

UNITED STATES SENATE
COMMITTEE ON FINANCE
NOMINATIONS HEARING
NOVEMBER 4, 2009

QUESTIONS FOR MR. MICHAEL PUNKE

ANSWERS TO QUESTIONS FROM CHAIRMAN BAUCUS

Question 1

Many countries have urged the United States to accept the Doha deal that was on the table in July 2008. But I strongly believe that deal did not provide adequate market access for U.S. exporters. Can you assure me that you will insist on strong, significant market access for American manufacturers and service providers, as well as our farmers and ranchers? Do you have ideas on how the Administration can achieve that goal? How can Congress help?

I agree that the Doha deal that was put on the table in 2008 was unacceptable. It was neither balanced nor ambitious, and would not create meaningful new market access for the United States, particularly with regard to key emerging markets which are some of the fastest growing and increasingly important in today's global economy. My understanding is that other developing country exporters share our interest in securing a robust market-opening result from China, Brazil, India and other larger and more advanced developing countries. If confirmed, I will insist on a deal that achieves significant new opportunities for U.S. exporters, including manufacturers, service providers, farmers and ranchers.

To break the current logjam in WTO negotiations, my view is that it is critical for the United States to pursue sustained bilateral negotiations on Doha issues with our key trading partners. Such direct engagement, in parallel with the broader multilateral process, will give us the best opportunity to secure clarity and to close gaps regarding the critical issue of market-opening contributions from the most advanced developing countries. History has shown that simple reliance on broader-based multilateral engagement will not achieve that key objective and without clarity and gap-closing, we will not have an acceptable outcome for the Doha negotiations. If confirmed, I look forward to being part of this direct engagement.

I believe that we will not succeed at Doha unless Congress and the Administration collaborate actively on the negotiations. If confirmed, I will be an active part of that collaboration, consulting early and often to ensure that the Administration is pursuing a course that can lead ultimately to an agreement with broad congressional support.

Question 2

The United States has a competitive edge in services exports. In fact, services account for nearly 80 percent of our national income and over 80 percent of our employment. But services have received less attention in the Doha Round negotiations than other areas. Do you have ideas on how we can achieve strong market-access for U.S. services exports? Will you commit to seeking such an outcome in the Doha negotiations?

I agree that services represent a vital sector of our economy. I also agree that services negotiations have been held back by the lack of progress in other parts of the negotiations, where I understand certain key emerging markets such as Brazil have sought to hold such progress in services as a hostage to first achieving a breakthrough on agriculture and non-agricultural market access (NAMA). If confirmed, I will commit to seeking a strong market access outcome for services as part of any Doha Agreement.

My view is that we need to push forward on two fronts to advance the services negotiations. First we need to include making progress on services as one of the major objectives of our direct bilateral engagement with certain key Members that the Administration has initiated over the past few months. Second, in addition to progress on obtaining access into key markets, we need to make broader-based progress in key service sectors, particularly those infrastructure services that are most important to economic development. In pursuit of this goal, the United States has recently been exploring whether an enhanced plurilateral approach in key areas (including information, communications and technology services (ICT); energy and environmental services; distribution and express delivery) could complement (and spur) the existing negotiating process. If confirmed, I will work actively on both of these fronts.

Question 3

I have long supported the Trans-Pacific Partnership, or TPP. I believe this agreement has the potential to open commercially significant markets to U.S. exports, and will also give the United States an opportunity to negotiate a high-level trade agreement in a strategically crucial region. Additionally, I think pursuing a significant regional FTA such as the TPP sends a strong signal to our trading partners that we will continue to deepen our economic and trade ties with other countries, even if the Doha negotiations do not successfully conclude in the near term. Do you think the TPP will create an incentive for our trading partners to work with us to successfully conclude the Doha negotiations?

I know that both you and Senator Grassley have been strong proponents of TPP. I believe it is important that we consider TPP as one possible approach to expanding our ties in the Asian-Pacific region given its present and future economic significance. It is important that the United States position itself so that our farmers, ranchers, manufacturers and service providers have the most competitive opportunities. As a more general matter, I believe that the negotiation of multilateral agreements and bilateral or other agreements can create incentives to work together. As a historical matter, for example, it is my view that negotiation of the NAFTA helped the

United States to conclude the Uruguay Round Agreement. If confirmed, I will work with you to make sure the United States is using all its trade tools to achieve that goal.

Question 4

In a dispute filed against the United States by Brazil, the WTO Dispute Settlement Body found U.S. cotton subsidy programs to be inconsistent with WTO rules, and authorized Brazil to retaliate and potentially to cross-retaliate against the United States in other sectors, including intellectual property and services, if the subsidy level is found to exceed a certain threshold. If Brazil is entitled to cross-retaliate, what steps will the Administration take to ensure that any harm to U.S. intellectual property holders and service providers is minimized?

My understanding is that U.S. officials are interested in working with their Brazilian counterparts to find a way to resolve these issues without Brazil resorting to countermeasures. If confirmed, I will work as part of the effort to resolve these issues and avoid countermeasures against U.S. interests.

ANSWERS TO QUESTIONS FROM SENATOR GRASSLEY

Question 1

The new Japanese government is reversing the privatization of Japan Post. I'm concerned about the impact this action will have on U.S. competitors in the Japanese banking, insurance, and express delivery markets. What should USTR do to protect U.S. market access?

Japan represents an important market for U.S. services providers, including the specific sectors you listed. USTR officials are monitoring developments regarding Japan Post very carefully while continuing to urge for a level playing field in all these sectors. In the area of insurance, fair access has been a long-standing concern. If confirmed, I would work actively to ensure fair treatment to all U.S. services industries abroad and would use all tools available, including enforcement of U.S. rights under our international trade agreements.

Question 2

The Doha negotiations seem to be going nowhere fast. Some say the WTO has simply gotten too big. They argue it's not realistic to have consensus-based negotiations with 153 countries.

What is your view? Do we need to start focusing more on plurilateral agreements with smaller groups of willing partners?

First, I strongly believe that it is in the interests of the United States that the WTO operates on the basis of consensus, and that the WTO remains a Member-driven organization. I agree that negotiations with 153 Members present a significant challenge. To address this challenge, I understand that the Administration, over the past several months, has urged our trading partners to pursue parallel Doha negotiations on a bilateral basis. As part of this new approach, the United States has begun working toward a sustained bilateral negotiating process with key Doha trading partners. It is too early to determine if this approach will be successful, but I believe it gives us our best opportunity to “drill down” – obtaining clarity and closing gaps concerning the concessions our trading partners are willing to make. The results from this direct engagement can provide a new form of momentum to the overall multilateral work toward a Doha success. In addition, various parts of the Doha negotiations have featured U.S.-backed initiatives based on a ‘critical mass’ approach to results, such as sectoral initiatives in the NAMA and services negotiations. This type of approach focuses on achieving meaningful new export opportunities without requiring full participation by all 153 Members. At the end of the day, my view is that we need to be pragmatic and creative as to the form of our negotiations – pursuing what works to

achieve an economically meaningful outcome that meets U.S. objectives. If confirmed, I look forward to achieving those objectives.

Question 3

The Doha services negotiations are bogged down. You'll need a strong services package if you want my support for an agreement. What are your ideas for reinvigorating the services negotiations?

Ambassador Kirk has been very clear that we cannot conclude a successful package on Doha that does not include meaningful new market access for U.S. service suppliers.

My view is that we need to push forward on two fronts to advance the services negotiations. First we need to include making progress on services as one of the major objectives of our direct bilateral engagement with certain key Members that the Administration has initiated over the past few months. Second, in addition to progress on obtaining access into key markets, we need to make broader-based progress in key service sectors, particularly those infrastructure services that are most important to economic development. In pursuit of this goal, the United States has recently been exploring whether an enhanced plurilateral approach in key areas (including information, communications and technology services (ICT); energy and environmental services; distribution and express delivery) could complement (and spur) the existing negotiating process. If confirmed, I will work actively on both of these fronts.

ANSWERS TO QUESTIONS FROM SENATOR LINCOLN

Question 1

Although WTO members did agree at the Hong Kong ministerial in 2005 to seek to develop modalities in agricultural and NAMA negotiations before they would fully engage in negotiations on trade in services, it appears to me that the lack of clarity as to what gains might be available through liberalizing trade in services is part of what has led to the current stalemate in the Doha Round negotiations. Do you think it might be fruitful to consider changing the sequence of negotiations and re-activate negotiations in trade in services as one possible avenue to reviving the overall Round?

I agree that a lack of clarity regarding the potential market-opening contributions of our trading partners, particularly with regard to advanced developing countries, is one of the major impediments to concluding the Doha Round negotiations successfully. This is certainly true in the area of services, but also in agriculture, NAMA and other aspects of the Round.

My view is that we need to push forward on two fronts to advance the services negotiations. First we need to include making progress on services as one of the major objectives of our direct bilateral engagement with certain key Members that the Administration has initiated over the past few months. Second, in addition to progress on obtaining access into key markets, we need to make broader-based progress in key service sectors, particularly those infrastructure services that are most important to economic development. In pursuit of this goal, the United States has recently been exploring whether an enhanced plurilateral approach in key areas (including information, communications and technology services (ICT); energy and environmental services; distribution and express delivery) could complement (and spur) the existing negotiating process. If confirmed, I will work actively on both of these fronts.

Question 2

One of the main principles that underlies the World Trade Organization is that all members must agree to trade reforms before they can be adopted. With the WTO now counting 153 countries as members, that process has proven to be unwieldy in the Doha Round negotiations.

How can we reconcile the need to have all member countries agree to a change with the experience in recent years that no meaningful negotiations occur when everyone demands to be in the room and part of the process?

First, I strongly believe that it is in the interests of the United States that the WTO operates on the basis of consensus, and that the WTO remains a Member-driven organization. I agree that

negotiations with 153 Members present a significant challenge. To address this challenge, I understand that the Administration, over the past several months, has urged our trading partners to pursue parallel Doha negotiations on a bilateral basis. As part of this new approach, the United States has begun working toward a sustained bilateral negotiating process with key Doha trading partners. It is too early to determine if this approach will be successful, but I believe it gives us our best opportunity to “drill down” – obtaining clarity and closing gaps concerning the concessions our trading partners are willing to make. The results from this direct engagement can provide a new form of momentum to the overall multilateral work toward a Doha success. In addition, various parts of the Doha negotiations have featured U.S.-backed initiatives based on a ‘critical mass’ approach to results, such as sectoral initiatives in the NAMA and services negotiations. This type of approach focuses on achieving meaningful new export opportunities without requiring full participation by all 153 Members. At the end of the day, my view is that we need to be pragmatic and creative as to the form of our negotiations – pursuing what works to achieve an economically meaningful outcome that meets U.S. objectives. If confirmed, I look forward to achieving those objectives.

Question 3

In the ongoing WTO talks, certain nations have demanded that the United States give up its cotton program as an "early harvest", before the agriculture negotiations have concluded. Would USTR ever agree to reform or terminate the US cotton program, or any U.S. agricultural support program, as an "early harvest" before we've received commitments from other nations in a final agriculture deal?

My personal view is that a so-called “early harvest” on cotton is not in the U.S. interest. The agricultural negotiations, along with the rest of a potential Doha package, are highly complex, requiring a delicate balance of potential benefits and concessions across a broad range of issues. If confirmed, I look forward to consulting often to make sure your views and the views of the U.S. cotton industry are taken into consideration.

Question 4

In the ongoing WTO talks, certain nations have demanded that the United States give up its cotton program as an "early harvest", before the agriculture negotiations have concluded. Can you assure the committee that cotton negotiations will remain part of the overall agriculture negotiations and not be considered independently?

As I stated above, my personal view is that an early harvest on cotton is not in the U.S. interest.

Question 5

The Food and Agriculture Organization of the United Nations (FAO), recently estimated that there are just about 1 billion people in the world who are chronically hungry, a figure that has jumped up a couple of hundred million in the past two years due first to the spike in world food prices and then second to the global economic recession. The FAO also recently projected a need for a 70 percent increase in food production by 2050, an alarming number to say the least.

Given the serious concerns being raised about the adequacy of world food supplies, Shouldn't we be encouraging food production and will you work to protect the U.S. farm safety net that helps ensure safe, affordable, and abundant supplies?

If confirmed, I will work to ensure that we maintain a safe, affordable, and abundant supply of food – in the United States and worldwide.

ANSWERS TO QUESTIONS FROM SENATOR SCHUMER

Question 1

Increased opportunities for New York's dairy industry to participate in fair trade are very important to helping my farmers recover from the financial crisis they have been experiencing this year. As such, I am concerned about trade barriers that prevent U.S. dairy products manufacturers from exporting to India. Since 2006, India's market has been completely closed to U.S. dairy products. India's continued stonewalling of U.S. efforts to resolve this issue is deeply concerning, and I was pleased to hear from Ambassador Kirk that the issue of dairy market access would be a top issue on the agenda at the October 26th meeting in India of the U.S.-India Trade Policy Forum.

What progress was made on this issue at the TPF?

Has the United States raised this issue in the WTO? What has been India's response?

What steps will you take to help ensure that the recent discussions with India will translate into useful steps towards resolution of this issue that has been plaguing my dairy products manufacturers for so many years?

What steps will you take to resolve this issue if continued discussions fail to resolve this issue within the next several months?

I certainly appreciate the importance of improving market access for U.S. manufacturers of high quality dairy products, including products from New York State. I fully recognize the importance of defending and creating jobs, and, if confirmed, will make market access for U.S. products – including dairy – a top priority in our dialogue with India. As you note, last month the United States held the annual Trade Policy Forum in India, which provided the United States with a direct opportunity to convey to the Indian Government our concerns regarding market access for U.S. dairy products. If confirmed, I will monitor the situation closely, follow up aggressively on past U.S. efforts, and will continue to consult with U.S. stakeholders, including Members of Congress and the dairy industry.

ANSWERS TO QUESTIONS FROM SENATOR STABENOW

Question 1

You mentioned that you have seen both the positive and negative aspects of trade in our country. Securing market access for industrial and manufactured goods at Doha negotiations is important to my state. Although we've aggressively reduced tariffs on imported industrial goods through negotiations and unilateral action, we haven't always sought reciprocal market access. This puts our companies at a disadvantage when they are trying to get a foothold in foreign markets.

What would be your strategy during Doha to ensure that our manufacturers can successfully compete abroad?

I agree that industrial and manufactured goods represent a vital sector of our economy. I also agree that U.S. exports are faced with relatively high tariffs in many markets, including in key advanced developing countries like China, Brazil and India. If confirmed, I will commit to seeking a strong reciprocal market access outcome for industrial and manufactured goods as part of any Doha Round Agreement.

To advance the negotiations on industrial and manufactured goods (also called the Non-Agricultural Market Access, or NAMA, negotiations), my view is that we need to continue to actively pursue the direct bilateral engagement with select Members that the Administration has initiated. It is too early to determine if this approach will be successful, but I believe it gives us our best opportunity to not only obtain clarity about the potential market access results for U.S. exporters but also to close the current gaps and ensure that our trading partners are willing to provide a commercially meaningful market opening outcome. The results from this direct engagement can provide a new momentum to the overall multilateral work toward a Doha Round success. In addition, the NAMA negotiations have featured U.S.-backed sectoral initiatives, which focus on the reciprocal additional lowering of tariffs in key manufacturing sectors by major producers and traders, as well as U.S. led proposals to reduce non-tariff barriers in key product areas. At the end of the day, my view is that we need to be pragmatic and creative as to the form of our negotiations – pursuing what works to achieve an economically meaningful outcome that meets U.S. objectives. If confirmed, I will work hard to achieve those objectives.

ANSWERS TO QUESTIONS FROM SENATOR NELSON

Question 1

The upcoming World Trade Organization Ministerial Conference in Geneva will be an opportunity for stock-taking among our trading partners on the prospects for a reinvigorated Doha Round. What are USTR's goals for the conference and how might this meeting, as well as the upcoming APEC Summit in Singapore, provide an opportunity to showcase American leadership on the trade agenda and help move developing countries toward agreement on Doha?

I believe that a strong and robust rules-based trading system that operates to provide new and expanded economic opportunities worldwide is in the interests of the United States. I agree that the upcoming WTO Ministerial and the APEC Summit provide an opportunity to demonstrate continuing U.S. leadership, both in support of Doha and in support of the broad range of international issues under discussion. Both meetings offer the Administration an opportunity to communicate, at the highest level, the ongoing U.S. commitment to achieving an agreement in Doha that is balanced and ambitious. My understanding and expectation is that this leadership will be on full display, not only in meetings involving the full membership, but also in the important informal meetings on the 'margins' of the more formal group sessions, involving varied and smaller groups of Ministers. To complement these meetings at the highest level, it is essential that our trading partners embrace the hard work that remains to be done day-to-day. Our trading partners need to be willing to sit down across the table from us to engage. If confirmed, I will stand ready to support this hard work and I know the United States stands ready.

Question 2

How can we bridge the divide on Doha with rapidly developing economies such as India and Brazil who are reluctant to provide market access, especially for our agricultural goods, due to their own domestic sensitivities over further economic liberalization?

My view is that the success or failure of the Doha negotiations will depend, in significant part, on the willingness of advanced developing countries such as China, Brazil and India to make contributions toward a meaningful market-opening outcome, commensurate with their growing role in the global economy. The power and influence of these countries in the world economy has expanded dramatically, even since the beginning of Doha negotiations in 2001. It is vital for them to accept the responsibility that goes along with this power and influence. If confirmed, I will stand ready to engage in the hard work of the negotiations that can lead to a successful outcome in Doha.

Question 3

The 2001 Doha Ministerial Declaration states that “International trade can play a major role in the promotion of economic development and the alleviation of poverty.” How can the U.S. reconcile our trade and development agendas? What is your view on U.S. trade preference reform in this context?

The U.S. economy is among the world’s most open to begin with. In 2008, 45 percent of imports entered the United States MFN duty-free, and an additional 24 percent of imports entered duty-free under existing preference programs and FTAs. Where a tariff was charged on imports, the average duty paid was 4 percent. With regard to Doha, it is important to note that the world’s least developed countries already have largely open access to the U.S. market. For countries that receive benefits under the GSP program, we currently provide duty free access on 82 percent of our tariff lines. For countries benefitting from all U.S. preference programs, the percentage of duty-free tariff lines is above 90 percent. In the Doha negotiations, the United States has committed to make 97 percent of our tariff lines duty-free and quota-free for the least developed countries Members of the WTO.

By contrast, it is important to note that the tariff barriers in key advanced developing markets – including those that are beneficiaries of the GSP program – remain high. For example, according to the WTO’s latest figures (from 2007), Brazil maintains peak tariffs, defined as rates at or above 15 percent, on over one-third of products. Malaysia maintains peak tariffs on 21 percent of its products. And 15 percent of products imported by China are subject to tariffs at or above 15 percent. Two-thirds of the tariffs collected by developing countries are paid by other developing countries. This means that the most important new trade and development opportunities for developing countries will come from other developing countries. When we push advanced developing countries for new market access, we do so on behalf of U.S. exporters. But the effects are just as important for developing countries, including the least developed.

Preference programs benefit U.S. importers and consumers and the developing country producers that supply those products. The programs have the important objective of, inter alia, contributing to the reduction of poverty in beneficiary developing countries and helping to bring these countries, particularly the least active traders, into the global trading system. I understand the Committee is considering modifications to some or all of US preference programs. If confirmed, I look forward to working with you in this effort.

ANSWERS TO QUESTIONS FROM SENATOR BUNNING

Question 1

Mr. Punke, since Canada is a WTO member, it is required to comply with the Technical Barriers to Trade Agreement. Among other things, this Agreement requires that governments use the least trade-restrictive means of accomplishing a legitimate government objective. Can you explain why other nations put the Canadian tobacco legislation on the agenda for this week's Technical Barriers to Trade Committee meeting in Geneva, but the U.S. did not actively protect American interests in this area?

I know that the issue of C-32 is extremely important to you and to burley tobacco farmers. I also believe that Canada and other WTO Members should live up to their obligations under the TBT Agreement and other WTO agreements. My understanding is that the USTR-led delegation to the most recent meeting of the WTO Committee on Technical Barriers to Trade posed questions to Canada about C-32 and the implementing regulations that Canada is developing to implement it, which could affect the scope and application of the law. If confirmed, I would look forward to working with you and with all U.S. stakeholders to achieve successful outcomes to the issues that relate to my responsibilities.

ANSWERS TO QUESTIONS FROM SENATOR ENZI

Question 1

Ambassador Kirk and Secretary Vilsack have both reassured me that the United States will pursue Canada and Mexico's WTO challenge of our Country of Origin Labeling law aggressively. As you are engaged in Geneva with the dispute settlement process, what is your outlook for this important case?

I believe that the U.S. Country of Origin Labeling law ("COOL") provides information to consumers in a manner consistent with the United States' WTO commitments. If confirmed, I will work as part of the effort to defend aggressively U.S. interests on this issue, including in WTO dispute settlement proceedings.

Question 2

Regional trade agreements are important for stimulating trade; however, they are not adequate substitutes for a Doha Agreement. In recent years, countries who cannot afford to wait for Doha have pursued bilateral and regional trade deals. This is especially true for Asia's trading nations. There has been significant discussion about changing the dynamic at the Doha negotiations and this is one area where focus will need to be shifted. Do you have any thoughts about how the United States can shift this dynamic?

It is my view that, as a nation with significant trade interests around the world, we need to be able to use all of the trade tools at our disposal in order to achieve our goals on trade. These tools include bilateral, plurilateral, and multilateral agreements. If confirmed, the primary focus of my job would be the Doha negotiations; however, I would expect to work in concert with broader USTR and Administration efforts to pursue new market-opening opportunities using all of the tools at our disposal.