

FINANCE COMMITTEE QUESTIONS FOR THE RECORD

United States Senate
Committee on Finance

Nominations Hearing
Miriam Sapiro
June 5, 2009

Questions from Chairman Baucus

Question 1:

During the Finance Committee's recent Panama Free Trade Agreement (FTA) hearing, the Administration announced its intention to develop a new "trade policy framework." To my knowledge, the Administration has not yet consulted with Congress on the trade policy framework. And recent press reports indicate the Administration does not plan on releasing the framework until after health care reform passes the House and Senate. What will the trade policy framework include? Are these press reports correct? What is the timeline for the framework? And do you commit to working with us as you develop the trade policy framework?

A: The President believes that the United States needs a new framework for trade that addresses important issues, such as potential new trade agreements, in the context of the broader economic policy agenda. Trade is essential to America's prosperity and has the potential to lift up workers in America and around the world. To accomplish this, trade agreements need to include strong labor and environmental standards, we need to do a better job of enforcing obligations, and we need domestic policies to help Americans succeed in an increasingly dynamic economy. A new framework for trade will help build the necessary bipartisan support for approval of the pending trade agreements, as well as broader support for other opportunities to increase market access and expand the benefits of trade. If confirmed, I will look forward to working with you and the Committee as the Administration develops and implements the framework.

Question 2:

I have long said that we should move the pending FTAs in the order in which they are ready to move. I expect the Panama FTA will garner widespread support, and I see no reason to delay its consideration. But recent press reports state that the Administration does not plan on moving the Panama FTA until health care reform passes the House and Senate. Are these reports correct? What is the Administration's plan for moving forward the Panama FTA?

A: The pending U.S.- Panama trade agreement remains a top priority in the Administration's trade policy agenda. USTR has been working with Panama to address outstanding concerns before the agreement is submitted to Congress. These concerns involve labor and tax transparency rules. While Panama has made progress in addressing these issues, the Administration believes more work remains to be done. Successfully addressing the concerns will be an important step in determining when, in close consultation

with the Congress and as part of the President's broader trade policy framework, the agreement is ready to be considered for approval. If confirmed, I look forward to working with you towards this goal.

Question 3:

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

A: Yes. I will work in close consultation with Colombia, key stakeholders, the Finance Committee and the Ways and Means Committee to identify the further steps that Colombia needs to take to ensure that Colombian workers' fundamental labor rights are protected in law and practice.

Question 4:

The global downturn in the housing market has led to a steep decrease in softwood lumber prices. U.S. lumber producers, including those in Montana, have seen production fall off, mills shut down, and workers laid off. In these troubled times, it appears Canada has been subsidizing its lumber producers, including by improperly classifying lumber as "Grade 4" lumber, and thus charging its producers lower stumpage fees. How does USTR plan on addressing this issue? And what steps does USTR plan on taking to consistently enforce the U.S. – Canada Softwood Lumber Agreement?

A: As the decision Ambassador Kirk made to impose the 10 percent duties on lumber from four Canadian provinces shows, USTR is committed to carefully monitoring and enforcing the U.S.-Canada Softwood Lumber Agreement (SLA). I discussed the importance of the SLA and grading concerns during consultations with your staff in preparation for my hearing. USTR has already held a series of meetings with key stakeholders regarding implementation of the SLA, and British Columbia's lumber grading practices were identified as a major issue. There will be several opportunities to discuss these concerns with Canada over the next few weeks, including meetings of the technical working groups of the Softwood Lumber Committee and of the Committee itself. In addition, on July 20-24, there will be an arbitration hearing before the LCIA on circumvention. If confirmed, I will review all of the SLA compliance issues you have identified to ensure full enforcement of the SLA.

Question 5:

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

Do you think the Special 301 provisions of U.S. law provide a sufficient enforcement tool? Do those provisions work as well today as they did 20 years ago? What do you see as the pros and cons of my proposal to strengthen the Special 301 provisions? What other tools

does the administration need to better fight the intellectual property violations that have plagued U.S. industry?

A: These are important questions. The United States needs commitments from its trading partners for strong and effective protections of intellectual property rights. If confirmed, I will work with USTR staff to review the Special 301 provisions of U.S. law and work with you and your staff to consider options for strengthening it.

Question 6:

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

A: The Administration has announced that it plans to move forward with negotiation of the ACTA to step up the fight against global counterfeiting and piracy. I strongly support the goal of working with our trading partners to toughen international standards for the enforcement of intellectual property rights, making the world safer for the innovation and creativity that are so critical to the U.S. economy. The participants in the ACTA negotiations will next meet in Morocco in July to continue discussions, with a goal of reaching an agreement in 2010. If confirmed, I will work to ensure that the Administration continues to consult with all interested stakeholders as this effort moves forward.

Question 7:

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

A: I strongly support increased trade and investment ties with Asia and other key trading partners. With respect to investment, it is critical that U.S. firms and investors be able to compete on a level playing field in foreign markets and be treated according to the rule of law. Strong BITs can help achieve this by promoting economic reform, improving the investment climate, enhancing transparency and strengthening the rule of law. USTR – in cooperation with the State Department (with which it shares responsibility on BITS) - has launched a review of the U.S. BIT program to ensure that the agreements being negotiated are consistent with key U.S. interests. In the meantime, the BIT discussions begun with China, India and Vietnam are moving ahead. If confirmed, I will work to secure a level playing field for U.S. firms and investors in these and other countries.

I also urge you to tread carefully as you consider whether and how to revise the model BIT. Improvements can always be made, particularly in the area of increased transparency. But the current model BIT represents a carefully calibrated compromise between many competing viewpoints. Does USTR intend to proceed with a review of the model BIT? Can

you assure me that you will consult closely with me and my staff as you consider any such changes? And can you assure me that you will consult with all interested stakeholders as you consider any changes to the model BIT?

A: The 2004 U.S. model BIT text represents a carefully calibrated compromise among domestic stakeholders. As noted in my previous answer, USTR – in cooperation with the State Department - has launched a review of the U.S. BIT program to ensure that the agreements being negotiated are consistent with key U.S. interests. If confirmed, I will consult closely with you and your staff regarding the review, as well as with interested stakeholders.

Question 8:

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

A: I agree that it is important to remedy the imbalance in clarity that currently exists in the Doha Round negotiations between what is being asked of the United States and what U.S. exporters stand to gain. Ambassador Kirk has told key trading partners that we must consider new ideas to get the negotiations moving, along with creative, quiet and informal work by ministers and senior officials. If confirmed, I look forward to working with him to advance these efforts.

Question 9:

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

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

There also are ways to expand global trade in services outside of formal trade agreements, such as through regulatory dialogues and nonbinding cooperative initiatives. If confirmed, I am committed to exploring all of these options and consulting with you on additional ideas.

Question 10:

The Finance Committee reviewed your 2005, 2006, and 2007 Federal income tax returns in connection with your nomination. During this review vetting process, one additional item was identified and you have filed a second 2006 amended tax return to address the matter. Please provide an account of the changes that were made in your 2006 amended return.

A: Our 2006 federal income tax return was amended at the request of the Committee because the contribution to my 401(K) plan had been inadvertently reported by our former accountant on Schedule C

instead of on the front of the Form 1040. The amended return moved the deduction from Schedule C to Form 1040.

Questions from Ranking Member Grassley

Question 1:

The Obama Administration has signaled that the Panama trade agreement will not be submitted to Congress until we at least address a reform of our health care system, which could take much of the remainder of this year.

Six weeks ago, I asked Ambassador Marantis during his confirmation hearing when the Administration would reach out to Congress to develop benchmarks for the Colombia trade agreement.

He replied that USTR would seek to engage with us as soon as possible, but that hasn't happened yet. USTR has made no effort to approach me on this issue.

It's readily apparent that creating new export opportunities for U.S. farmers, manufacturers, workers, and service suppliers in Panama and Colombia is not a priority for this Administration.

And, I'm disappointed that the Administration doesn't appear to be concerned by the potential adverse impact to our relations with these important allies.

(1) What is your view? Do you think it makes sense to continue denying our exporters and workers such meaningful market opportunities?

A: I believe it is vital to create new export opportunities for our workers, manufacturers, farmers, ranchers, and service providers and to deepen relations with important trading partners. The Administration recognizes the significant potential benefits that the Panama and Colombia trade promotion agreements offer, and these agreements are top priorities in its trade agenda. USTR has been working with both Panama and Colombia to address outstanding concerns before these agreements are submitted to Congress. With respect to Panama, these concerns focus on labor and tax transparency rules. While Panama has made some progress in addressing these concerns, the Administration believes more work remains to be done. In the case of Colombia, USTR is working with the Government, this Committee and key stakeholders to identify the further steps that Colombia needs to take to ensure that workers' fundamental labor rights are protected in law and practice.

In addition to the work under way with Panama and Colombia, the President believes that the United States needs a new framework for trade that addresses important issues, such as trade agreements, in the context of the broader economic policy agenda. Trade is essential to America's prosperity and has the potential to lift up workers in America and around the world. To accomplish this, trade agreements need to include strong labor and environmental standards, we need to do a better job of enforcing obligations, and we need domestic policies to help Americans succeed in an increasingly dynamic economy. A new framework for trade will help build the bipartisan support necessary for approval of the FTAs, as well as for other opportunities to broaden market access and expand the benefits of trade.

(2) What are the potential foreign policy implications if we fail to promptly implement these trade agreements?

A: Panama and Colombia are valued economic and political partners of the United States. The Administration engages closely with both governments at all levels on a broad array of issues. As noted above, the Administration is working with Panama and Colombia to address outstanding concerns before submitting these agreements to Congress for approval. Successfully addressing the concerns noted will be an important step in determining when, in close consultation with the Congress and as part of the President's broader trade policy framework, the Panama and Colombia agreements can gain bipartisan support. If confirmed, I look forward to working with you on these efforts.

Two months ago, the Obama Administration proposed to expand our trade relations with Cuba.

At the same time, our pending trade agreements with Colombia and Panama are on indefinite hold. I don't understand the Administration's approach.

(3) Why should trade relations with Cuba be a higher priority than leveling the playing field for U.S. exporters and strengthening our relationships with important allies like Colombia and Panama?

A: The Administration is moving forward with the pending agreements with Panama and Colombia. Both countries are important partners of the United States and represent significant export markets in Latin America for U.S. workers, manufacturers, farmers, ranchers and service providers. If confirmed, I look forward to working with other members of the Administration and this Committee to gain congressional approval of both pending agreements, as well as to address Cuba trade issues.

Question 2:

By June 30, 2009, President Obama is required to determine and report to the Senate Finance Committee whether Bolivia satisfies the criteria set forth in section 203 of the Andean Trade Preference Act (19 U.S.C. 3202) to remain a beneficiary country under that Act, including whether Bolivia meets the narcotics cooperation certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 for eligibility for United States assistance (19 U.S.C 3202(d)(11)).

President Obama is also required to determine and report to the Senate Finance Committee by June 30, 2009, whether Ecuador does not satisfy the criteria set forth in section 203 of the Andean Trade Preference Act (19 U.S.C. 3202) to remain a beneficiary country under that Act, including whether Ecuador does not meet the narcotics cooperation certification criteria set forth in section 490 of the Foreign Assistance Act of 1961.

(1) In December 2008, the Bush Administration suspended Bolivia's benefits under ATPA for failure to meet the criteria set forth in section 490 of the Foreign Assistance Act of 1961. I am unaware of any action taken by the government of Bolivia to date that suggests Bolivia is now meeting the criteria set forth in section 490. If that is the case, do you agree that as a matter of law, President Obama must necessarily conclude that Bolivia does not satisfy the criteria set forth in section 203 of the Andean Trade Preference Act?

(2) In July 2008, Ecuador’s Foreign Ministry formally notified the United States that the U.S. lease on the Eloy Alfaro Air Base would not be renewed when it expires later this year. Interdiction activities originating from this air base have been an important part of our cooperative counternarcotics efforts over the past 10 years. What steps should we pursue with the government of Ecuador to ensure that there is no diminution in our cooperative counternarcotics efforts after the U.S. lease to the air base expires?

A: Upon confirmation I will work to ensure that your concerns on these issues are taken into account by the President and addressed in the report he is required to send to the Senate Finance Committee by June 30.

Question 3:

Canada Intellectual Property Rights

In this year’s Special 301 report, USTR added Canada to the priority watch list.

The report explains that USTR took this action because Canada is failing to live up to its commitments to improve the protection and enforcement of intellectual property rights.

- (1) Are you aware of Canada’s reaction to USTR’s decision?**
- (2) Has the government of Canada taken any steps since then to address USTR’s concerns?**
- (3) If you are confirmed, will this issue be an important priority for you to engage the Canadians on for a resolution?**

A: It is important that all countries – including close allies like Canada – protect and enforce intellectual property rights in the context of a rules-based trading system. If I am confirmed, it will be one of my priorities to engage with the Canadian Government to address the intellectual property concerns identified in the Special 301 Report as soon as possible, and to ensure that the seriousness of its elevation to the Priority Watch List is understood.

Question 4:

Under the previous Administration, USTR supported the establishment of a Middle East Free Trade Area.

- (1) What is your view—is this a worthwhile objective?**
- (2) If you are confirmed, will you work to advance this effort?**
- (3) Do you foresee the negotiation of additional trade agreements with countries in the Middle East region? If so, with which countries?**

A: Our economic engagement with countries in the Middle East and North Africa is a key aspect of our broader relationship with this important region. Enhanced U.S. trade and investment links with the region promote economic development and respect for the rule of law, including important workers' rights, as well as contribute to overall regional stability. These ties also advance the interests of U.S. exporters in a region that offers the potential for significant export growth.

If confirmed, I will work with Ambassador Kirk, others in the Administration and the Congress to determine the best strategy for expanding these links.

Question 5:

Russia is increasingly imposing scientifically unjustified barriers to imports of U.S. pork. Over the past year, Russia has delisted numerous U.S. pork plants, including plants located in Iowa, from eligibility to export to Russia.

Besides delisting some plants claiming sanitary concerns, Russia has also delisted plants over minor clerical errors on paperwork, and in some cases Russia has not provided reasons for removing plants from the eligibility to export.

Russia is also restricting imports of U.S. pork over alleged concerns over the H1N1 virus. Yet it is clear that the H1N1 virus cannot be spread through the consumption of pork.

(1) If you are confirmed, will you make it a high priority to engage the government of Russia on the removal of non-tariff barriers to U.S. pork exports?

As you know, Russia is engaged in negotiations to accede to the World Trade Organization. A number of important issues remain outstanding in these negotiations.

(2) Under what terms do you believe Russia should accede to the World Trade Organization with respect to: (i) the conditions of competition for Russian state-owned enterprises; (ii) the recognition, protection, and enforcement of intellectual property rights; and (iii) the imposition of export duties?

(3) If you are confirmed, what will your priorities be with respect to negotiating Russia's accession to the World Trade Organization?

A: Sanitary and phytosanitary measures that are not science-based are a key problem for U.S. pork and other exporters and a high priority for USTR. USTR is currently working with industry, USDA and other agencies to address the unjustified measures you raise, and if confirmed I will discuss the removal of these barriers with Russia. USTR is also committed to working closely with Russia to address outstanding issues with respect to its accession to the WTO, including those pertaining to state-owned enterprises, the enforcement of intellectual property rights and the imposition of export duties. If confirmed I will work to ensure that Russia understands the work necessary to conclude the accession process.

Question 6:

In an effort to move the stalled Doha Development Round Negotiations, Director-General Lamy recently endorsed the idea of beginning bilateral or plurilateral discussions to clarify the use of flexibilities under a modalities framework.

That's progress. Until we have a clear understanding of the market access opportunities that U.S. exporters stand to gain, Congress is not going to be receptive to concluding a deal.

If you are confirmed, how will you encourage key trading partners such as the European Union, China, India, and Japan, to play a constructive role in bringing members together to achieve such clarity in the negotiations?

A: I agree it is important to remedy the imbalance in clarity that currently exists in the Doha Development Round negotiations between what is being asked of the United States and what U.S. exporters stand to gain. Ambassador Kirk has told key trading partners that we must consider new ideas to get the negotiations moving, along with creative, quiet and informal work by ministers and senior officials. He has begun this effort and, if confirmed, I look forward to working with him to advance it.

Question 7:

The European Union's *de facto* moratorium on approvals of new agricultural biotech varieties in effect blocks U.S exports of corn to the European market.

Yet the European Union's own scientists state that the biotech varieties that they have reviewed pose no health or safety risks.

The World Trade Organization determined in 2006 that the European Union's measures were inconsistent with the European Union's obligations as a member of the World Trade Organization, but these measures remain in place.

This policy of the European Union adversely impacts corn producers in my home state of Iowa.

If you are confirmed, what steps will you take to see that the European Union removes its scientifically unfounded barriers to imports of U.S. biotech commodities?

A: I share your concern that despite the WTO case in our favor, the United States has not obtained access to the EU market for biotech corn and corn products. If confirmed, I will explore every tool available to USTR, from diplomacy to the dispute resolution process, to achieve the goal of normalizing trade in biotech corn with the EU. I understand that USTR is actively working with an interagency team and key stakeholders to review all of the information relating to current EU measures that are blocking U.S. market access in order to determine next steps. If confirmed, I will look forward to advancing this work and taking steps to resolve the problem.

Question 8:

The European Union imposes non-science-based restrictions on imports of U.S. meat.

For example, while the United States and the European Union recently reached a provisional accommodation for expanded exports of U.S. beef to Europe, this accord applies only to so-called hormone-free beef. The European Union still prohibits imports of beef from cattle treated with growth-promoting hormones.

U.S. poultry producers commonly rinse processed poultry in chlorine washes in order to reduce microbial contamination, and the European Union's own scientists report that these washes pose no risks to human health. Regardless, the European Union bans poultry processed with these treatments.

U.S. exports of pork to the European Union are limited by various EU sanitary policies that do not reflect sound science. Iowa farmers are being harmed by these restrictive policies that are not scientifically based.

If you are confirmed, what steps will you take to see that the European Union removes these scientifically unfounded barriers to U.S. meat exports?

A: If confirmed, I will seek solutions to the unjustified SPS barriers that restrict U.S. exports of poultry and meat to the European Union. In addressing these issues I will give consideration to the full range of options—from diplomacy and negotiations to, where appropriate, WTO dispute settlement—in order to promote adherence to science-based rules and achieve meaningful market access for U.S. products.

Question 9:

The European Union is currently considering whether to impose antidumping and countervailing duties on imports of U.S.-produced biodiesel.

The imposition of such duties could negatively impact Iowa soybean and biodiesel producers.

If you are confirmed, I expect that you will not hesitate to act if the European Union takes any actions that are inconsistent with its World Trade Organization obligations in conducting this investigation.

Do you agree?

A: If confirmed, I will work with Ambassador Kirk and officials at the Department of Commerce to take appropriate action should the EU take actions that are inconsistent with its WTO obligations.

Question 10:

I'm concerned about the use of differential exports taxes by some of our trading partners, such as Argentina.

By placing lower export taxes on processed soy products like soy meal, soy oil, and biodiesel, compared to those assessed on exports of raw soybeans, Argentina creates an artificial incentive for the production and export of processed soy products.

This increased production expands supplies in the world market and thus suppresses world prices for these processed products—thereby harming U.S. soybean farmers and U.S. soybean processors.

If you are confirmed, what steps will you take in the Doha Development Round negotiations to achieve a consensus on eliminating the use of such differential export taxes?

A: I am aware of your concerns and, if confirmed, look forward to working with you on this issue.

Questions from Senator Wyden

Question 1:

I commend the Administration's recent step to enforce an arbitration panel decision that had found Canada to be in breach of the Softwood Lumber Agreement. It was unfortunate that Canada has been slow to meet its obligations under the agreement. Most troubling for my home state has been British Columbia's subsidies to its lumber producers by reducing stumpage fees, making it much harder for Oregon forestry companies and their workers to compete in this down economy. It is now essential that the United States builds upon its recent enforcement action by quickly formulating and implementing a comprehensive plan of action to address all these trade practices – including timber fee reductions by British Columbia. What steps will you and Ambassador Kirk take to fully enforce this trade agreement? Do you agree that arbitration is an effective enforcement approach which should be used aggressively to remedy potential breaches?

A: As the decision Ambassador Kirk made to impose the 10 percent duties on lumber from four Canadian provinces shows, USTR is committed to carefully monitoring and enforcing the SLA. USTR held a series of meetings this spring with key stakeholders regarding implementation of the SLA, and British Columbia's lumber grading practices were identified as a major concern. If confirmed, I will review all of the SLA compliance issues identified to ensure that the SLA functions as intended. I will work with the Canadians where possible and pursue dispute resolution when necessary.

Question 2:

Will you provide the members of this Committee with a detailed plan of action to monitor and further improve Canada's compliance with the Softwood Lumber Agreement?

A: There will be several opportunities to monitor and further improve Canada's compliance with the SLA over the next few weeks, including meetings of the technical working groups of the Softwood Lumber Committee and a meeting of the Committee. In addition, on July 20-24, there will be an arbitration hearing before the LCIA on circumvention. If confirmed, I will work to promote Canadian compliance with all aspects of the SLA.

Question 3:

In 2006, the Government of Thailand tried to issue a compulsory license for the AIDS drug Efavirenz as a way to increase generic competition, reduce costs, and improve public health.

The Bush Administration opposed this policy, arguing that it violated patent protections. How will you approach these situations, where the interests of developing countries to act in the best interest of public health, conflict with the desire of United States drug makers' to keep patent protections?

A: I recognize the importance of protecting public health and ensuring access to life-saving medicines in developing countries and, at the same time, that there are cases where the issuance of compulsory

licenses raises legitimate concerns. If confirmed, I will work with Congress to promote respect for the Doha Declaration on the TRIPS Agreement and Public Health, which recognizes the right of WTO members to grant compulsory licenses in accordance with WTO rules. At the same time, I will ensure that USTR carefully monitors the use of compulsory licensing by our trading partners and takes action where appropriate to address any concerns that may arise.

With respect to Thailand, I agree with the Special 301 report, which urged Thailand to consider ways of addressing its public health challenges while maintaining a stable patent system that promotes investment, research and innovation.

Questions from Senator Stabenow

Question 1:

Enforcement

During the last administration our government's trade priorities moved our nation in the wrong direction. While USTR focused on negotiating new trade agreements, Michigan and American workers suffered the consequences of bad trade deals with little monitoring and little enforcement. U.S. businesses continue to close, or move overseas, and lay off American workers.

Would you welcome the idea of a Trade Enforcement Officer within USTR who can take the lessons learned across the various desks of USTR to establish a larger mission and strategy for enforcement?

A: Ambassador Kirk has made clear that enforcement is a top priority for USTR, and I fully share that commitment. The Ambassador has indicated that he would welcome additional resources and is open to the idea of creating a new position for trade enforcement. If confirmed, I would be pleased to discuss that possibility with you.

Question 2:

Special 301

Countries like China repeatedly violate international IP laws, yet the Bush administration refused to list it as a "Priority Foreign Country." Under the Special 301 process, that designation would require the USTR to investigate and address specific problems. Do you believe countries on the "Priority Watch List" should also be investigated further, and what role should Customs and Border Patrol have in this process?

A: The Special 301 process is an interagency effort that includes participation by U.S. Customs and Border Protection (CBP). If confirmed, I will work to develop a close relationship with CBP and other agencies so that we can address collectively the challenges of IPR infringement in China as well as IPR infringing and counterfeit imports into the United States. I agree that each country on USTR's Priority Watch List merits close scrutiny and, if confirmed, I will work to ensure that happens as we explore all appropriate steps to make progress in IPR protection and enforcement.

Question 3:

Colombia

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

How would you work with the Colombian government to address the problem of violence against trade unionists and to enact meaningful labor law reform?

A: If confirmed, I will engage closely with the Colombian government and lead efforts to identify the steps necessary to address these issues adequately. An important part of that process will also be consultations with key stakeholders and the Congress.

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

A: If confirmed, I will consult closely with Colombia, key stakeholders, the Finance Committee, the Ways and Means Committee and other members of Congress to identify the further steps that Colombia needs to take to ensure that Colombian workers' fundamental labor rights are protected in law and practice.

Question 4:

Peru

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

What outstanding issues would you raise with the Peruvian government?

A: I understand USTR continues to work closely with the government of Peru, key stakeholders, and Congress to ensure the successful implementation and enforcement of the agreement's provisions. There is an open dialogue with stakeholders on the historic provisions included in the Environment Chapter and the Annex on Forest Sector Governance. USTR is also working closely with the Government of Peru to secure effective implementation of the directives, decrees, and administrative resolutions issued to meet Peru's labor obligations under the agreement. If confirmed, I will assess these efforts and determine if there are specific areas where more attention is needed.

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

A: The President believes that the United States needs a new framework for trade that addresses important issues, such as trade agreements, in the context of the broader economic policy agenda. Trade is essential to America's prosperity and has the potential to lift up workers in America and around the world. To accomplish this, trade agreements need to include strong labor and environmental standards, we need to do a better job of enforcing obligations, and we need domestic polices to help Americans succeed in an increasingly dynamic economy. If confirmed, I would welcome the opportunity to consult with you on this question in the context of a new framework for trade.

Question 5:

Intellectual Property

Counterfeiting is a crime that also hurts all manufacturers. The auto parts counterfeiting market is a \$12 billion annual business that has cost our nation a quarter-million manufacturing jobs. But it's not just jobs that are at stake. Counterfeit auto parts are dangerous—just like counterfeit medicine. Investigators have found brake pads made of kitty litter, sawdust, and dried grass.

What actions should USTR take to stop the trade of counterfeit auto-parts?

A: Enforcement of intellectual property rights is a key trade priority for the Administration. If confirmed, I will work closely with Congress and industry stakeholders to address the many intellectual property rights enforcement challenges facing U.S. industries, including the issue of counterfeiting. The specific issue of the counterfeiting of automobile parts was noted in the Special 301 Report issued recently. If confirmed, I will carefully consider the best approach, whether through robust engagement or trade enforcement actions, to respond to intellectual property challenges. I will also ensure that USTR continues to devote considerable staff resources to this important issue.

Question 6:

WTO

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

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

A: If confirmed, I would welcome an opportunity to discuss this with you. Respect for fundamental labor rights is an essential component of the Administration's trade agenda and I would welcome your ideas for how best to broaden international discussion of this important subject.

Questions from Senator Bill Nelson

Question 1:

For Ms. Miriam Sapiro, Deputy U.S. Trade Representative:

I am concerned about the continued piracy of United States pay television channels in the Caribbean and Latin America. For some time now, a number of cable television providers in these regions have downloaded and rebroadcast programming without the consent of the provider. Some countries, such as the Bahamas, even provide legal authority (through compulsory licensing laws) for cable providers to down link, decode and rebroadcast United States television programming and associated intellectual property without consent or compensation.

If confirmed as Deputy U.S. Trade Representative, please tell me how you will work to stop the piracy of American intellectual property as it relates to broadcast signals of U.S. companies in the Caribbean and Latin America?

A: Ensuring strong intellectual property protection is one of the Administration's trade priorities. If confirmed, I will work with our trading partners to secure their commitment to strong and effective protection and enforcement of U.S. intellectual property rights and use all available tools to combat piracy, including signal piracy. USTR already reviews intellectual property rights (IPR) practices in connection with the administration of U.S. trade preference programs. This year as part of its biennial review of the operation of the Caribbean Basin Economic Recovery Act (CBERA), USTR will review the IPR practices of beneficiary countries to assess compliance with the eligibility criteria, which include the extent to which a country prohibits the broadcasting of U.S. copyrighted materials without permission.

Question 2:

The U.S. has played an important role in partnering with Haiti, the poorest country in the Hemisphere, on trade initiatives such as the 2006 Hemispheric Opportunity through Partnership Encouragement Act (HOPE) and the 2008 HOPE II Act, to help revitalize Haiti's domestic industry and spur economic growth.

Can you provide me with an update on how you think these programs are working and whether Haiti is fully taking advantage of these preferences?

A: The HOPE Act contributed to positive trends in Haitian economic development. Two-way trade reached \$1.4 billion in 2008, including \$450 million in exports from Haiti to the United States. The program appears to have been a factor in the 28% increase in U.S. foreign direct investment in Haiti between 2006 and 2007 (latest available data). U.S. imports under the HOPE Act reached \$60 million in 2008. According to the HOPE Commission Executive Director, the program has led to the creation of 11,000 new jobs in the apparel sector. I understand that the Administration is currently working with the Haitian government to implement fully the HOPE II Act and that it will report to the Congress on progress soon.

Question 3:

As Deputy USTR with responsibility for the Western Hemisphere, how will you approach the U.S. trade and investment relations with Haiti specifically, as well as U.S. trade and investment more broadly with the Caribbean, Central America and South America?

A: My actions as Deputy USTR will reflect the President's commitment to strengthen and renew trade relationships in the region and construct close partnerships and joint approaches to address common challenges. If confirmed, I will pursue this goal while working to see that the benefits of trade are shared more broadly. Trade is essential to America's prosperity and that of the Caribbean, Central America and South America. A robust trade agenda can grow all of our economies, consistent with strong labor and environmental standards, and have the potential to lift up workers in America, the region and around the world.

Question 4:

Senator Cornyn and I have introduced a bill that would add Paraguay as a beneficiary of the Andean Trade Preference Drug Eradication Act (ATPDEA) program.

If confirmed, would you be supportive of efforts to add Paraguay to ATPDEA?

A: The Administration greatly values its trade relationship with Paraguay and is considering ways to strengthen ties. As regards the ATPA, USTR will be reviewing all trade preference programs, in consultation with Congress, to see whether changes are warranted. If confirmed, I would look forward to playing an active role in this review and consulting with you as it proceeds.

Question 5:

If confirmed, what improvements to the ATPDEA program would you recommend?

A: If confirmed, I will participate actively in the review of trade preference programs, including the ATPDEA. I would be pleased to consult with you and other Members of Congress to determine whether changes to the program could be useful.

Questions from Senator Hatch

Question 1:

America's economic future and competitive advantage is dependant on our ability to continue to lead the world in innovation and creativity. Yet the intellectual property system that protects creativity and incentivizes innovation is under attack in multilateral institutions – from the World Health Organization and the World Intellectual Property Organization to the United Nations Framework Convention on Climate Change. What steps will USTR take to insure that American intellectual property rights continue to be protected?

A: I agree that ensuring strong intellectual property protection is a top priority. Because of American innovation and creativity, IP-intensive industries give the United States a strong comparative advantage. In times of economic challenge, U.S. industries must be able to continue to create jobs and opportunities for economic growth. Securing and enforcing commitments from our trading partners for strong and effective protection for intellectual property is more important than ever. The Administration places a high priority on enforcement in general, and IP issues are no exception. USTR will continue to monitor IPR protection and enforcement through its annual Special 301 Report, which was recently released. USTR will also pursue other opportunities to make concerns to our trading partners clear. If confirmed, I look forward to working with you to ensure that the Administration has a full range of tools with which to protect American intellectual property rights.

Questions from Senator Snowe

Question 1:

Ms. Sapiro, throughout the quarter-century-long softwood lumber dispute, I have consistently defended the trade rights of Maine lumber producers and their workers against artificially underpriced Canadian imports, most recently against Canada's numerous violations of the 2006 Softwood Lumber Agreement. Ensuring Canadian compliance with the pact is essential to Maine's mills, all of which—about 25 in total-- have either shut down indefinitely or greatly scaled back production in the past year. These mills—which are already struggling with the lowest demand for softwood lumber in decades— must simultaneously deal with a deliberate effort by certain Canadian provinces to circumvent the agreement with new subsidies and reduced stumpage fees.

Thankfully, a certain degree of credibility was restored to the agreement in April, when Ambassador Kirk commendably raised tariffs—as I had urged him to do-- on Canadian lumber following Ottawa's failure to comply with an arbitration ruling ordering it to collect \$55 million in export taxes from producers in certain provinces.

Despite that positive development, however, western Canadian provinces continue to subvert the agreement to a much larger degree by flooding the market with standard quality lumber cut from supposedly low-quality "Grade-4" logs provided to Canadian mills by the provincial government for next to nothing. In the interior of British Columbia alone, the number of such logs has increased eight-fold! There is considerable evidence to suggest that provincial governments are even allowing Canadian lumber producers to artificially damage higher-grade logs by needlessly heating and cracking them in order to qualify as low-cost Grade 4 lumber, but still cutting those logs into marketable amounts of standard-quality lumber at rock-bottom prices, pricing out U.S. producers entirely.

May I have your assurance that, if confirmed as the Deputy USTR responsible for our trade relationship with Canada, you will formulate and communicate to me and other interested legislators a plan for enforcement action against this log misgrading practice and other Softwood Lumber Agreement compliance issues without delay?

A: If confirmed, I will continue the strong efforts Ambassador Kirk has taken to ensure compliance, working with the Canadians where possible and pursuing dispute resolution when necessary. I discussed the importance of the SLA and grading concerns during consultations with your staff in preparation for my hearing. USTR has already held a series of meetings with key stakeholders regarding implementation of the SLA, and British Columbia's lumber grading practices were identified as a major issue. There will be several opportunities to discuss these concerns with Canada over the next few weeks, including meetings of the technical working groups of the Softwood Lumber Committee and a meeting of the Committee. In addition, on July 20-24, there will be an arbitration hearing before the LCIA on circumvention. I look forward to the chance to work with you to ensure that the SLA is vigilantly enforced and would be pleased to update you on USTR's enforcement efforts at your convenience.

Questions from Senator Mike Crapo

Question 1:

One of the biggest disputes you will face in your position at USTR is the cross-border dispute with Canada regarding its low-priced exports of subsidized softwood lumber to the United States. In the United States, all lumber producers must pay market value for their input in the form of logs and timber. By contrast, Canada subsidizes its lumber industry by providing noncompetitive, long-term arrangements, allowing the industry access to timber at an artificially low price. I am concerned that these programs give Canadian lumber producers an unfair competitive advantage, which enables them to sell their subsidized and dumped products in the U.S. market, which harms American lumber manufacturers, workers, and communities, as well as forest landowners.

As you know, the Softwood Lumber Agreement negotiated between the United States and Canada in 2006 was intended to level the playing field. Unfortunately, Canada continues to violate several key components of the agreement. One of Canada's breaches was recently confirmed by the London Court of International Arbitration, the mechanism provided for under the agreement to resolve disputes. I commend the Administration's hard work to achieve this victory and the subsequent enforcement steps it took when Canada failed to implement the remedy prescribed by the Court.

The United States should build on the credibility that these actions have reinstated to this trade agreement and swiftly address remaining areas where Canada is failing to honor its commitments. Given the violations that are currently ongoing, will you ensure that the United States fully enforces the terms of the U.S.-Canada Softwood Lumber Agreement by initiating arbitrations under the agreement to resolve Canada's ongoing and harmful breaches? Please provide me within 30 days USTR's plan of action to enforce the terms of this trade agreement.

A: If confirmed, I will continue the strong efforts Ambassador Kirk has taken to ensure compliance with the SLA, working with the Canadians where possible and pursuing dispute resolution when necessary. I note that there will be several opportunities to discuss concerns with Canada over the next few weeks, including meetings of the technical working groups of the Softwood Lumber Committee and a meeting of the Committee. In addition, on July 20-24 there will be an arbitration hearing before the LCIA on circumvention. I look forward to the chance to work with you to ensure that the SLA is vigorously enforced and would be pleased to update you on USTR's enforcement efforts at your convenience.

Questions from Senator Enzi

Question #1:

Ms. Sapiro, you have extensive experience in negotiation which will serve you well in the responsibilities of your nominated role at USTR. Congress enacted a Country of Origin Labeling law in the 2008 Farm Bill that took particular care to ensure that it would not conflict with our existing trade obligations. If confirmed, what efforts will you make to ensure that the implementation of COOL, as Congress intended, is not hindered by challenges from the Canadian and Mexican governments?

A: If confirmed, I will work with Ambassador Kirk in an effort to resolve the COOL disputes brought by Canada and Mexico and avoid WTO litigation, while implementing the requirements of the COOL statute. Should Canada and Mexico choose to move the disputes to the panel phase, I will work with USTR staff to ensure that the U.S. Government defends COOL before the WTO.