partners.

2 Throughout the negotiation process, the President's
3 efforts to levy tariffs on Canada and Mexico, and to
4 make repeated threats to withdraw from NAFTA or to
5 heedlessly close the border with Mexico have exemplified
6 the troubling and erratic approach to trade issues that
7 we have seen from the administration.

8 Our trade relationships are a key form of diplomacy,
9 allowing us to increase U.S. influence abroad and deepen
10 our relationships with foreign partners in ways that
11 benefit not just American prosperity but U.S. security
12 and leadership.

13 Alienating our closest allies with the misuse of
14 national security tariffs is counterproductive and
15 endangers American security. That is why Senator Toomey
16 and I have offered the Bicameral Trade Authority Act to
17 curb abuses of the 232 authority.

18 I am hopeful that with ratification of this deal,
19 this committee will have an opportunity to reexamine
20 those efforts in a bipartisan fashion.

21 Finally, and I made an agreement with the ranking
22 member not to raise this issue during these
23 considerations, but I do want to take note that I have
24 serious concerns with the inclusion of Safe Harbor
25 language modeled on Section 230 of the Communications

1 Decency Act.

2 Congress is beginning at this point an important
3 bipartisan debate about whether Section 230 is working
4 as intended, and many, including many prominent civil
5 rights' groups, believe that Section 230 has allowed
6 Internet intermediaries to ignore misuse of their
7 platforms by bad actors. This is an issue that I think
8 needs our attention and I hope that we can revisit it in
9 a bipartisan way.

10 Again, I commend everybody who worked on this. And
11 as I mentioned earlier, it is going to be unique to
12 follow Sherrod Brown on a trade piece of legislation.

13 [Laughter.]

14 The Chairman. Thank you, Senator Warner. Now,
15 Senator Lankford.

1 OPENING STATEMENT OF HON. JAMES LANKFORD, A U.S. SENATOR
2 FROM OKLAHOMA

3

4 Senator Lankford. Mr. Chairman, thank you. About
5 three years ago, President Trump announced that he was
6 going to revisit NAFTA. A lot of folks around the
7 country that had benefitted from NAFTA long term looked
8 at it with a little bit of a nervous eye. NAFTA has put
9 for the last 25 years a really good playing field for
10 having low or no tariffs across North America. What we
11 have seen is billions of dollars in trade in Canada and
12 Mexico, being by far our largest trading partners.

13 For the last two-and-a-half years, the Trump
14 administration, through their negotiations and through a
15 lot of word through the media back and forth of what is
16 going to happen or what is not going to happen at the
17 end of the day, have actually locked in a trade deal.

18 It is a bipartisan trade deal. It is a message to
19 every other country around the world that the United
20 States is going to be a tough trading partner to be able
21 to get into negotiations, but at the end of it we want
22 to get into an actual trade deal and to get something
23 signed and done.

24 My conversations with the President over the last
25 two-and-a-half years have circled over and over again,

1 is your goal to have high tariffs? Or, is your goal to
2 have low or no tariffs? And again and again, he has
3 repeated to me privately, and again and again he has
4 stated in different ways publicly, his goal is to get to
5 low or no tariffs so that we can open up trade. But it
6 has to be a fair process at the end of the day.

7 This revision of NAFTA gets us back to an agreement
8 with Canada and Mexico that gets back to low or no
9 tariffs across North America. It takes the vast
10 majority of the existing zero tariff treatment from
11 NAFTA, forwards that and deals with some of the issues
12 that we have dealt with in Oklahoma for a long time,
13 like wheat. When you drive across the western-northern
14 part of my State, you see beautiful wheat fields. Those
15 beautiful wheat fields feed our kids, feed our families.
16 But when they go into Canada, Canada has a different way
17 of grading that wheat and that drops the price there and
18 has been a problem for Oklahoma farmers for a very long
19 time.

20 This deal finally deals with the wheat issue that we
21 have had in Oklahoma for a long time with NAFTA. This
22 deals with digital trade. It deals with intellectual
23 property. It deals with multiple other updates to
24 agricultural goods like dairy, and eggs, and poultry,
25 things that are exceptionally important and finally get

1 resolved.

2 So there is a lot of good that is in this. I am
3 glad they have kept a lot of the things that had been
4 beneficial in NAFTA in the past, and have done a
5 sufficient update to this in the days ahead because it
6 desperately needed an update.

7 And after two-and-a-half years of consternation
8 across the country of will we actually get a trade
9 agreement done? We are actually getting a trade
10 agreement done. And I hope it sets a platform for every
11 other country negotiating with us to say we actually
12 want to get trade agreements done, and to get everyone
13 to the table and get something finalized.

14 So with that, I thank the chairman. There is a lot
15 of this that I would have done very, very differently,
16 but I am glad that we are sending a message world-wide
17 that we are open to trade again.

18 The Chairman. Thank you, Senator Lankford. Now,
19 Senator Hassan.

1 OPENING STATEMENT OF HON. MAGGIE HASSAN, A U.S. SENATOR
2 FROM NEW HAMPSHIRE

3

4 Senator Hassan. Well thank you, Chairman Grassley
5 and Ranking Member Wyden, for holding this markup to
6 consider the Trade Agreement among the U.S., Canada, and
7 Mexico, known as USMCA.

8 International trade, when done right, helps
9 businesses and consumers alike by expanding opportunity,
10 reducing costs, and boosting economic growth. In
11 evaluating any trade deal, including the USMCA, I use
12 two key benchmarks.

13 First, trade deals must help level the playing field
14 for New Hampshire's and our country's innovative
15 businesses that are competing in the global economy.

16 And second, trade deals must contain strong
17 enforcement mechanisms that protect workers, consumers,
18 and the environment.

19 Thanks to the diligence and good-faith efforts of
20 both Democratic and Republican negotiators, the
21 bipartisan USMCA now meets both of these standards, and
22 I support implementing this Agreement.

23 In terms of competition, the USMCA boosts American
24 businesses by modernizing our current trade agreement
25 which predated Internet commerce, to protect the flow of

1 digital trade, and to better safeguard intellectual
2 property.

3 The Agreement also cuts red tape for small exporters
4 by allowing electronic filing of Customs forms, an
5 important provision for a small business State like New
6 Hampshire.

7 In addition to cutting red tape, the deal cuts costs
8 for small businesses by increasing the share of
9 shipments to Canada and Mexico with duty-free status.
10 Further, the USMCA removes long-standing trade barriers
11 that have prevented dairy farmers in New Hampshire and
12 other states from accessing the Canadian market.

13 When it comes to enforcement, the bipartisan deal
14 that Democrats negotiated with the administration
15 contains major improvements to the Agreement. First off
16 I want to commend Senators Brown and Wyden on their
17 efforts to ensure that the Agreement contains strong
18 labor enforcement mechanisms which helps to remove the
19 incentives that would otherwise encourage the
20 outsourcing of jobs.

21 The bipartisan Agreement also helps protect
22 consumers from soaring pharmaceutical prices by
23 eliminating provisions that would have shielded
24 brand-name drugs from competition.

25 And the USMCA contains funding for environmental

1 protection and measures to help ensure that the
2 administration follows through with enforcement of
3 environmental provisions. I would like to commend
4 Senator Carper for his work on developing and
5 incorporating those provisions in the Agreement.

6 The bipartisan USMCA will work to increase the
7 competitiveness of American businesses, while ensuring
8 the protections in the Agreement are effectively
9 enforced, and I will vote in committee and on the Senate
10 floor to support the Agreement.

11 Thank you.

12 The Chairman. Thank you, Senator Hassan. Now,
13 Senator Daines.

1 OPENING STATEMENT OF HON. STEVE DAINES, A U.S. SENATOR
2 FROM MONTANA

3

4 Senator Daines. Mr. Chairman, thank you.

5 Today marks a very important step for farmers, for
6 ranchers, and small businesses across Montana, as well
7 as around our country. Advancing this important trade
8 deal between the United States, Canada, and Mexico out
9 of the Senate Finance Committee will bring us one step
10 closer to providing more certainty and better access to
11 markets for Montana agriculture.

12 I think it is worth noting, when you look at the top
13 four largest trading partners of the United States in
14 terms of just dollars, it is China, Canada, Mexico,
15 Japan. It is important to stay focused on these large
16 trading partners. We got the good deal done with Japan
17 done recently. The phase one China deal is imminent.
18 And now we are going to be moving forward with Canada
19 and Mexico. This is progress.

20 When you think about that 95 percent of the world's
21 consumers live outside the United States, and as I think
22 about my farmers and ranchers back home, it is all about
23 access to these markets. I am grateful to see us making
24 progress in that regard.

25 My farmers and ranchers across Montana consistently

1 tell me about the importance of trade and the need to
2 move this critical Agreement forward. I repeatedly
3 called on Congress to take action on this trade deal,
4 and I am glad to see it near the finish line.

5 You see, Montana ag is more than just our number one
6 driver of the Montana economy, it is very much our very
7 way of life in Montana. And this Agreement will help
8 ensure we maintain critical access to Canada's and
9 Mexico's import markets and we can maintain it and,
10 importantly, expand it.

11 This trade is expected to create almost 180,000 new
12 American jobs, boost our economy by more than -- by \$70
13 billion in GDP. In fact, in 2018 alone Montana had \$731
14 million in total exports to Canada as well as Mexico.

15 For our producers and our ag-related industries in
16 Montana, this would help provide certainty and alleviate
17 some of the challenges and obstacles they face over a
18 very tough season back home in Montana.

19 Additionally, not only advancing USMCA will improve
20 our trading relationships with Canada and Mexico, it
21 also allows more focus and energy to be placed on
22 opening these new markets for Montana ag, energy, and
23 our small businesses.

24 Ongoing efforts to level the playing field and
25 reduce barriers to trade in China, the EU, Japan, and

1 other critical markets continues to be essential, and I
2 will continue to work with the chairman and the
3 administration to get it done.

4 Again, thank you, Mr. Chairman, for your leadership
5 on the U.S.-Mexico-Canada Agreement, and I look forward
6 to supporting it today and voting for it on the Senate
7 floor soon.

8 The Chairman. Senator Cortez Masto.

1 OPENING STATEMENT OF HON. CATHERINE CORTEZ MASTO, A U.S.
2 SENATOR FROM NEVADA

3

4 Senator Cortez Masto. Thank you, Chairman Grassley,
5 Ranking Member Wyden, and Ambassador Lighthizer. I want
6 to begin by thanking you and your staff for all of the
7 good work that -- and literally tireless work that you
8 have done to negotiate a bipartisan agreement that
9 begins to provide certainty to our businesses here and
10 at home in Nevada.

11 Trade is one of the top concerns I hear from
12 Nevadans. During my time in the Senate, I have heard
13 directly from around 100 business owners in all 17
14 counties in my State, including the dairy industry, that
15 say they need stability. Nevada exports over \$1.8
16 billion in goods to Canada and Mexico, which creates
17 thousands of American jobs in my home State. And
18 Nevadans need a fair trade deal that protects workers
19 and provides businesses of all sizes the ability to plan
20 so that they can grow.

21 Nevadans are concerned with tariffs, market access,
22 a trade war with China, and this USMCA Agreement. Here
23 in Washington I believe we have been making some
24 progress in a bipartisan way to improve and modernize
25 some of these trade agreements.

1 However, I remain concerned that the President and
2 his policymaking by tweet undercuts the effective
3 bipartisan work that is being done. It impacts markets
4 and the ability of Nevada businesses to plan for the
5 future.

6 And Nevada's workers should have a peace of mind
7 that their jobs will not be threatened by erratic
8 policymaking in Washington.

9 During this process, I made it very clear I
10 supported the incorporation of the Wyden-Brown proposal,
11 and I want to thank my colleagues, Senator Wyden and
12 Senator Brown, for fighting to incorporate this proposal
13 into the Trade Agreement.

14 I am thankful we were able to come to a bipartisan
15 compromise and include important labor protections and
16 enforcement provisions. I am proud of Nevada's strong
17 traditional of organized labor. That is why I
18 understand how important it is to protect and fight for
19 unions, to strengthen their bargaining rights so that
20 working families can organize for safer work places and
21 better wages.

22 I vowed to fight to ensure workers' rights are
23 protected in any trade deal. Because labor was at the
24 table when these deals were negotiated, we were able to
25 come to an acceptable agreement.

1 I am also pleased to see in this trade deal that the
2 dairy industry in Nevada will benefit, as well. I
3 acknowledge that this deal was not perfect. It alone
4 will not solve outsourcing and economic inequality. I
5 know our friends in the environmental community have
6 concerns about this Agreement falling short on
7 addressing the climate crisis. I share their sentiment
8 that this administration has repeatedly failed to
9 address or acknowledge the climate crisis. That is one
10 of the reasons why I will continue to fight for real
11 investment in renewable energy technologies, and the
12 protection of our precious natural resources and the
13 environment.

14 These concerns need to continue to be addressed, and
15 I look forward to working with my colleagues to address
16 these concerns. Overall, I am pleased to be able to
17 support this bipartisan Trade Agreement today. Thank
18 you.

19 The Chairman. Thank you, Senator. Now, Senator
20 Toomey.

1 OPENING STATEMENT OF HON. PATRICK J. TOOMEY, A U.S.
2 SENATOR FROM PENNSYLVANIA

3

4 Senator Toomey. Thank you, Mr. Chairman.

5 I think it is worth starting with a reminder of how
6 we got this process started. NAFTA is, after all, a
7 free, and fair, and reciprocal trade agreement. There
8 are zero tariffs on 100 percent of manufactured goods
9 that trade across our borders. Zero tariffs on 97
10 percent of agricultural products, and very, very few
11 obstructions of other forms.

12 Now NAFTA needed to be updated because it is an old
13 Agreement, and the economy has changed. But that is not
14 the real reason that this Agreement was renegotiated.
15 The real reason was because we have a trade deficit with
16 Mexico, and the administration deemed that to be
17 unacceptable.

18 So I think it is useful to think about USMCA as
19 consisting of NAFTA with primarily two categories of
20 changes. One is a category of changes that modernize
21 it. It takes into effect and basically codifies
22 existing practices in the digital economy.

23 But the second category are the changes that are
24 meant to diminish trade and investment. And this, my
25 colleagues, is what I think is wrong with this

1 Agreement. It is the first time we are ever going to go
2 backwards on a trade agreement. The country's specific
3 rules of origins are completely antithetical to a
4 continental free trade agreement and designed to raise
5 the cost to American consumers of buying Mexican cars.

6 The sunset clause. This thing goes poof in 16
7 years. It's gone. That is designed to have a chilling
8 effect on investment. The ISDS mechanism, the Investor
9 State Dispute Settlement mechanism is gone, virtually,
10 in this Agreement. And the new negotiations that came
11 in the last few months, labor provisions, and the
12 removal of the intellectual property protections for
13 biologics I think also take us backwards.

14 Be careful about the ITC report. There is no
15 economic growth here. There is a little tiny bit of
16 growth that they attribute to the codification of the
17 existing trade practices and digital technology, but
18 they acknowledge that the trade restricting provisions
19 will diminish jobs and economic growth. And they do not
20 even attempt to quantify the adverse effect of the
21 sunset clause.

22 Finally, on process. In significant ways it seems
23 to me that this committee is getting rolled, and we
24 should not do that. We are being made increasingly
25 irrelevant in a process of trade negotiation which is a

1 Constitutional responsibility assigned to us. TPA is a
2 delegated authority to the administration and this
3 Agreement, Mr. Chairman, in my view is not in compliance
4 with TPA.

5 A case in point in example here is, we are not
6 having a markup today. As we all know, this is not a
7 mock markup of a draft implementing legislation. This
8 bill was already passed by the House. There are no
9 amendments going to be permitted. No changes can be
10 made. And in the past, every single trade agreement has
11 come before this committee with a mock markup for the
12 express purpose of allowing us to discover whether there
13 is a consensus about some changes which could be
14 recommended to the administration in the form of
15 amendments, and which could then be incorporated in a
16 final draft. All of that is being dispensed with.

17 So, Mr. Chairman, in my view we have taken a free
18 trade agreement that needed modernization -- and there
19 is modernization. But then we have slapped on all of
20 these provisions designed to restrict trade and
21 investment. We get no economic growth out of this, and
22 we, the Senate, and the Senate Finance Committee, are
23 allowing ourselves to be marginalized.

24 This should not be a template for going forward.
25 And since it is not compliant with TPA rules, it seems

1 to me it ought to be considered under regular order.
2 Where, by the way, there are plenty of votes to pass it
3 under regular order. I think for the sake of the
4 integrity of TPA, and for legislative filibuster, we
5 should not consider this under TPA.

6 Thank you, Mr. Chairman.

7 The Chairman. Thank you, Senator Toomey. Now it
8 will be Senator Casey. And I am going to step out for a
9 minute, so after Casey's three minutes are up, Senator
10 Sasse is up.

1 OPENING STATEMENT OF HON. ROBERT P. CASEY, JR., A U.S.
2 SENATOR FROM PENNSYLVANIA

3

4 Senator Casey. Mr. Chairman, thanks very much.

5 As the Auditor General of Pennsylvania, way back in
6 the 1990s, I opposed NAFTA. That was in 1997, to be
7 specific. In the interim period, as a public official
8 in our State I fought a lot of battles for workers and
9 for worker rights.

10 When President Trump came into office in 2017, I was
11 somewhat hopeful that he would stay true to his word on
12 trade. However, in 2018 he signed a corporate trade
13 deal which only improved -- only was improved, I should
14 say, by the Herculean efforts by Democrats and by the
15 men and the women of organized labor.

16 I applaud those efforts over many, many months now.
17 And I will support this Agreement. We must be
18 clear-eyed, though, about what this Agreement does do
19 and what it does not do.

20 This Agreement will not fix outsourcing. It will
21 not do nearly enough to bring jobs home, or rebuild our
22 communities which have been devastated by trade over
23 time. But this Agreement is a measurable improvement on
24 the status quo and represents a step forward in what
25 trade proposals of the future should look like.

1 I applaud the work of Speaker Pelosi, Senator Brown,
2 Senator Wyden, and other members of this committee who
3 have fought to get this to a better place on NAFTA
4 rewrite. Our State of Pennsylvania has paid a high
5 price when it comes to trade, and we must continue to
6 move forward to ensure the mistakes of the past are not
7 repeated and new mistakes are not made.

8 For example, the Economic Policy Institute estimates
9 that NAFTA eliminated 850,000 jobs nationally, most of
10 them in manufacturing. According to a 2015 Economic
11 Policy Institute report, Pennsylvania lost 314,000
12 manufacturing jobs, 5.7 percent of total employment,
13 between 1998 and 2013 -- 314,000 manufacturing jobs.

14 The President said he is for workers, but he seems
15 to work only for corporations. Make no mistake about
16 it. Democrats and labor unions are the reason this
17 Agreement has enforceable labor standards. Democrats
18 and labor unions are the only reason this Agreement has
19 enforceable standards on the environment. Just as clear
20 is the President's track record on workers and families.

21 President Trump gave large multinational
22 corporations tax incentives to offshore manufacturing
23 jobs. He eliminated the deduction for union dues. He
24 is trying to decimate the Patient Protection and
25 Affordable Care Act, and he has appointed anti-worker

1 corporate judges to virtually every level of our
2 Nation's Judiciary.

3 This Agreement that we are considering now is, as I
4 said, a measurable improvement. Unfortunately, the
5 Agreement the President signed in October of 2018
6 contained zero improvements to trade enforcement, and
7 was deficient in both labor and environmental
8 protections. Democratic efforts made today's vote
9 possible, and I applaud those efforts.

10 Thank you, Mr. Chairman.

11 Senator Wyden (presiding). Thank you for your
12 efforts on the labor protections as well.

13 Senator Sasse, for his first day here and his
14 opening address to the committee.

1 OPENING STATEMENT OF HON. BEN SASSE, A U.S. SENATOR FROM
2 NEBRASKA

3

4 Senator Sasse. Thank you, Ranking Member. "Opening
5 Address" feels a little too august, but to you and the
6 chairman, thanks for inviting me. To all of you on the
7 committee, you know good reasons why this is regularly
8 referred to as the most powerful committee in the
9 Congress. The work here affects moms and dads, farmers
10 and ranchers, patients and doctors, taxpayers, present
11 and future, and so, Mr. Chairman, thank you for having
12 me serve on this committee and for your welcome. And it
13 is good to follow you in your chairmanship on a second
14 committee.

15 I am also extremely eager to have my first vote on
16 this committee be the U.S.-Mexico-Canada Agreement.
17 USMCA should have been done a long, long time ago. It
18 languished in the House for reasons that are not really
19 that defensible, but it is great that we are finally
20 going to have the opportunity to vote on this Trade
21 Agreement.

22 Senator Toomey made a bunch of important comments
23 that I agree with, as well. And yet we need to, given
24 political realities, get this Agreement across the
25 finish line.

1 The USMCA comes at a critical time for Nebraska
2 agriculture. Here is the bad news. Farmers have
3 experienced low commodity prices, excessive supply,
4 weather disasters, global trade disruptions, and the
5 farm economy, as the Senator from Kansas has said, is
6 embarrassingly sluggish. But here is the good news.
7 The USMCA Trade Agreement strengthens our trading
8 relationships with North American neighbors. It is also
9 the foundation for some future trade agreements in terms
10 of modernization of rules and regulations, laws and
11 obligations with conformity, transparency, and
12 verification.

13 According to the USDA, Economic Research Service,
14 Nebraska exported almost \$7 billion of agricultural
15 commodities in 2018. That puts Nebraska sixth in the
16 Nation in trade, in ag exports behind California, Iowa,
17 Illinois, Minnesota, and Texas. If you know your
18 demography, Nebraska is by far the lowest population
19 state of those big six. So the value of Nebraska
20 exports consistently accounts for 30 percent of our
21 state's total agricultural receipts.

22 The USMCA Trade Agreement provides security, market
23 access, long-term stability, and growth not only in
24 quantity but also in the value of our products sold to
25 North American trading partners.

1 This Agreement further lays the foundation for
2 future agreements for protection against foul play from
3 China. More mutually beneficial trading agreements will
4 strengthen our position against exploitative trade
5 practices that undermine American influence worldwide.

6 So, Mr. Chairman, and members of this committee, I
7 am proud of the efforts by the U.S. Trade
8 Representative. Ambassador Lighthizer is away on
9 different work, but as one of only two Republicans who
10 voted against his confirmation because I have a more
11 pro-free trade view than the Ambassador on a lot of
12 issues, I want to compliment him and his team on the way
13 they have dialogued with us and worked with us. The
14 Ambassador has been a prince of a man in terms of his
15 willingness to engage, and educate, and tutor.

16 Here is the bottom line: Nebraska is ready to keep
17 feeding the world, and we need open trade markets to do
18 so. We should get the job done.

19 Thank you, Mr. Chairman.

20 The Chairman. Senator Young, for three minutes.

1 OPENING STATEMENT OF HON. TODD YOUNG, A U.S. SENATOR
2 FROM INDIANA

3

4 Senator Young. Thank you, Mr. Chairman, ranking
5 member. As all my colleagues have iterated, I am
6 pleased we have come to this moment in the Finance
7 Committee. It has taken a bit longer than many of us
8 would have liked, and I hope in the future free trade
9 agreements can be considered more expeditiously.

10 But nonetheless, here we have this Agreement, USMCA.
11 And while not perfect, I know how critical USMCA is for
12 the State of Indiana and for our entire country for farm
13 country, for manufacturers, and for business of all
14 sizes.

15 In my state, trade certainty with Canada and Mexico
16 is vital. Over 233,000 jobs are directly attributable
17 to our trade with Canada and Mexico. Our exports total
18 \$19 billion worth of goods and services, with
19 transportation equipment, and chemicals, and machinery
20 among the largest export categories.

21 Our auto exports to Canada and Mexico have
22 significantly increased in recent years. Since 2010,
23 they have more than doubled. But what is really
24 important is that over 70 percent of transportation
25 equipment exports come directly from small- and

1 medium-size enterprises. By facilitating an environment
2 that enhances market access to our largest trading
3 partners, we support these local businesses that truly
4 invest in workers through higher wages and other
5 benefits, and we thereby strengthen our local
6 communities.

7 USMCA gives farmers much needed tools through
8 eliminating unnecessary market barriers, expanding
9 market access, and improving processes around bio tech
10 approvals. Hoosier farmers benefit from a reliable
11 trading relationship with our neighbors, especially as
12 the future remains uncertain with many countries.

13 For these reasons and for many others, I will be
14 supporting USMCA. Thank you, sir.

15 The Chairman. Thank you. Senator Cantwell for
16 three minutes.

1 OPENING STATEMENT OF HON. MARIA CANTWELL, A U.S. SENATOR
2 FROM WASHINGTON

3

4 Senator Cantwell. Thank you, Mr. Chairman.

5 The State of Washington is one of the most trade
6 dependent economies in our country, and we certainly
7 believe in opening new markets. And this Agreement,
8 while I could focus today on leave theory and the
9 digital aspects, or the need to have better enforcement
10 on aerospace, I want to spend my time talking about the
11 \$240 million we are going to spend on ensuring that
12 Mexico has capacity building protections. That is, for
13 rights to organize and bargain collectively.

14 I want to thank my colleagues, Senators Brown and
15 Wyden, for helping to implement these provisions on
16 enforcement, but also recognizing that the twin sister
17 of enforcement is capacity building.

18 Why do I believe that we need to focus on capacity
19 building? When we passed the Customs bill for trade
20 promotion authority, we created a \$30 million
21 enforcement trust fund. That trust fund has been used
22 to bolster agriculture of our economy by also being used
23 to stop illegal logging in South America, to send
24 Chinese a warning about tariffs and quotas on wheat and
25 to get that changed, and to fight European subsidies for

1 commercial aircraft.

2 So that capacity that we put into the Customs bill
3 has helped us make trade work. The same thing is clear
4 here. If we want to make trade work in countries that
5 do not really understand how to make it work
6 successfully, we can demand all we want but the United
7 States of America has to be a willing partner in
8 building capacity.

9 So why do I think this is so important? Well, it is
10 a roadmap for where we need to go. This is the first
11 time that I know of where business and labor, companies
12 like Coca-Cola and the AFL-CIO, are in agreement about
13 how to make the rules of the road. They are saying
14 specifically we believe in the United States of America
15 helping these countries build the judicial system, the
16 labor enforcement system, the protection against child
17 labor violations, and all the things that are so
18 important to make a good trading partner.

19 This is a far cry from building a wall. So in a lot
20 of ways this bill is a lot more Trump gun than it is
21 Trump. And this is the point I want to make this
22 morning. If our country wants to recognize the growing
23 middle class around the world, the huge economic
24 opportunity that is a tipping point has occurred, there
25 are more middle class people than poor people now in the

1 global economy. It is trillions of dollars of economic
2 opportunity.

3 So let us build relationships. Let us build
4 enforcement. Let us build capacity, and let us get on
5 with what my state already knows, that trade is a great
6 economic opportunity for our future economy.

7 Thank you, Mr. Chairman.

8 The Chairman. Senator Stabenow.

1 OPENING STATEMENT OF HON. DEBBIE STABENOW, A U.S.
2 SENATOR FROM MICHIGAN

3

4 Senator Stabenow. Thank you very much, Mr.
5 Chairman and Ranking Member.

6 As I often say, in Michigan we make things and grow
7 things. Because we make things and grow things, trade is
8 a critical part of our economy, and we are clearly a
9 border state. Trade is particularly critical with
10 Mexico and Canada, our two largest trading partners.

11 For a trade agreement to be effective for American
12 families, we need to make sure we are exporting our
13 products and not our jobs. And that is the test for me.
14 Unfortunately, since NAFTA went into effect, for more
15 than two decades workers and families in Michigan have
16 seen manufacturing jobs and their livelihoods outsourced
17 to Mexico.

18 NAFTA created a race to the bottom with major
19 incentives for companies to ship their manufacturing
20 jobs and facilities to Mexico so they could pay the
21 lowest wage and offer the lowest benefits possible.

22 When the Trump administration announced they would
23 renegotiate NAFTA, I agreed that a review and a
24 modernization was long overdue. However, when the
25 administration announced that they had reached a deal in

1 2018, they touted a new agreement that was essentially
2 the old NAFTA for working men and women.

3 There was still no meaningful enforcement to
4 guarantee a level playing field, and it was clear to me
5 that Michigan workers had been betrayed. So I did not
6 support that agreement.

7 Instead, I joined with Democratic colleagues led by
8 Senator Brown and Senator Wyden who have done excellent
9 work to dramatically improve the Agreement and add more
10 tools on leveling the playing field for workers and
11 protecting American jobs.

12 Because of these substantial improvements, I now
13 intend to support this Agreement. But it is not enough
14 to have words on a piece of paper. These new
15 enforcement tools must be used. It is up to the
16 administration and to Congress to vigorously monitor and
17 enforce this Agreement.

18 We need a fair trading system that actually
19 addresses labor, environmental, and other violations
20 swiftly when they occur. For example, we were also able
21 to end Canada's Class 7 milk pricing scheme, an issue I
22 have worked on for a long time, and I want to thank
23 Ambassador Lighthizer for his efforts in making this a
24 priority.

25 This pricing scheme allows Canada to manipulate the

1 price of their milk, which in turn lowers the demand for
2 U.S. milk exports. Enforcement of this new language is
3 critical for American dairy producers. Again, making
4 sure Canada abides by their obligations on dairy and
5 ensuring Mexico follows through on their constitutional
6 reforms will only be successful if the new enforcement
7 tools Democrats secured are actually used.

8 I also want to take a moment to say what is not in
9 this Agreement, and the work that still needs to be done
10 for American workers and families.

11 We should be passing legislation like my Bring Jobs
12 Home Act to close loopholes that reward companies when
13 they offshore American jobs. It is also critical, Mr.
14 Chairman, that we make updates to Trade Adjustment
15 Assistance to support Americans who lose their jobs
16 because of trade impacts.

17 Soon I will be introducing a Trade Adjustment
18 Assistance Reauthorization bill to modernize, reform,
19 and strengthen TAA for workers who continue to be harmed
20 by unfair trade practices. Usually Trade Adjustment
21 Assistance moves as part of a trade agreement, as we
22 know. Because this is not happening with USMCA, I urge
23 that we support displaced workers, that they be a
24 priority for future action in this committee.

25 Again, on behalf of the people of Michigan, I am

1 laser focused on making sure we are exporting products,
2 not jobs, and this bipartisan Agreement creates the
3 tools to do that if we use them.

4 Thank you, Mr. Chairman.

5 The Chairman. Senator Whitehouse.

1 OPENING STATEMENT OF HON. SHELDON WHITEHOUSE, A U.S.
2 SENATOR FROM RHODE ISLAND

3

4 Senator Whitehouse. Thank you, Mr. Chairman. I
5 will be a no vote on environmental concerns. I
6 recognize that a lot of progress has been made in this
7 Agreement on trade and labor issues, and I want to thank
8 on our side particularly Ranking Member Wyden and
9 Senator Brown for the impressive work that they have
10 done to make those improvements. There has actually
11 even been a lot of progress made on environmental
12 issues, and I want to thank Senators Carper and Cardin
13 for their hard work there.

14 But the progress that has been made on environmental
15 issues started from an embarrassingly, really
16 disgracefully low bar, nonexistent bar. So this
17 Agreement does not reflect a sense of urgency about what
18 I feel is an appropriate sense of dread about the
19 climate calamities that are unfolding. The wildfires
20 now burning in Australia, the trillions of gallons
21 shedding off the Greenland Ice Cap. The Earth is
22 sending us profound signals that we have knocked things
23 out of whack on our only home.

24 My State of Rhode Island is facing a new map because
25 sea level rise will force that change.

1 The USMCA does not even mention climate change.
2 That name, that word, that phrase does not even appear.
3 The question for me is: Does this Agreement work toward
4 protecting us from warming above 1.5 degrees centigrade,
5 or does it not?

6 And in my view, it does not. We have never, ever
7 had CO2 levels on this planet at the levels we see now
8 in the entire history of our human species. It breaks
9 my heart to see Congress sleepwalking into catastrophe
10 on carbon emissions, and it angers my heart to see the
11 fossil fuel industry still so deliberately
12 incapacitating us from taking necessary action.

13 So for these reasons, sadly I will vote no.

14 The Chairman. Now Senator Whitehouse -- now,
15 Senator Scott.

1 OPENING STATEMENT OF HON. TIM SCOTT, A U.S. SENATOR FROM
2 SOUTH CAROLINA

3

4 Senator Scott. Thank you, Mr. Chairman. And thank
5 you to you and your staff for your hard work and
6 dedication on this deal. It is certainly not a perfect
7 deal, and not necessarily the deal that I would like us
8 to be discussing today, but it certainly is a step in
9 the right direction.

10 South Carolina is a great case study in the effects
11 in a post-NAFTA world. Our textile community was
12 decimated in many ways, from our perspective, because of
13 NAFTA. The good news is we had an opportunity to
14 recreate our economy, and we recreated our economy
15 around high-tech manufacturing. And today in South
16 Carolina companies like BMW, Bosh, Michelin, and Volvo
17 have all made South Carolina their home.

18 FDI, or Foreign Direct Investment, is a major part
19 of the lifeblood of the South Carolina economy. BMW
20 just recently celebrated 25 years of presence in South
21 Carolina. That is 25 years, \$11 billion invested,
22 11,000 workers, 4 percent of our state's employees who
23 are a part of the automotive industry.

24 So as this committee considers this Agreement, this
25 administration and future administrations must remember

1 that innovation is what drives American to greatness.
2 Innovation propelled by our workers like the 4 percent
3 of South Carolinians in the auto industry is what drives
4 a successful economy.

5 Additionally, our ag community, our soybean
6 producers concur that the benefits of this Agreement
7 outweigh the downside. Dairy farmers like Lynn Easter
8 now have the gold standard to sell in Canada in a fair
9 and competitive market.

10 As this Agreement moves forward towards
11 implementation, I plant to keep a very focused eye on
12 how the rules and regulations surrounding this new
13 automotive regime are carried out. Our regulatory
14 environment should never be one that stifles innovation.

15 Thank you.

16 The Chairman. Senator Cassidy.

1 OPENING STATEMENT OF HON. BILL CASSIDY, A U.S. SENATOR
2 FROM LOUISIANA

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4 Senator Cassidy. Yes, thank you, Mr. Chairman.

5 First let me compliment the President and Ambassador
6 Lighthizer and their staff for the USTR for the
7 significant time they have spent fine-tuning this
8 Agreement. You all have worked hard. I applaud that,
9 and I thank you for that effort. Ambassador Lighthizer
10 has made himself available. And I also want to
11 compliment him on that.

12 That said, I take issue strongly with the process
13 that is taken before us. As a body, we continue to
14 drift away from regular order. We have not held a mock
15 markup or allowed amendments. Therefore, giving members
16 of this committee little input.

17 There is one specific example I will give to that.
18 The Investors State Dispute Settlement System, when it
19 comes to the interview sector, is no longer allowed
20 except for the super majors that contract directly with
21 the Mexican Government. But if you are the oilfield
22 service provider, or the pipeline producer, you are not.

23 Now I can tell you, Exxon-Mobil can take care of
24 themselves. But if you are the oilfield service
25 provider, you cannot.

1 And to Senator Whitehouse's point, my gosh, would it
2 not be great if we were taking that natural gas
3 currently being flared into the atmosphere out of West
4 Texas into Mexico where the Mexican Government could
5 then replace coal or fuel oil being burned with lower
6 greenhouse gas emitting natural gas?

7 Now only would we not flare in the deciperman, but
8 we would be substituting that for a higher greenhouse
9 gas producing fuel in Mexico. But we do not have the
10 Investor State Dispute Settlement System for the person
11 that builds that pipeline.

12 Now they are going to do so anyway, I gather, but if
13 it is later nationalized there is no recourse for them.
14 I cannot help but notice that the House got a lot of
15 stuff, because the House actually had the ability to say
16 we are not going to do this unless we get -- unless we
17 get all demands met.

18 We have not had that ability. So we have not had
19 that ability to say wait a second. This does not make
20 sense. The super majors can take care of themselves,
21 but the oilfield service provider, or the pipeline
22 builder, less so. And that could have benefits not just
23 for our economy, not just for the certainty for the
24 Mexican economy for investment, but also for issues such
25 as climate change.

1 I am very disturbed by that, and I think we continue
2 to cede power from this committee to others to the
3 detriment of our society. I yield back.

4 The Chairman. Okay, now for the people that are at
5 the table for the next part of our review, we have Mayur
6 Patel of the Republican staff; and Greta Peisch of the
7 Democratic staff. We also have John Melle and Maria
8 Pagan from the Office of the U.S. Trade Representative
9 here to answer questions.

10 Thank you all for participating, and we are going to
11 ask Mr. Patel to give a brief overview of the bill
12 before we go to questions. And when we go to questions,
13 I will call on you the way you asked recognition. Mr.
14 Patel?

15 Mr. Patel. Thank you, Chairman Grassley, Ranking
16 Member Wyden, members of the committee.

17 I will start with a general overview, and then
18 proceed to discuss the titles of the bill. The USMCA
19 implementing bill ensures that the various commitments
20 and rights of the United States under USMCA are
21 effectively implemented. And, that there is a smooth
22 transition from NAFTA to USMCA.

23 To that end, the implementing bill contains
24 provisions implementing that USMCA commitment,
25 provisions to transfer and amend former NAFTA

1 implementation act provisions into the USMCA
2 Implementation Act, and a provision to repeal what
3 remains of the NAFTA Implementation Act. Several
4 provisions specify particular effective dates to
5 facilitate the transition.

6 With respect to the specific titles in the bill,
7 there are nine, which I will briefly summarize.

8 Title I, Approval of and General Provisions Relating
9 to the USMCA. This title includes provisions providing
10 for Congress's approval of the USMCA and related
11 protocols, and a statement of administrative action, and
12 the President's Tariff Proclamation authority and
13 agencies' regulatory authority to implement USMCA.

14 Title II, Customs Provisions. This title includes
15 provisions providing for rules to determine whether a
16 good qualifies for USMCA's benefits, including special
17 rules that apply to automotive goods, the establishment
18 of an interagency committee to review USMCA's
19 implementation, an operation with respect to automotive
20 goods, record-keeping requirements on persons completing
21 USMCA's certifications, and authority for the Secretary
22 of Treasury to conduct verification actions on USMCA
23 preferential duty claims.

24 Title III, Application of USMCA Spectrum and
25 Services. This title includes provisions establishing a

1 process with U.S. International Trade Commission to
2 investigate whether Mexican trucking carriers are
3 causing material harm to the U.S. long haul trucking
4 industry.

5 Title IV, Antidumping and Countervailing Duties.
6 This title includes provisions providing for the
7 Commissioner of U.S. Customs and Border Protection to
8 take into consideration that Canada and Mexico are USMCA
9 parties for purposes of trade enforcement and compliance
10 assessment, activities relating to evasion of
11 antidumping and countervailing duties. It also includes
12 conforming amendments to reflect that the binational
13 panel system under Chapter 19 of NAFTA will continue
14 under Chapter 10 of USMCA.

15 Title V, Transfer Provisions and Other Amendments.
16 This title includes provisions that transfer and amend
17 provisions from the NAFTA Implementation Act into the
18 USMCA Implementation Act, such as provisions dealing
19 with duty drawback and relief from import competition
20 under the Trade Act of 1974.

21 Title VI, Transition To and Extension of USMCA.
22 This title has three subtitles.

23 Subtitle A repeals the NAFTA Implementation Act and
24 provides for the continued suspension of the U.S.-Canada
25 Free Trade Agreement.

1 Subtitle B imposes requirements on the President to
2 consult with the appropriate Congressional committees
3 regarding actions to the USMCA Joint Review Mechanism,
4 including whether to extend the term of USMCA.

5 Subtitle C provides that the USMCA Implementation
6 Act will cease to have force to any country that is no
7 longer a USMCA country, or if the USMCA ceases to be in
8 force with respect to the United States.

9 Title VII, Labor Monitoring and Enforcements. This
10 title has five subtitles relating to labor rights and
11 obligations under USMCA.

12 Subtitle A establishes an interagency labor
13 committee for monitoring and enforcement. It will
14 coordinate implementation and compliance for labor
15 obligations, make recommendations to USTR for
16 enforcement actions, and facilitate submissions to the
17 public regarding USMCA countries' potential failure to
18 implement its labor obligations under the Agreement.

19 Subtitle B provides that the Secretary of Labor will
20 hire or assign five labor attaches to assist the
21 Interagency Labor Committee. The attaches will be based
22 at the U.S. Embassy in Mexico.

23 Subtitle C establishes an independent Mexico Labor
24 Expert Board that will issue assessments of Mexico's
25 efforts to implement its labor reforms in compliance

1 with its labor obligations under USMCA.

2 Subtitle D establishes a Labor Enforcement Task
3 Force to monitor U.S. enforcement on the prohibition of
4 importation of goods manufactured by convict or forced
5 labor.

6 Subtitle E concerns the rapid response mechanisms
7 set forth in Annex 31-A of the USMCA, in particular the
8 provisions provide USTR authority to suspend liquidation
9 of entries of goods from covered facilities and apply
10 final remedies only if a panel of independent expert
11 labor experts finds a denial of rights.

12 Title VIII, Environment Monitoring and Enforcement.
13 This title has three subtitles relating to environmental
14 obligations under USMCA.

15 Subtitle A establishes an Interagency Environment
16 Committee for monitoring and enforcement. The committee
17 shall carry out an assessment of whether USMCA
18 countries' environmental laws are sufficient to meet
19 USMCA's obligations.

20 Subtitle B provides that the EPA Administrator shall
21 carry out treatment works to address pollution resulting
22 from the international transboundary water flows from
23 Mexico.

24 Subtitle C provides for capital reauthorization for
25 the North American Development Bank.

1 And Title IX, USMCA's Supplemental Appropriations
2 Act 2019. This title appropriates \$843 million to
3 implement, monitor, and enforce USMCA's labor and
4 environment obligations, and to recapitalize the North
5 American Development Bank.

6 Mr. Chairman, that concludes my presentation of the
7 bill. Thank you.

8 The Chairman. Senator Toomey.

9 Senator Toomey. Mr. Chairman, I have a question and
10 I would like to follow that up with an amendment that I
11 understand you are going to rule out of order. So let
12 me direct my question to Mr. Melle.

13 Could you just tell me, what was the date on which
14 the complete, final legal text of the Agreement was
15 transmitted to Congress?

16 Mr. Melle. May 30th of last year, along with a
17 draft SAA.

18 Senator Toomey. Okay, so my colleagues, I just
19 listened to, I think, every single Democrat on this
20 panel talk about how significant, meaningful, important
21 the changes in the Agreement were that occurred after
22 May 30th.

23 I heard many of my Democratic colleagues say that
24 they opposed the May 30th Agreement, but I think I heard
25 most of my Democratic colleagues say that they now

1 support the Agreement because of all the major changes
2 that have occurred. We all know that is what happened
3 here. We had an Agreement on May 30th that was not
4 acceptable to most Democrats, not acceptable to the
5 Speaker of the House.

6 And so negotiations continued with Bob Lighthizer
7 and Speaker Pelosi and other figures, I do not know who
8 they were, and major changes were negotiated. That is
9 all fine. That is all fine. But the problem is, those
10 changes were not finalized until December 10th.

11 Transmit that -- all of those changes that you folks
12 have said are the reason you are supporting this came to
13 us on December 11th. And TPA is very clear. It says
14 that any agreement shall enter into force if and only if
15 the President at least 30 days before submitting to
16 Congress the materials under subparagraph (e), which is
17 the implementing bill, submits to Congress a copy of the
18 final legal text of the Agreement.

19 We all know that that final legal text was not here
20 until December 11th. The House voted anyway a week
21 later. And here we are today totally jammed by the
22 House and this process, not even able to offer an
23 amendment.

24 Senator Cassidy suggested an idea for an amendment
25 that certainly ought to have merited some consideration

1 by this committee, and I have a suggestion. And to
2 illustrate this point, I am going to offer this
3 amendment, Mr. Chairman, because as I indicated earlier,
4 USMCA expires in 16 years unless all three parties
5 simultaneously and mutually agree to extend it for 6
6 years, okay?

7 Well the implementing bill is silent on any process
8 by which the U.S. would come to the decision as to
9 whether or not to extend it for another six years. All
10 it does, it states that the head of state, that is the
11 President, will transmit the decision, but it does not
12 say how we get to that decision. So who is going to
13 decide?

14 Does the President decide? Does Congress have any
15 say in that at all? Or are we just passive witnesses,
16 bystanders, while others decide about our Constitutional
17 responsibility? Do you think there is a chance it could
18 be disputed? I do.

19 So I have an amendment. It is Toomey Amendment No.
20 1. And it says: The Amendment would insert at 621,
21 Section 621, language requiring both Houses of Congress
22 to affirmatively vote to have USMCA expire pursuant to
23 the underlying agreement's sunset clause. In the
24 absence of said Congressional votes, the default U.S.
25 position shall be that USMCA ought to be extended for

1 another six years.

2 So all this does is it says that Congress gets to
3 decide, or at least play a role in making the decision
4 about whether or not this Agreement is extended or
5 expires. It does not require renegotiating the
6 Agreement. It does not require reopening. Nobody has
7 to fly to Mexico to determine whether it is okay with
8 the Mexicans. This is our decision, the United States
9 of America, and the question is whether or not Congress
10 would have a role.

11 This is the kind of thing that in a proper mock
12 markup I think we would have an interesting discussion.
13 There is nothing partisan about this idea, by the way,
14 nothing at all. I could imagine this could come out in
15 many ways. It is exactly the kind of thing that ought
16 to be debated and adjudicated in this committee, in my
17 view. And I would like to have a vote on this, Mr.
18 Chairman.

19 The Chairman. Okay, well first of all, the bill is
20 privileged under the Trade Promotion Authority and thus
21 amendments are prohibited. The amendment is out of
22 order and Toomey is in his right to appeal the ruling of
23 the Chair, and I would ask that we would vote no on that
24 motion. The Clerk will call the roll.

25 Senator Toomey. Mr. Chairman, as I thought my staff

1 had indicated, I am prepared not to appeal the ruling of
2 the Chair on this. I think I know what the outcome is
3 going to be on this. But I want to make a point.

4 The fact that the 30-day window was not adhered to
5 means this legislation is not compliant with TPA. We
6 should not be considering it under TPA, and that is not
7 going to stop it from passing. There are 60 votes that
8 do this to regular order. But this amendment is I think
9 a completely reasonable, germane, relevant issue that
10 ought to be litigated by the committee.

11 The Chairman. I would like to, just for a minute,
12 speak to the point that Mr. Toomey made in regard to the
13 substance of his amendment. I want to note that the
14 administration, at my request, revised the bill to
15 include Section 611 to ensure that Congress and the
16 administration work together in any decision regarding
17 extending USMCA's terms. This is another example of how
18 the administration consulted with Congress in developing
19 the bill.

20 Senator Menendez?

21 Senator Menendez. Thank you, Mr. Chairman. I have
22 one or two questions.

23 Ms. Peisch, yesterday ProPublica published a story
24 that showed how big, well-connected businesses have been
25 able to hire expensive trade lobbyists to advocate for

1 their tariff exclusions, while small businesses are
2 struggling to navigate the process and are being hit
3 hard by the impact of tariffs.

4 The article notes how Apple, for example, took its
5 case directly to the President and got a significant
6 number of exclusions approved.

7 Meanwhile, small businesses like my constituents in
8 New Jersey have had to wait months for an answer, and
9 have no way of knowing how USTR will judge their
10 applications.

11 So, Mr. Chairman, I ask unanimous consent that the
12 article be entered into the record.

13 The Chairman. Without objection, it will be
14 entered.

15 [The *ProPublica* article appears at the end of the
16 transcript.]

17 Senator Menendez. No one can say that this is a
18 fair, transparent way to conduct trade policy. And we
19 already have evidence from the Department of Commerce's
20 Inspector General that the Commerce Section 232
21 exclusion process lacks transparency and, quote,
22 "contributes to the appearance of improper influence in
23 decision-making."

24 Would it be fair to say that establishing, as we are
25 talking about, the implementation of this ultimate trade

1 Agreement, that establishing an Inspector General for
2 USTR would help correct the lack of transparency and
3 appearance of favoritism that so many small businesses
4 in New Jersey and across the country feel is taking
5 place with the USTR's tariff exclusion process?

6 Ms. Peisch. Yes, Senator, it would.

7 Senator Menendez. Let me ask you one other
8 question. This bill gives USTR a number of new
9 authorities to implement USMCA. But as I discussed in
10 my opening statement, we cannot be sure that USTR will
11 implement it as written without strong oversight that
12 ensure transparency and accountability.

13 Ms. Peisch, Title VII of this bill sets out the
14 mechanism for labor monitoring and enforcement. Could
15 an inspector general review USTR's compliance with these
16 requirements to ensure labor cases are being
17 appropriately examined and acted upon?

18 Ms. Peisch. Yes.

19 Senator Menendez. Section 202 of the bill sets out
20 procedures USTR must follow to consider requests by
21 automotive companies for additional time to comply with
22 USMCA's new and complex rules of origin. Could an
23 inspector general review USTR's procedure to ensure this
24 is done fairly and transparently?

25 Ms. Peisch. Yes.

1 Senator Menendez. And finally, Title IX
2 appropriates \$90 million to USTR to monitor and enforce
3 labor and environmental obligations. Could an inspector
4 general audit USTR's use of these funds to ensure that
5 they are used as Congress instructed?

6 Ms. Peisch. Yes, it could.

7 Senator Menendez. So, Mr. Chairman, voting on USMCA
8 does not mean our work is finished. A strong --

9 [Off-microphone comment.]

10 Senator Menendez. Oh, okay, I am. I am just simply
11 suggesting that voting on USMCA does not mean that our
12 work is finished. A strong oversight will be critical
13 to ensure this Agreement succeeds, and an inspector
14 general for USTR would be a valuable tool this committee
15 could use to make sure our trade policy actually
16 benefits American working families.

17 I know the chairman has been a strong advocate of
18 inspector generals and their work in other areas, and I
19 look forward to working with you and the ranking member
20 to follow up on this issue.

21 The Chairman. We will do that, Senator Menendez.

22 Senator Wyden. And, Mr. Chairman, if I --

23 The Chairman. Senator Wyden.

24 Senator Wyden. If I might, I am going to be very,
25 very brief. Not only do I agree with Senator Menendez,

1 but on this committee Senator Cornyn and Senator Casey I
2 think have really been vigorous in terms of enforcement,
3 trade enforcement. So they are going to have some heavy
4 lifting to do in the days ahead, and Senator Menendez is
5 very much on point.

6 The Chairman. Senator Brown, and then Senator
7 Portman.

8 Senator Brown. Thank you, Mr. Chairman. Thank
9 you, Rob. I would like to ask a few questions about
10 Brown-Wyden to you, Ms. Peisch, if I could, about the
11 provisions included in the Agreement to make sure the
12 committee and all of us understand how the proposal is
13 intended to work and why it is significant.

14 Senator Wyden and I pushed for Brown-Wyden to
15 strengthen labor enforcement, to make the enforcement
16 process more accessible to workers. The question is:

17 Ms. Peisch, is it true that under Brown-Wyden a
18 worker herself, himself, can file a complaint through a
19 hotline to kickstart the enforcement process?

20 Ms. Peisch. Yes, Senator.

21 Senator Brown. Thank you. In all of your other
22 FTAs, the only labor enforcement available was at the
23 government level. A government can bring a case against
24 another government for systemic labor violations, but
25 that has been it in the past. Brown-Wyden changes that

1 by allowing us to target specific private sector
2 facilities.

3 Can you tell us, Ms. Peisch, how long the
4 enforcement process in Brown-Wyden will take once that
5 worker files a complaint through the hotline? And how
6 does that compare to the length of time for enforcement
7 under other free trade agreements?

8 Ms. Peisch. Enforcement under the Brown-Wyden
9 procedures would take a matter of months, approximately
10 around 150 days. This is significantly shorter than
11 state to state dispute settlement, which in the case of
12 the United States' case against Guatemala it took over
13 eight years.

14 Senator Brown. Thank you. One of the most
15 ground-breaking parts of Brown-Wyden is it will allow us
16 to take enforcement actions when the violations occur on
17 the factory floor. So if worker reports violation of his
18 rights to organize at say a call center, we think the
19 complaint has merit, the U.S. can send a panel of labor
20 inspectors to that facility. Correct?

21 Ms. Peisch. Correct.

22 Senator Brown. And if those labor inspectors find
23 violations on the site when they inspect the facility,
24 we can take action against that specific facility.
25 Correct?

1 Ms. Peisch. Correct.

2 Senator Brown. What kinds of actions can we take
3 against that facility? If you would, explain that.

4 Ms. Peisch. The United States could impose tariffs
5 or apply penalties for first-time offenders, including
6 with respect to imports for which the United States has
7 suspended liquidation during the course of that
8 investigation.

9 Senator Brown. So in proportional terms,
10 proportional to the offense, but then in the second and
11 third beyond that, correct?

12 Ms. Peisch. That is correct.

13 Senator Brown. So if we find there are labor
14 violations at a car factory, we can apply that penalty
15 to any cars that might come into the U.S. from that
16 factory throughout the investigation, not just going
17 forward? Correct?

18 Ms. Peisch. Correct.

19 Senator Brown. And what happens to repeat
20 offenders? Does a violation have to happen at the same
21 factory for it to be considered a repeat offense? Or is
22 it considered a repeat offense if a violation occurs at
23 a second or a third factory owned by the same company?

24 Ms. Peisch. It is the latter. If it is a factory
25 owned by the same company, it is not a facility-specific

1 repeat offense; it is by the owner.

2 Senator Brown. And if there are three violations,
3 what happens by the third?

4 Ms. Peisch. For three violations, the United States
5 would have the ability to block goods, again from the
6 company not the specific facility, for that third
7 violation.

8 Senator Brown. Is this the -- after walking through
9 this, is this the strongest labor enforcement ever
10 included in a trade agreement, to your knowledge?

11 Ms. Peisch. Yes, it is.

12 Senator Brown. Do you think Brown-Wyden will cause
13 corporations to think twice about offshoring productions
14 from Ohio, or Michigan, or Kansas, or Idaho, or Iowa, or
15 Oregon, to Mexico so they can maximize their profits?

16 Ms. Peisch. Yes, I do.

17 Senator Brown. Thank you, Mr. Chairman.

18 The Chairman. Senator Portman?

19 Senator Portman. Thank you, Mr. Chairman. I would
20 like to ask about digital trade, Mr. Melle, since I
21 talked about you earlier I would love to have your
22 response to this, but also any others.

23 One, can you talk to us a little bit about how the
24 digital trade provisions in here are different? And,
25 specifically, would you say that they go beyond the

1 digital trade commitments in TPP, as an example, and
2 therefore would be the highest quality digital trade
3 chapters in any U.S. trade agreement?

4 Mr. Melle. Certainly. Again, the NAFTA is an old
5 agreement, and so we have updated it. Digital is
6 certainly one area where trade has expanded considerably
7 and where we need additional disciplines to reflect that
8 change. And so we have captured those in the USMCA
9 Agreement. Let me turn to my cheat sheet here.

10 Senator Portman. John, while you are doing that,
11 let me just make the point that this is not just an idle
12 threat. In Canada for years it has been talking about
13 the possibility of putting in place a digital services
14 tax, as an example. We have seen what is happening in
15 Europe.

16 So for every member of this panel, I have a lot of
17 constituents who are involved in Internet services,
18 Internet trade. This is a big deal because it
19 establishes not just for a huge market like Canada or
20 Mexico, our number one trading partners combined, but
21 also for future trade agreements, a new precedent.

22 And my question is: Is this precedent unprecedented?
23 In other words, is it the highest quality digital trade
24 chapter we have?

25 Mr. Melle. Absolutely. As a general matter, we

1 took what we had begun to negotiate in the TPP in our
2 other agreements and we plussed that up whenever that
3 was possible, and that is certainly the case in the
4 USMCA as compared to the prior agreements that we
5 negotiated.

6 So the disciplines are certainly going beyond what
7 we negotiated in the TPP and any other trade agreement,
8 for that matter.

9 Senator Portman. Okay. With regard to auto rules
10 of origin, we talked about this earlier in the free
11 rider issue. One of my concerns about the rules of
12 origin is that other countries take advantage of the
13 trade agreement we have, in this case primarily with
14 Mexico but also Canada, and they bring auto parts in
15 from other countries, China being the country that is
16 probably the most -- used the most frequently. And then
17 car, in essence, is not a North American car. It is a
18 North American car in terms of its benefits that it gets
19 from the reduction and really the zeroing out of the
20 tariffs, but in essence other countries are free riding
21 on our agreement with Canada and Mexico.

22 And that is why I did support raising the percentage
23 of the car that has to be made in North America. And I
24 think that makes sense from a trade point of view, if
25 you want to expand trade, because then these other

1 countries have to realize that if they want to take
2 advantage of these bigger openings in our market, they
3 should do a trade agreement with us. And then we get
4 reciprocal access to their markets as well because they
5 are not providing any of that reciprocity by just free
6 riding on the North American Free Trade Agreement.

7 Can you talk a little bit about that, or someone
8 else on the panel here, and explain what that is going
9 to mean in terms of auto production in the United
10 States? Will that increase the amount of auto
11 production in the United States because we have higher
12 and tighter rules of origin?

13 Mr. Melle. You are exactly right, Senator. The
14 goal of the Free Trade Agreement is to encourage trade
15 among the partners that have negotiated that agreement
16 and that have made concessions to one another to put
17 that agreement into place.

18 In the case of the auto sector, we have a very
19 vibrant, large, and well-integrated North American
20 industry. So in my mind there is no better candidate
21 for rules of origin that continue to build on that
22 integration and encourage additional investment,
23 innovation, production, and supply chains in North
24 America.

25 So the original NAFTA had a regional value

1 requirement of 62-1/2 percent, and there were some
2 loopholes that allowed some components to be made
3 offshore and count towards that, or not be counted
4 against that number. The new total will be 75 percent.

5 The other point I would make is there was a
6 transition period to get to that. We have additional
7 requirements. You mentioned the steel. There is also an
8 aluminum requirement. There is also a wage requirement.
9 There are other requirements on making core parts for an
10 automotive vehicle. All of those are intended to be
11 phased in over a period of time.

12 We have been working with all the producers and with
13 the suppliers in the auto industry throughout this
14 process to make sure we are getting the balance right in
15 terms of encouraging investment in North America, and
16 especially in the United States -- not penalizing their
17 competitiveness and keeping and expanding the auto
18 industry in the United States.

19 We expect billions and billions of additional
20 investments to be made largely in the United States as a
21 result of these provisions. We paid particular attention
22 to new technologies, batteries, electric vehicles for
23 example to make sure we set ground rules that encourage
24 that investment and that innovation in the United States
25 and to North America.

1 Senator Portman. Well thank you very much. Again,
2 I commend you and your colleagues for focusing on this
3 issue of manufacturing particular automobiles, and the
4 opportunity to have in a sense a renaissance of
5 manufacturing here in this country. Thank you, Mr.
6 Chairman.

7 The Chairman. Before I call on Senator Carper, let
8 me say how I think this meeting will end. We want all
9 questions, because Senator Toomey has asked for the
10 courtesy of making the last statement, or whatever he
11 wants to do before we vote.

12 So I will call on Senator Carper, and then if
13 anybody else has questions, let me know so we can honor
14 Senator Toomey.

15 Go ahead, Senator Carper.

16 Senator Carper. Thanks, Mr. Chairman. I want to
17 join my colleagues in welcoming Ben Sasse to our
18 committee. It is great to have you with us, Ben. You
19 will add a lot, I am sure. Thank you for joining us.

20 Mr. Chairman, I want to ask unanimous consent that
21 my written statement be entered into the record. I
22 spoke earlier today, but I did not ask unanimous consent
23 that my written statement be entered into the record and
24 I would like to do that at this time.

25 I want to reiterate, since Sheldon Whitehouse was

1 not in the room when I spoke earlier, I commended him,
2 Ben Cardin, and other members of the Environment and
3 Public Works Committee, all of our staffs, for working
4 so hard to make sure that there was not only adequate
5 language in the USMCA with respect to environmental
6 protections, but we actually provided the money to make
7 those protections real.

8 One quick question, if I could, of our panel. Can
9 any of you recall anything that Satchel Paige ever said
10 with respect to birthdays? Any words of wisdom from
11 Satchel Paige with respect to birthdays? Can any of you
12 recall that? Satchel Paige, on the 59th birthday of
13 John Thune, which is today, I would just remember the
14 words of Satchel Paige who once said "How old would you
15 be if you did not know how old you were? Work like you
16 don't need the money. Dance like nobody's looking.
17 Love like you've never been hurt. Live each day like
18 it's your last. And some day you'll be right."

19 And with those words of Satchel Paige to my friend,
20 John Thune, Happy Birthday, John.

21 Senator Wyden. Mr. Chairman, if I could, Senator
22 Thune is also celebrating his birthday with an important
23 provision in this Agreement, the de minimis provision,
24 that helped a lot of small businesses and I congratulate
25 him for his leadership.

1 The Chairman. Okay, Senator Lankford.

2 Senator Lankford. I have just two quick questions
3 on this.

4 The Chairman. Oh, by the way, Senator Carper's
5 statement will be entered in the record, without
6 objections.

7 [The prepared statement of Senator Carper appears at
8 the end of the transcript.]

9 Senator Lankford. I just want to ask for additional
10 clarification on the intellectual property. There has
11 been much spoken about the protection of IP and what
12 that means, and the additional layers on that, and I
13 have one follow-up question after that.

14 Mr. Melle. Well, there are a number of
15 improvements we have made in this Agreement. Again,
16 NAFTA is a very old agreement, and in IP terms perhaps
17 ancient applies to that.

18 So some of the upgrades that we have included here:
19 the minimum terms of protection for copyright works, for
20 authorship, is plus 70 years and is 75 years from
21 publication.

22 We have added new deterrent, civil and criminal
23 penalties for camcording, which has been a particular
24 problem in this area in recent years.

25 There is authority now for border enforcement

1 officials to stop goods that are suspected of being
2 pirated or counterfeited at points of entry. We do not
3 have that authority without this Agreement.

4 We have the highest standards --

5 Senator Lankford. That is for all three nations, by
6 the way.

7 Mr. Melle. Correct. Yes. All of these would be
8 applied across the board by all three countries.

9 We have the highest standards for procedural
10 safeguards regarding geographical indication. Again,
11 that is an important issue with respect to some other
12 trading partners outside of North America.

13 We have got the strongest standards in any U.S.
14 trade agreement for the protection of trade secrets
15 against misappropriation, with civil and criminal causes
16 of action, litigation protections, and so forth.

17 I am going on at great length. Just a couple of
18 more very quickly. There are both criminal and civil
19 remedies for cable and satellite signal theft. There is
20 full national treatment to prevent discrimination
21 against U.S. protectors. And there is strong protection
22 against circumvention of technological protection to
23 protect digital content.

24 So those are the highlights of this new chapter that
25 go beyond the original agreement.

1 Senator Lankford. Thank you. I have one additional
2 follow-up. There are seven treaties that are mentioned
3 in the Protocol Amendment. Are there any additional
4 American obligations for those seven existing treaties?
5 Those treaties are mentioned, but are there additional
6 American obligations that are added in this Agreement?

7 Mr. Melle. Right. There are no additional U.S.
8 obligations.

9 Senator Lankford. Thank you.

10 The Chairman. Senator Cornyn, yes.

11 Senator Cornyn. Mr. Chairman, thank you. I will be
12 brief. I alluded to this in my opening statement, but I
13 just want to perhaps provide a little additional
14 clarification.

15 Mr. Melle, the concern has to do with respect to
16 distilled spirits, in this case Sotol. Apparently this
17 would also apply to other distilled spirits, but since
18 this is a distilled spirit that comes from 22 different
19 plant species that grow naturally on both sides of the
20 U.S. and Mexico border, there is concern about U.S.
21 recognition of Sotol as a distinctive product of Mexico,
22 and whether it would contravene the purposes of 27 USC
23 Section 205(e) under which the Secretary of the Treasury
24 is charged with developing regulations on packaging,
25 marketing, branding, and labeling as will prohibit

1 deception of consumers with respect to distilled spirits
2 products.

3 Are you familiar with that issue? I believe that
4 is the subject of a letter by the USTR. And again, I
5 appreciate the chairman working with us on the report
6 language to make sure that the Congressional intent is
7 upheld, and that deception is avoided.

8 But would you care to shed some light or thoughts on
9 that?

10 Mr. Melle. Certainly, Senator. Yes, there was a
11 side letter that was signed with Mexico as part of the
12 negotiation package, and we did agree to undertake to
13 initiate a review of three distilled spirits that are
14 made in Mexico.

15 But we did nothing to change the U.S. process for
16 conducting that review. We have no obligation to any
17 particular outcome from any of those who refuse, and
18 certainly we will follow U.S. law practice, and that
19 includes certainly an opportunity for public comment and
20 participation.

21 Senator Cornyn. Thank you. Mr. Chairman, for those
22 members of the committee who have never consumed Sotol,
23 I would recommend it to them.

24 [Laughter.]

25 The Chairman. Okay. Is it okay now to go to

1 Senator Toomey? Senator Toomey?

2 Senator Toomey. Thank you very much, Mr. Chairman,
3 and colleagues on the committee. I will be very brief.
4 I would just like to engage in a brief colloquy to
5 determine if the chairman and the ranking member agree
6 that the absence of a mock markup should not be
7 considered a precedent for how we in this committee will
8 deal with future trade agreements under TPA.

9 The Chairman. Well, TPA prohibits amendments and
10 does not require a mock markup. Mock markups are
11 optional. They can be an important tool for Congress to
12 share its views with the Executive Branch to fulfill its
13 purposes. A mock markup has to happen before the
14 introduction of a bill. We are obviously well past that
15 now.

16 Congress has shared its views on USMCA for over a
17 year. Critically, this administration has acted in
18 response by implementing bipartisan feedback into the
19 bill. In this very unique situation, there was no time
20 for a mock markup.

21 These unique circumstances should not be considered
22 precedent for future FTA considerations. But we have
23 weighed in formally through hearings and informally
24 through meetings with the administration for over a
25 year.

1 Now we should proceed to deliver on USMCA, which is
2 indisputably valuable to the American people.

3 Senator Wyden?

4 Senator Wyden. Senator Toomey, I largely agree with
5 the chairman on this, and I would only add that I think
6 mock markups are a valuable part of the process, and I
7 am committed to more mock markups in the future.

8 The Chairman. Now I would like to have the roll
9 call. Will the clerk call the roll?

10 The Clerk. Mr. Crapo?

11 Senator Crapo. Aye.

12 The Clerk. Mr. Crapo, aye. Mr. Roberts?

13 Senator Roberts. Aye.

14 The Clerk. Mr. Roberts, aye. Mr. Enzi?

15 Senator Enzi. Aye.

16 The Clerk. Mr. Enzi, aye. Mr. Cornyn?

17 Senator Cornyn. Aye.

18 The Clerk. Mr. Cornyn, aye. Mr. Thune?

19 Senator Thune. Aye.

20 The Clerk. Mr. Thune, aye. Mr. Burr?

21 [No response.]

22 The Chairman. Okay, I guess Burr does not have a
23 proxy. Oh, aye by proxy.

24 The Clerk. Mr. Burr, aye by proxy. Mr. Portman?

25 Senator Portman. Aye.

1 The Clerk. Mr. Portman, aye. Mr. Toomey?
2 Senator Toomey. No.
3 The Clerk. Mr. Toomey, no. Mr. Scott?
4 Senator Scott. Aye.
5 The Clerk. Mr. Scott, aye. Mr. Cassidy?
6 Senator Cassidy. No.
7 The Clerk. Mr. Cassidy, no. Mr. Lankford?
8 Senator Lankford. Aye.
9 The Clerk. Mr. Lankford, aye. Mr. Daines?
10 Senator Daines. Aye.
11 The Clerk. Mr. Daines, aye. Mr. Young?
12 Senator Young. Aye.
13 The Clerk. Mr. Young, aye. Mr. Sasse?
14 Senator Sasse. Aye.
15 The Clerk. Mr. Sasse, aye. Mr. Wyden?
16 Senator Wyden. Aye.
17 The Clerk. Mr. Wyden, aye. Ms. Stabenow?
18 Senator Stabenow. Aye.
19 The Clerk. Ms. Stabenow, aye. Ms. Cantwell?
20 Senator Cantwell. Aye.
21 The Clerk. Ms. Cantwell, aye. Mr. Menendez?
22 Senator Menendez. Aye.
23 The Clerk. Mr. Menendez, aye. Mr. Carper?
24 Senator Carper. Aye.
25 The Clerk. Mr. Carper, aye. Mr. Cardin?

1 Senator Wyden. Aye by proxy.

2 The Clerk. Mr. Cardin, aye by proxy. Mr. Brown?

3 Senator Brown. Aye.

4 The Clerk. Mr. Brown, aye. Mr. Bennet?

5 Senator Bennet. Aye.

6 The Clerk. Mr. Bennet, aye. Mr. Casey?

7 Senator Casey. Aye.

8 The Clerk. Mr. Casey, aye. Mr. Warner?

9 Senator Warner. Aye.

10 The Clerk. Mr. Warner, aye. Mr. Whitehouse?

11 Senator Whitehouse. No.

12 The Clerk. Mr. Whitehouse, no. Ms. Hassan?

13 Senator Hassan. Aye.

14 The Clerk. Ms. Hassan, aye. Ms. Cortez Masto?

15 Senator Cortez Masto. Aye.

16 The Clerk. Ms. Cortez Masto, aye. Mr. Chairman?

17 The Chairman. Aye.

18 The Clerk. The chairman votes aye.

19 The Chairman. Would you announce the vote?

20 The Clerk. Mr. Chairman, the final total is 25
21 ayes, 3 nays.

22 The Chairman. 25 ayes, 3 nays. The bill is
23 reported.

24 I would like to say thank you to some people. First
25 of all, this is a big bipartisan vote, a reminder that

1 when Congress works together in a bipartisan way, the
2 American people greatly benefit.

3 I want to thank my colleagues again for working with
4 the Trump administration and me, and Senator Wyden. I
5 also want to thank members of my Finance Committee trade
6 staff for their very, very hard work. Ranking Member
7 Wyden and his staff have worked with me through this
8 whole process, and I am grateful for that cooperation as
9 well.

10 I look forward to a vote on the Senate floor,
11 hopefully soon, for final passage. Meeting adjourned.

12 [Whereupon, at 11:31 a.m., the meeting was
13 concluded.]

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January 7, 2020

Non-Exhaustive List of National and State Organizations Supporting USMCA

Advanced Medical Technology Association (AdvaMed)
 Aerospace Industries Association
 AICC, The Independent Packaging Association
 Air-Conditioning, Heating and Refrigeration Institute
 America Automotive Policy Council
 American Apparel & Footwear Association
 American Association of Exporters and Importers
 American Association of Port Authorities
 American Automotive Policy Council
 American Bakers Association
 American Beverage Association
 American Chamber of Commerce Mexico
 American Chemistry Council
 American Cleaning Institute
 American Coatings Association, Inc.
 American Composites Manufacturers Association
 American Council of Engineering Companies
 American Farm Bureau Federation
 American Federation of Labor and Congress of Industrial
 Organizations (AFL-CIO)
 American Forest & Paper Association
 American Frozen Food Institute
 American Gas Association
 American Iron and Steel Institute
 American Petroleum Institute
 American Property Casualty Insurance Association
 American Seed Trade Association
 American Staffing Association
 American Trucking Associations
 American Wind Energy Association
 America's SBDCs
 AMT-The Association for Manufacturing Technology

Associated Equipment Distributors
Associated General Contractors of America
Associated Wire Rope Fabricators
Association for Accessible Medicines
Association of Equipment Manufacturers (AEM)
Association of Home Appliance Manufacturers
Border Trade Alliance
BSA | The Software Alliance
Business Roundtable
Canadian/American Border Trade Alliance
Coalition of Services Industries (CSI)
Computing Technology Industry
Association (CompTIA)
Consumer Healthcare Products Association
Consumer Technology Association
Corn Refiners Association
Council for Responsible Nutrition
Council of the Americas
Direct Selling Association
Distilled Spirits Council of the United States
Energy Equipment and Infrastructure Alliance
Fabricators and Manufacturers Association, International
Farm Equipment Manufacturers Association
Farmers for Free Trade
Fibre Box Association
Flexible Packaging Association
Food Marketing Institute
Foodservice Equipment Distributors Association
Global Cold Chain Alliance
Greek American Chamber of Commerce, Inc.
Grocery Manufacturers Association
Hearth, Patio & Barbecue Association
Heating, Air-conditioning, & Refrigeration Distributors
International
Household & Commercial Products Association
INDA, Association of the Nonwoven Fabrics Industry
Independent Lubricant Manufacturers Association
Industrial Minerals Association - North America
Industrial Truck Association
Information Technology Industry Council
Institute of Scrap Recycling Industries (ISRI)
Institute of Shortening and Edible Oils
Interlocking Concrete Pavement Institute
International Dairy Foods Association

International Franchise Association
 International Warehouse Logistics Association (IWLA)
 International Wood Products Association
 Internet Association
 IPC - Association Connecting Electronics Industries
 Irrigation Association
 ISSA - The Worldwide Cleaning Industry Association
 Metal Powder Industries Federation
 Metals Service Center Institute
 Motion Picture Association of America
 Motor & Equipment Manufacturers Association
 NAIOP, the Commercial Real Estate Development Association
 National Association of Chain Drug Stores
 National Association of Chemical Distributors (NACD)
 National Association of District Export Councils
 National Association of Foreign-Trade Zones (NAFTZ)
 National Association of Manufacturers
 National Association of Realtors
 National Association of Wheat Growers
 National Association of Wholesaler Distributors
 National Black Chamber of Commerce
 National Confectioners Association
 National Corn Growers Association
 National Council of Chain Restaurants
 National Electrical Manufacturers Association (NEMA)
 National Foreign Trade Council
 National Glass Association
 National Grain and Feed Association
 National Independent Automobile Dealers Association
 National Investor Relations Institute
 National Marine Manufacturers Association
 National Mining Association
 National Oilseed Processors Association
 National Pork Producers Council
 National Renderers Association
 National Retail Federation
 National Roofing Contractors Association
 National Small Business Association
 National Stone, Sand, and Gravel Association
 National Waste & Recycling Association
 National Wooden Pallet and Container Association
 Non-Ferrous Founders' Society
 North American Association of Food
 Equipment Manufacturers (NAFEM)

North American Center of Excellence for Transportation
 Equipment
 North American Millers' Association
 NTEA, The Association for the Work Truck Industry
 Outdoor Industry Association
 Outdoor Power Equipment Institute
 Petroleum Equipment Institute
 Plastics Industry Association
 Plumbing Manufacturers International
 Plumbing-Heating-Cooling Contractors--National Association
 PMMI, The Association for Packaging and Processing Technologies
 Precision Machined Products Association
 Precision Metalforming Association
 Railway Supply Institute
 Securities Industry and Financial Markets Association (SIFMA)
 Security Industry Association
 Semiconductor Industry Association
 Small Business & Entrepreneurship Council
 SNAC International
 SOCMA
 Specialty Tools & Fasteners Distributors Association (STAFDA)
 Steel Manufacturers Association
 TechNet
 The Aluminum Association
 The Fertilizer Institute
 The Motion Picture Association of America (MPAA)
 The Personal Care Products Council
 The Toy Association
 Transportation Intermediaries Association
 Truck and Engine Manufacturers Association
 U.S. Apple Association
 U.S. Travel Association
 United Fresh Produce Association
 United States Council for International Business
 Vinyl Institute
 Western Growers Association
 Window and Door Manufacturers Association
Alaska
 Alaska Chamber
 Anchorage Chamber of Commerce
 Greater Fairbanks Chamber of Commerce
Alabama
 Birmingham Business Alliance
 Chamber of Commerce Association of Alabama

Coastal Alabama Business Chamber
 Elba Chamber of Commerce
 Mobile Area Chamber of Commerce
 Prattville Area Chamber of Commerce
 Selma and Dallas County Chamber of Commerce and Tourism
 Information

Arkansas

Arkansas Retail and Grocery Association
 Arkansas State Chamber of Commerce and the Associated
 Industries of Arkansas, Inc.
 Fayetteville Chamber of Commerce - Arkansas
 Harrison Regional Chamber of Commerce
 Little Rock Regional Chamber of Commerce
 Rogers-Lowell Area Chamber of Commerce
 Spring River Area Chamber of Commerce

Arizona

Arizona Chamber of Commerce and Industry
 Arizona District Export Council
 Arizona Manufacturers Council
 Buckeye Valley Chamber of Commerce
 Chandler Chamber of Commerce
 Cottonwood Chamber of Commerce
 Gilbert Chamber of Commerce
 Glendale Chamber of Commerce
 Greater Casa Grande Chamber of Commerce
 Greater Flagstaff Chamber of Commerce
 Greater Florence Chamber of Commerce
 Greater Oro Valley Chamber of Commerce
 Greater Phoenix Chamber of Commerce
 Greater Phoenix Economic Council
 Green Valley Sahuarita Chamber of
 Commerce & Visitor Center
 Lake Havasu Area Chamber of Commerce
 Latina Coalition of Ports & Borders
 Marana Chamber of Commerce
 Mesa Chamber of Commerce
 Nogales-Santa Cruz County Chamber of Commerce
 Peoria Chamber of Commerce
 Queen Creek Chamber of Commerce
 Scottsdale Area Chamber of Commerce
 Southwest Cable Communications Association
 Surprise Regional Chamber of Commerce
 Tempe Chamber of Commerce
 The Arizona Mining Association

The Arizona Rock Products Association
 Tucson Hispanic Chamber of Commerce & Affiliates
 Tucson Metro Chamber
 Wickenburg Chamber of Commerce
 Yuma County Chamber of Commerce

California

Alpine Chamber of Commerce
 Apple Valley Chamber of Commerce
 Bay Area Council
 Brawley Chamber of Commerce
 California Bankers Association
 California Business Roundtable
 California Chamber of Commerce
 California Farm Bureau Federation
 California Manufacturers & Technology Association
 California Retailers Association
 Camarillo Chamber of Commerce
 Carlsbad Chamber of Commerce
 Chatsworth Porter Ranch Chamber
 El Centro Chamber of Commerce
 El Dorado County Chamber of Commerce
 Elk Grove Chamber of Commerce
 Foreign Trade Association
 Fresno Chamber of Commerce
 Goleta Chamber of Commerce
 Great Coachella Valley Chamber of Commerce
 Greater Bakersfield Chamber of Commerce
 Greater Conejo Valley Chamber of Commerce
 Greater Irvine Chamber of Commerce
 Greater Merced Chamber of Commerce
 Greater Ontario Business Council
 Greater Riverside Chambers of Commerce
 Greater San Fernando Valley Chamber of Commerce
 Harbor Association of Industry & Commerce (HAIC)
 Hayward Chamber of Commerce
 Hispanic Chamber of Commerce, Silicon Valley
 Inland Empire Economic Partnership
 Inland Empire Regional Chamber of Commerce
 Lancaster Chamber of Commerce
 Long Beach Area Chamber of Commerce
 Los Angeles Area Chamber of Commerce
 Los Angeles County Business Federation
 Murrieta/Wildomar Chamber of Commerce
 Neighborhood Market Association

Newport Beach Chamber of Commerce
 North Orange County Chamber of Commerce
 North San Diego Business Chamber
 Orange County Business Council
 Otay Mesa Chamber of Commerce
 Oxnard Chamber of Commerce
 Palm Desert Area Chamber of Commerce
 Pasadena Chamber of Commerce
 Pleasanton Chamber of Commerce
 Port Hueneme Chamber of Commerce
 Port of Long Beach
 Rancho Cordova Chamber of Commerce
 Redding Chamber of Commerce
 Regional Chamber of Commerce - San Gabriel Valley
 Sacramento Metro Chamber
 San Diego Regional Chamber of Commerce
 San Francisco Chamber of Commerce
 San Gabriel Valley Economic Partnership
 San Juan Capistrano Chamber of Commerce
 San Leandro Chamber of Commerce
 San Marcos Chamber of Commerce
 San Ysidro Chamber of Commerce
 Santa Ana Chamber of Commerce
 Santa Maria Valley Chamber of Commerce
 Santa Paula Chamber of Commerce
 Silicon Valley Leadership Group
 Simi Valley Chamber of Commerce
 South Bay Association of Chambers of Commerce
 Southwest California Legislative Council
 Sunnyvale Silicon Valley Chamber of Commerce
 The Silicon Valley Organization
 Torrance Area Chamber of Commerce
 Tulare Chamber of Commerce
 Valley Industry & Commerce Association
 Vista Chamber of Commerce
 Yorba Linda Chamber of Commerce

Colorado

Aurora Chamber of Commerce
 Colorado Business Roundtable
 Colorado Chamber of Commerce
 Colorado Mining Association
 Colorado Springs Chamber & EDC
 Denver Metro Chamber of Commerce
 Grand Junction Area Chamber of Commerce

Leadville/Lake County Chamber of Commerce
 Pueblo Chamber of Commerce
 South Metro Denver Chamber of Commerce
 Vail Valley Partnership
 Westminster Chamber of Commerce

Connecticut

Connecticut Business & Industry Association
 Greater New Haven Chamber of Commerce

District of Columbia

D.C. Chamber of Commerce

Delaware

Delaware State Chamber of Commerce

Florida

Boca Raton/Boynton Beach Chamber of Commerce
 Central Pinellas Chamber of Commerce
 Coral Gables Chamber of Commerce
 Florida Chamber of Commerce
 Greater Miami Chamber of Commerce
 Leesburg Area Chamber of Commerce
 Miramar Pembroke Pines Regional Chamber of Commerce
 Northeast Polk Chamber of Commerce
 North Tampa Bay Chamber
 Port Tampa Bay

Georgia

Barrow County Chamber of Commerce
 Cobb Chamber of Commerce
 DeKalb Chamber of Commerce
 Dublin/Laurens Chamber
 Georgia Association of Manufacturers
 Georgia Chamber of Commerce
 Georgia Chemistry Council
 Georgia Hispanic Chamber of Commerce
 Milledgeville-Baldwin County Chamber of Commerce
 Savannah Area Chamber of Commerce
 Valdosta-Lowndes County Chamber of Commerce

Hawaii

Chamber of Commerce Hawaii
 Kauai Chamber of Commerce
 Maui Chamber of Commerce

Iowa

Ames Chamber of Commerce
 Cedar Rapids Metro Economic Alliance
 Clear Lake Area Chamber of Commerce
 Council Bluffs Area Chamber of Commerce

Dubuque Area Chamber of Commerce
 Greater Des Moines Partnership
 Grow Cedar Valley
 Iowa Association of Business and Industry
 Iowa Chamber Alliance
 Iowa City Area Chamber of Commerce
 Marshalltown Area Chamber of Commerce
 Mason City Chamber of Commerce
 Waverly Chamber of Commerce/Main Street

Idaho

Boise Metro Chamber
 Idaho Association of Commerce and Industry
 Idaho Retailers Association
 Caldwell Chamber of Commerce
 Pocatello-Chubbuck Chamber of Commerce

Illinois

Aurora Regional Chamber of Commerce
 Bolingbrook Area Chamber of Commerce
 Canton Area Chamber of Commerce
 Chemical Industry Council of Illinois
 Des Plaines Chamber of Commerce & Industry
 Edwardsville/Glen Carbon Chamber of Commerce
 Elmhurst Chamber of Commerce & Industry
 GOA Regional Business Association
 Greater Oak Brook Chamber of Commerce
 Highland Chamber of Commerce
 Illinois Chamber of Commerce
 Illinois Manufacturers' Association
 International Business Council of the Illinois Chamber of
 Commerce
 Joliet Region Chamber of Commerce & Industry
 McLean County Chamber of Commerce
 Naperville Area Chamber of Commerce
 Rolling Meadows Chamber
 Sauk Valley Area Chamber of Commerce
 The Greater Springfield Chamber of Commerce
 Western DuPage Chamber of Commerce
 Wheaton Illinois Chamber of Commerce
 Winnetka-Northfield Chamber of Commerce

Indiana

Indiana Chamber of Commerce
 Indiana Manufacturers Association
 Indy Chamber
 Nappanee Area Chamber of Commerce

New Castle - Henry County Chamber of Commerce
 Seymour Chamber of Commerce
 South Bend Regional Chamber of Commerce
 Spencer County Regional Chamber of Commerce
 Wayne County Area Chamber of Commerce

Kansas

Grant County Chamber of Commerce & Tourism
 Great Bend Chamber of Commerce & Economic Development
 Greater Topeka Chamber of Commerce
 Kansas Chamber
 Kansas Grain and Feed Assoc., Kansas
 Agribusiness Retailers Assoc., Renew Kansas
 Overland Park Chamber of Commerce
 Wichita Regional Chamber of Commerce

Kentucky

Christian County Chamber of Commerce
 Commerce Lexington Inc.
 Greater Louisville Inc.
 Kentucky Chamber of Commerce
 Northern Kentucky Chamber of Commerce
 Paducah Area Chamber of Commerce
 Union County KY Chamber of Commerce
 West Kentucky Regional Chamber Alliance

Louisiana

Baton Rouge Area Chamber
 Bossier Chamber of Commerce
 Central Chamber of Commerce
 Central Louisiana Regional Chamber of Commerce
 Chamber Southwest Louisiana
 Committee of 100 for Economic Development, Inc.
 Greater Shreveport Chamber of Commerce
 Louisiana Association of Business and Industry
 Louisiana Chemical Association
 Louisiana Retailers Association
 Monroe Chamber of Commerce
 New Orleans Chamber of Commerce
 River Region Chamber of Commerce
 St. Tammany Chamber of Commerce

Maine

Maine State Chamber of Commerce

Maryland

Central Maryland Chamber
 Harford County Chamber of Commerce
 Maryland Chamber of Commerce

Massachusetts

Associated Industries of Massachusetts
 Cape Cod Chamber of Commerce
 Greater Boston Chamber of Commerce
 Metro South Chamber of Commerce
 Neponset River Regional Chamber
 Orleans Chamber of Commerce
 Retailers Association of Massachusetts
 SouthCoast Chamber
 The New England Council

Michigan

Adrian Area Chamber of Commerce
 Battle Creek Area Chamber of Commerce
 Bay Area Chamber of Commerce
 Bellaire Chamber of Commerce
 Dearborn Area Chamber of Commerce
 Detroit Regional Chamber
 Fenton & Linden Chamber of Commerce
 Grand Rapids Chamber
 Greater Brighton Area Chamber of Commerce
 Lansing Regional Chamber
 Michigan Chamber of Commerce
 Michigan Chemistry Council
 Michigan Manufacturers Association
 Michigan Retailers Association
 Michigan West Coast Chamber of Commerce
 Saginaw County Chamber of Commerce

Minnesota

Bemidji Area Chamber of Commerce
 Fargo Moorhead West Fargo Chamber of Commerce
 Fergus Falls Area Chamber of Commerce
 Grand Rapids Area Chamber
 International Falls Area Chamber of Commerce
 Marshall Area Chamber of Commerce
 Minnesota Chamber of Commerce
 Minnesota Retailers Association
 St. Cloud Area Chamber of Commerce
 Twin West Chamber of Commerce
 Willmar Lakes Area Chamber of Commerce

Missouri

Associated Industries of Missouri
 Branson/Lakes Area Chamber of Commerce & CVB
 Chesterfield Chamber of Commerce
 Lee's Summit Chamber of Commerce

Missouri Chamber of Commerce and Industry
 St. Joseph Chamber of Commerce
 St. Louis Regional Chamber
 The Greater Kansas City Chamber of Commerce

Mississippi

Mississippi Economic Council
 Mississippi Manufacturers Association
 Washington County Economic Alliance

Montana

Big Sky Chamber of Commerce
 Billings Chamber of Commerce
 Bozeman Area Chamber of Commerce
 Kalispell Chamber of Commerce
 Montana Chamber of Commerce

North Carolina

Asheville Area Chamber of Commerce
 Benson Area Chamber of Commerce
 Greater Durham Chamber of Commerce
 Moore County Chamber of Commerce
 NC Chamber
 North Carolina Retail Merchants Association
 Rutherford County Chamber of Commerce
 Triangle East Chamber of Commerce
 Wake Forest Chamber of Commerce

North Dakota

Bismarck Mandan Chamber EDC
 Greater North Dakota Chamber
 The Chamber - Grand Forks/East Grand Forks

Nebraska

Columbus Area Chamber of Commerce
 Greater Omaha Chamber
 Kearney Area Chamber of Commerce
 Lincoln Chamber of Commerce
 Nebraska Chamber of Commerce & Industry
 Nebraska Retail Federation
 North Platte Area Chamber & Development Corporation
 Scottsbluff/Gering United Chamber

New Hampshire

Business & Industry Association of New Hampshire

New Jersey

Gateway Regional Chamber of Commerce
 Hudson County Chamber of Commerce
 Newark Regional Business Partnership
 New Jersey Business & Industry Association

New Mexico

Farmington Chamber of Commerce
 Greater Albuquerque Chamber of Commerce
 New Mexico Association of Commerce and Industry
 New Mexico Bankers Association
 New Mexico Business Coalition (NMBC)
 New Mexico Mining Association
 Silver City Grant County Chamber of Commerce

Nevada

Carson City Chamber of Commerce
 Carson Valley Chamber of Commerce
 Las Vegas Metro Chamber of Commerce
 Nevada Manufacturers Association
 Retail Association of Nevada
 The Reno + Sparks Chamber of Commerce
 White Pine Chamber of Commerce

New York

Albany Port District Commission
 Buffalo Niagara International Trade
 Gateway Organization, Inc.
 Buffalo Niagara Manufacturing Alliance
 Buffalo Niagara Partnership
 Capital Region Chamber
 Chemung County Chamber of Commerce
 Manufacturers Association of the Southern Tier
 New York Bankers Association
 New York State Chemistry Council
 North Country Chamber of Commerce
 Partnership for New York City
 Quebec-New York Corridor Coalition
 The Brooklyn Chamber of Commerce
 The Business Council of NYS, Inc.
 World Trade Center Buffalo Niagara

Ohio

Chillicothe Ross Chamber of Commerce
 Cincinnati USA Regional Chamber
 Columbus Chamber of Commerce
 Dayton Area Chamber of Commerce
 Greater Akron Chamber
 Greater Hamilton Chamber of Commerce
 Lima Allen County Chamber of Commerce
 Ohio Business Roundtable
 Ohio Chamber of Commerce
 Ohio Chemistry Technology Council

Ohio Council of Retail Merchants
 Ohio Manufacturers' Association
 Union County Chamber of Commerce
 Youngstown/Warren Regional Chamber

Oklahoma

Ardmore Chamber of Commerce
 Blackwell Industrial Authority
 Edmond Chamber of Commerce
 Greater Oklahoma City Chamber
 Oklahoma Retail Merchants Association
 State Chamber of Oklahoma
 Tulsa Regional Chamber

Oregon

Beaverton Area Chamber of Commerce
 Hillsboro Chamber
 La Pine Chamber of Commerce
 Lincoln City Chamber of Commerce
 Oregon Business & Industry
 Oregon State Chamber of Commerce
 Pacific Northwest International Trade Association
 Portland Business Alliance
 The Chamber of Medford/Jackson County
 Tualatin Chamber of Commerce

Pennsylvania

Beaver County Chamber of Commerce
 Chester County Chamber of Business & Industry
 Clarion Area Chamber of Business & Industry
 Delaware County Chamber of Commerce
 Greater Pittsburgh Chamber of Commerce
 Greater Reading Chamber Alliance
 Greencastle-Antrim Chamber of Commerce
 Hanover Area Chamber of Commerce
 Harrisburg Regional Chamber & CREDC
 Juniata River Valley Chamber of Commerce
 Indian Valley Chamber of Commerce
 Lancaster (PA) Chamber
 Maritime Exchange for the Delaware River and Bay
 Northeast PA Manufacturers & Employers Association
 Orwigsburg Borough
 Pennsylvania Chamber of Business and Industry
 Schuylkill Chamber of Commerce
 TriCounty Area Chamber of Commerce
 York County Economic Alliance

Puerto Rico

Puerto Rico Chamber of Commerce

Rhode Island

East Greenwich Chamber of Commerce
 East Providence Area Chamber of Commerce
 Greater Cranston Chamber of Commerce
 Newport County Chamber of Commerce
 Rhode Island Manufacturers Association

South Carolina

Charleston Metro Chamber of Commerce
 Greater Lexington Chamber of Commerce
 Greenville Chamber of Commerce
 Myrtle Beach Area Chamber of Commerce
 South Carolina Chamber of Commerce

South Dakota

Brookings Area Chamber of Commerce
 Rapid City Area Chamber of Commerce
 Sioux Falls Area Chamber of Commerce
 South Dakota Bankers Association
 South Dakota Retailers Association
 Yankton Area Chamber of Commerce

Tennessee

Blount Chamber of Commerce
 Johnson City/Jonesborough/Wash. County
 Kingsport Chamber of Commerce
 Tennessee Business Roundtable
 Tennessee Chamber of Commerce & Industry

Texas

Austin Regional Manufacturers Association
 Bay City Chamber of Commerce and Agriculture
 Brownsville Chamber of Commerce
 Cedar Park Chamber of Commerce
 Conroe/Lake Conroe Chamber of Commerce
 Dallas Regional Chamber
 El Paso Chamber
 Fort Bend Chamber
 Frisco Chamber of Commerce
 Fulshear Katy Area Chamber of Commerce
 Grapevine Chamber of Commerce
 Greater Arlington Chamber of Commerce
 Greater Austin Chamber of Commerce
 Greater Austin Hispanic Chamber of Commerce
 Greater Dallas Hispanic Chamber of Commerce
 Greater Irving-Las Colinas Chamber of Commerce

Greater Killeen Chamber of Commerce
 Greater Orange Area Chamber of Commerce
 Greater Port Arthur Chamber of Commerce
 Greater Taylor Chamber of Commerce & Visitor Center
 Greater Tomball Area Chamber of Commerce
 Greater Waco Chamber of Commerce
 Hurst Eules Bedford Chamber of Commerce
 Irving Hispanic Chamber of Commerce
 Irving Hispanic Chamber of Commerce, Chair of the Board
 Lake Houston Area Chamber of Commerce
 Lamesa Area Chamber of Commerce
 Laredo Chamber of Commerce
 Laredo Motor Carriers Association
 Longview TX Chamber of Commerce
 Lubbock Chamber of Commerce
 McAllen Chamber Of Commerce
 Midland Chamber of Commerce
 Nacogdoches County Chamber of Commerce
 Nederland Chamber of Commerce and Tourist Bureau
 North San Antonio Chamber of Commerce
 North Texas Commission
 Palacios Chamber of Commerce
 Plano Chamber of Commerce
 Port of Corpus Christi
 Rio Grande Valley Partnership
 San Antonio Hispanic Chamber of Commerce
 Sealy Chamber of Commerce
 Sherman Chamber of Commerce
 South Padre Island Chamber of Commerce
 South San Antonio Chamber of Commerce
 Texas Association of Manufacturers
 Texas Association of Business
 Texas Business Leadership Council
 Texas City - La Marque Chamber of Commerce
 Texas Retailers Association
 The Borderplex Alliance
 The San Antonio Chamber of Commerce
 The Woodlands Area Chamber of Commerce
 Tyler Area Chamber of Commerce
 United Corpus Christi Chamber of Commerce

Utah

Cache Valley Chamber of Commerce
 Cedar City Chamber of Commerce
 ChamberWest

Davis Chamber of Commerce
 Draper Area Chamber of Commerce
 Salt Lake Chamber
 Sandy Area Chamber of Commerce
 South Salt Lake Chamber of Commerce
 Utah Valley Chamber of Commerce
 Vernal Area Chamber of Commerce
 West Jordan Chamber of Commerce
 World Trade Center Utah

Virginia

Greater Springfield Chamber of Commerce
 Halifax County Chamber of Commerce
 Hampton Roads Chamber
 Loudoun County Chamber of Commerce
 Lynchburg Regional Business Alliance
 New Kent Chamber of Commerce
 Roanoke Regional Chamber of Commerce
 Virginia Chamber of Commerce
 Virginia Hispanic Chamber
 Virginia Manufacturers Association

Vermont

Central VT Chamber of Commerce
 Vermont Retail & Grocers Association

Washington

Association of Washington Business
 Auburn Chamber of Commerce
 Bellingham Regional Chamber of Commerce
 Economic Alliance Snohomish County
 Ferndale Chamber of Commerce
 Greater Spokane Inc.
 Greater Spokane Valley Chamber of Commerce
 Greater Vancouver Chamber of Commerce
 Greater Yakima Chamber of Commerce
 Lakewood Chamber of Commerce
 Lewis Clark Valley Chamber of Commerce
 Pasco Chamber of Commerce
 Port of Longview
 Port of Vancouver USA
 Pullman Chamber of Commerce
 Puyallup Sumner Chamber of Commerce
 Tacoma-Pierce County Chamber
 Tri-City Regional Chamber of Commerce
 Washington Council on International Trade
 Washington Retail Association

Wisconsin

Beaver Dam Chamber of Commerce
Eau Claire Area Chamber of Commerce
Envision Greater Fond du Lac
Greater Green Bay Chamber
Kenosha Area Chamber of Commerce
Metropolitan Milwaukee Association of Commerce
Oshkosh Chamber of Commerce
Racine Area Manufacturers and Commerce
Rice Lake Chamber of Commerce
Wisconsin Manufacturers & Commerce

West Virginia

West Virginia Chamber of Commerce

Wyoming

Campbell County Chamber of Commerce
Jackson Hole Chamber of Commerce
Sheridan County Chamber of Commerce
Wyoming State Chamber of Commerce

From *ProPublica*

How Trump's Trade War Is Making Lobbyists Rich and Slamming Small Businesses

Washington's influence industry, including former Trump officials and allies, has made big money helping companies get exemptions from tariffs – sometimes by undercutting small business owners like Mike Elrod.

By *Lydia DePillis*

January 6, 2020

ProPublica is a nonprofit newsroom that investigates abuses of power. Sign up to receive our biggest stories as soon as they're published.

Mike Elrod, is the founder of Eccotemp, a small firm that makes tankless water heaters.

Mike Elrod voted for Donald Trump in 2016, hoping for a break from tight government oversight that his business had endured for years, which he often found unreasonable.

"There was a time when every day I dreaded opening the mail," said Elrod, who founded a small firm in South Carolina called Eccotemp that makes energy-efficient, tankless water heaters. "The Department of Energy would put in an arbitrary rule and then come back the next day and say, 'You're not in compliance.' We had no input into what was changing and when the change was taking place."

Elrod also thought that big businesses had long been able to buy their way out of problems, either by spending lots of money on compliance or on lobbyists to look for loopholes and apply political pressure. Trump, of course, had promised to address that – to "drain the swamp."

Elrod is in his mid-60s, tall with a white beard and deliberative drawl. He trusted the president even as Trump started a trade war with China, where Elrod manufactures his

heaters. The administration said U.S. companies that could prove they had no other source for their imports and whose business would be gravely injured could be spared the punishing tariffs that Trump was imposing. They would simply have to file for an exemption.

"I had every reason to believe they were talking about us," Elrod said. Eccotemp had spent 15 years developing different models of tankless heaters with manufacturers in China. Simply finding new factories in other countries seemed impossible.

So in the summer of 2018, Elrod settled in at his desk, strewn with brass valves, a pressure tester and a smiling jade Buddha from a Chinese supplier, and began typing. He and his dozen U.S. employees – designers, engineers, salespeople and customer service representatives – operate out of a squat cinder block building in a woody suburb of Charleston that used to be a film studio and now doubles as a distribution warehouse.

In letters to the Office of the U.S. Trade Representative, Elrod asked that gas-powered water heaters be exempted from the administration's 25% tariffs, writing that the cost would be "devastating" for the company's balance sheet. "We had all the boxes checked," Elrod said. "Or so I thought."

The process didn't go as he expected. It's the stuff that libertarians like Elrod dread: Low-level staffers with limited industry knowledge issuing seemingly arbitrary decisions that can save or smash a company's bottom line.

Every few weeks, a list comes out with a new batch of lucky winners, and losers. "Non-electrical wall candelabras, of wood, each with 3 wrought iron candle holders" received a pass, for example, but none with one or two candles.

There is no mechanism for appeals.

"Devastating to Our Company"

In a letter beginning "Dear Sirs," Eccotemp founder Mike Elrod requests tariff exclusions, making the case that Asian multinational companies with overseas relationships and production hubs win from tariffs while small businesses and American consumers lose. [Read the entire letter.](#)

Products which are made in China, and assembled in a third country: this arms length transaction places an unfair burden on those who import directly from Chinese suppliers without using an intermediary country.

The imposition of tariffs on the category 8419.11.0000 is devastating to our company, and the U.S. consumer with higher prices and limited selection, without rewarding the country with a U.S. supply alternative.

All water heaters sold in China as described in the HTSUS are currently made in China. There is no negative impact to be gained with the "Made in China 2025" initiative. There are no U.S. manufactures being excluded from competition in the market with U.S. made products.

Overall, Trump's tariffs have not had the effect that the self-described "Tariff Man" promised. Companies have moved manufacturing out of China – and it has mostly gone to Vietnam, Taiwan and Mexico. Tariffs are chiefly behind a months-long decline in domestic manufacturing, Federal Reserve researchers have found. The total loss of jobs across the economy may be as high as 300,000.

But constantly up-in-the-air trade agreements and the byzantine, opaque exclusion process has been a blessing for one set of players: Washington's influence industry, including the firms of former Trump officials and allies like inauguration committee chief Brian Ballard, former White House chief of staff Reince Priebus and Trump fundraiser Marc Lampkin.

Ballard was once Trump's lobbyist in Florida. He's since been dubbed "the most powerful lobbyist in Trump's Washington." A cancer therapy firm, Varian Medical Systems, paid Ballard and a colleague \$540,000 to lobby the White House, the trade office and Vice President Mike Pence on trade issues, filings show. The outreach included a meeting with Trump's director of trade and manufacturing policy, Peter Navarro.

Since then, four of Varian's five exclusion requests have been approved – which, the company said in an SEC filing, boosted revenues by \$23 million. (Navarro said he doesn't intervene in the exclusion process.)

Priebus' firm, Michael Best Strategies, was hired by a Wisconsin company, Primex, to handle exemptions for its timekeeping and temperature measurement devices. "You're not gonna do it on your own," Primex CEO Paul Shekoski said in an

interview. "It's suicide actually."

Shekoski said he wanted help understanding the process and making sure all the requests were filed correctly. With Michael Best's guidance, he personally wrote letters to and met with his representatives in Washington.

The collective effort may have made it all the way to the Oval Office. Shekoski said in an email last fall that he heard from his lobbyist at Michael Best, Denise Bode, that Sen. Ron Johnson, R-Wis. cited Primex as an example of a Wisconsin company suffering from tariffs when the senator took the issue to the president. "He not only called USTR, he was able to bring our specific case up to Trump directly," Shekoski said. Bode did not respond to a request for comment, and a Johnson spokesman did not respond to questions about the Trump contact, saying only that Johnson had advocated for many Wisconsin companies.

Days before this story was published, Shekoski denied knowing whether Johnson brought up the issue with Trump. He said he was just trying to give his elected representatives concrete stories about small businesses struggling with tariffs that they could use to advocate for tariff relief.

Lobbying records show that Primex paid Priebus' firm, Michael Best Strategies, \$85,000 in 2018 and 2019 for its services. "I'm not selling access," Priebus once told Politico. "I'm merely providing strategic advice and helping them handle their problems." (Neither Priebus nor the White House responded to requests for comment.)

Primex got mixed results, with about half of its 205 exclusion requests granted and half denied.

Disclosure rules don't require companies to say how much money they've spent lobbying on exclusions specifically. But records compiled by the Center for Responsive Politics show that the number of clients lobbying on tariffs and other trade issues are higher than any year on record. In 2018, the number jumped by 28% to 1,372, and 2019 will significantly exceed that once final figures are in.

Number of Clients Lobbying on Tariffs and Trade Nearly Highest

on Record

There is also no comprehensive picture yet of how companies that have hired lobbyists have fared compared with those that haven't. But there is evidence that agencies have bent the rules. In October, a government watchdog found that Commerce Department officials had secretly changed the rules for one exclusion category after "off-the-record" discussions with a favored company, creating a "perception of undue influence."

Companies with enough resources and savvy can not only push their own cases, they can work to undermine those of competitors. Elrod began to understand that in early August. He had been on the trade office's website, waiting to see if he would get his exclusion and watching for requests from competitors, when he noticed that an industry giant had formally objected to his application.

Rheem Manufacturing Company is a Japanese-owned conglomerate and one of the world's largest producers of water heaters, including in the United States. It challenged Elrod and a handful of other companies that had claimed they couldn't find alternative sources for their products outside of China, arguing that Elrod could find suppliers in Japan, Germany and South Korea – or buy from Rheem itself.

"The Allegation Is Unsupported"

Rheem's response objecting to Eccotemp's request is written in formal language, complete with citations, and addressed directly to "the Honorable Robert E. Lighthizer," the U.S. trade representative. Rheem, a Japanese-owned conglomerate, lists several international manufacturers Eccotemp could do business with outside of China, noting Rheem itself also has spare capacity.

assembly operations are insufficient to cover country, the allegation is unfounded. Although Rheem cannot speak for other companies, Rheem's own tankless water heaters from Japan are made almost entirely from parts that are themselves made in Japan.

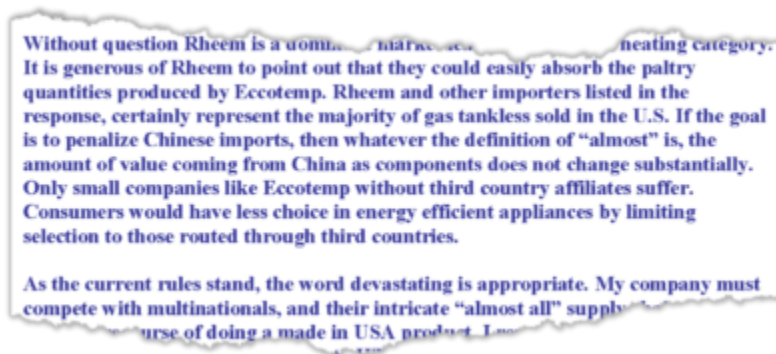
Eccotemp also claims that the tariffs would be "devastating" to itself and to consumers. Again, however, the allegation is unsupported and devoid of any detail. Rheem has spare manufacturing capacity and could supply all of the 40,625 units of tankless gas water heaters that Eccotemp reports having imported from China during 2017.

Elrod quickly fired back with another letter, laying out how difficult and expensive it would be in practice to move production to another country. Amid a rush out of China, factories in Vietnam are holding out for enormous orders and shunning the relatively small quantities that Eccotemp imports. Plus, after developing his heaters over more than a decade with a handful of suppliers, finding one that could meet his exacting standards would require months of tests and new certifications.

That did not sway the government's trade office, the USTR, which in late September posted a one-page form letter saying that Elrod had failed to demonstrate his products weren't available outside of China. Thinking that his original ask for exclusions might have been too broad, Elrod then filed individual requests for several of his models, hoping the government might exempt at least a few of them.

"My Company Must Compete With Multinationals"

Elrod fights back, saying that mimicking the supply chain of a company like Rheem is "financially impossible" for Eccotemp.



But Rheem had reinforcements. New comments in opposition arrived on the letterhead of King & Spalding, a law firm with sleek offices across the street from the White House and a complement of former government officials. Stephen Vaughn had left the firm in 2017 to serve on the administration's "beachhead team" at USTR, served as the agency's general counsel — where he oversaw the exclusion process — and then rejoined the firm in 2019.

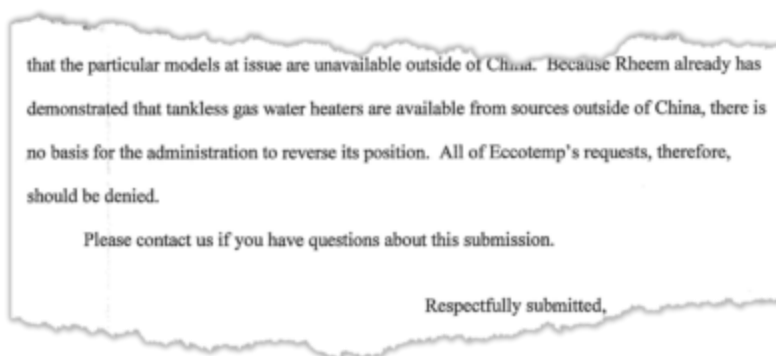
Fees paid for legal services aren't public, but records show

that Rheem spent \$610,000 on lobbying on all federal issues in 2018. Neither Rheem nor Vaughn responded to requests for comment.

"I don't have anyone on Pennsylvania Avenue," Elrod said. "That letter probably cost them more than we've spent on legal expenses in the last five years."

"Therefore, Should Be Denied"

Attorneys from King & Spalding, a law firm with offices across the street from the White House, argue to Lighthizer that Eccotemp's individual requests contain no new evidence that it can't source its products outside of China.



His concern growing, Elrod met a staffer in the district office of Sen. Lindsey Graham, R-S.C., and asked for a letter of support. He inquired with USTR about testifying at one of the agency's multiday hearings on its sweeping tariff action.

Nothing worked. He didn't make the witness list for USTR's hearings, but the head of Rheem's air conditioning division did. South Carolina's Department of Commerce wrote letters on behalf of large employers like the fiberglass manufacturer China Jushi, but for the first few rounds of tariffs, no letters for small companies appear in the public record. (A spokeswoman said the state had written letters for "companies of various sizes and with varying numbers of employees.")

Graham, who had filed seven letters supporting companies with a presence in South Carolina — several of them multinational or foreign-owned — also didn't help.

"Lindsey Graham really did kick it to the curb," Elrod said. (A spokesman for Graham did not respond to a request for further

explanation.)

Finally, in November, the trade office rejected all of Elrod's requests for relief in the same terse fashion it had the first. "After careful consideration, your request was denied because the request failed to show that this particular product is available only from China," the letter read.

As a result, Eccotemp would get back none of the hundreds of thousands of dollars in duties that it had already paid out, and the bleeding would continue. Its profit margins vaporized and its employee head count sank by about 30%, as the company opted not to replace departing staff.



Products stacked in Eccotemp's warehouse in a suburb of Charleston, South Carolina. (Leslie McKellar for ProPublica)

For a while after receiving the denials, Elrod carefully watched the steady stream of response letters posted on the federal regulations portal, in case another company received an exclusion that would also cover his products. But no relevant approvals appeared.

Elrod has appreciated how under Trump, other regulators have been more business friendly. The government pesters him much less these days about energy and environmental rules. "Then you've got the USTR and the whole tariff thing that's just a crusher," he said.

"People our size, that don't have K Street lawyers," said Elrod, referring to the center of Washington's lobbying industry. "We're the ones that bear the brunt, we're the ones that have the least tools in the box to work with."

It's not often that K Street gets handed the type of business development opportunity that Trump's volatile trade policy offers.

With new tariffs being announced and lifted on a few days notice and trade agreements constantly being renegotiated, companies have scrambled to protect themselves. Tariff exclusions are highly sought after because they offer a huge competitive advantage – especially if a rival still has to pay. The review of exclusions is happening on a compressed time schedule, with little warning before tariffs and a complex set of rules that few people understand go into effect. And there are no second chances.

"When you're running a process that has no appellate review, there's a lot of room for questionable behavior because there's no one really checking the process," said one former USTR official who spoke on the condition of anonymity. "It's common knowledge in town that the best way to get a leg up on an exclusion request is to get a Republican House or Senate member to call the White House."

Members of Congress frequently work the bureaucracy on their constituents' behalf, but there's a particularly large pile of money on the line with trade. So far, Trump's new tariffs amount to an \$88 billion annual tax increase for U.S. companies, according to the Tax Foundation.

Just understanding the complexities of the process can require a specialized trade lawyer. Often, multiple importers will request exclusions for similar products. A reviewer at USTR's Washington office might grant one company's request and reject another's, but anyone may take advantage of the resulting exclusion and request a refund of all the duties it paid on that product, which means keeping a close eye on the Federal Register. (The Commerce Department runs the exclusion process for steel and aluminum tariffs, and under its rules, exclusions are company-specific.)

Companies that can't afford their own lobbyists often go

through their trade associations, which can help open doors on the Hill on behalf of an industry's interests. Still, even the trade groups are often baffled at why decisions come down the way they do. The National Marine Manufacturers Association has seen confoundingly mixed results — a fish finder is excluded while a depth finder isn't, for example.

"We can't make heads or tails out of why that happens," said John-Michael Donahue, the association's communications director. "I don't think there's a lack of help from Congress being loud about this issue, it's more getting through to the administration and figuring out what the next step is in their mind."

Some companies don't need members of Congress or trade associations to make their case. Apple, for example, got 10 out of the 15 exclusions it asked for on items like computer chargers and mice, with 11 yet to be decided. The company spends more than \$6 million on lobbying overall each year. Its CEO, Tim Cook, has met with Trump several times and the president cited Apple's exclusion approvals during a public event at its Texas production facility.

"It's difficult for me to see how this is a fair and transparent process," said Nicole Bivens Collinson, head of the international trade and government relations practice for Sandler, Travis & Rosenberg. "When you've got Tim Cook who's able to go in and meet with the president and get an exclusion, and someone who's a very small company trying to submit through the regular process, and this is going to have a huge impact on their business."

The federal government last set up an exclusion process in 2001, when George W. Bush imposed tariffs of up to 30% on \$15 billion worth of steel imports in an attempt to bolster flagging mills. About half of the goods originally covered by the measure were exempted, which was one reason why the tariffs ultimately didn't arrest the steel industry's decline.

Trump's tariffs are much less discriminate. Hefty new duties now cover about \$364 billion worth of imports, or 12% of the overseas products Americans buy in a year. The tariffs don't just fall on finished goods, like toasters or water heaters. They also cover many of product components, from motherboards

to heat exchangers.



Samples of Eccotemp's tankless water heaters, which are manufactured into finished goods in China. Moving production to another country would require months of tests and new certifications. (Leslie McKellar for ProPublica)

Because they're so sweeping, the Commerce Department and USTR have been flooded with clemency pleas. As of mid-December, steel and aluminum users had requested exclusions on about 152,000 specific products. With two-thirds of the requests decided, about 79% had been approved. Importers of goods from China had requested about 44,000 exclusions, of which 43% had been decided and 35% approved, with a final round of exclusions under way.

For the first two rounds of China tariffs, which are worth about \$50 billion in imports, the Peterson Institute for International Economics estimated that USTR had excluded products worth about \$12.8 billion, in what it called "a substantial off-budget concession to lucky firms."

Many of those affected simply submitted no requests, figuring they had slim chances of success. A handful of businesses submitted thousands, especially industrial suppliers that globally source tools and parts and distribute them to U.S. manufacturers, since a separate application was needed for every possible product variation. A single company – AEP Holdings, a private equity-owned supplier of aftermarket car parts – filed more than 10,000 exclusion requests. So far, about 2,600 have been denied and only a handful approved.

Adjudicating each request is an enormous undertaking, and the federal government was ill-prepared.

The Commerce Department at first had projected that it would see only about 4,500 applications – a threshold that was passed almost instantly. According to a regulatory filing, USTR estimated that each exclusion request would take applicants two hours to prepare, at a cost of \$200 each, and two and a half hours for USTR to process. For the China tariffs, adjudicating cases is expected to take 175,000 staff hours over the course of a year, at a cost of \$9.7 million.

To keep up, agencies have had to borrow staff from other departments and brought on dozens of contractors, giving them a crash course in tariff codes. (“The internet is useful to research the product,” reads one set of instructions for reviewers obtained by ProPublica.) There is no hard completion deadline, and companies can only track their applications’ progress via an online portal.

Very often, at least with the steel and aluminum process run by the Commerce Department, it was hard to believe that parties were being considered equally.

Christine McDaniel, an economist and a senior fellow at the Mercatus Center at George Mason University, has found that requests are rarely granted if objections are filed. A handful of steel producers have objected to thousands of applications, claiming that the importers should get no relief because U.S. manufacturers could make the necessary items. But McDaniel poked a hole in their argument: Added together, the producers’ claims far exceed what they’re realistically able to produce.

“It’s nearly costless for these guys to file objections, but the objection can prevent a company from getting its steel,” McDaniel said.

Capitol Hill has noticed. In early 2018, after receiving complaints from steel importers, Rep. Jackie Walorski, R-Ind., sent letters to the Commerce Department detailing problems with evaluations. The process had been a “masterclass in government inefficiency and plagued by maddening inconsistency,” she wrote in April. After receiving no formal responses, on Oct. 17 she wrote in exasperation, “It is difficult not to believe that

there is a finger on the scale favoring objectors."

In one letter, Walorski cited the case of National Tool & Manufacturing Company, a 45-person firm based in East Dundee, Illinois, that found itself in a fight with a multinational metals titan.

National Tool requested an exemption on a specialty grade of steel it buys in Italy and distributes to companies that make injection molds. EDRO Specialty Steels, which is owned by the Austrian conglomerate Voestalpine AG, objected on the grounds that it could produce the steel National Tool needed in the U.S. National Tool's request was denied, so it had to keep eating the 25% tariff.

Then, EDRO itself requested exclusions for the raw material it imports from Slovenia to produce its proposed substitute — showing that the product it said it could supply wasn't entirely American-made after all. (EDRO said this summary was "incomplete," but declined to comment further.)

National Tool President Eric Sandberg suspects his exclusion request never had a chance.

"It truly is one of these big vs. small battles," Sandberg said. "Because one of those big three companies wrote a letter, done. Without investigation, it was just done. It really feels like the government is working against you."

In late October, the Commerce Department wrote back to Rep. Walorski, tersely rejecting her complaint. But Walorski's concern was merited. On Oct. 28, the agency's inspector general issued an alert finding that steel producers had back channel communications with Commerce Department staff that swayed their decisions. For example, the inspector general found that criteria for evaluating exclusions had been changed at an objector's request, before decisions were posted publicly.

That apparent bias has percolated out to some Washington insiders, who see the steel and aluminum exclusion process as so slanted toward U.S. producers that it's not worth the trouble. "I wouldn't take anybody's money against the U.S. steel industry," said one prominent D.C. lobbyist who spoke on the condition of anonymity. "We say no a lot."

Throughout his career, Mike Elrod has tried to follow the incentives that American trade policy has created for U.S. businesses.

In the 1990s, he owned a factory that made industrial rainwear. After China's entry into the World Trade Organization in 2001, which locked in low tariff rates, Elrod's biggest client decided to relocate production there. "It killed the company," Elrod said. "There was nowhere else to go."

After that, Elrod decided to start importing from China himself, setting up a business that manufactured precision metal components before finding a type of water heater that he thought would sell well in the U.S.. Founded in 2006, Eccotemp grew steadily, adding people, new models and distribution centers overseas, to the point where Elrod started thinking about setting up assembly operations in the U.S. Even if labor is more expensive, not having to wait four months for new orders to ship across the world would allow him to more closely control inventory levels and turn around design changes faster.

Instead of accelerating that plan, however, Trump's tariffs on Chinese imports took it off the drawing board. If the only place to get components is China, the duties would make bringing them into the U.S. for final assembly cost-prohibitive.



Elrod in Eccotemp's lobby. He has spent 15 years developing the company's products. (Leslie McKellar for ProPublica)

As the trade war began, Elrod had been looking forward to

retirement. As soon as the tariffs were announced, Elrod and his successor as CEO, Joe Bolognue, had to formulate a new business strategy based on a 25% hike in the cost of goods: More higher-margin products, more non-U.S. sales, leaner operations.

They don't want to walk away from the brand they've built, or put their employees out of work. "We don't have the luxury to say, 'We're going out of business,'" Bolognue said. "We just don't make as much money as we used to."

The tariffs have also created other problems, like Chinese manufacturers selling directly into the U.S. on Amazon or Alibaba rather than going through companies like Eccotemp. They still have to pay tariffs, but they can undercut prices by avoiding one layer of markups.

Since the tariff decisions came down, Elrod has moved to Georgia and isn't as involved in day-to-day operations. But he's still heavily invested in the company, financially and emotionally. That's why it was particularly devastating when the tariffs killed a potential deal to sell Eccotemp to a private equity firm, which would have allowed it to keep growing while ensuring his retirement.

"That's usually what people see as the pot of gold at the end of the rainbow," Elrod said. "My net worth, you're sitting in it. I don't have a 401(k). Everything that I've ever done has flown back into this business. I don't have enough runway to do it again."

Elrod says that despite it all, he still plans to vote for Trump in November, citing the administration's friendlier stance to his company on regulations. As for draining the swamp, Elrod doesn't blame the president.

"Maybe if Trump moved the capital to Dallas and put everyone with a DC address on the Do Not Fly List, maybe," Elrod said. "You get all the justice you can afford."

Finance USMCA Markup (January 7, 2020)
Senator Carper Statement for the Record

Let me start by saying that, while I support the new North American Free Trade Agreement (NAFTA), if truth be known, I'm not really sure that we should be here voting on this agreement in the first place.

The fact is, former Trade Rep. Michael Froman already re-negotiated NAFTA – it's called the Trans-Pacific Partnership (TPP).

But unfortunately, President Trump foolishly pulled out of that deal.

That being said, I am glad that an agreement could be reached on the new NAFTA.

I applaud the significant improvements that congressional Democrats worked with Ambassador Lighthizer to incorporate and that an overwhelming bipartisan majority in the House approved back in December.

After all, a vote of 385 to 41 speaks volumes, especially in today's day and age.

As the Ranking Member of the Environment and Public Works Committee, I have a particular interest in the environment chapter of the new NAFTA.

Did we get everything we wanted with respect to the treaty's environmental provisions? No.

Many of us on EPW would have much preferred the agreement to re-commit the United States to the Paris Climate Agreement.

And, we would have liked to ratify the Kigali Amendment – a global treaty to limit the use of hydroflouorocarbons, or HFCs.

But, with that being said, there are clear environmental wins in this deal, some of which have never been included in our trade agreements before.

For example, we included a brand-new enforcement mechanism that gives environmental stakeholders a direct role in enforcement matters for the first time.

Additionally, we've included 88 million new dollars dedicated to environmental monitoring and enforcement.

I'm proud to have worked with Senator Cardin, as well as House Democrats – including Representatives Neal, Blumenauer, Bonamici, and Larson – to develop these proposals.

These new tools and resources will hold the Administration accountable for enforcement of

the deal's environmental obligations and will help to ensure that those that break the rules can be held accountable.

I will be voting “yes” on the new NAFTA, and I urge my colleagues to do the same.

But a ‘yes’ vote will not negate the two years of uncertainty that American farmers, manufacturers, retailers, and small businesses have faced as a result of President Trump’s haphazard trade wars.

And where have these trade wars gotten us?

A limited agreement with Japan that merely attempts to cover up some of the negative effects the withdrawal from TPP has had on our economy and our global competitiveness.

And a “phase one” China trade deal that appears to fall far short of the one President Trump has promised.

As we enter this new year and new decade, I sincerely hope that President Trump will return to a multilateral approach where the United States works with our allies and trading partners to constructively write the global rules of trade.

An old African proverb comes to mind: “If you want to travel fast, travel alone. If you want to travel far, travel together.”

Senator Robert P. Casey, Jr. Extension of Remarks
Open Executive Session to Consider H.R. 5430,
The United States-Mexico-Canada Agreement Implementation Act

I have fought on behalf of workers and workers' rights in every public office I have held. As Auditor General of Pennsylvania, I opposed NAFTA in 1997. I believed then that it was a bad deal for Pennsylvania workers.

Pennsylvanians have paid a high price after recent trade deals have been implemented. The Economic Policy Institute (EPI) estimates that NAFTA displaced 850,000 jobs nationally¹, most of them in manufacturing. According to a 2015 EPI report, Pennsylvania has lost 314,000 manufacturing jobs (5.7% of total employment) between 1998 and 2013.²

When President Trump came into office, I was hopeful he would stay true to his word on trade and make good on his campaign promises to renegotiate NAFTA and get a better deal for American workers and companies. Instead, it became clear that he would support just about anything and try to call it a "win" for workers. Just a little over a year ago, President Trump signed a "new" NAFTA, which was effectively a reread of TPP. While some provisions were improved, they were unenforceable and therefore meaningless. Once again, large corporations prevailed. It is only because Democrats revolted and refused to let President Trump leave workers behind that the real work of rewriting NAFTA began.

Through this work, most especially that of Speaker Pelosi, House Democrats and Senators Brown and Wyden, the USMCA is fully enforceable and provides new avenues for workers to bring cases against firms that violate their rights. I also commend USTR Lighthizer who has been a good faith partner in this effort.

Only through the Herculean efforts of Democrats and the men and women of American labor unions, was the trade agreement that President Trump brought to Congress in 2018 improved enough to pass both houses of Congress. It is only because of the substantial improvements that I will support this agreement.

In addition to major improvements on labor and environment, the USMCA also provides certainty for our farmers, who continue to struggle in the face of unpredictable markets and the devastating effects of climate change. Agriculture is a critical industry in Pennsylvania, and this agreement helps to provide certainty for the farm economy.

While this new agreement is a step forward for American workers and companies, we must be clear-eyed on what it does not do. This agreement will not fix outsourcing, it will not do nearly enough to bring jobs home, or rebuild our communities that have been decimated by trade.

¹ <https://ideas.repec.org/a/elg/rokejn/v2y2014i4p429-441.html>

² <https://www.epi.org/publication/the-manufacturing-footprint-and-the-importance-of-u-s-manufacturing-jobs/>

The agreement also doesn't do enough on the environment. We know that a global temperature increase of 1.5 degree Celsius (2.7 Fahrenheit) will result in catastrophic impacts to the global economy, food security and world populations – climate change will exacerbate drought and floods that displace millions, and could spark conflicts the world over. Yet this agreement fails to recognize the impacts of climate change and the role our Nation must play in addressing the systemic effects of climate change on every aspect of our lives and economy.

Despite its shortcomings, the agreement is a measurable improvement and represents a step forward in what worker-focused trade proposals should look like in the future. We cannot for a moment pretend that this is all that we need to do for working families here at home. We must be vigilant to ensure the mistakes of the past aren't repeated and new ones aren't made.

The President says he's for workers, but he seems to work only for corporations. In fact, in almost every respect, the President has taken steps to damage the livelihoods of working people.

- (1) President Trump gave large multinationals tax incentives to offshore manufacturing.³
- (2) This Administration is gutting Department of Labor regulations that protect workers' health and safety.
- (3) President Trump eliminated the deduction for union dues.
- (4) President Trump is trying to decimate the Affordable Care Act.
- (5) President Trump has appointed anti-worker, corporate judges to every level of our Nation's courts.

The original agreement the President signed in October 2018 contained zero improvements to trade enforcement and was deficient in both labor and environment protections. Democrats and labor unions are the only reason this agreement has enforceable labor standards.

Without our efforts, the President would have left workers behind in his NAFTA re-write, just like he is leaving workers' and families' health and economic security behind by trying to decimate the Affordable Care Act.

The President said he would improve health care, yet he supports legislation and a lawsuit that will destroy health care for workers and the middle class. He said he would "not touch" Medicare and Medicaid; his budget cuts these vital health care programs by \$2.3 trillion.

His corporate tax bill creates new avenues for companies to outsource jobs and manufacturing,⁴ which no trade agreement can undo.

³ <https://www.accountingtoday.com/news/tax-cuts-and-jobs-act-boosted-multinationals-investments-overseas-more-than-in-us>; <https://www.nytimes.com/2018/01/08/business/economy/gop-says-tax-bill-will-add-jobs-in-us-it-may-yield-more-hiring-abroad.html>

⁴ <https://www.accountingtoday.com/news/tax-cuts-and-jobs-act-boosted-multinationals-investments-overseas-more-than-in-us>

This vote is not the end of the fight, it is the beginning.

We must enact legislation to aid workers and trade affected communities. I will soon reintroduce the Community Economic Assistance Act, which aims to do just that. I urge my colleagues to support this bill and other legislation to provide help to workers and their communities adversely impacted by trade and other economic hardship.

We must fight to ensure wages rise here at home by raising the minimum wage and providing a real middle class tax cut.

We must reverse the damage of Trump's signature tax bill which has supercharged investment in overseas operations and the associated threat of outsourcing.

And we must ensure the Mexican government implements and fully enforces their labor laws now and in the future.

We also must do more to align our trade policies with our national priorities. I will soon introduce a package of legislation to do just that.

- (1) Supplemental Rules of Origin to restrict access for non-market economies: Any future trade agreement must include rules of origin requirements related to non-market economies, like China. Countries that flout global economic norms and standards should not be able to take advantage of backdoors into the US market.
- (2) Women's economic participation and non-discrimination: Any future trade deal and trade preference programs must contain fully enforceable provisions relating to non-discrimination, violence and harassment in the workplace and provide for full and equal economic participation for men and women. I will soon introduce legislation which will do just that.
- (3) Labor standards and women's rights first: Before the United States enters into any future trade agreement, we must have assurances that any Nation that wants preferential access to our market meets minimum standards for worker rights and women's rights.
- (4) Wage increases: We must begin to reverse the damage from the 2017 tax bill. Starting with giving workers a raise. This proposal will eliminate the massive corporate giveaway for corporations unless firms have profit sharing plans with their employees. Companies have shown us exactly what they did with their tax cut: more investments overseas, less money spent at home.⁵

⁵ ibid

We must continue to press forward on the good work by Democrats that has gone into this agreement -- it is an important step, but it is not the last.

This may be the best deal we can get out of Republicans, but it is far from the best deal we should get for the American people. I will continue to fight to that end.